

MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, MAY 22, 2023

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Michael Whitley, Community Development Senior Planner. Chair Shadduck-McNally presided. Commissioner Kefalas and Commissioner Stephens were present. Also present were Rebecca Everette, Community Development Director; Connor Sheldon, Engineering; Noel Udell, Department of Health and Environment; and Tessa Beaty, Deputy Clerk.

PUBLIC HEARING CONSENT ITEMS:

1. MC-KAY-MEUSBORN SUBDIVISION AND APPEAL, FILE NO. 22-LAND 4238

PROJECT DESCRIPTION/BACKGROUND:

The owners propose to divide an existing parcel of land to create one additional residential lot. The existing parcel is 27-acres, and they propose to create one 12-acre lot and one 15-acre lot with an outlot south of E. County Road 56. Outlot A (0.34-acre) is identified as part of the Larimer County Canal to the south of the property.

The subject parcel, as well as the surrounding properties are zoned O-Open which requires a minimum lot size of 10 acres. The surrounding area is characterized by a mix of lot sizes ranging from an approximate 3.06-acre lot to the north, a 10-acre lot to the south, a 151.23-acre lot to the east, and the 443.64-acre reservoir parcel to the west with the uses in this area that include residential, agricultural, and two reservoirs. The Windsor Reservoir is directly adjacent to the property along the north and the west. This parcel is currently being used for residential purposes and the proposed new lot is for residential use as well. In addition to the residence, there are two oil wells in the northwest corner of the property that would be located on the proposed 15-acre lot to the west, proposed Lot 2. There is a single-family dwelling as well as numerous outbuildings that would remain on the 12-acre lot to the east, proposed Lot 1.

The existing home is served by the East Larimer County (ELCO) Water District and an on-lot septic system. The newly proposed lot would also be served ELCO and an on-lot septic system. No internal public roads are being proposed. The existing parcel is located at the northwest corner of E. County Road 56 and N. County Road 11. Proposed Lot 1 would continue to take access from County Road 11. The proposed Lot 2 fronts on County Road 56 and would continue to use an existing access from that road.

Larimer County mapping indicates it is an area of low geologic hazards and it is not in a wildfire hazard area. Larimer County mapping indicated that the southwest portion of the parcel was in a potential area of important wildlife habitat area identified as neighborhood species richness area. The project was referred to both U.S. Fish and Wildlife and Colorado Division of Wildlife. They indicated there were no issues or concerns. Larimer County mapping also indicates that there are potential wetlands on the northern portion of the property adjacent to the Windsor Reservoir.

This request includes an Appeal to the lot depth to width ratio as specified in Article 5.2.1.A.7 of the Land Use Code. This will be discussed later in this report.

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 and their comments are attached to this report.

Comments were received from the following referral agencies:

- Larimer County Engineering
- Larimer County Health Department
- Larimer County Code Compliance
- East Larimer County Water District
- Division of Water Resources • Poudre Fire Authority (PFA)
- County Environmental Planner
- U.S. Army Corps of Engineers
- Colorado Geological Survey
- Town of Wellington
- Town of Windsor
- WRCC - Windsor Reservoir #8
- U.S. Fish & Wildlife 11
- Colorado Parks and Wildlife

A neighborhood meeting was not required for this proposed Subdivision.

REVIEW CRITERIA:

Preliminary Plat

In reviewing a proposed preliminary plat application for a Subdivision, the review and decision-making bodies shall consider the general approval criteria in Article 6.3.8.D of the Land Use Code, General Review Criteria, and if the proposed Subdivision meets the preliminary plat criteria in Article 6.5.5.D.1 of the Land Use Code. The criteria are addressed below.

Article 6.3.8.D General Review Criteria

1. Generally

- a. Unless otherwise specified in this Code, county review and decision-making bodies shall review all development applications submitted pursuant to this article for compliance with the general review criteria stated below.
- b. The application may also be subject to additional review criteria specific to the type of application, as set forth in Articles 6.4 through 6.7.
- c. If there is a conflict between the general review criteria in this section and the specific review criteria in Articles 6.4 through 6.7, the specific review criteria in Articles

6.4 through 6.7 control. The review criteria found in Article 6.5.5.D.1 (preliminary plat) are applicable to this request. Those criteria are addressed below.

2. Compliance with this Code

The proposed use and development shall comply with all applicable standards in this Code, unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.

The principal requirements for the Preliminary Plat review are located within Article 4 (Development Standards) and Article 5 (Subdivision Standards) of the Larimer County Land Use Code.

The proposed land division can and will comply with the requirements of the Code except for the proposed Appeal to the lot depth to width ratio which is discussed later in this report.

Article 4.0 Development standards.

Article 4.3 Adequate Public Facilities

Sub-Article 4.3.3 Road Capacity and Access to Public Roads:

The purpose of the road capacity and level of service standard is to ensure that all development will have safe and adequate access to public roads and transportation related services and to ensure that development does not create demand for public improvements and services that cannot be met with existing public resources. The property is located at the intersection of County Road 11 and County Road 56. Lot 1 will continue to take access off County Road 11 and Lot 2 will utilize an existing access off County Road 56.

Sub-Article 4.3.4 Drainage:

A Preliminary Drainage Narrative has been provided and the Engineering Department did not request any additional information to be provided in the narrative. Construction plans must be provided at the final plat phase. The construction plans will need to include a standard cover sheet and notes, a simplified construction sheet for the road/turnaround (emergency access easement), a sheet for the grading and drainage, and a sheet for the 13 erosion control measures.

In addition, the boundaries of this project include or are adjacent to the Windsor Reservoir and an irrigation ditch, Larimer County Canal/Water Supply and Storage Canal. The application was referred to them and staff only received comments from the Reservoir company. Staff will require that measures be taken to control erosion and sedimentation during all phases of construction. We will also require that after the temporary activity is complete, all disturbed areas are repaired to a condition that is equal to or better than the existing condition.

Sub-Article 4.3.5 Wastewater Disposal:

Wastewater disposal for the existing residence is provided by an on-site wastewater treatment system (OWTS) and an OWTS is proposed for the new residential lot, Lot 2. The proposed 15-acre lot would provide ample land area to support an OWTS, as well as accommodate the 100-foot setback requirement from Windsor Reservoir 8, Larimer County Canal, other surface water features, wetlands, nearby wells, and provide ample area for a mounded system for high groundwater. If the application is formally approved, a septic permit will be required as part of the building permit process to develop Lot 2. Site and soil evaluations will be required to determine the placement and design of the future septic system.

Sub-Article 4.3.6 Fire Protection:

Fire sprinklers will be required for any new residential dwellings. This NFPA 13D fire sprinkler requirement must be documented on the final plat. An Emergency Access Easement (EAE) will be developed on Lot 2. PFA will need confirmation that the driveway culvert will support the 40-ton fire apparatus loading. These have been made conditions of approval.

Sub-Article 4.3.7 Domestic Water:

The current home on the property is served by East Larimer County Water District (ELCO). The proposed new lot will also be served by ELCO. A letter of commitment from ELCO was provided with the land division application. ELCO intends to serve the subdivision with a new water service line connected to an existing main line located in County Road 56. This new water line will require off-site improvements and dedicated easements.

Article 4.4 Environmental Resource Standards

Sub-Article 4.4.2 Wetlands:

Larimer County GIS data indicates that wetlands exist on the northern portion of the property adjacent to the Windsor Reservoir. The plat identifies a wetland buffer area to 14 protect the wetland area. This application was referred to the Army Corps of Engineers and the Larimer County environmental planner and their comments are attached to this report.

Sub-Article 4.4.3 Hazard Areas:

According to Larimer County GIS data, the property is in a low geological hazard area, does not contain any slopes greater than 30%, and is not in a mapped wildfire hazard area or floodplain area.

This property is adjacent to the Windsor Reservoir #8. WRCC owns the reservoir and dam, which is located to the north and west of the proposed Subdivision. They provided comments which are attached to this report and include the following information:

WRCC was required by the State of Colorado to establish inundation areas for the Windsor Reservoir No. 8. Parts of the Subject Property are in the area designated as an inundation area. Larimer County should not allow the applicant to build within this area. If the applicant is allowed to build in or around this area, Larimer County should note that the area is designated as an inundation area and is subject to catastrophic damage, injury, and flooding. The applicant should be required to obtain an agreement

with WRCC, absolving WRCC of any liability and risks of erecting new buildings within an established inundation area.

The applicants have shown the inundation area on the plat. The applicants should continue to work with WRCC and either identify the inundation area as a no build area or obtain an agreement with WRCC regarding building within the inundation area.

Sub-Article 4.4.4 Wildlife:

There are no specific wildlife concerns with the proposed land division. This request was referred to U.S. Fish and Wildlife who had no concerns and Colorado Parks and Wildlife (CPW) who provided no comments on the preliminary plat phase. CPW did provide comments at the Sketch Plan phase indicating they had no issues with the request. The comments are attached to this report.

Sub-Article 4.4.5 Commercial Mineral Deposits:

Larimer County's GIS database does not identify aggregate resources on the property. Notice to mineral interest holders of record has been provided in compliance with state law.

Article 4.6 Off-Street Parking and Loading:

Two parking spaces are required for each single-family residential home. The proposed lots are large enough to provide an adequate number of parking spaces.

Article 4.7 Landscaping:

No landscaping is required for this Subdivision.

Article 4.8. - Adjacency and Buffering Standards 15

Sub-Article 4.8.1. - Buffering and Screening:

The purpose of this section is to enhance the visual relationships between uses and structures and mitigate undesirable impacts including, but not limited to noise, dust, odor, spraying, or glare from proposed development on existing or allowed uses.

The applicants have included information as to how they meet the buffering requirements with the existing landscaping on site. See the attached project description.

Sub Article 4.10 Exterior Lighting

Outdoor light fixtures are required to be shielded so the light source does not trespass on to adjacent properties.

Article 4.13 Irrigation Facilities

This property is adjacent to the Larimer County Canal and Water Supply and Storage Canal to the south of the property. This section is intended to protect irrigation facilities from adverse

development impacts. No comments were received from the ditch company. This Subdivision plat includes an outlet in the southwest portion of the parcel just to the south of County Road 56 which is identified on the plat as part of the canal.

Article 5.0 of the Land Use Code includes Subdivision standards.

This section contains standards for lot location and configuration and for local roads within Subdivisions. The Subdivision design and lot configuration generally appear to meet the standards found in this Article with the exception of the Appeal to Article 5.2.1.A.7 of the Land Use Code (Lot Depth to Width Ratio) which is discussed below. There are no local roads being proposed with this development.

Sub-Article 5.2 Lot and Block Standards

As previously discussed, the two (2) proposed residential lots would be approximately 12-acres and 15-acres in size. The proposed residential lots would meet the required minimum lot size for the O-Open zone district of 10-acres. The newly proposed lots do not meet the depth-to-width ratio and there is an Appeal included which is discussed further in this report. Staff is supporting this request as the lot is large enough to allow the buildings to remain or future buildings to be added and meet the required setbacks for both lots. The lot shapes, location, and orientation conform with the requirements of the Land Use Code.

3. Compliance with Other Applicable Regulations

The proposed use and development shall comply with all other county regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant entities with jurisdiction over the property or the current or proposed use of the property.

This application was referred to multiple referral agencies who have reviewed the application with regards to other county, State, and Federal regulations, such as the Colorado Department of Public Health and Environment. None of the referral agencies had 16 any objections to this request. Their comments have been addressed or will be addressed as conditions of approval or at the next phase of the Subdivision process, the Final Plat phase.

Article 2.9.4.G of the Land Use Code specifies setbacks from oil and gas facilities. Specifically, Article 2.9.4.G.5 includes plat requirements for any lot, upon which a dwelling unit could be built, within 1,000 feet from an existing or proposed oil or gas well. The applicants will need to address this with the final plat phase. This has been made a condition of approval.

4. Compliance with Prior Approvals

The proposed use and development shall be consistent with the terms and conditions of any prior land use approval, plan, or plat approval for all or part of the property that is in effect and not proposed to be changed. This includes consistency with any approved phasing plan for development and installation of public improvements and amenities.

This criterion is not applicable as the parcel was not part of a previous land use approval. The only previous approvals on this parcel are building permits for the existing home and some of the outbuildings.

5. Compliance with Zoning District Standards

The proposed development shall comply with the standards of the zoning district in which it is located and any standards applicable to the particular use, as identified in §3.3, Use-Specific Standards.

Applicable zoning district standards are noted in the Preliminary Plat review criteria below. The property is zoned O-Open which requires a minimum lot size of 10 acres. Both residential lots will exceed the minimum lot size as Lot 1 will be 12-acres and Lot 2 will be 15-acres. Any development on these lots will also be subject to the requirements of the O-Open zoning district such as setbacks, allowed uses, and height restrictions.

6. Compliance with Development Standards

The proposed development shall comply with the applicable standards in Article 4.0, Development Standards.

The proposed use shall comply with Article 4.0, Development Standards which are outlined in this report under General Review Criterion #2 above.

7. Compliance with Other Code Provisions

The proposed development shall comply with all other standards imposed on it by all other applicable provisions of this Code, including but not limited to standards relating to establishment and operation of uses, layout of the site, and general development characteristics.

The proposed Subdivision shall comply with all the applicable standards as outlined in Article 4, Development Standards, and Article 5, Land Division Standards, in the Land Use Code with the exception of the one Appeal discussed later in this report. These articles are discussed under #2 above.

Article 6.5.5.D.1 Preliminary Plat Review Criteria

A. Complies with all applicable use, density, development, and design standards set forth in this Code that have not otherwise been modified or waived pursuant to this Code and that would affect or influence the layout of lots, blocks, and streets;

The proposed land division would create two lots intended for residential development consistent with the intent of the zone district as well as with the existing development in the surrounding area. The proposed residential lots would be approximately 12-acres and 15- acres in size. The proposed residential lots would meet the required minimum lot size for the O-Open zone district of 10-acres. The proposed land division complies with all applicable use, density, development, and design standards set forth by the Larimer County Land Use Code except for the Appeal to lot depth to width noted in this report.

B. Provides a layout of lots, roads, driveways, utilities, drainage, and other public facilities and services designed to minimize the amount of disturbance to sensitive natural areas or other community resources;

This property includes potential wetlands identified along the north and west sides of the property. It is adjacent to the Windsor Reservoir #8 and the associated dam, emergency spillway, etc. There are also existing oil wells on the site. In order to address these issues, the plat identifies a 100-foot buffer area from the potential wetland to avoid impacts to the wetland area, the plat includes the inundation area for the reservoir, and the plat also shows the oil wells and the associated setbacks. There are conditions of approval that the applicant will need to address at the Final Plat phase regarding these items.

The representatives for the Windsor Reservoir #8, WRCC, have indicated concerns with any development of this parcel affecting the Reservoir, dam, and related easements. They are concerned with any potential impacts to WRCC's ability to operate, repair, replace, and rehabilitate the dam and Reservoir #8. They have indicated that Larimer County should not allow the applicant to build within the inundation area. If the applicant is allowed to build in or around this area, Larimer County should note that the area is designated as an inundation area and is subject to catastrophic damage, injury, and flooding. The applicant should be required to obtain an agreement with WRCC, absolving WRCC of any liability and risks of erecting new buildings within an established inundation area.

The applicants have acknowledged that it may be necessary for WRCC to add or establish new or improved facilities to maintain and protect its dam. Future development on the subject property will not limit WRCC's access and easements for its dam and reservoir. The applicants have shown the inundations area on the plat and notation provided on the updated preliminary plat. Applicant requests the County allow building construction within the inundation area. Applicant agrees to releasing WRCC from any damage claims related to building in the inundation area. However, Applicant will not agree to the other requested terms (i.e.: full release of all claims, obtain permission before construction, etc.). The applicants have indicated that at the time of future Lot 2 building permit application, that the applicant shall contact Kallie Bauer, dam safety engineer for State of Colorado's Dam Safety Branch of Water Resources, to discuss potential impacts of the hazard classification of the Windsor Reservoir No. 8 dam caused by construction within the 18 inundation area.

C. Provides evidence to show that all areas of the proposed subdivision that may involve other natural hazards including flood and wildfire have been identified and mitigated to the maximum extent practicable.

According to Larimer County GIS data, the property is in a low geological hazard area, does not contain any floodplains or slopes greater than 30%, and is not in a mapped wildfire hazard area, but there are potential wetlands on the property and wetland buffering will be required based on the size of the wetland area. The applicants have included a wetland buffer area on the plat.

D. Provides evidence that provision has been made for a public sewage disposal system or, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with state and local laws and regulations;

As mentioned above, wastewater disposal for the existing residence is provided by an on-site wastewater treatment system (OWTS) and an OWTS is proposed for the new residential lot, for Lot 2. The proposed 15-acre parcel would provide ample land area to support an OWTS, as well as accommodate the 100 feet setback requirement from Windsor Reservoir 8, Larimer County Canal, other surface water features, wetlands, and nearby wells, as well as provide ample area for a mounded system for high groundwater. If the application is formally approved, a septic permit will be required as part of the building permit process to develop Lot 2. Site and soil evaluations will be required to determine the placement and design of the future septic system.

E. As applicable, provides proposed phasing for development of the subdivision that is rational in terms of available infrastructure, capacity, and financing; and

Phasing has not been proposed for this proposed land division.

F. The subdivision is consistent with the subdivision sketch plan, if applicable, unless detailed engineering studies require specific changes based on site conditions.

The McKay-Meusborn Subdivision is consistent with what was originally proposed at the Sketch Plan Review phase. As noted previously, the proposed land division would create two total residential lots. The lot sizes and shapes have changed slightly, but the overall character, density, and land use are the same and are consistent with the intent of the zone district as well as with the existing development in the surrounding area

DEVELOPMENT SERVICES TEAM RECOMMENDATIONS:

A) The Development Services Team recommends that the Planning Commission recommend to the Board of County Commissioners approval of the McKay-Meusborn Subdivision, File #22-LAND4238, subject to the following conditions:

1. The final plat shall be consistent with the approved preliminary plat and with the information contained in the McKay-Meusborn Subdivision, File #22-LAND4238, 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 McKay-Meusborn Subdivision.
2. The following fees shall be collected at building permit issuance for new single-family dwellings: Poudre R-1 school district fee, Larimer County fees for County and Regional Transportation Capital Expansion, Larimer County Regional Park Fees (in lieu of dedication) and drainage fees. The fee amount that is current at the time of building permit application shall apply.
3. The applicant must comply with the requirements of Poudre Fire Authority as indicated in their attached comment letters. Fire sprinklers will be required for any new residential dwellings. This must be noted on the final plat.

4. All habitable structures will require an engineered foundation system. Such engineered foundation system designs shall be based upon a site-specific soils investigation. The lowest habitable floor level (basement) shall not be less than 3 feet from the seasonal high-water table. Mechanical methods proposed to reduce the ground water level, unless it is a response after construction, must be proposed on a development wide basis.

5. Passive radon mitigation measures shall be included in construction of residential structures on these lots. The results of a radon detection test conducted in new dwellings once the structure is enclosed but prior to issuance of a certificate of occupancy shall be submitted to the Building Division. As an alternative, a builder may present a prepaid receipt from a radon tester which specifies that a test will be done within 30 days. A permanent certificate of occupancy can be issued when the prepaid receipt is submitted.

6. The applicants will need to comply with Article 2.9.4.G.5 of the Land Use Code regarding setbacks from oil and gas facilities for future development of the lots.

7. Transportation Capital Expansion Fees will be due at building permit issuance.

8. A Development Construction Permit is required prior to commencing improvements.

9. The applicants shall identify the inundation area for the Windsor Reservoir #8 as a no build area or obtain an agreement with WRCC regarding building within the inundation area prior to the recordation of the Final Plat.

10. At the time of building permit application for Lot 2, the owners of Lot 2 shall contact the dam safety engineer for State of Colorado's Dam Safety Branch of Water Resources to discuss potential impacts of the hazard classification of the Windsor Reservoir No. 8 dam caused by construction within the inundation area.

B) The Development Services Team recommends that the Planning Commission recommend to the Board of County Commissioners approval of the Appeal to Article 5.2.1.7 of the Land Use Code (Lot Depth to Width Ratio).

2. BROWN ANNEXATION APPEAL, FILE NO.23-GNRL0538

PROJECT DESCRIPTION/BACKGROUND:

The subject properties are located north of E. Mulberry/Highway 14 between Loma Linda Drive and Camino Del Mundo and are a total of 12.82-acres. The land is undeveloped, and no addresses have been assigned.

On March 23, 2023, Larimer County staff determined that the parcels are not legal lots and therefore not eligible for building permits.

A Planned Land Division (PLD) process would be required to resolve the legal lot issue. A Planned Land Division could also be used to further divide the property.

The properties are in the Fort Collins Growth Management Area and the larger of the two parcels is adjacent to Fort Collins city limits. Article 2.7.2.D.2 of the Land Use Code requires that the property

owners seek annexation to the City of Fort Collins rather than submit a Planned Land Division, rezoning, or Special Review application to Larimer County.

The Land Use Code allows for the acceptance of land division, rezoning, and Special Review applications on parcels eligible for annexation if the County Commissioners accept a written determination from a representative of the municipality that the subject property owner(s) need not apply for annexation.

Fort Collins Planning staff provided a letter (see Attachment C) indicating that the city is electing not to require annexation of the two parcels for the following reasons:

“While the subject parcels abut Fort Collins City limits via the East Mulberry Street right-of-way along the southern property line of Parcel # 8710400003, the site does not fully achieve the minimum 1/6 perimeter contiguity required by state annexation statutes without processing a series of annexations.

The property is located between the Cloverleaf Mobile Home Park to the west and the Vista Bonita Subdivision to the east. City staff recently inquired with these adjacent developments about voluntary annexation into Fort Collins and representatives from both developments indicated no intention or desire to annex into the City of Fort Collins at this time.

Annexing the subject parcels will create an island of City jurisdiction on the north side of East Mulberry Street. The adjacent Cloverleaf and Vista Bonita developments are residential in nature and unlikely to redevelop in the near term, meaning there is no short-term opportunity to consider a larger annexation area to facilitate the efficient provisions of City services and capital planning.”

If the proposed appeal is granted, the property owner would be able to apply for a Planned Land Division to resolve the legal lot issue. The Planned Land Division process could also be used to further divide the property. The property would concurrently be rezoned to PD – Planned Division.

REVIEW CRITERIA:

APPEAL TO DEVIATE FROM THE STANDARDS OR REQUIREMENTS

When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following factors. The County Commissioners will consider each of the following factors and make findings pertaining to each one which, in their discretion, applies to the appeal:

A. Approval of the appeal will not subvert the purpose of the standard or requirement.

The Growth Management Overlay Zone District provides for this possibility of a deferral of annexation as noted below.

Article 2.7.2.D.2 of the Land Use Code:

Except as provided in §2.7.2.D.3 or as otherwise permitted by the supplementary regulations, **the County shall not accept any application for a rezoning to a PD or Special Review:**

a. For any property zoned in a GMA that has any contiguity to the municipal limits and thus can be made eligible for voluntary annexation, whether through a series of annexations or otherwise. Instead, the owner of such property shall be required to seek annexation to the municipality; or

b. For any property in a GMA district, which was part of a parcel eligible for annexation as of December 18, 2000, but which is no longer eligible because of subsequent land divisions resulting in a break in contiguity, except land divisions created by court 78 order from probate, dissolution of marriage, or eminent domain proceedings; or

c. Where the municipality denies the petition for annexation because:

i. The property owner has included conditions or requirements in the petition which the County deems to be unreasonable or unduly burdensome; or

ii. The property owner refuses to agree to conditions or requirements imposed by the municipality as a condition of annexation which the County deems to be reasonable.

3. The County may accept applications for rezoning or special review where:

d. In lieu of a denial of annexation by the municipality, the County Commissioners accept the written determination by the designated representative of the municipality that the subject property owner(s) need not apply for annexation.

The purpose of the standard is to provide an opportunity for the City of Fort Collins to require annexation prior to Larimer County accepting applications for Rezoning, Special Review or land divisions for properties in the Fort Collins Growth Management Area that are eligible for annexation.

In this case, a City of Fort Collins Planning & Development Services staff member provided a written statement that the City of Fort Collins has no objection to Larimer County accepting applications that would result in the development of the parcels because the property does not have 1/6th contiguity with Fort Collins limits and properties to the east (Vista Bonita Subdivision) and west (Cloverleaf Community) are developed and not interested in voluntarily annexing to Fort Collins. This means that there is no short-term opportunity to consider a larger annexation of property in the area to facilitate the efficient provisions of City services and capital planning.

Given that Fort Collins was provided the opportunity to require annexation and declined, approval of the appeal would not subvert the purpose of the standard.

B. Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood.

Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood but would allow the property owner to apply for a Planned Land Division to resolve the legal lot status of the parcels. A Planned Land Division and concurrent rezoning to PD – Planned Development would require public hearings with the Planning Commission and the Board of County Commissioners.

C. Approval of the appeal is the minimum action necessary.

The appeal is the minimum action necessary to allow for the resolution of the property's legal lot status and for development of the property without annexing to the City of Fort Collins.

D. Approval of the appeal will not result in increased costs to the general public.

There are no additional costs to the public if the appeal is approved.

E. Approval of the appeal is consistent with the intent and purpose of the Code.

The appeal is an anticipated action by the Code and is therefore consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Brown Annexation Appeal, File# 23-GNRL0538, subject to the following condition:

1. The property owner shall submit a signed Annexation Agreement to the City of Fort Collins if a Planned Land Division is approved.

MOTION:

Commissioner Stephens made the motion to approve the consent agenda.

Motion carried 3-0.

PUBLIC HEARING DISCUSSION ITEMS:

1. RIDE THE ROCKIES MACGREGOR RANCH SPECIAL EVENT APPEAL, FILE 23-GNRL0541

DISCUSSION:

This request is an appeal of a decision by the Community Development Director to approve, with conditions, a special event permit for the three-day Ride the Rockies MacGregor Ranch event, scheduled for June 11-13, 2023.

Special Event Application

A special event application was submitted on March 21, 2023 (Attachment 1). The application requests approval for:

- Overnight camping in tents and recreational vehicles (RVs)
- Parking for competitors, spectators and staff • Event operations and medical support
- Showers and restrooms
- Vendor tents
- Food trucks
- Beer garden with alcohol service
- Amplified music
- Amplified public address system
- Stage with temporary lighting

The maximum estimated attendance is 2000 people, with an overnight guest count of 400 people.

Director's Decision

On May 8, 2023, the Community Development Director issued a decision to approve the event with the following conditions:

- The proposed expo, beer garden, private vendors, food trucks, and entertainment (including amplified music) are not approved.
- Overnight tent camping is limited to 150 family-sized tents (or smaller) within the Conservation Easement and Rocky Mountain National Park boundary on the Ranch. This equates to approximately 250 overnight attendees.
- Tents should be staked within close proximity to each other to minimize the overall footprint. Tents should be self-standing without impacts to vegetation or trees.
- Per the Conservation Easement, no trees or shrubs may be cut and no changes to topography may be made without prior written approval of the RMNP Superintendent.
- Parking is limited to 50 cars. Parking must be in a designated area or corral, not dispersed among the tents. Mow grass in parking areas to less than 2 inches to prevent wildland fires.
- Car-based camping or RV camping are not allowed.
- Fires are not allowed, since there are no fire grates. This includes portable fire devices like chimineas. Portable propane grills may be used.
- To facilitate health and safety, a minimal number of support functions may be allowed in the tent camping area. RMNP recommends allowance of one shower trailer, portable toilets and handwashing stations, garbage collection, and one light on a generator. Portable restrooms and handwashing stations must be properly sized for the event, per the Larimer County Health Department's referral comments.
- Quiet hours must occur from 10 pm to 6 am and all activity must be in compliance with Larimer County's noise ordinance.
- Consistent with the Larimer County Code, trash must be collected in animal-resistant canisters.
- All food, pet food, cooking utensils and other scented items must be stored in a vehicle or applicant-provided, animal-resistant storage, pursuant to RMNP's food storage guidance. See Rocky Mountain National Park 2023 Compendium, Section 2.10(d), <https://www.nps.gov/romo/learn/management/upload/2023-Compendium.pdf>
- A safety plan is required and should include instructions and evacuation information for participants of the event if a storm, lightning, wildfire, etc. were to occur. • Sufficient liability insurance coverage for the event is required.
- Any electrical installations beyond existing, permitted, approved-by-inspection electrical pedestals or self-supporting generator-fed electrical units require a County electrical permit.
- While all entertainment uses have been denied, if the proposed SL-100 stage will still be utilized, it is inadequate to resist maximum site design wind speeds. A Wind Management Plan has been created under permit 6100 (MacGregor Ranch Community Picnic), which must be posted near the stage, and volunteers and staff must be trained in its use. Any stages beyond the SL-100 must be referred to the Larimer County Building Division for review.
- While the beer garden portion of the event has been denied, if alcohol will be served a Special Event Liquor License must first be obtained from the Larimer County Clerk & Recorder.
- Adequate law enforcement assistance must be provided, per the Larimer County Sheriff's Office referral comments.

The Director found that, pursuant to criteria 7.5.1, 7.5.3 and 7.5.4, an event size of 250 overnight guests, up to 150 tents, and no RVs is consistent with the Code because:

- A special event must be compatible with existing and allowed uses in the surrounding area. The event is proposed on the portion of MacGregor Ranch located within the RMNP boundary, which is also subject to a conservation easement held by the National Park Service (NPS). The location within a national park, in addition to the restrictions of the conservation easement, limits the types of uses appropriate for the site. Based on referral comments from the NPS, the only aspect of the proposed event that is consistent with the allowed uses for the property is overnight camping, at a level of intensity similar to past camping activities on the site.
- A special event must not result in substantial adverse impacts to nearby properties or environmentally sensitive areas or features. Given the location of the property within the RMNP boundary, impacts to the national park are of primary concern. The conditions of approval included in the special event permit would ensure that adverse impacts to wildlife, vegetation and the natural character of the area are minimized.
- An applicant must demonstrate that the special event has addressed the recommendations of all referral agencies. While the applicant was responsive to many of the referral agency comments, the recommendations of the NPS were not fully addressed by the applicant. The conditions of approval included in the special event permit would resolve the concerns of the NPS and other referral agencies.

Appeal

On May 10, 2023, the applicant filed an appeal of the Director's decision. The appeal was filed despite approval of the special events permit because the applicant disagrees with the conditions of approval and the limitations placed on the event. Specifically, the approval was granted for only 150 family sized tents, no RVs, and a maximum of 250 people staying onsite overnight. The applicant would like to have up to 500 overnight attendees in tents, as well as up to 50 RVs. Further, the Director conditioned the approval on complying with the recommended conditions of Rocky Mountain National Park (RMNP). The Applicant disagrees that these recommendations should have been made requirements as conditions of approval. The appeal alleges that:

- "After reading article 7 of the Larimer County Land Use Code regarding special events, specifically addressing the items we wish to have considered; Camping and RV parking, we feel that given the location and available space, this venue can accommodate the dual occupancy tents planned for the participants of this event. We also feel that the location identified for RV parking will accommodate the number and small-style RV's that have registered for the event. We feel that we will be able to comply with the requirements of section 7.7.16, regarding impact to structures and land. We have been directed to stage in this location of the property specifically to accommodate our event size and elements per the Board of the Conservancy;" and
- "The recommendations from RMNP were just that and not intended to be stipulations of the permit. We believe that the Director took these as requirements and that is not what was communicated by the park." Further, the applicant's appeal includes a request to allow for up to 500 overnight attendees in tents and up to 50 RVs.

REVIEW CRITERIA:

Review Criteria for Special Events

The Land Use Code (LUC), Article 7 sets forth the purpose, definition and standards, and review criteria for a Special Event. To approve a Special Event permit, the decision maker must consider the following Review Criteria, as set forth in LUC Section 7.5, and find that each criterion has been met or determined to be inapplicable:

- 7.5.1 - The applicant has demonstrated that the special event can be compatible with existing and allowed uses in the surrounding area.
- 7.5.2 - The applicant has demonstrated that the special event complies with all applicable requirements of this code.
- 7.5.3. – The applicant has demonstrated that the special event will result in no substantial adverse impact on other properties in the vicinity, including environmentally sensitive areas or features or other lands.
- 7.5.4 – The applicant has demonstrated that the special event has addressed the recommendations of the referral agencies.
- 7.5.5. - The applicant has demonstrated that the special event will comply with the applicable performance standards as set forth in Sec. 7.7, Performance Standards, including:
 - 7.7.1 – Adequate and safe potable water supply.
 - 7.7.2 – Sufficient restroom facilities.
 - 7.7.3 – A sanitary method of disposing of solid or liquid waste.
 - 7.7.4 – Adequate medical personnel and ambulance service.
 - 7.7.5 – Adequate nighttime lighting to ensure safety, while minimizing spillover lighting impacts.
 - 7.7.6 – Sufficient on-site parking.
 - 7.7.7 - Adequate facilities for communication with hospital, police and fire services.
 - 7.7.8 - Camping facilities in compliance with all state and local requirements.
 - 7.7.9 - Security, which, as determined by the County Sheriff, is adequate to control any disturbances that might occur at the special event.
 - 7.7.10 - Compliance with all requirements of the applicable fire protection district.
 - 7.7.11 - Assurance that sounds from the special event do not carry unreasonably beyond the boundaries of the location of the special event.
 - 7.7.12 -Appropriate dust mitigation.
 - 7.7.13 - If electrical systems comply with minimum county and state electrical standards.
 - 7.7.14 - Management of food service shall conform to the requirements of the County Department of Health and Environment.
 - 7.7.15 – Financial guarantees, as needed.
 - 7.7.16 – Lack of disturbance to existing natural features and vegetative cover.:
 - 7.7.17 - For events that involve exotic animals – N/A
 - 7.7.18 - A description of the surface material of the parking area and a traffic management plan.
 - 7.7.19- Insurance in an amount determined to be adequate and reasonable in light of the risks and hazards relating to the special event.

In the case of the Ride the Rockies MacGregor Ranch Special Event application, the Director found that the event did not comply with all sections of Article 7, as proposed. However, a more limited

version of the event could be held in a way that meets the code requirements, as described above, so the event was approved with conditions to ensure compliance with all applicable standards.

Review Criteria for Appeals

An appeal of a decision regarding a special event application are governed by LUC Section 7.6.4, as follows:

A. Any decision by the Director to either grant or deny the special event permit may be appealed to the County Commissioners. Appeals must be received within five calendar days following the date on which the Director issues their decision. The appeal must be in writing and must state specifically why the Director's decision is incorrect or inconsistent with the provisions, intent, or purpose of this section.

B. The County Commissioners will consider the appeal in an open meeting. The County Commissioners may overturn or modify the Director's decision if they determine the Director's decision is incorrect or inconsistent with the provisions, intent, or purpose of this section.

In the case of the Ride the Rockies MacGregor Ranch Special Event application, an appeal was filed in writing by the applicant within 5 days of the Director's decision. The appeal was scheduled for the next available Land Use Hearing to ensure timely consideration of the appeal.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Board of County Commissioners may choose to:

- 1) Uphold the Director's decision to approve the special event with conditions;
- 2) Reverse the Director's decision and deny the special event;
- 3) Modify the Director's decision (e.g., add or remove conditions); or
- 4) Remand the decision back to the Director for further consideration.

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

Michael Whitely gave background information on the appeal. Mr. Whitely explained how this is an appeal to the Director of Community Developments decision of allowing this event to take place in a more limited fashion to adhere to the land use code.

Commissioner Shadduck-McNally asked if there were copies of the specific land use code language to refer to.

The Applicants then presented. David Benjes explained the purpose of this event and how they do not have any intention of hurting the land or going against the land use code. Mr. Benjes spoke about the relationship that was formed with the MacGregor Ranch and how this event could be a benefit to the ranch.

Bill Vanhorn, the trustee of MacGregor Ranch, addressed the Board. Mr. Vanhorn explained the different events that had been held on the ranch and how he does not believe this use of the land goes against the land easement for this property.

PUBLIC COMMENT:

Commissioner Shadduck-McNally opened public comment.

Bob Levit, a citizen of Estes Park, urged the board not to approve this appeal. Mr. Levit explained that the MacGregor Ranch has survived without these kinds of commercial activities until now and should not have a problem in the future.

Jay Shields, the Chief Ranger of the National Park Service, asked for clarification about the number of tents that will be allowed with this appeal and explained the complexities of this type of application.

The applicant was given time to respond. Mr. Benjes explained that they are applying for five hundred overnight participants on the land and how they have back up applications currently being processed.

COMMISSIONER QUESTIONS:

The board has clarifying questions about the number of tents and RVs being requested and how those numbers were developed. Commissioner Kefalas asked Mr. Shields what the original purpose of the easement was. Mr. Shields explained that the easement usually encompassed tent camping but not RVs on the land.

The applicant clarified that the original application did not have a cap on the number of guests because the total guest was not known at that point. However, at the time of the appeal, the attendance count was known and so a 500 overnight attendance count was requested.

Commissioner Shadduck-McNally asked about alternative spaces. Mr. Benjes explained that the Estes Park Fair Grounds were currently booked for another event.

There was discussion around special event permits and how the land was currently in zones in relation to these permits.

Finally, there was a question by Commissioner Shadduck-McNally about how the easement terms are enforced.

DELIBERATION

The Board expressed they want to support the Ride the Rockies organization, but the consensus was that the Community Development Director upheld the land use code.

MOTION

Commissioner Kefalas move that the Board of County Commissioners uphold the Director's decision regarding Special Event #7111, File 23-GNRL0541, approving the special event application with conditions.

Motion passed 3-0.

2. 1802 VENTURES LLC SHORT-TERM RENTAL ADMINISTRATIVE SPECIAL REVIEW, FILE NO. 22-ZONE3403

PROJECT DESCRIPTION/BACKGROUND:

The subject property is located at 200 Mills Moraine Drive, Estes Park, CO. The property currently contains an existing single-family residence and is zoned RR-2- Rural Residential. The applicant

requests Administrative Special Review approval for a small Short-term Rental located in the existing 2-bedroom single-family residence with one additional sleeping area for a maximum occupancy of six (6) total guests- two guests per bedroom. No construction or modifications to the home are proposed with this request.

Administrative Special Review for an STR requires both Planning Division and Building Division approval. For this case, Planning Division review was conducted prior to Building Division review. In general terms, the Planning review process involves:

1. Staff and referral agency evaluation;
2. Community notice and comment review;
3. Review and recommendation by the Estes Valley Planning Advisory Committee, if applicable; 194
4. The scheduling of a public hearing, if applicable, or an administrative review and decision by the Community Development Director.

A courtesy neighbor notification about the proposed project was mailed to properties 500 feet around the subject property with 25 neighbors being notified. Staff received emails from eight (8) neighbors voicing concern regarding the application, and one (1) neighbor with no objection. The concerns ranged from fire hazards, road maintenance, noise, trespassing, and wildlife. The applicant provided a narrative responding to the neighbor's concern. Due to the nature of the neighbor's concern, the Community Development Director determined that the application be scheduled at a public hearing before the Board of County Commissioners per Section 6.3.6.D.3 of the Land Use Code. The proposal is scheduled for the May 22, 2023 Board of County Commissioners land use hearing.

Administrative Special Review requires General Review Criteria to be met for approval (Article 6.4.3.D in the Land Use Code), in addition to supplemental review criteria for small STRs (Article 3.3.5.B.2. in the Land Use Code).

Staff finds the application and supporting materials may not have adequately met the following Administrative Special Review General Review criteria in Article 6.4.3.D of the Land Use Code:

Criteria 1: The proposed use has minimal impacts on existing and future development of the area and

Criteria 2: Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated.

Staff finds the application meets all other criteria in Article 6.4.3.D and all Short-term Rental Use Regulations criteria located in Article 3.3.5.B. The following section addresses staff findings and the review criteria, including neighbor concerns and the applicant's response.

REVIEW CRITERIA:

In reviewing a proposed administrative special review application, the Board of County Commissioners shall consider the general approval criteria in §6.3.8.D: General Review Criteria, and also whether:

1. The proposed use has minimal impacts on existing and future development of the area;

Neighbor comments indicate the short-term rental would have increased impacts to the existing development of the area. A few of the comments spoke to the unique nature of the neighborhood where residents are responsible to contribute to the upkeep and 195 maintenance of existing amenities. Specific impacts associated with criterion 2 that also impact the existing development of the area are discussed below.

2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated;

The following issues as related to this review criterion arose with community comments. A summary of comments as well as the applicant's response follows.

- a. Wildfire

Neighbors voiced concern over renters not being fire aware and having knowledge of safe fire practices. Additionally, the larger lots and isolated nature of the area could result in a fire being less likely to be spotted early. Applicant's Response: Guests will be advised of fire risks and reminded to exercise extreme caution. Outdoor fires of any kind will not be allowed.

- b. Traffic and Road Maintenance

Concern was raised over an increase in traffic resulting in the degradation of Mill Moraine Drive which homeowners pay for via membership dues to the Alpine Acres Neighborhood Association. Several neighbors noted that the applicants opted out of joining the Neighborhood Association and do not contribute to the cost to maintain Mills Moraine Drive. Applicant's Response: The applicants are willing to pay their portion (past and present) of the road maintenance costs. They are also willing to take on any additional road care that may be needed to account for the short-term rental, and help with any labor necessary for road maintenance.

- c. Trespassing

Comments noted the potential for trespassing on neighboring property to access a road to the Longs Peak Trailhead.

Applicant's Response: Upon arrival, guests have an easily accessible map of the property which will depict where the vacation home is located in proximity to the property boundaries. Not only does SkyRun Estes Park management company educate guests about this, but a boundary map is also a Larimer County requirement. d. Wildlife Increased activity such as loud music and parties could impact the natural habitats of wildlife in the area. Additionally, there were concerns of renters leaving garbage around that could attract wildlife to become a nuisance in the area. Applicant's Response: Guests are provided wildlife information on rules and laws regarding wildlife encounters, safety protocols, rules on garbage storage, etc. 196

- e. Noise

Comments indicated the potential for noise with the short-term rental use. Loud music, voices, and parties could result from groups occupying the rental throughout the year which negatively impacts full-time residents.

Applicant's Response: The applicant has hired a property management group that will screen guests and ensure a maximum occupancy of six people. Due to the size, large parties are not anticipated. Strict rules will be in place and enforced by the local and experienced property management group.

3. The recommendations of referral agencies have been considered and adequately addressed;

Referral agencies have requested additional information pertaining to the access and OWTS.

4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan; and

Not applicable.

5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations. The STR meets the following supplemental regulations, as noted below.

Article 3.3.5.B Supplemental Regulations for Short-Term Rentals:

A. Only 1 (one) short-term rental shall be allowed on a property. Preexisting lodging facilities in the EV A and EV A-1 zoning districts are not subject to this requirement as set forth in §13.6.1.D, Preexisting Lodging Facility.

B. The short-term rental shall only be conducted in a legally constructed dwelling and shall require a change of occupancy permit prior to commencement of the short-term rental use.

C. The short-term rental shall have a property manager consisting of the owner or a responsible party representing the owner to manage the use at any time it is occupied. The property manager shall be located within one hour or less travel distance from the short-term rental, and their contact information shall be posted outside at the front door and in the operations manual located in the short-term rental. Changes to the contact information form for the property manager shall be provided to the Larimer County Community Development Department within five business days of the change in contact information.

D. The location of the property boundaries for the short-term rental shall be easily identifiable and posted to prevent trespass. 197

E. The short-term rental shall not be located within an established floodplain, and if located a within a floodplain shall require compliance with the applicable requirements of §2.7.1, Floodplain Overlay (FP-O).

F. The short-term rental shall include maps installed onto or adjacent to the doorway of each habitable room, illustrating how to exit the building. The map should include the address, GPS coordinates and the phone number of the short-term rental.

G. The short-term rental shall be equipped with an operations manual/users guide that is in a visible location (such as a kitchen counter or entry table).

H. The short-term rental shall have a plan for garbage storage and removal. The plan shall clearly illustrate the location of garbage storage areas, the method and frequency of regular garbage pick-up/disposal, and screening of the outdoor storage area.

I. Accessory Living Areas, Extended Family Dwellings, and Farmstead Accessory Dwellings shall not be utilized as a short-term rental.

J. Solid fuel (such as wood or coal) fire pits shall not be allowed in identified wildfire hazard areas.

K. Cooking areas within the short-term rental shall be equipped with a stove top fire stop or approved alternative. L. Unless already equipped with an approved automatic fire sprinkler system, approved fire extinguishers shall be installed in a readily accessible and visible locations for immediate use in the following locations within the STR:

1. In each room with a cooking appliance, fireplace, heating appliance or water heater.
2. Inside and adjacent to the door leading to a deck, porch, or patio with such appliances.
3. At least one on each story.

Logan Graces, a contractor with Airs and Associates for the Planning Department, gave a presentation about the history of this project.

Commissioner Shadduck-McNally asked about who specifically owned the property as the application only stated 1802 Ventures LLC. Ms. Everette explained how two individuals formed an LLC and they are the managers of this property, which is not uncommon in real estate.

The applicant, Jordan Criscoe, and his business partner Beau Delozier, presented. Ms. Criscoe explained the history of this property as it related to the LLC. Mr. Criscoe also explained how they have contacted the public about this issue and has been working to be a good member of the neighborhood.

PUBLIC COMMENT

Commissioner Shadduck-McNally opened public comment.

Rob Dimler, a resident of Estes Park, expressed concern about this property becoming a short-term rental as this area is isolated and tourists are not good stewards of the property.

Karry Myers, a resident of Estes Park, was also concerned about the isolation of the property and how this may delay the response time to issues.

Catherine Zimmen-Peterson, Estes Park, explained how the neighbors to this property tend to be family homes and short-term rentals create a culture of not having a vested interest in the land.

COMMISSIONER QUESTIONS

The Board asked about what kinds of improvements need to be made to the property. The Board also raised concern about the fire prevention methods that are in the area.

Ms. Delozier told the Board about the fire inspection they had done at the property.

DELIBERATION

Commissioner Kefalas was satisfied that the conditions of approval had been met and expressed support for the approval.

Commissioner Shadduck-McNally and Stephens did not believe the criteria of approval had been met and expressed concern about the neighbors' lack of support for this approval. Neither Commissioner Stephens nor Commissioner Shadduck-McNally planned on supporting the approval.

MOTION

Commissioner Stevens move that the Board of County Commissioners deny the 1802 Ventures LLC Short-Term Rental, File #22-ZONE3403.

Motion passed 2-1 with Commissioner Kefalas dissenting.

3. SERRANO SHORT-TERM RENTAL ADMINISTRATIVE SPECIAL REVIEW, FILE NO. 23-ZONE3413

PROJECT DESCRIPTION/BACKGROUND:

The subject property is located at 352 Nowata Drive, Red Feather Lakes, CO. The property currently contains an existing single-family residence and is zoned RR-2- Rural Residential. The applicant requests Administrative Special Review approval for a small Short-term Rental located in the existing 3-bedroom single-family residence for a maximum occupancy of six total guests- two guests per bedroom. No construction or modifications to the home are proposed with this request.

Administrative Special Review for an STR requires both Planning Division and Building Division approval. For this case, Planning Division review was conducted prior to Building Division review. In general terms, the Planning review process involves:

1. Staff and referral agency evaluation;
2. Community notice and comment review;
3. Review and recommendation by the Estes Valley Planning Advisory Committee, if applicable;

4. The scheduling of a public hearing, if applicable, or an administrative review and decision by the Community Development Director.

A courtesy neighbor notification about the proposed project was mailed to properties 500 feet around the subject property with 151 neighbors being notified. Staff received emails from two (2) neighbors voicing concern regarding the application, one email requesting information about the septic system, and one email from a neighbor with no objections. The concerns ranged from traffic and road maintenance, noise, resource conservation, and general opposition to allowing short term rentals in the community. Due to the nature of the neighbor's concern, the Community Development Director determined that the application be scheduled at a public hearing before the Board of County Commissioners per Section 6.3.6.D.3 of the Land 255 Use Code. The proposal is scheduled for the May 22, 2023, Board of County Commissioners land use hearing.

Administrative Special Review requires General Review Criteria to be met for approval (Article 6.4.3.D in the Land Use Code), in addition to supplemental review criteria for small STRs (Article 3.3.5.B.2. in the Land Use Code).

Staff finds the application and supporting materials may not have adequately met the following Administrative Special Review General Review criteria in Article 6.4.3.D of the Land Use Code:

Criteria 1: The proposed use has minimal impacts on existing and future development of the area and

Criteria 2: Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated.

Staff finds the application meets all other criteria in Article 6.4.3.D and all Short-term Rental Use Regulations criteria located in Article 3.3.5.B. The following section addresses staff findings and the review criteria, including neighbor concerns and the applicant's response.

REVIEW CRITERIA:

In reviewing a proposed administrative special review application, the Board of County Commissioners shall consider the general approval criteria in §6.3.8.D: General Review Criteria, and also whether:

1. The proposed use has minimal impacts on existing and future development of the area; Neighbor comments indicate the short-term rental would have increased impacts to the existing development of the area. A few of the comments spoke to the unique nature of the neighborhood where residents are responsible to contribute to the upkeep and maintenance of existing amenities. Specific impacts associated with criterion 2 that also impact the existing development of the area are discussed below.

2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated; The following issues as related to this review criterion arose with community comments.

a. Traffic and Road Maintenance Concern was raised over an increase in traffic resulting in the degradation of roads which homeowners pay for. Applicant's Response: The applicant does not feel the STR will result in an increase in traffic volume when compared to traffic generated by full-time residents. The applicant's family has used the cabin one weekend a month, which accounts for a significant decrease in usage of the roads and water when compared to when the cabin was occupied full-time.

b. Resource Conservation 256 Comments noted the requirement of homeowners to pay fees to stock the trout ponds and also noted the potential for guests leaving trash on roads, trails, and waterways. Applicant's Response: The stocking of trout is paid for by visitors to the area, and not by homeowners. The applicant noted that there are no records of an increase in littering due to renters. Additionally, the applicant has put a great amount of sweat equity and expense into making the property safe by adding a fire barrier and removing dead trees.

c. General opposition of STRs in the community Comments referenced the community not being set up to allow for short-term rentals and would like the area to continue to be quiet, private, and secluded. Applicant's Response: Rentals are allowed in the community based on the Association's covenants. An amendment to ban short term rentals was voted on in June of 2022 and failed.

3. The recommendations of referral agencies have been considered and adequately addressed; Referral agencies had no concerns with the proposed use.

4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan; and not applicable.

5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations. The STR meets the following supplemental regulations, as noted below. Article 3.3.5.B Supplemental Regulations for Short-Term Rentals:

A. Only 1 (one) short-term rental shall be allowed on a property. Preexisting lodging facilities in the EV A and EV A-1 zoning districts are not subject to this requirement as set forth in §13.6.1.D, Preexisting Lodging Facility.

B. The short-term rental shall only be conducted in a legally constructed dwelling and shall require a change of occupancy permit prior to commencement of the short-term rental use.

C. The short-term rental shall have a property manager consisting of the owner or a responsible party representing the owner to manage the use at any time it is occupied. The property manager shall be located within one hour or less travel distance from the short-term rental, and their contact information shall be posted outside at the front door and in the operations manual located in the short-term rental. Changes to the contact information form for the property manager shall be provided to the Larimer County Community Development Department within five business days of the change in contact information.

D. The location of the property boundaries for the short-term rental shall be easily identifiable and posted to prevent trespass.

E. The short-term rental shall not be located within an established floodplain, and if 257 located a within a floodplain shall require compliance with the applicable requirements of §2.7.1, Floodplain Overlay (FP-O).

F. The short-term rental shall include maps installed onto or adjacent to the doorway of each habitable room, illustrating how to exit the building. The map should include the address, GPS coordinates and the phone number of the short-term rental.

G. The short-term rental shall be equipped with an operations manual/users guide that is in a visible location (such as a kitchen counter or entry table).

H. The short-term rental shall have a plan for garbage storage and removal. The plan shall clearly illustrate the location of garbage storage areas, the method and frequency of regular garbage pick-up/disposal, and screening of the outdoor storage area.

I. Accessory Living Areas, Extended Family Dwellings, and Farmstead Accessory Dwellings shall not be utilized as a short-term rental.

J. Solid fuel (such as wood or coal) fire pits shall not be allowed in identified wildfire hazard areas.

K. Cooking areas within the short-term rental shall be equipped with a stove top fire stop or approved alternative.

L. Unless already equipped with an approved automatic fire sprinkler system, approved fire extinguishers shall be installed in a readily accessible and visible locations for immediate use in the following locations within the STR:

1. In each room with a cooking appliance, fireplace, heating appliance or water heater.
2. Inside and adjacent to the door leading to a deck, porch, or patio with such appliances.
3. At least one on each story.

Logan Graces, a contractor with Airs and Associates for the Planning Department, gave a presentation about the history of this project.

The Board expressed concern about the specifics of the wastewater treatment as the sleeping occupancy of the property is six but the property only has capacity for 2 bedrooms. Ms. Udell told the board that the property is property permitted under the health department but any upgrades to the property would require an upgrade to the wastewater treatment system.

Ramon Serrano, the applicant, gave a presentation about the property. Mr. Serrano explained the types of upgrades that have been done to the property to ensure security and sanctity of the neighborhood.

PUBLIC COMMENT: No one from the public addressed the Board. Chair Shadduck-McNally closed public comment.

COMMISSIONER QUESTIONS:

The Board was concerned about the septic situation. Ms. Udell and Lea Schneider from the Health and Environment department discussed the sizing code of the Crystal Lakes area and how the septic tank is properly sized for this property.

Commissioner Stephens asked about how fishing is regulated. Mr. Serrano explained how the Homeowners Association takes care of restocking fish and how it would cost guests of the short-term rental forty dollars a day to fish.

Commissioner Shadduck-McNally asked about the parking situation.

Ms. Everette showed a map of the short-term rental properties that already exist in the area.

DELIBERATION:

Commissioner Stephens and Kefalas intended to support the short-term rental application.

Commissioner Shadduck-McNally was not inclined to support.

MOTION

Commissioner Kefalas move that the Board of County Commissioners approve the Serrano Short-Term Rental, File #23-ZONE3413, subject to the following conditions:

1. The Site shall be developed consistent with the approved plan and with the information contained in the Serrano Short-Term Rental Administrative Special Review, File No. 23-ZONE3413, and the supplemental regulations listed above, except as modified by the conditions of approval or agreement of the County and owner. The owner shall be subject to all other verbal or written representations and commitments of record for the Serrano Short-Term Rental Administrative Special Review.
2. Re-certification shall be required upon notice by the county, which is approximately every two years. Failure to complete and resubmit the re-certification form to the Community Development Department, shall be cause for consideration of revocation of this approval.
3. The use must comply with the Larimer County Noise Ordinance which outlines noise levels as well as noise disturbances, with lower sounds/decibels at property lines between 7pm and 7am.
4. Upon issuance of the Change of Occupancy Permit, the applicant shall include the approved File Number, 23-ZONE3413, on all advertising websites.
5. Prior to operation as a Short-Term Rental, the applicant shall post the Property Manager's contact information outside the front door. 259
6. Upon approval, the property owner shall mail the designated Property Manager's contact information to surrounding property owners within a 500-foot radius of the STR. The owner shall also mail contact information to surrounding property owners whenever the designated Property Manager changes.

7. This approval shall automatically expire in three years if the use has not commenced and/or building permit and/or development construction permit are not issued.

8. This approval shall be automatically null and void in the event the applicant fails to comply with any conditions of approval or fails to use the property consistent with the approved Administrative Special Review.

9. The property owner is responsible for obtaining all applicable fees which may include building permit fees, impact fees, and Transportation Capital Expansion Fees (TCEF) applicable to the use.

10. Completion of the Life Safety Inspection and obtaining a Certificate of Occupancy after this approval is required.

11. No parking shall be permitted in the right-of-way.

12. Renters must have access to all utility shut-off valves

Motion passed 3-0.

With there being no further business, the Board adjourned at 5:30 p.m.

TUESDAY, MAY 23, 2023

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with Assistant County Manager Laurie Kadrich. Chair Shadduck-McNally presided. Commissioner Kefalas and Commissioner Stephens were present. Also present were Brenda Gimeson and Tom Clayton, Commissioners' Office, and Tessa Beaty, Deputy Clerk.

Chair Shadduck-McNally opened the meeting with the Pledge of Allegiance.

1. PUBLIC COMMENT: Kathleen Sans, in Lyons, called in talking about the Areal Spray Program. Ms. Sans said that there was a hearing about fire mitigation, and nothing was said about the weed mitigation and fire prevention. Ms. Sans is against the weed mitigation.

The Board wanted to check in with the Natural Resource Department about conflicting information. The Natural Resource Department follows best practices, but it is important to ask questions and understand the issue better.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF MAY 15, 2023:

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the minutes for the week of May 15, 2023.

Motion carried 3 – 0.

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF MAY 29, 2023, AND JUNE 5, 2023: Ms. Gimeson reviewed the upcoming schedule with the Board.

4. CONSENT AGENDA:

ABATEMENTS

1. PETITION FOR ABATEMENT OR REFUND OF TAXES – TIMNATH TRAIL AT RIVERBEND APARTMENT HOMES

AGREEMENTS

1. ROAD PROJECT AGREEMENT BETWEEN LARIMER COUNTY AND THE USDA, FOREST SERVICE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS AND PAWNEE NATIONAL GRASSLAND

2. PUA-1 POSSESSION AND USE AGREEMENT FOR SEAWORTH AG ENTERPRISES, INC., ET AL (OWNER) TO LARIMER COUNTY

3. PUA-2 POSSESSION AND USE AGREEMENT FOR SEAWORTH AG ENTERPRISES, INC., ET AL (OWNER) TO LARIMER COUNTY

4. COOPERATIVE LAW ENFORCEMENT OPERATING AND FINANCIAL PLAN BETWEEN THE LARIMER COUNTY SHERIFF DEPARTMENT AND THE USDA, FOREST SERVICE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS AND PAWNEE NATIONAL GRASSLAND

5. EASEMENT AND COVENANT AGREEMENT – INTERSTATE LAND HOLDING LLC; AIRPARK NORTH METROPOLITAN DISTRICT NO. 1

6. PROFESSIONAL SERVICES AGREEMENT (P23-02, SECURITY GUARD SERVICES – FACILITIES)

7. PROFESSIONAL SERVICES AGREEMENT (P23-01, ARMED GUARD SERVICES – SHERIFF)

APPOINTMENTS

1. RECOMMENDED REAPPOINTMENT TO THE ESTES VALLEY PLANNING ADVISORY COMMITTEE – REX POGGENPOHL

2. RECOMMENDED APPOINTMENT TO THE KITCHELL GENERAL IMPROVEMENT DISTRICT – DANIEL TURNER

3. RECOMMENDED REAPPOINTMENTS TO THE ENVIRONMENTAL AND SCIENCE ADVISORY BOARD – RODGER AMES AND CHRISTOPHER WOOD

4. RECOMMENDED APPOINTMENT TO THE LAPORTE AREA PLANNING ADVISORY COMMITTEE – CODY VAN

LIQUOR LICENSES:

1 LIQUOR LICENSE SPECIAL EVENT – TAILSPINNERS – FORT COLLINS ELKS LODGE BPOE804 – FORT COLLINS, CO

2. LIQUOR LICENSE RENEWAL – HORSETOOTH STORE AND GAS LLC DBA HORSETOOTH STORE AND GAS – FORT COLLINS, CO

3. LIQUOR LICENSE RENEWAL – SENOR RAGAEI AT THE MEXICAN INN LLC DBA SENOR RAFAEL AT THE MEXICAN – LOVELAND, CO

4. LIQUOR LICENSE RENEWAL – ZGOLF FOOD & BEVERAGE SERVICES LLC DBA WEDGEWOOD WEDDING & BANQUET CENTER – LAPORTE, CO

MISCELLANEOUS

1. LARIMER COUNTY DEPARTMENT OF HUMAN SERVICES PAYMENT OVERVIEW FOR 2023 FIRST QUARTER

2. REQUEST FOR APPROVAL TO ENTER UPON LANDS – JUDY STENCEL

3. REQUEST FOR APPROVAL TO ENTER UPON LANDS – WILLIAM LENCE II

4. REQUEST FOR APPROVAL TO ENTER UPON LANDS – PAULE HALAC/KRISTIE L REVOCABLE TRUST

ORDINANCES

1. AMENDED LARIMER COUNTY ORDINANCE FOR IMPLEMENTATION AND ENFORCEMENT OF SHORT-TERM RENTAL REGULATIONS

POLICIES

1. HUMAN RESOURCES POLICY AND PROCEDURE 331.4L, CONDITIONS OF EMPLOYMENT

RESOLUTION

1. RESOLUTION OF THE BOARD OF THE LARIMER COUNTY BUILDING AUTHORITY APPROVING OF DISSOLUTION

2. RESOLUTION ESTABLISHING COMPENSATION FOR CHIEF DEPUTY DISTRICT ATTORNEY

3. RESOLUTION ESTABLISHING COMPENSATION FOR DEPUTY DISTRICT ATTORNEY IV (SENIOR DDA)

4. RESOLUTION ESTABLISHING COMPENSATION FOR DEPUTY DISTRICT ATTORNEY IV (SENIOR DDA)

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the Consent Agenda for May 23, 2023.

Motion carried 3 – 0.

5. COMMISSIONERS' GUESTS: The Commissioner's did not have any guests.

6. DISCUSSION ITEMS:

1. PROCLAMATION FOR FOSTER CARE APPRECIATION MONTH 2023 Angela Mead, Deputy Division Manager of Larimer County Department of Human Services, presented the proclamation and the hardships that face the foster care system. Ms. Mead recognized the difficulties that are inherent in this system and the need for more families to enter the foster care system. Ms. Mead also discussed the way that the county has been working to recognize this hardship and supporting these families. Royal Family Kids Camp is one example of a community supported program. Ms. Mead told a story about how this camp has helped individual children. Ms. Mead introduced her co-presenter, Robert Hill who is a foster volunteer and has worked very hard in this program. Mr. Hill shared his experience fostering children in this community.

MOTION

Commissioner Kefalas read the proclamation and moved to approve the proclamation for Foster Care Appreciation Month 2023.

The Board expressed their gratitude to the foster care system and the good work that people are doing to protect and care for the children.

Motion passed 3-0.

2. PROPOSED ADOPTION OF A COMMUNITY-INITIATED RESOLUTION SUPPORTING IMPROVED MEDICARE FOR ALL AS THE STATE OR NATION

HEALTH CARE SYSTEM. THE COVID-19 PANDEMIC HAS DRAMATICALLY DEMONSTRATED THE INADEQUACIES OF OUR CURRENT PATCHWORK OF HEALTHCARE PROGRAMS SERVICING LARIMER COUNTY AND THE NATION. THE TEMPORARY RELIEF MEASURES PUT INTO PLACE DURING THE PANDEMIC WILL BE ENDING MAY 31, 2023, AND LARIMER COUNTY RESIDENTS SHOULD HAVE ACCESS TO A STATE OR NATIONAL NOT-FOR-PROFIT, SINGLE PAYER, HEALTH CARE FINANCING SYSTEM.

Commissioner Stephens read the resolution.

Mr. Richard Shannon introduced Dr. Corey Carol. Dr. Carol talked about the benefits of universal healthcare. Dr. Carol told a story about a patient who died because of lack of healthcare. Mr. Shannon talked about the issues concerning our current healthcare and was appreciative of this proclamation. Jane Hamburger, President of the League of Women Voters of Larimer County, spoke about the need for healthcare and the advocacy of this proclamation by the League.

Dr. June Himen-Scissouski, a retired psychologist, spoke in support for this proclamation and the need for this type of healthcare.

Mr. Greg Zoda, a member of Larimer County Healthcare Action, spoke about why he advocated for this proclamation and this sort of system to be implemented in Larimer County.

Ms. Elaine Branjord, Chair of Larimer County Health Care Action, advocated for single payer health care programs.

MOTION

Commissioner Stephens moved the Board to approve the resolution

The Board thanked those working and speaking for this proclamation. The Board also spoke about the importance of affordable healthcare for our county and how the loss of pandemic resources creates issues for many residents.

The motion passed 3-0.

7. COUNTY MANAGER UPDATE: County Manager Volker provided a brief overview of her activities this past week and her schedule for next week.

The Board wanted to recognize Angela Myers and her work for the county as she will be retiring shortly.

The Board also wanted to thank the responders to the Loveland incident yesterday. Especially Ken Cooper and Larimer County Sheriff's Department.

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

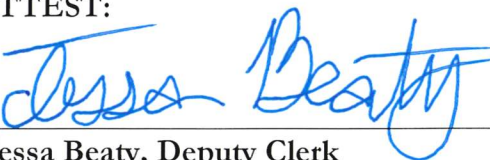
9. LEGAL MATTERS: None requested

With there being no further business, the Board adjourned at 10:50 a.m.


JODY SHADDUCK-MCNALLY
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS
CLERK AND RECORDER

ATTEST:


Tessa Beaty, Deputy Clerk



