



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, MAY 24, 2021

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Don Threewitt, Planning Manager. Chair Kefalas presided. Commissioner Shaddock-McNally and Commissioner Stephens were present. Also present were Tracy Hicks, Doug May, Samantha Mott, Michael Whitley, Community Development; Lesli Ellis, Community Development Director; Stephen Rothwell, Connor Sheldon, Engineering; Jeannine Haag, Frank Haug, County Attorney; and Eliza Brock, Deputy Clerk.

Commissioner Kefalas opened the meeting with the Pledge of Allegiance.

CONSENT AGENDA

1. CRYSTAL LAKES 15TH PUD LOT 8 BUILDING ENVELOPE, FILE NO. 21-LAND4124: This is a request to increase the size of the original building envelope for future improvements to the property.

The Tait property consists of 3.05-acres and is a part of the Crystal Lakes PUD 15th Filing. This property is vacant except for one 10' X 12' storage shed on the property. There have been no previous land use approvals on this property.

The Tait's would like to enlarge their current building envelope to encompass flat land that is more conducive to future improvements on their property. The original building envelope is approximately 7,400 square feet as shown on the original plat. The Tait's proposal is to increase the building envelope to a total of 10,750 square feet as shown on the proposed exhibit. The proposed building envelope will not encroach into any setbacks as dictated by the E-Estate Zoning District and will also not encroach into any utility easements.

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 and the lot dimension ratio required by §5.2, Lot and Block Standards. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, 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. The county commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Crystal Lakes 15th PUD Lot 8 Building Envelope, File Number 21-LAND4124 with the following conditions:

- 1. All conditions of approval shall be met, and the Amended Building Envelope Exhibit recorded by October 27, 2021, or this approval shall be null and void.
- 2. The lot is subject to all covenants, deed restrictions, or other conditions that apply.

2. ROCKY MOUNTAIN OHANA RANCH PRELIMINARY PLAT AND APPEALS, FILE NO. 19-LAND3887: This request is for a preliminary plat approval of a Conservation Development to divide a 35-acre parcel into one single-family residential lot and one residual lot with a residential building envelope. The request is also an appeal to Section 8.14.1.H of the Land use Code (Lot Width-to-Depth Ratio), Section 8.14.1.M of the Land Use Code (Right-of-Way Dedication), and Section 8.14.1.R of the Land Use Code (Connectivity).

PLANNING COMMISSION AND DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of File No. 19-LAND3887 pursuant to the recommendation and conditions outlined in the Planning Commission Resolution approved on April 21, 2021.

The Planning Commission recommends to the Larimer County Board of County Commissioners to approve the Rocky Mountain Ohana Ranch Preliminary Plat and Appeals, File No. 19-LAND3887 subject to the following conditions:

- 1. The final plat shall be consistent with the approved preliminary plan and with the information contained in the Rocky Mountain Ohana Conservation Development, File

#19-LAND3887 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 Rocky Mountain Ohana Conservation Development.

2. The following fees shall be collected at building permit issuance for new single-family dwellings: Thompson R2-J school fee, Larimer County fees for County and Regional Transportation Capital Expansion, and Larimer County Regional Park fees (in lieu of dedication). The fee amount that is current at the time of building permit application shall apply.
3. Fire Requirements – All new residential structures will be required to have residential fire sprinkler systems. This condition 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 soil 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 the 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 Department. 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. Revise the final plat to show the easement width as specified in the comments from Western Area Power Association.
7. Revise the lot names on the plat to reflect Residual Lot A and the newly proposed residential lot as Lot 1.

3. BOXELDER HEIGHTS RLUP, LOT 15 BUILDING ENVELOPE AMENDMENT, FILE NO. 21-LAND4099: The owners of Lot 15 seek to amend the platted building envelope by moving it approximately 200-feet to the southwest while keeping the same size and general shape of the existing envelope. According to the applicants, the purpose of the relocation is to take advantage of the natural, gentle, and slow downward to the southwest which would allow for the construction of a one-story home with a walkout basement. According to the application documents, the location of the existing building envelope is level, and the grade change does not begin until approximately 225-feet south of the north lot line, which is outside the boundaries of the existing building envelope.

The subject property has other single-family homes in the Boxelder Heights RLUP to the south, west, and northwest. Directly to the north is agricultural land, Residual Lot C. While the applicants are

proposing to move the building envelope further southwest, which is closer to the house located directly to the west, they are proposing it to be located as close to the eastern property line as setbacks allow.

Additionally, while relocating the building envelope approximately 200-feet to the southwest creates a larger front setback than the homes in the immediate area when considering the context of the entire Boxelder RLUP, there is considerable variability in setbacks throughout the development. Therefore, the proposal would not create a building envelope location out of character with the neighborhood.

The Boxelder RLUP is a Rural Land Use Plan that was approved in 2005, creating 27 lots including Outlets and Residual Lots. Building envelopes were created for each of the lots. There have been five previous building envelope amendments in the Boxelder RLUP:

- Lot 3 was expanded 7-feet to the east and 8.48-feet to the north.
- Lot 10 was moved approximately 200-feet to the west.
- Lot 9 was moved 20-feet to the east and expanded 50-feet to the east and south.
- Lot 11 was expanded 7.5-feet to the west and 9.3-feet to the east.
- Lot 16 was expanded 75-feet to the south.

REVIEW CRITERIA:

The Larimer County Land Use Code (Section 5.7.3) allows for the approval of an amended plat if the following review criteria are met:

- 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 and the lot dimension ratio required by subsection 8.14.1.H. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, the amended plat must not increase the nonconformity.
- C. The amended plat will not create a nonconforming setback for any existing building.
- D. The resultant lots will meet the requirements of subsection 8.14.1.I. Lots cannot be divided by a municipal or county boundary line, road, alley, or another lot.
- E. 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.
- F. 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. The county commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Building Envelope Amendment for Lot 15 of the Boxelder Heights RLUP, File Number 21-LAND4099, and authorization for the chairman to sign the Findings and Resolution:

1. All conditions of approval shall be met, and the final resolution of the County Commissioners recorded by November 24, 2021, or this approval shall be null and void.
2. Lot 15 shall remain subject to any and all covenants, deed restrictions, or other conditions that apply to the original lot.

4. **HOLIDAY TWIN SPECIAL EVENT 1ST APPEAL, FILE NO. 21-GNRL0511:** The applicant is seeking an appeal approval from the Board of County Commissioners to Article 6.7.2.B.1.c of the Larimer County Land Use Code, which applies when “a person proposes to deviate from a standard or requirement imposed by this code, except standards or requirements that are subject to zoning variances from the Board of Adjustment.”

The standard imposed by the code is in Article 6.7.2.B.2.c, “the Director will schedule the appeal...no later than 60 days after the date on which a properly completed notice of appeal is filed.”

The request is for a Fort Collins Symphony performance and accompanying live fireworks review prior to regularly scheduled film viewings on July 4, 2021, at the Holiday Twin Drive-In theatre property. Approval of this appeal request will allow the applicants to proceed with this Special Events permit application for review as conducted under Article 7.0 of the Land Use Code. Internal and external partner agencies will review and provide recommendations as is routine for all Special Events.

Denial of this request would prohibit the processing of the Special Event permit application for this date. However, a denial would not impact the related primary appeal request, which is scheduled to be heard on June 14, 2021.

The applicants have submitted a related appeal (File No. 21-GNRL0511) requesting to host a series of up to forty-five (45) Special Events at the existing drive-in movie facility that would involve live music. This first event is scheduled during the 60-day appeal review period, and the applicants seek approval to continue with the event application while the remaining request is under review.

The drive-in movie use was established in 1979, prior to much of the surrounding residential development. Most residential uses in the vicinity were constructed between 1985-1995. The adjacent residential owners have historically accepted the property’s use as a theatre. No noise complaints had been filed prior to last year when live performances began as a response to public health restrictions on indoor gatherings.

The Holiday Twin is a non-conforming use and includes 2 parcels in County jurisdiction which are fully enclosed within the City of Fort Collins’ jurisdiction (a ‘county island’). Adjacent road access is provided by South Overland Trail, which is fully under the jurisdiction of the City of Fort Collins. Water and sewer are provided by the City of Fort Collins, and fire protection service is provided by Poudre Fire Authority.

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

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of this appeal for the Special Event permit application based on the following considerations: this holiday event has been successfully conducted in 2020 without negative impacts, the event is subordinate to the primary use of the property as a drive-in theatre, and that upon review the event will comply with all standards. The applicant is pursuing appropriate processes to review other proposed events that provide alternative access to the performing arts during a challenging time. If allowed to apply for the Special Events permit, the permit will be subject to review and conditions of approval that are consistent with input from the reviewer and referral agencies.

MOTION

Commissioner Stephens moved to approve the items on the consent agenda subject to the conditions in the staff reports and further move to authorize the Chair to sign the findings and resolutions.

Motion carried 3-0

DISCUSSION ITEMS:

1. **FIRST NATIONAL BANK SIGN APPEAL, FILE NO. 21-GNRL0510:** Michael Whitley; Planning. Mr. Whitley explained this is a request to appeal the Director's determination that an approximately 50% face change of a nonconforming freestanding sign from a "flex face" material to a digital electronic message center is a change from the original materials of the sign and is a physical

and structural alteration and an appeal to Section 10.14.A.2 of the Land Use Code to allow the addition of a digital electronic message center to a nonconforming sign without bringing the sign into conformance with current standards.

The applicants are Marie Hashaw, DaVinci Sign Systems, Inc., and Todd G. Messenger, Esq, Fairfield and Woods, P.C. The owner is I-B Investments, Inc.

The subject property is a 48.25-acre parcel in Fort Collins and located southeast of the intersection of Prospect Road and Interstate 25.

The property is zoned CC– Commercial Corridor and is in the Timnath Growth Management Area. Much of the land immediately to the west is in the Fort Collins city limits and the Fort Collins Growth Management Area.

The property contains agricultural production and a nonconforming sign with a “flex face” sign face. “Flex face” is a tensioned flexible plastic banner material that stretches across the face of a sign.

According to the applicant’s sign illustration, the sign is 426-square feet. The height of the sign is unspecified, but it appears to be taller than 20 feet. The sign’s setbacks from property lines are also not specified.

On non-residential properties, freestanding signs are allowed to be taller and larger as the setback of the sign increases from the property line adjacent to the street. The height and size are capped at 18-foot tall and 90-square feet per sign face for signs with a setback of 36 feet or greater from the adjacent road.

The existing sign is nonconforming because it is taller and larger than allowed by the Land Use Code.

There are no records of when the sign was first constructed on the property. The only permit on record related to the sign is a permit issued in 1988 to re-face the sign. The illustration of the sign attached to that permit did not note the height of the sign, but it indicates the sign is 40’ by 12’.

Section 10.14.A.2 of the Land Use Code states that a nonconforming sign shall not be, “Structurally or physically altered in order to prolong the life of the sign, including a change from the original materials of the sign, except to meet safety requirements.”

On February 25, 2021, a representative from DaVinci Sign Systems wrote a letter stating that Larimer County allows face changes to nonconforming signs without permits. The letter requested confirmation that the county will not require permits or approvals for the installation of an electronic message center on the sign at 1700 SW Frontage Road.

The Community Development Director wrote a letter in a response dated March 4, 2021, stating that the existing sign is nonconforming and the change from flex face to a digital display is a physical

material change according to the Land Use Code and would not be allowed without the approval of an appeal.

The applicants have appealed the Director's determination that the change from a "flex face" material to an electronic message center is a change of materials from the original sign and have appealed Section 10.14.A.2 of the Land Use Code to allow the change of materials to a nonconforming sign.

Mr. Whitley explained that Section 10.5 is concerning prohibited signs. The sections appealed read:

The following signs are not allowed in any zoning district:

B. Signs which contain any flashing, rotating, animated, or otherwise moving features. The appearance of electronic or changeable message signs cannot change more frequently than once every minute.

If the Board of County Commissioners approves one or both appeals, a suggested condition of approval is compliance with Section 10.5.B.

Mr. Whitley explained there are two aspects to this request, the first being an appeal to the Community Development Director's Determination regarding the change of materials. The Land Use Code Section 5c reads, "At the conclusion of the hearing the County Commissioners will affirm, affirm with modifications or reverse the decision of the administrative officer or the interpretation of the Planning Director." Also, item 6 reads, "Burden of proof. The decision of the administrative officer or the Planning Director's interpretation will not be reversed unless it is shown by a preponderance of the evidence that the decision is in error or inconsistent with the intent and purpose of this Code."

DaVinci Sign Systems' letter requesting a determination regarding the ability to add an electronic message component to the sign, the Community Development Director's letter determining that the change from a "flex face" material to an electronic message center is a change to the original materials of the sign.

While the applicants note that the support structure of the sign, the height of the sign, and the area of the sign are not proposed to be changed, they do not make an argument that the change from "flex face" to an electronic message center (EMC) is not a change to the original material of the sign.

The applicants' materials indicate that a sign at 7001 SW Frontage Road, Fort Collins was retrofitted with EMCs "in the last couple of years." A sign at that location was allowed to be retrofitted with an electronic message center in 2010, but only after the Board of County Commissioners approved an appeal allowing the change. In 2015, the Board of County Commissioners approved a second appeal to allow the consolidation of three nonconforming freestanding signs on that property into one electronic message sign.

The Development Review Team concludes that the applicant did not provide evidence that the decision of the Community Development Director is in error or inconsistent with the intent and purpose of the Land Use Code. The Development Services Team recommends that the Board of County Commissioners not reverse the determination of the Director.

The second aspect of the request has a separate criterion to meet. To approve an appeal from the applicable requirements in Section 10 of this Code the County Commissioners must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- A. Approval of the appeal is consistent with the purpose and intent of this Code within section 10.
- B. There are extraordinary or exceptional conditions on the site which would result in a peculiar or undue hardship on the property owner if Section 10 of this Code is strictly enforced.
- C. Approval of the appeal would not result in an economic or marketing advantage over other businesses which have signs which comply with Section 10 of this Code.

Mr. Whitley shared that Larimer County's sign regulations are designed to be consistent with the neighboring municipalities so that should land be annexed it is not inconsistent with their regulations. The Town of Timnath does not allow for EMC signs and the City of Fort Collins expressed the EMC signs are inconsistent with their regulations. Both municipalities are requesting that this appeal be denied.

Approval of the requested appeal would allow the existing nonconforming sign to change its original materials without coming into compliance with current standards for height and size as required by the Land Use Code.

The proposal does not comply with the three-criterion listed above. Staff findings are that the approval of the code is not consistent with the purpose of the code.

The Development Services Team recommends denial of the First National Bank Sign Appeals, File 21-GNRL0510.

There was a discussion with the Board on clarifying the two appeals. The first appeal challenges the Director's decision that changing from flex face to EMC changes the original materials of the sign and therefore would trigger compliance with current regulations. The second appeal is asking that if the determination is made that it does change the original materials then they would like to be allowed the change without triggering compliance of the regulations.

Todd Messenger spoke on behalf of the applicant. He explained that the applicant disagrees with the staff and believes it to be a grammar issue. They agree that the request is a change in materials however, that change in materials will not prolong the life of the sign. First National Bank of Omaha (FNBO) owns the signs and controls the content. They are a community partner that has invested \$6.1 million in local philanthropic efforts. The sign is already connected to electric power and the current lights would be much brighter than the electronic content that they hope to display on half of the sign. The sign has been changed many times over the life of the sign and the metal structure is

not changing to prolong the life of the sign. To add the EMC the applicant would only have to hang the electronic board and plug it into the existing power.

Mr. Messenger explained that the intent of the code is not in line with the denial. The land the sign is currently on is not in the City of Fort Collins or the Town of Timnath and therefore those regulations should not be taken into consideration when making this decision. The sign advances criterion one and will allow enhancement of social capital, it is safe, avoids clutter, and is a visual upgrade. The applicant further believes their request satisfies criterion two. Approval of the appeal would not result in an economic or marketing advantage over businesses as the sign has been in the same place for over 60 years.

There was a discussion with the Board on the location of the sign. It is within the Timnath Growth Management Area and will likely be annexed into Timnath at some point. Mr. Messenger stated that the county does not prohibit digital signs, and the sign is on county property.

Chair Kefalas opened the meeting for public comment.

Nathan Ewert, Regional Vice President for FNBO, reported to the Board that the bank has many community partners that will utilize being a part of the sign and it will not just advertise for the bank. John Shaw, Founder of Da Vinci Signs, spoke in favor of the change to the sign and the history of the sign changing materials many times over the years.

Chair Kefalas closed public comment.

There was a discussion with the Board and the Community Development staff on if this a case of grammar as the applicant is suggesting as they are not prolonging the life of the sign but rather changing the materials. The Planning staff agrees that changing the materials would prolong the life of the sign and therefore trigger compliance.

The argument was presented from the applicant that neighboring sign codes are not relevant. Mr. Whitley reported that it is not explicit in the Land Use Code that they develop the regulations to be consistent with adjacent municipalities, however, they do look to those municipalities. They strive to be consistent with the municipalities so once the land is annexed into municipalities the signage is not out of compliance with their standards. If a new sign went up, then it would be no larger than 18-foot-high. The current sign is both larger and taller than what would be allowed if a new sign were put up.

The Board noted that this is a non-conforming sign as it stands and is a change of original materials of the sign. The sign is changing and therefore had to go through the permitting process. It is important to maintain good relationships with adjacent municipalities and that sign codes be in alignment.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners deny the appeal to the Community Development Director's determination regarding sign material, File 21-GNRL0510.

Motion carried 3-0

MOTION

Commissioner Stephens moved that the Board of County Commissioners deny the appeal to Section 10.14.A.2 of the Land Use Code, File 21-GNRL0510.

Motion carried 3-0

2. AMENDMENTS TO THE LARIMER COUNTY LAND USE CODE REGARDING PRIVATE PARKS AND RECREATION USES IN THE ESTES VALLEY RESIDENTIAL ZONING DISTRICTS AND OUTDOOR RECREATION FACILITIES COUNTYWIDE, FILE NO. 21-CODE0253: Leslie Ellis, Community Development Director.

Ms. Ellis presented the request to amend the Larimer County Land Use Code Article 13, Table 13.1, to remove the "Park and Recreation Facilities, Private" use from Residential Zoning Districts; and to amend Article 3, Tables 3.1 and 3.2 to remove the "Recreation Facility, Outdoor" use from zoning districts where it currently applies. The changes will allow for further community input and refinements to the standards.

After hearing a staff summary of the issue and community input on the same topic, the Estes Valley Planning Advisory Committee (EVPAC) on April 15, 2021, unanimously recommended the Board of County Commissioners put a moratorium in place for the private park and recreation uses in residential zoning districts. On May 19, 2021, the Planning Commission met and unanimously recommended in favor of this direction after hearing the input from EVPAC.

Ms. Ellis explained to the Board that this conversation has been going on for some time. This proposed temporary Land Use Code (LUC) change was prompted through conversations in the Estes Valley and has a several-year background stemming from changes in the Estes Valley Development Code (EVDC) that carried into the LUC. In 2019, following approval of the mountain coaster project and ongoing community discussion and input about parks and recreation uses in residential areas, the town and county modified the definitions and process so that intensive commercial park and recreation uses would be restricted in residential zoning districts and less intensive uses would be limited. In Sept. 2019, the town and county adopted the new standards into the EVDC (later converted to Town of Estes Development Code), and in March 2020 carried them forward into the Larimer County Land Use Code, now Article 13.

The current code allows private parks and recreation uses in residential areas through a Special Review approval process. The Use Specific Standard in Sec. 13.6.1.V. notes that:

"Private Park and recreation facilities in residential districts, as standalone activities with permission of the property owner(s), shall be restricted to the following uses:

(1) Horseback Riding with ten or fewer participants per riding group.

- (2) Fishing (including fishing lessons on private ponds), with appropriate licensing or permitting.
- (3) Photography.
- (4) Hiking and climbing activities.
- (5) Swimming.
- (6) Non-motorized boating, canoeing, kayaking (electric-assist boating shall be allowed).
- (7) Non-motorized cycling (electric-assist bicycling shall be allowed).
- (8) Passive open space.”

Ms. Ellis noted there has been questions and concern that the above standard may not be appropriate on certain types of properties in the residential areas. Two Code changes are proposed to allow for community and board input on the topics and refinements to standards relating to outdoor recreation/park and recreation uses especially in residential districts of the Estes Valley and rural areas.

The first proposed code change is to amend Article 13.0: Supplemental Regulations for the Estes Valley, Sec. 13.4, Table 13-1: Residential Zoning Districts Zoning Table, to remove the use from the six residential zoning districts. It may be that they can decide if some should be put back in or if there are different ways to allow the uses on larger residential properties but not smaller properties.

The second proposed code change is to amend sections within Land Use Code, Article 3, Use Regulations (Tables 3.1 and 3.2) that allow for commercial “Recreation Facility, Outdoor” uses in the rural and residential zoning districts of other parts of the county to remove that use until that issue can be resolved or other parts of the county and the Estes area. As part of Phase 2 of LUC, the community may have a broader conversation about types of outdoor recreation facilities that are appropriate in various zoning districts throughout the County and whether the definition or use specific standards need modification.

In Section 20.2, Definitions of Use Categories and Specific Use Types (Under 20.3.4 Commercial Uses):

20.2.4.G.5 Recreation Facility, Outdoor defined as: “An outdoor facility providing recreation, with or without charge, including golf courses, batting cages, golf driving ranges, miniature golf courses, archery ranges, amphitheaters, skating rinks, skateboard parks, swimming pools, tennis courts, sports courts, dirt bike tracks, racetracks, drag strips and similar uses. Accessory uses may include clubhouses, limited retail, concessions, and maintenance facilities. This use does not include parks, playgrounds, or open space.”

Outdoor recreation uses are now allowed in most zoning districts of the county through an Administrative Special Review (ASP) approval process (for all except the IR and AP zoning districts, which require a Special Review Process). The ASP process means there is no hearing unless elevated from the Planning Director to the Board of County Commissioners for review and decision during a hearing. Outdoor recreation facilities are further regulated through Use-Specific Standards, 3.3.5 Commercial Use in commercial zoning districts:

Ms. Ellis reported that the Community Development staff recommend approval of the Land Use Code amendments for “Park and Recreation Facilities, Private” uses in the Estes Valley and “Recreation Facility, Outdoor” uses countywide and outside the Estes Valley. This is a temporary change to the Code for the Estes Valley while the community has the conversation through the

comprehensive plan process about compatible recreational uses, and for other county boards and commissions and the public to give input on the topic of countywide outdoor recreational uses. Some of the zoning districts (e.g., FO and CD) are immediately adjacent to the Estes Valley Planning Area.

There are two review criteria for amendments to the text of the Land Use Code:

1. The proposed changes are consistent with the Master Plan (Comprehensive Plan) and the intent and purpose of the County's Master Plan.
2. The proposed changes are necessary to correct an omission or error in the Land Use Code.

Ms. Ellis believes that both criteria have been met and further attention is needed in this portion of the Land Use Code.

Chair Kefalas opened the meeting for public comment.

Kimberly and Neil O'Malley spoke in opposition of the amendment to the Land Use Code. The O'Malley's feel like the changes were brought forward in response to their project to create a tubing hill which is largely misunderstood. They questioned if members from the public that are not residents can weigh in on projects.

Chair Kefalas closed public comment.

There was a discussion with the Board and Ms. Ellis who explained that the amendment was not designed for any project or proposal. There have not been any proposals recently and the O'Malley's project was submitted as only a sketch plan over a year, but they have not heard anything further on it since that time.

Jeannine Haag, Special Counsel for Larimer County, questioned when the effective date for this amendment would be. Ms. Ellis reported that the effective date would be today after the motion passes.

There was a discussion with the Board and staff on the implications of the proposed change in terms of projects currently in the works. In April of 2020, a sketch plan, which is a feasibility level of review, was submitted by the O'Malley's for an indoor and outdoor facility. Their property is zoned as Forestry which would not allow indoor/outdoor recreation facilities. The process being considered at that time was a Special Exception to request permission for a use that is not allowed in their zoning district. With the recent LUC change, the Special Exception process was taken away. The idea was rather than request an exception, the path forward would be to rezone the property to a zoning district that allows the use. The LUC also changed to allow for outdoor recreation through a Special Exception review on Forestry zoned land. Indoor facilities were still not allowed in the Forestry Zoning District. If the O'Malley's do apply, there would be a hold placed on their application. There is not an application currently on file. Neighborhood meetings will also be placed on hold until the Comprehensive Plan process is completed which could be a year or more down the road. Ms. Ellis

suggested that they could move this part of the process along more quickly if the Board gave that direction.

There was a discussion among the Board, and they assured the O'Malley's that this change was not proposed to target their project but rather to provide some protection for those in residential areas. It was agreed that this part of the LUC needs more scrutiny. The Board explained that anyone from the public, even outside the county, can offer public comment. The proposed amendments to the code are in attempts to address the EVPC recommendation of a moratorium or pause on the first proposal staff in identifying a similar situation in other districts in the second proposal. They asked that the process be thoughtfully expedited within reason, but that appropriate time is taken to consider the community's input.

MOTION

Commissioner Shaddock-McNally moved that the Board of County Commissioners approve the proposed amendments, File #21-CODE0253, to amend sections of the Larimer County Land Use Code to address "Park and Recreation Facilities, Private" in the Estes Valley and "Recreation Facility, Outdoor" throughout the County. Code changes include:

- 1) In Table 13.1, remove the "Park and Recreation Facilities, Private" use for the Estes Valley EV RE-1, EV RE, EV E-1, EV E, EV R, EV RM zoning districts.
- 2) In Table 3.1, remove the "Recreation Facility, Outdoor" use for NR, FO, A, ACE, RR-1, RR-2, IR, and RC zoning districts, and in Table 3.2 remove the "Recreation Facility, Outdoor" use for MU-C, CC, CN, CD, IL, and AP zoning districts.

Motion carried 3-0

3. AMENDMENTS TO THE LARIMER COUNTY LAND USE CODE REGARDING ARTICLES 6.5.7, 6.5.8 AND 6.5.11, FILE NO. 21-CODE0254: Matt Lafferty, Principal Planner.

Mr. Lafferty explained that this is a request to amend the Larimer County Land Use Code by: (1) Repealing Article 6.5.7. Director-Approved Plat Modifications and replacing it with Article 6.5.7. Director-Approved Property Re-configuration and Plat Modifications, (2) Repealing and replacing Article 6.5.8. Board-Approved Plat Modifications, (3) Adding Article 6.5.11. Minor Land Divisions, (4) Amending Table 6-1: Development Review Procedures Summary in Article 6.2. Summary Table of Review Procedures, and (5) Amending the Table of Contents to reflect proper naming conventions. Said amendments will address errors and omissions associated with administrative and non-administrative procedures and requirements for property and plat modifications and Minor Land Divisions that occurred during the transition from the previous Land Use Code to the current Land Use Code.

Mr. Lafferty explained how different types of properties are parceled or divided and when it is required for the Board of County Commissioners to change or modify and when it is approved administratively

by the Director. These changes will allow the Director to make decisions on amendments so long as they do not have a right-of-way vacation or easement or an issue that would be better suited for the Board of County Commissioners to hear. They are requesting to amend the LUC to clear up what the director can do administratively and what needs to come before the Board.

There was a discussion with the Board on missing these items with the first draft of the code. These were an oversight and need updating. If items create neighborhood concern the director can request a public hearing for the Board to hear. These updates should create less work for the Director and save customers approximately eight weeks in the process. The Commissioners can also contact the Director if they receive questions from the public. This amendment does not change notification requirements. The Planning Department will still provide notice to neighborhoods on changes so they are aware of what is going on and can provide a comment if desired.

Staff recommends that the Larimer County Planning Commission recommend to the Board of County Commissioners approval of the proposed amendments to the Larimer County Land Use Code, file #21-CODE0254.

Ms. Haag questioned when the effective date for this amendment would be. Mr. Lafferty reported that the effective date would be today after the motion passes.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the proposed amendments to the Larimer County Land Use Code, file #21-CODE0254.

Motion carried 3-0

With there being no further business, the Board adjourned at 5:03 p.m.

TUESDAY, MAY 25, 2021

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with Linda Hoffmann, County Manager. Commissioner Kefalas presided. Commissioner Shadduck-McNally and Commissioner Stephens were present. Also present were: Brenda Gimeson, Commissioners' Office, and Eliza Brock, Deputy Clerk.

Commissioner Kefalas opened the meeting with the Pledge of Allegiance.

1. **PUBLIC COMMENT:** Mary Bedosky addressed the board by teleconference to comment on oil and gas reverse setbacks. Deb Bjork, Greg Leverett, Jay Mendoza, and Rosemary VanGorder addressed the Board in person.

2. **APPROVAL OF THE MINUTES FOR THE WEEK OF MAY 17, 2021:**

MOTION

Commissioner Stephens moved to approve the minutes for the week of May 17, 2021.

Motion carried 3-0

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF MAY 31, 2021: Ms. Gimeson reviewed the upcoming schedule with the Board.

The Board noted that on Sunday, May 30, 2021, from 12:00 p.m. to 1:00 p.m. they may attend the Memorial Day Ceremony at Veteran's Plaza of Northern Colorado. Commissioner Shadduck-McNalley will also attend the Dwayne Webster ceremony with Mayor Marsh.

Commissioner Shadduck-McNalley and Commissioner Kefalas will be resuming their community conversations in-person rather than virtual in June.

4. CONSENT AGENDA:

ABATEMENTS:

RECOMMENDED DENIAL OF PETITION FOR ABATEMENT OR REFUND OF TAXES: Janice S. Inman & Lloyd D Leflet R0299278 tax year 2020.

AGREEMENTS:

- 1. FORT COLLINS FIBER USE LICENSE AGREEMENT**
- 2. PROFESSIONAL SERVICES AGREEMENT (P21-08, ARCHITECTURAL ENGINEERING DESIGN SERVICES - FLEET CAMPUS)**
- 3. INTERGOVERNMENTAL AGREEMENT WITH NORTH FRONT RANGE TRANSPORTATION AND AIR QUALITY PLANNING COUNCIL FOR COVID-19 VACCINE TRANSPORTATION**
- 4. CONSTRUCTION SERVICES AGREEMENT (ENGINEERING BID NO. B21-07, PN 332)**
- 5. CONSTRUCTION SERVICES AGREEMENT (ENGINEERING B21-08, PN 8505)**
- 6. SECOND AMENDMENT TO LEASE**

APPOINTMENTS:

1. RECOMMENDED APPOINTMENTS TO THE OPEN LANDS ADVISORY BOARD- Steve VanderMeer, Peter Kelly, and David Marvin

LETTERS OF SUPPORT:

1. LETTERS OF SUPPORT FOR CONGRESSIONALLY DIRECTED SPENDING PROJECT SUBMISSIONS BY LARIMER COUNTY TO OFFICES OF SENATORS MICHAEL BENNET AND JOHN HICKENLOOPER

LIQUOR LICENSES: Shiv, LLC - Chill-Tavern-Fort Collins; Beartage Chateau, LLC – Colorado Cherry Company- Beer & Wine- Lyons; JJ's Bar & Grill LLC- JJ's Bar & Grill- Tavern- Fort Collins; Mini Mart Inc- Loaf N Jug #750825- Fermented Malt Beverage Off-Premises- Fort Collins; Rawah Ranch LLC- Rawah Ranch- Glendevy; Seven Keys Lodge LLC- Seven Keys Lodge- Hotel & Restaurant- Estes Park; T & B Properties- Westlake Liquor- Retail Liquor Store- Red Feather Lakes.

MISCELLANEOUS:

- 1. STIPULATION AS TO TAX YEAR 2020 VALUE**
- 2. BERTHOUD CONVENIENCE CENTER**
- 3. RANCH EVENTS COMPLEX PLANNED UNIT DEVELOPMENT ZONING**
- 4. STORM MOUNTAIN PUBLIC IMPROVEMENT DISTRICT NO. 55 ADVISORY BOARD BYLAWS**
- 5. APPROVAL TO ENTER UPON LANDS FOR WEED MITIGATION**
- 6. LETTER TO WESTERN AREA POWER ADMINISTRATION REGARDING COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE RAIL TIE WIND PROJECT**

RESOLUTIONS:

- 1. RESOLUTION FOR STATUTORY VESTED RIGHTS FOR THE PALLAORO SUBDIVISION AND APPEALS, FILE 19-LAND3948**
- 2. RESOLUTION CONSENTING TO THE REVOCATION OF THE SCENIC RANCH ESTATES ROAD ASSESSMENT FEE**

MOTION

Commissioner Shaddock-McNally moved to approve the Consent Agenda for May 25, 2021.

Motion carried 3-0

- 5. COMMISSIONERS GUESTS:** The Commissioners did not have any guests.
- 6. COVID-19 UPDATES AND DECISIONS:** Linda Hoffmann, County Manager, addressed the Board to inform them there was no report this week from either Public Health or the Recovery Manager.

Ms. Hoffmann reported that we are continuing to work on the "Drive to 65" campaign and currently 62.5% of county residents have received at least one dose of the vaccine.

7. **COUNTY MANAGER UPDATE:** Manager Hoffmann reported she was out of the office last week.

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

13. **LEGAL MATTERS:** No decision expected.

Executive Session pursuant to C.R.S. 24-6-402(4)(b): conference with attorneys for the purpose of legal advice regarding Colorado Department of Public Health & Environment surface water discharge permit and solid waste Consent Order for the Landfill.

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners enter executive session pursuant to C.R.S 24-6-402(4)(b), conference with attorneys for the purpose of legal advice regarding Colorado Department of Public Health & Environment surface water discharge permit and solid waste Consent Order for the Landfill.

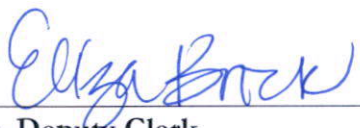
Motion carried 3-0

With there being no further business, the Board adjourned at 9:58 a.m.


JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS
CLERK AND RECORDER

ATTEST:


Eliza Brock, Deputy Clerk

