



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, SEPTEMBER 23, 2024

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Jenny Axmacher, Senior Planner. Chair Kefalas presided. Commissioner Shadduck-McNally and Commissioner Stephens were present. Also, present were Samantha Lasher, Laura Culleton and Shalayna Lysaght, Community Development; Connor Sheldon, and Stephen Rothwell, Engineering Department; Alan Kee, Code Compliance; Lea Schneider, Health Department; Frank Haag, County Attorney's Office; and Deirdre O'Neill, Deputy Clerk.

Chair Kefalas opened the hearing with the Pledge of Allegiance.

Planner Jenny Axmacher stated that the tabled item from August 12, 2024, has been moved to a discussion item for today's hearing.

CONSENT AGENDA ITEMS:

1. ERION HERITAGE TRUST AMENDED PLAT, FILE NO 23-LAND4304: This is a request for an amended plat to adjust lot lines between lot 3 of the Shyanne PLD and lot 1 of the Hirsch Family Trust MRD. This amended plat also proposes an additional building envelope on lot 1 of the Hirsch Family Trust MRD along the shoreline of Horseshoe Lake for the purpose of constructing an accessory building. This case was previously named Erion Trust amended plat.

Lot 1 is located at 5280 Great Bear Ln in Loveland, CO and currently contains a single-family home and a detached accessory building along the shoreline of horseshoe lake. Lot 2 is located at 5056 N County Rd 11C in Loveland, CO and currently contains a single-family residence.

The proposed amended plat will transfer 1.57 acres from lot 1 to lot 2. The resultant lot sizes of the two parcels will be 3.62 acres (lot 1) and 4.96 acres (lot 2).

In addition to the land transfer between the two parcels, this application proposes a building envelope along the shoreline of Horseshoe Lake on lot 2 for the purpose of constructing a boat accessory building. Due to the wetland buffer located on the Shyanne PLD plat along the shoreline of Horseshoe Lake, a building envelope is required to be dedicated to be able to build in this area.

No easements or rights-of-way are being vacated in conjunction with this request

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team recommends approval of the amended plat of lot 3, Shyanne PLD and lot 1, Hirsch Family Trust MRD, File No. 23-LAND4304, subject to the following conditions:

1. The properties will be subject to all restrictions, covenants, and conditions as set forth in the plat of record for the Shyanne PLD and the Hirsch Family Trust MRD.
2. Any future uses on lot 1 and lot 2 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. Lot 2 shall be allowed one accessory building within the dedicated building envelope for the purpose of boat storage and other boat related purposes clearly incidental to that purpose.
5. Prior to the recordation of the amended plat, the applicant shall make any required technical corrections noted by the Land Surveyor of the Larimer County Engineering Department.

2. FORT COLLINS SOCCER CLUB AMENDED SPECIAL REVIEW, FILE NO 23-ZONE3422: This is a request for an amended special review to add items to a previously approved application for the Fort Collins Soccer Club. Some of the items include changing the layout of the complex, changes to the phases of implementation, and entry plaza, etc. If approved, Site Plan Review is required for the build out of each proposed phase.

This item was on the Consent Agenda for the August 21, 2024, Planning Commission public hearing at 6:00 pm.

In the original 1995 approval, the applicants sought approval to construct and operate a soccer complex in three phases (with an approximate timeline of 15 to 20 years to complete all phases) with facilities to include 22 soccer fields, lighted and fenced stadium field, picnic and playground areas, and a 5,000 square foot clubhouse with concessions, office and a caretaker apartment. Phases 1 and 2 were to include the construction of 22 soccer fields and attendant facilities, and Phase 3 was to include the construction of the stadium field.

Phase 1 was completed, and Phase 2 was initiated with a total of 17 fields completed, but no supporting restroom structure was installed nor were other conditions and improvements completed, as was required for Phase 2. The applicant was approved in 2001 to use portable restrooms and other 'temporary support' for five (5) soccer fields until the maintenance/caretaker/restroom structure was completed as required for Phase 1. This structure was completed in 2002-03, however, portable

restrooms are still being utilized to supplement the permanent restrooms that were required for progressing to Phase 2. Relatedly, the Club's Master Plan document, completed in 2014, acknowledges that the existing restroom structure located in the far northeast corner of the property is underutilized due to the distance from the central and western fields, so only portable restrooms are used. The Master Plan also proposes new phases of development for future build-out and expansion of the Club

The applicant is applying for an Amended Special Review to amend their previous phasing plan to allow for six (6) phases to better align with their updated Master Plan. This Amended Special Review also allows staff to recommend updated conditions of approval that will ensure the appropriate restroom facilities are constructed to accommodate the Club in addition to the evaluation of other technical components, like traffic, access, drainage, etc.

Site Plan review and approval be required for each proposed phase, which will include the detailed evaluation of traffic, parking, drainage, plumbing fixture adequacy (restroom counts), noise, fire protection, etc, as applicable. This has been made a condition of approval.

PLANNING COMMISSION AND DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team recommends the Board of County Commissioners approve the Fort Collins Soccer Club Amended Special Review, File No. 23-ZONE3422, pursuant to the recommendation and conditions outlined in the Planning Commission Meeting Minutes and staff report on August 21, 2024.

3. SCRAGG ALA APEAL, FILE NO 24-ZONE3654: This is an appeal to 3.4.5.A.3 of the Larimer County Land Use Code to allow a detached accessory living area to exceed the required size maximum of 75 percent of the square footage of the single-family dwelling, excluding any garage or basement area, or 1,000 square feet, whichever is less.

The subject property is a 38,768 square-foot parcel located at 3930 Hammans Court, Loveland, CO which is approximately 0.15 miles northeast of the intersection of S. Taft Ave. and 42nd St. SW, and within the Loveland Growth Management Area (GMA). The property is currently developed with a 2,524 square-foot single-unit home, built in 1996, with a 1,090 square-foot basement. The property owners are proposing to construct an ALA with an attached garage for them to live in long-term, while their son and his family will reside in the principal residence on the property.

The property is served by an existing residential tap from the Little Thompson Water District and sewer service from the Town of Berthoud. Both the principal dwelling and the ALA will share the existing access point off Hammans Court. Adequate parking for the residence and proposed ALA are provided on the property.

The applicant is seeking approval through a concurrent Administrative Special Review process for the proposed accessory living area and is requesting an appeal to the size limit. The proposed accessory

living area is 51.35% of the square footage of the principal residence, exceeding the maximum allowance of 1,000 square-feet by 296 square-feet.

The Board of County Commissioners is only hearing the size appeal. If the size appeal is granted by the Board of County Commissioners, the Administrative Special Review for the detached accessory living area can be approved administratively by the Community Development Director or their designee. This application is proceeding via the Administrative Special Review process as the subject application was submitted prior to the ALA regulations changing in August of 2024, which now permit ALAs as of right in most zoning districts. An appeal to exceed the size maximum would still be required regardless of the change in process.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team recommends approval of the Scragg Appeal, File No. 24-ZONE3654.

Should the Board of County Commissioners approve this appeal, the Scragg Accessory Living Area Administrative Special Review, 24-ZONE3654, will also be approved administratively, as recommended by the Development Services Team, subject to the following conditions:

1. The single-unit character of the property must be maintained.
2. The accessory living area shall be limited to 1,296 square feet
3. The accessory living area shall be located as shown on the approved site plan
4. The accessory living area must not be rented or leased for less than 30 days separately from the single-unit dwelling.
5. The accessory living area must be used solely for guests of the occupants of the single -unit dwelling, long-term tenant occupants, or those providing a service on site in exchange for their residency.
6. An address must be assigned to the accessory living area prior to issuance of a Certificate of Occupancy.
7. The owner is responsible for paying all applicable fees which may include building permit fees, impact fees, and Transportation Capital Expansion Fees applicable to an accessory living area.
8. This administrative special review approval shall be automatically null and void in the event that the applicant fails to comply with and conditions of approval or fails to use the property consistent with the approved administrative special review.
9. This approval shall automatically expire in three years if use has not commenced and/or a building permit is not issued.
10. One off-street parking space shall be provided for the accessory living area.
11. Staff recommends the applicant read and address all the referral agency comments. Comments may be enforced by the respective referral agencies, including those not included as conditions of approval.

4. **AUSTIN & CARR APPEAL, FILE NO. 24-ZONE3674:** This is an appeal to 3.4.5.A.3 of the Larimer County Land Use Code to allow a detached accessory living area to exceed the required size maximum of 75 percent of the square footage of the single-family dwelling, excluding any garage or basement area, or 1,200-square feet, whichever is less.

The subject property is a 5-acre parcel located at 3301 Cottonwood Lane, Berthoud, CO which is approximately 0.4 miles southwest of the intersection of W. County Road 6 and S. County Road 21.

The property is currently developed with a 1,997 square-foot single-family home, built in 1971, with a partially finished basement and a detached garage with an existing ALA on the second floor. With this appeal, the applicant is seeking to bring the ALA into compliance with the Land Use Code and address the code compliance violation under File No. 24-CCC0200. This code compliance file reports that no permits were obtained for the partial basement finish or for the ALA above the detached garage.

The property is served by an existing residential tap from the Little Thompson Water District and an on-site septic system. Both the principal dwelling and the ALA share the existing access point off Cottonwood Lane. Adequate parking for the residence and ALA are provided on the property.

The applicant is seeking approval through a concurrent Administrative Special Review process for the accessory living area and is requesting an appeal to the size limit. The applicant has indicated that the accessory living area is intended to provide long-term housing. The 1,584 square-foot accessory living area is 79.32% of the square footage of the main home, exceeding the maximum allowance of 1,200 square-feet by 384 square-feet.

The Board of County Commissioners is only hearing the size appeal. If the size appeal is granted by the Board of County Commissioners, the Administrative Special Review for the detached accessory living area can be approved administratively by the Community Development Director or their designee. This application is proceeding via the Administrative Special Review process as the subject application was submitted prior to the ALA regulations changing in August of 2024, which now permit ALAs as of right in most zoning districts. An appeal to exceed the size maximum would still be required regardless of the change in process.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team recommends approval of the Austin & Carr Accessory Living Area Size Appeal File No. 24- ZONE3674.

Should the Board of County Commissioners approve this appeal, the Austin & Carr Accessory Living Area Administrative Special Review, 24-ZONE3674, will also be approved administratively, as recommended by the Development Services Team, subject to the following conditions:

1. The single-unit character of the property must be maintained.
2. The accessory living area shall be limited to 1,584 square feet
3. The accessory living area shall be located as shown on the approved site plan
4. The accessory living area must not be rented or leased for less than 30 days separately from the single-unit dwelling.

5. The accessory living area must be used solely for guests of the occupants of the single -unit dwelling, long-term tenant occupants, or those providing a service on site in exchange for their residency.
6. An address must be assigned to the accessory living area prior to issuance of a Certificate of Occupancy.
7. The owner is responsible for paying all applicable fees which may include building permit fees, impact fees, and Transportation Capital Expansion Fees applicable to an accessory living area.
8. This administrative special review approval shall be automatically null and void in the event that the applicant fails to comply with and conditions of approval or fails to use the property consistent with the approved administrative special review.
9. This approval shall automatically expire in three years if use has not commenced and/or a building permit is not issued.
10. One off-street parking space shall be provided for the accessory living area.
11. Staff recommends the applicant read and address all the referral agency comments. Comments may be enforced by the respective referral agencies, including those not included as conditions of approval.

MOTION

Commissioner Shadduck-McNally moved that the Board approve the consent agenda items for September 23, 2024, and also moved to authorize the Chair to sign the Findings and Resolution.

Motion carried 3-0

DISCUSSION ITEMS

TABLED ITEM FROM AUGUST 12,2024

1. RIVERSIDE FARM SECOND FILING AMENDED PLAT & RIGHT OF WAY VACATION, FILE NO. 19-LAND3877: Laura Culleton, planner, presented the request to the Board. This is a request for an (1) amended plat for the entire second filing of Riverside Farm subdivision to reduce the number of lots from 24 to 16 and to increase the size of tract A (open space) and (2) Right of Way Vacation of a portion of Sweetwater Lane that was originally proposed to serve the lots being removed from the subdivision.

The Second Filing of the Riverside Farm Planned Unit Development (P.U.D.) is a 65.21- acre parcel that was approved to contain twenty-four (24) single-family home lots. This Riverside Farm 2nd filing development also included approximately thirty-five acres of common open space across two lots (Tracts A & B).

The Second Filing of the Riverside Farm P.U.D. was originally approved in 2007. Due to the economic conditions at that time, the development of the Second Filing was delayed and the bank financing the development foreclosed on the property. Subsequently, the property has changed ownership, and the current owner is seeking to develop the property.

The flood of 2013 damaged the site itself, as well as the infrastructure serving the site. Because of the flood, the Federal Emergency Management Agency (FEMA) authorized new analysis and mapping of the floodway for the Little Thompson River which borders the property along its southern boundary. The new floodplain that was adopted indicates that most of the original 24 platted lots in the second filing will not be developable as currently recorded. Therefore, this amended plat and right of way vacation application is being proposed to reconfigure the plat to have single-family lots that are not

within the floodplain, and to move a larger portion of the property into a single, common area for open space known as Tract A.

The proposed amended plat will reconfigure and reduce the number of single-family home lots from 24 to 16. The proposed amended plat will also increase the total common open space area from 36.64-acres to 45.47-acres. Additionally, a right-of-way vacation of an unconstructed portion of Sweetwater Lane is being proposed with this application to allow for the reconfiguration of these lots. The right-of-way being vacated is no longer necessary and the reconfigured lots will take access from a proposed extension of Parkstone Court. With this right-of-way vacation, additional access from County Road 17 that was in the floodplain will be eliminated and all lots in the Second Filing will be accessed via County Road 4E and Parkstone Court, which was established through the First Filing.

The domestic water service for the site is to be provided by the Little Thompson Water District (LTWD). Service to the Second Filing of development is proposed to be an extension of the district's water lines that were constructed as a part of the development of the First Filing. An updated water commitment letter was provided from LTWD in June of 2024. The proposed amended plat of the Second Filing is also to be served by a public sewage treatment facility. The sewage collection system for the Second Filing is proposed to connect to the sewer system previously constructed in the First Filing. The existing system originally discharged to the River Glen Homeowners Association's wastewater treatment facility. However, when that treatment facility was damaged because of the 2013 flood, a sewer main was constructed to convey sewage from the River Glen and Riverside Farm developments to the Town of Berthoud's wastewater treatment facility.

Access to the Second Filing is to be from an extension of Parkstone Court via Sweetwater Lane. Improvements to County Road 4E were made as a part of the development of the First Filing. Improvements to State Highway 287 have been made and as such have met the turning lane requirements for access from County Road 4E. The stormwater requirements for the Second Filing were also considered during the development of the First Filing. The stormwater detention pond that was constructed as a part of the development of the First Filing was designed and constructed to provide the stormwater detention capacity and the water quality control volume that was anticipated for the Second Filing.

Notice of this application was sent to property owners within 500 feet of the property. No neighbor comments have been received.

AMENDED PLAT REVIEW CRITERIA

- A. No additional lots will be created by the amended plat.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district. If any of the lots are nonconforming with regards to the minimum lot size, the amended plat must not increase the nonconformity.
- C. The amended plat will not create a nonconforming setback for any existing building.
- D. The amended plat will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area
- E. Any covenants, deed restrictions or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or note on a plat that are approved with this application.

RIGHT-OF-WAY VACATION REVIEW CRITERIA

- A. Approval of the vacation request will not leave any land adjoining the right-of way without an established public road or private access easement connecting the land with another established public road, or without utility or drainage services
- B. The recommendations of referral agencies have been considered
- 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
- D. Right-of-way vacations must also meet requirements of C.R.S. § 43-2-303.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the request to vacate right-of-way within the Riverside Farm Second filing subdivision as indicated by the right-of-way legal description and exhibit.

The Development Services Team also recommends approval of the Riverside Farm Second Filing amended plat, File No. 19-LAND3877 with the following conditions:

1. All conditions of approval shall be met, and the amended plat recorded within six months, or this approval shall be null and void.
2. The lot is subject to all covenants, deed restrictions, or other conditions that apply to the original lots in Riverside Farm 2nd filing.

3. All homes shall be equipped with a residential fire sprinkler system, or equivalent, to the satisfaction of the Berthoud Fire Protection District *and must comply with other conditions and recommendations by the Berthoud Fire Protection District as of the letter date June 13, 2024.*
4. An amended development agreement shall be provided for review and approval by the Board of County Commissioners no later than *March 23, 2025. The Development agreement shall require that phase two pays its proportional share of the cost for road maintenance. Engineering shall review and if appropriate provide for temporary construction access as part of the development agreement.*
5. The amended development agreement shall ensure that either a new lot sale amendment or sufficient collateral is collected prior to the development of phase 2 to ensure that all infrastructure is completed prior to the sale and construction of the lots.
6. *The build out of phase two shall not affect water pressure and delivery of water to the existing homes.*

The Commissioners had some questions on access roads on the proposed plat as well as comments on lots within the floodplain. Stephen Rothwell, Engineering, spoke about the original filing one access as compared to the now proposed amended plat as to filing two. There were questions on addressing whether the Berthoud Fire Protection District comments had been addressed.

The Chair invited the applicant, Andrew Batson, to present to the Board. Mr. Batson announced that he looks forward to the second phase (filing) to be a great addition to the neighborhood and will work with the current HOA and that the new custom homes will be compatible with the current neighborhood and that they will contribute to the road maintenance and landscaping. They will also be increasing the open space for the entire neighborhood and look forward to cooperation with the county.

PUBLIC COMMENT

The following spoke with concern to the request: Brett Floyd, Michael Paulus and Pam Philips (via zoom). Their collective concerns are noise, lighting, damage to land, water line increase and how will this affect water pressure in filing one homes. They also had concerns about elevation and asked for clarification on the houses to the south shown on the map that was provided and if they are within the floodplain and comments on construction temporary access.

Chair Kefalas closed public comment.

Mr. Batson gave responses to the public comments. He stated he would be open to a temporary construction access road if county engineers agree and that he did not believe that the homes are within the floodplain.

The Commissioners had some questions for staff and the County Attorney on conditions of approval and effects of water pressure on the homes in filing one as condition number three does not necessarily address this.

The Engineering Department did speak to the temporary access road and would need to discuss with the right of way team before answering. They also spoke about the floodplain code and what the code allows as far as lots on the floodplain fringe.

Frank Haug, Assistant County Attorney stated that the Commissioners can add as a condition of approval on lots 35 and 36 that they cannot construct within the flood fringe. Mr. Haug also mentioned that any construction will have to go through the building permit process, and flood review process for final approval.

The Commissioners thanked the public, staff and the applicant for their presentations and questions. The Commissioners added conditions of approval on the sharing of road costs and that filing one will not be impacted as far as water pressure. The Commissioners are in support of the application with the addition of language in the conditions of approval and that it does meet the criteria of the right of way and have addressed some concerns on the amended plat.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Riverside Farm Second Filing Amended Plat & Right of Way Vacation, File No. 19LAND3877 subject to the conditions in the staff report and with the additional verbiage and or/conditions (*italics*) provided by the County Attorney at this hearing as well as the changing of date to reflect March 23, 2025, listed in condition number four and authorize the Chair to sign the findings and resolution.

Motion carried 3-0

2. **BELLA VISTA RESORT COTTAGES ADMINISTRATIVE SPECIAL REVIEW, FILE NO 22-ZONE3344:** Samantha Lasher presented this request to the Board explaining that this is a request for an administrative special review for Resort Cottages to be rented on a short-term basis, located in two existing detached dwellings with a total of four bedrooms and one additional sleeping area for a maximum of ten guests. The third dwelling on the property is not part of this Resort Cottages application.

The subject property is located at 6600 Highway 7 in Estes Park, Colorado, approximately 0.8 miles northeast of the intersection of Highway 7 and Longs Peak Road. The property is a legal lot, zoned FO – Forestry, located outside of the Estes Valley. The subject property originally took access from Levings Way but received approval from the Colorado Department of Transportation (CDOT) for a new access point off Highway 7. The access point off Levings Way will be closed and an easement agreement will be recorded allowing for formal access from Highway 7 through the owners' adjacent parcel to the subject property. Relatedly, the address of the property changed from 102 Levings Way to 6600 Highway 7.

The property currently contains three (3) existing single-family dwellings. The Community Development Director determined that all three (3) dwellings are legal nonconforming in 2021 and can continue to be used as such.

The applicant requests Administrative Special Review approval for a Resort Cottages use located in two (2) of the existing dwellings with a total of four (4) bedrooms and one (1) additional sleeping area for a maximum of ten (10) guests. The Resort Cottages would be rented on a short-term basis and the third dwelling is not included in this request but could continue to be used as a residence by the property owners.

Additionally, the property owners have indicated that the existing on-site well and on-site septic system are encroaching onto their adjacent parcel to the west. The owners have drafted encroachment agreements for the well and septic system and the agreements must be signed and recorded prior to operation of the Resort Cottages, if approved. This has been made a condition of approval. Relatedly, if this application is approved, the owners must apply for a Boundary Line Adjustment to formally resolve the encroachments within six (6) months from the date of approval, which has been made a condition of approval. The Larimer County Health and Environment Department and the State Division of Water Resource approve of this approach.

Ms. Lasher mentioned that the resort cottage will have a property manager consisting of the owner and a responsible party representing the owner to manage the use at any time it is occupied. The property manager is located within one hour or less travel distance from the resort cottage rental.

REVIEW CRITERIA

1. The proposed use has minimal impact on the existing and future development of the area.
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.
3. The recommendations of referral agencies have been considered and adequately addressed.
4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to GMA district, or if none, with the Comprehensive Plan.
5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.

CONDITONS OF APPROVAL

1. 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.
2. This Administrative Special Review approval shall be subject to revocation at a noticed public hearing if the owner fails to comply with any conditions of approval or fails to use the property consistent with the approved Administrative Special Review.

3. The Site shall be developed consistent with the approved plan and with the information contained in the Bella Vista Resort Cottages Administrative Special Review, File No. 22ZONE3344, 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 Bella Vista Resort Cottages Administrative Special Review.
4. 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.
5. Prior to operation as Resort Cottages, the applicant shall obtain an approved Certificate of Occupancy Permit from the Larimer County Building Division, and successfully pass the Life Safety Inspection.
6. The Resort Cottages is approved with a total of four (4) bedrooms and one (1) additional sleeping areas for a maximum occupancy of 10 guests between the two (2) dwellings.
7. The property is not permitted to be used as an event venue, without receiving additional approval.
8. The third dwelling on the property, as designated on the approved Site Plan, cannot be used as part of the Resort Cottages use. The third dwelling can continue to be used as a residence for the property owners.
9. 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.
10. No parking shall be permitted in the right-of-way and all parking for the use must be on-site.
11. 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.
12. The Main Cabin and second Guest Cabin, approved as part of this application, can only be rented together to one short-term rental party and cannot be rented out to separate parties.
13. . Upon issuance of the Certificate of Occupancy Permit, the applicant shall include the approved File Number, 22-ZONE3344, on all advertising websites.
14. Prior to operation, the applicant must sign and record encroachment agreements for the existing on-site well and on-site septic system that encroach onto Parcel No. 34260-00009.

15. The applicant must submit a Boundary Line Adjustment application within six (6) months from the date of approval to resolve the on-site well and on-site septic encroachment on Parcel No. 34260-00-009.
16. Prior to operation as Resort Cottages, the applicant must record an access easement agreement through Parcel No. 34260-00-009 to formalize access from Highway 7 to the subject property. Additionally, access to Levings Way will need to be closed for the subject property.
17. Prior to approval of the Change of Occupancy permit, the second guest cabin must be assigned an address.
18. Prior to operation as Resort Cottages, the applicant shall post the property manager's contact information outside the front doors.
19. 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 Resort Cottages.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team is not making a specific recommendation on the Bella Vista Resort Cottages Administrative Special Review, File No. 22-ZONE3344 and has presented all the information by which the Board of County Commissioners may base their deliberation and decision.

The Commissioners had some questions/clarifications on comments in the application referring to long and short-term/temporary rentals that operate in a single-family dwelling for permitted water for household use from the Division of Water Resources. They also had questions for code compliance on two previous cease and desist letters in 2022 that were sent to the applicant regarding using the property as a short-term rental without approval. Code Compliance stated that since that time, the applicants have been in compliance with the county.

The Chair invited the applicants to address the Board.

The applicants Dan and Paul Heard addressed the Board. They stated that the short-term rental application is for a maximum of 10 guests, and that they have sufficient room in their existing facilities for that number. They are only planning to rent to a single family or single group at a time and their advertising is updated to reflect that. Their plan is to rent to 12-15 families/groups during the year for about 75 nights or 20% of the year. These rentals will be primarily during the summer months plus Thanksgiving, Christmas, and New Year's holidays. The overall traffic is less than what a full-time resident would generate.

Due to several concerns in the neighborhood about the usage of Levings Way, the Heards have secured a permit from CDOT and built a road to the cabins from Highway 7. This is now the entrance to their two parcels. There will be no need for their guests to use Levings Way and will be instructed not to use this private road for any reason. Now that they have a separate entrance to their cabins, they have blocked the entrance to Levings Way with the use of logs.

The entire property is fenced except for a small portion with the Jansen neighbors to the north. The applicants are also planning to place signage along the property line to ensure guests do not venture on to their land. We also have a manager nearby that can be contacted for any reason.

Mr. Heard stated that if approved, their advertising will indicate a maximum of 10 guests. The only time we would have more than that is when our families and friends are using it while visiting. With adult children and grandchildren, the Heard family has approximately 20 members. They visit the property several times throughout the year. No large parties will be allowed nor groups for large events such as a wedding. They also have removed the firepit. All STR codes regarding placement of fire extinguishers have been complied with and they are available in the cabin as prescribed in the Larimer County Land Use Code. They believe that a short-term rental is consistent with the Tahosa Valley Ethos. There are numerous camps and lodges in the immediate vicinity of their property that welcome many visitors throughout the year. Their desire is to share a love for Colorado while sharing the property with families. They are also willing to consider noise monitoring devices and have rules and signage about not feeding wildlife. They plan on only renting to families that understand the restrictions and agree to abide by the rules respecting the neighbors and their property.

PUBLIC COMMENTS

Andrew Jansen is a neighbor of this property whose family has owned this property since 1941 and is in opposition to this application. His property shares a boundary, and his family wishes to express their concern and displeasure that this is changing the character of their small and private community by allowing short-term rentals.

Penny Hilton also spoke in opposition to the application. Ms. Hilton purchased her property in 2018 and wants to protect her property and the norms that characterize our historical neighborhood and be able to preserve that legacy for their children. The fact that they have used the property as a venue is of great concern; it is disruptive to neighbors and wildlife and increases the risk of fire and trespassing to properties. Ms. Hilton also mentioned that the applicants have operated the STR in the past without county approval in defiance of cease-and-desist instructions.

Elizabeth Shoffner spoke via zoom. She is also in opposition to this application. She would like to see Levings Way blocked with a more permanent structure instead of logs. She did mention that the Heards have made some positive changes relating to the new entrance and are happy about those changes but still have concerns about this application, especially if they are allowed to use as a venue for events.

The Commissioners/Community Development have also received emails in opposition to this application stating that this will further impact wildlife that is essential to Colorado, preventions of wildfires, trash, noise, traffic concerns, and past disregard for rules and regulations. Other concerns are construction, environmental impacts, further expansion and unvetted clients. Other comments were made that neighbors feel that they have invested so much to live in the peaceful Tahosa Valley and wish it to stay that way.

The applicants were given the opportunity for rebuttal and stated that they are willing to put up a fence along the boundary line along the Jansen's property as well as they are open to suggestions on placing something more permanent to close the access point if it is allowed. They want families to be able to enjoy Colorado and want to also be a good neighbor for those around them.

The Board did have some questions for staff relating to the timeline that short-term regulations went into effect. Staff let the Commissioners know that the adoption of regulations went into effect in 2019, and the property owners were notified of the regulations at that time. There were also questions for code compliance on the two cease-and-desist orders that were sent previously to the applicant.

The Commissioners thanked everyone for attending and appreciated all the comments from the public as well as the applicants and staff presentation. The Commissioners stated that they did read through all the emails and are concerned about past trespassing and conflicts with the neighbors. The Commissioners mentioned the two cease and desist letters sent previously to the applicant as well. They also have concerns about the impacts on wildlife and do not feel that condition number one - the proposed only has minimal impacts on the existing and future development of the area. They feel it does not fit with the character of the neighborhood. The Commissioners each announced that they do not feel criteria one has been met and will not be in support of the application.

M O T I O N

Commissioner Shadduck McNally moved to deny the Bella Vista Resort Cottages Administrative Special Review, FILE NO 22-ZONE3344.

Motion passed 3-0.

With there being no further business, the Board adjourned at 5:50 pm

TUESDAY, SEPTEMBER 24, 2024

ADMINISTRATIVE MATTERS MEETING

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

Chair Kefalas opened the meeting with the Pledge of Allegiance.

1. PUBLIC COMMENT: Cindy Buckhardt, President of the Larimer County 4-H foundation. Ms. Burkhardt spoke of the vision of 4-H and made a request to the Board designating the 4-H non-profit foundation so that it does not continue to incur costs using the Thomas McKee 4-H building.

Chair Kefalas closed public comment.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF SEPTEMBER 16, 2024

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the week of September 16, 2024.

Motion passes 3-0

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF SEPTEMBER 30, 2024: Ms. Martin reviewed the upcoming schedule with the Board. The Commissioners added some updates to their schedules.

4. CONSENT AGENDA:

AGREEMENTS:

- 1. STATE OF COLORADO CONTRACT MODIFICATION CONTRACT AMENDMENT #4**
- 2. GRANT AGREEMENT REGARDING AMERICAN RESCUE PLAN COLLABORATIVE PROJECTS GRANT SUB AWARD TO DENVER RESCUE MISSION**
- 3. MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF FORT COLLINS AND LARIMER COUNTY FOR THE PROJECT POUDRE RIVER TRAIL RIGDEN RESERVOIR TO COLORADO STATE UNIVERSITY ENVIRONMENTAL LEARNING CENTER**

APPOINTMENTS:

- 1. RECOMMENDED MIDTERM APPOINTMENT TO THE RED FEATHER MOUNTAIN LIBRARY DISTRICT-Annie Scott**
- 2. RECOMMENDED MIDTERM APPOINTMENT TO THE WORKFORCE DEVELOPMENT BOARD- David Lawton**

LIQUOR LICENSES: Liquor License Renewals: Coleman Kessler Group dba Ride a Kart and Cascade Creek Mini Golf- Estes Park, Colorado-Beer and Wind; Rawah Ranch LLC dba Rawah Ranch -Glendevey, Colorado, Hotel and Restaurant; Noble Wolff LLC dba Pot Belly Restaurant and Lounge-Red Feather Lakes, Colorado-Tavern; Riversong Inc dba Romantic Riversong Inn – Estes Park, Colorado-Bed and Breakfast. Findings and Order-Ft. Collins Lodging LLC dba The Clarion Hotel-Fort Collins, Colorado-Hotel and Restaurant.

MISCELLANEOUS:

1. **SAGE INVESTMENT PROPERTIES LLC STIPULATION AS TO TAX YEAR 2023 VALUE**
2. **2025 CCI LEGISLATIVE COMMITTEE DESIGNATION**
3. **ASSUMPTION OF FIRE CONTROL DUTY**

POLICIES

1. **CORRECTIVE AND ADVERSE ACTIONS POLICY**

RESOLUTIONS:

1. **COLORADO PARKS AND WILDLIFE GRANT RESOLUTION FOR THE CHIMNEY HOLLOW TRAIL CONSTRUCTION PROJECT (PHASE 1 OF 2)**
2. **NOCO PLACES CONSERVATION AND RECREATION VISION RESOLUTION**

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners ratify the Assumption of Fire Control Duty for the Pearl Fire signed by Chair John Kefalas on September 17, 2024.

Motion carried 3-0

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Consent Agenda for Tuesday, September 24, 2024.

Motion passes 3-0

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

DISCUSSION ITEMS:

6. **PROCLAMATION DECLARING SEPTEMBER 15-OCTOBER 15, 2024, AS HISPANIC HERITAGE/LATINÉ MONTH IN LARIMER COUNTY.** Lorenda Volker, County Manager stated that this is a proclamation honoring the contributions and achievements of the Latine community. The theme for 2024 is "Pioneers of Change: Shaping the Future Together." This theme recognizes the contributions of those who have paved the way for future generations and the spirit of unity, resilience, and innovation that defines the Hispanic experience.

Larimer County's Hispanic/Latiné population have shown unyielding courage and resolute resilience to address prejudice and discrimination; they remove barriers through activism and advocacy and strive to achieve equity for all residence in Larimer County.

The celebration of Hispanic/Latiné Heritage month was established in 1968 to recognize and celebrate the traditions and culture of Hispanic/Latinés in the United States. The timing was selected because the anniversaries of independence for several Latin American countries are in Mid-September.

The Commissioners are honored to read and sign this proclamation and thank Heart of Soul and many other organizations who have brought forth this proclamation. The Commissioners spoke of events that will be held throughout the month.

Commissioner Shadduck McNally read the proclamation

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Proclamation declaring September 15-October 15, 2024, as Hispanic/Latiné Month in Larimer County.

Motion passes 3-0

The Board took a brief recess.

The Board returned to session.

7. **PROCLAMATION RECOGNIZING AND HONORING JOHN “JACK” RYLAND THURMAN:** The Larimer County Board of Commissioners celebrate and honor Mr. Thurman on this special occasion of his 99th birthday and his unwavering dedication and extraordinary contributions to our nation.

Lee Cooper, Larimer County Veterans Service Officer, presented the proclamation to the Board. Mr. Copper praised Mr. Jack Thurman, a distinguished World War II veteran, standing as a symbol of valor, dedication, and unwavering commitment to our nation. Mr. Cooper spoke of his own military service as well as those of his grandfather.

Mr. Thurman enlisted in the U.S. Marine Corps in 1943 and has demonstrated remarkable courage and resolve from the outset of his military career. He served honorably from 1943-1945 and played a pivotal role in one of the most crucial battles of World War II, the Battle of Iwo Jima in February of 1945.

Mr. Thurman has the distinction of being one of 17 young marines in the iconic “Gung Ho” photo raising the American flag over the Japanese Island of Iwo Jima.

The Commissioners wish to celebrate and honor Mr. Thurman on this special occasion of his 99th birthday. They extend their heartfelt thanks for his dedication and extraordinary contributions to our nation and for his service, bravery, and sacrifice as they honor him on this remarkable milestone.

Commissioner Stephens read the proclamation.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Proclamation Recognizing and Honoring John "Jack" Ryland Thurman.

Motion passes 3-0.

8. **COUNTY MANAGER UPDATE:** Manger Volker updated the Board on this week's coordination meetings and upcoming projects and activities.

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

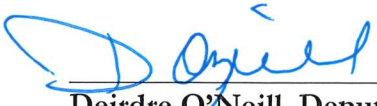
10. **LEGAL MATTERS:** None requested.

With there being no further business, the Board adjourned at 10:40 a.m.


JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS
CLERK AND RECORDER

ATTEST:


Deirdre O'Neill, Deputy Clerk



