



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, APRIL 22, 2024

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Rebecca Everette Community Development Director. Chair Kefalas presided. Commissioner Shaddock-McNally and Commissioner Stephens were present. Also present were Jenny Axmacher, Justin Currie, Laura Culleton, and Michael Whitley, Community Development; Steven Rothwell, Engineering; Frank Haug, Assistant County Attorney; and Elizabeth Carter, Deputy Clerk.

PUBLIC HEARING CONSENT ITEMS:

1) AN AMENDMENT TO ARTICLE 13.6.1.C.4. OF THE LARIMER COUNTY LAND USE CODE

During the process of amending the short-term rental regulations for the unincorporated portions of Larimer County it was determined that a new zone district for the Estes Valley Planning Area would be created to address neighborhood concerns within the Windcliff Estates development. It was anticipated that if this new zone district was applied to a specific area, that area would no longer be subject to the cap limits for the Estes Valley Planning Area. Furthermore, it was anticipated that the existing cap limit would be reduced by the number of permitted short-term rentals existing within the rezoned area.

On February 21, 2024, the Board of County Commissioners approved the rezoning request for the Windcliff Estates development. As the result of this approval, the maximum cap limit for short-term rentals in the Estes Valley needs be reduced by the 58 short-term rentals within the Windcliff Estes development area. Therefore, this request is to change the cap number found in Article 13.6.1.C.4 of the Land Use Code from 266 to 208 to reflect the new cap limit after removing the 58 short-term rentals that already existed in the Windcliff Estates development.

PROPOSED AMENDMENT: Amend Item 4. of Article 13.6.1.C. Short-Term Rental to read as follows:

4. Operating licenses for short-term rentals in residential zoning districts (designated herein as EV E, EV E-1, EV R, EV RE, EV RE-1, and EV RM) shall be held at a maximum total ("cap") of 208 registrations in effect at any given time. This cap shall be reviewed annually by the County Commissioners, in or near the month of April. The County will

maintain a waiting list for interested applicants whose application would cause the cap to be exceeded. The waiting list will rank prospective applicants in the order they were received, and as operating registrations become available may be eligible to apply for approval as a short-term rental.

With regard to the proposed amendment, staff believes that this change will ensure that the intent of the Code will be achieved as was originally intended.

REVIEW CRITERIA:

Amending the text of this Code is a matter committed to the legislative discretion of the Board of County Commissioners. Per Section 6.6.2.D. to approve a change in the Code text, the Planning Commission in their review and recommendation, and the County Commissioners in their review and decision, shall consider whether the proposed change is consistent with the Comprehensive Plan and the intent and purpose of this Code.

As proposed, this Code amendment is technical in nature addressing issues raised by the recent rezoning of the Windcliff Estates development which removed 58 short-term rentals from the cap for short-term rentals in the Estes Valley Planning Area.

2) CLHS ENTERPRISES, LLC REZONING, FILE NO. 23-ZONE3556: Acceptance of Annexation Denial Per Section 2.7.2.D.2. in the Larimer County Land Use Code, the County shall not accept any application for a rezoning to a PD – Planned Development for any property located in a Growth Management Area that has any contiguity to the municipal limits and thus can be made eligible for voluntary annexation, whether through a series of annexations or otherwise, except as provided in Section 2.7.2.D.3., which is as follows:

- a. The subject parcel(s) has no contiguity to the municipal limits; or
- b. The municipality denies the petition for annexation for reasons other than those stated in §2.7.2.D.2.c.i and §2.7.2.D.2.c.ii; or
- c. The applicable supplementary regulations authorize the County to accept the application for rezoning, special review, or planned land division; or
- d. In lieu of a denial of annexation by the municipality, the County Commissioners accept the written determination by the designated representative of the municipality that the subject property owner(s) need not apply for annexation.

The Land Use Code requirements mirror the provisions of the Intergovernmental Agreement for Growth Management (IGA) between the City of Fort Collins and Larimer County, which was approved by both entities in 2008. In the case of this property, LUC Section 2.7.2.D.3.b. applies, as the City of Fort Collins has provided a written determination that the subject property does not qualify for annexation. The written determination from the City of Fort Collins also satisfies the requirements of Section 7 of the IGA regarding annexations within the Growth Management Area. The County Commissioners may accept this determination (Attachment A) and allow a Rezoning to Planned Development application to be processed by Larimer County. Planning Commission Background This item was on the consent agenda for the March 20, 2024, Planning Commission public hearing at 6:00 pm. At the hearing, Planning staff read the request and the item remained on the consent agenda. The Planning Commission voted unanimously to recommend approval of the consent agenda and the motion passed with a vote of 8-0.

PLANNING COMMISSION AND DEVELOPMENT SERVICES TEAM

RECOMMENDATION: The Larimer County Planning Commission and the Development Services Team recommend approval of the CLHS Enterprises Rezoning, File # 23-ZONE3556.

3) ASKELAND REZONING, FILE NO. 23-ZONE3565

The subject property is a 1.63-acre parcel that is located southeast of the intersection of Shoreline Drive and West County Road 38E, just to the west of a portion of the western edge of Horsetooth Reservoir. The property is conditionally zoned CC - Commercial Corridor and is outside of any Growth Management Area.

The proposal is to remove the conditions of approval which would allow the property to be used for the full range of uses permitted in the CC - Commercial Corridor zoning district, subject to the applicable review process. The property was rezoned from O-Open to C-Commercial in 1977. The conditions placed on the zoning were:

1. The site be used only for boat sales and repair and storage and small retail convenience shopping.
2. All outside storage be screened by a six-foot redwood fence or similar screening.

Between 1999 and 2019 the property was used as a water treatment plant by Spring Canyon Water and Sanitation District and then decommissioned. In 2021, the Land Use was amended, and all properties zoned C-Commercial were reclassified as CC-Commercial Corridor.

Staff has received one letter in opposition to this rezoning and received questions from two community members.

The applicant has also submitted application 24-ZONE3601, an Administrative Special Review for outdoor seating area and site plan review for a microbrewery at this location. This application will be approved or denied administratively by the Community Development Director.

DEVELOPMENT SERVICES TEAM FINDINGS:

The Development Services Team finds that the Askeland Rezoning, File No. 23-ZONE3565 complies with the Rezoning Review Criteria found in Section 6.6.1.D of the Land Use Code and complies with the General Review Criteria found in Section 6.3.8.D of the Land Use Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Askeland Rezoning, File No. 23-ZONE3565.

4) NEUBAUER CONSERVATION DEVELOPMENT, FILE NO. 22-LAND4225

This item was on the consent agenda for the March 20, 2024, Planning Commission public hearing at 6:00 pm. At the hearing, the Planning Commission read the request and the item was removed from the consent agenda at the request of members of the public. After presentations from staff and the applicant the Planning Commission voted unanimously to recommend approval, subject to conditions, of the proposal and the motion passed with a vote of 8-0.

PLANNING COMMISSION AND DEVELOPMENT SERVICES TEAM
RECOMMENDATION:

The Development Services Team recommends that the Planning Commission recommend to the Board of County Commissioners approval of the Neubauer Conservation Development, File #22-LAND4225, subject to the following conditions:

1. The final plat shall be consistent with the approved preliminary plat and with the information contained in the Neubauer Conservation Development, File #22-LAND4225, 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 Neubauer Conservation Development.
2. The property owners address the concerns/requirements of the Referral Agency Comments included in this staff report and mentioned above

5) AMENDED PLAT OF LOT 3, KNESS MRD, FILE NO. 24-LAND4405

The applicant is requesting approval of an amended plat to vacate the existing building envelope on Lot 3 of the Kness MRD. Lot 3 is located at 1230 Cody Drive in Loveland, CO and currently contains a single-family home and a detached garage. The proposed vacation of the building envelope would allow the property owners the opportunity to build an Accessory Living Area in their desired location. No easements or rights-of-way are being vacated in conjunction with this request.

In 2003, an amended plat was approved to amend language of the conditions of approval #5 from the Kness MRD from “all new structures must be constructed in the building envelope...” to allow non-habitable structures to be built outside of the existing building envelope. Under this Amended Plat, 03-S2090, it was understood that the building envelopes were required by the fire department to ensure that occupied structures were within proximity to the existing fire hydrant. Loveland Fire Rescue Authority has reviewed this proposal and found that the existing fire hydrant can provide appropriate flow to the proposed Accessory Living Area and therefore they can support the request to vacate the building envelope.

The Board of County Commissioners are only reviewing the proposal to vacate the existing building envelope. If this amended plat is approved, the applicant will need to go through the Accessory Living Area process with the Planning Division.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the amended plat of Lot 3, Kness MRD, File No. 24-LAND4405, subject to the following conditions:

1. The property will be subject to all restrictions, covenants, and conditions as set forth in the plat of record for the Kness MRD.
2. Any future uses on Lot 3 shall obtain approval through the applicable review procedure as established in the Larimer County Land Use Code prior to commencement of the use.
3. The Findings and Resolution shall be a servitude running with the property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of

recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of this amended plat approval.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Consent Agenda items for April 22, 2024, subject to the conditions in the staff report, and to authorize the Chair to sign the Findings and Resolutions.

Motion carried 3-0.

PUBLIC DISCUSSION ITEMS:

Chair Kefalas noted that both discussions items would be presented together.

1) RIVERSIDE COLORADO LLC REZONING

The subject property is a 1.23-acre parcel at 9940 W. Highway 14, Bellvue, which is located north of Highway 14 approximately 500 feet east of the intersection of Highway 14 and Poudre River Road.

The Columbine Lodge Campground operates on the property and the property owner would like to expand the use.

The property is currently zoned O – Open. Until March 2020, Campgrounds were allowed in the Open zoning district with Special Review approval. Campgrounds are no longer allowed in the Open zoning district, but modern campgrounds are allowed in the RC – Rural Commercial zoning district with Special Review approval. The property owner has submitted four land use applications. This first application seeks to rezone the property from O – Open to RC – Rural Commercial. The second application is a Special Review to expand the campground. These two applications will be reviewed by the Planning Commission and the Board of County Commissioners concurrently.

REVIEW CRITERIA: Section 6.6.1.D (Rezoning) Amending the zoning map is a matter committed to the legislative discretion of the County Commissioners. In deciding the application, the Planning Commission and the County Commissioners shall consider the criteria in §6.3.8.D (General Review Criteria) and whether and the extent to which the proposed amendment meets the following:

1. **Compatible with Surrounding Uses** The proposed change in zoning is compatible with the type, intensity, character, and scale of existing and permissible land uses surrounding the subject property. Dimensional limitations of the proposed zoning district, when applied, should result in development that will be consistent with the physical character of existing or permissible uses surrounding the subject property. The proposed change shall result in a logical and orderly development pattern in the neighborhood.

This property is in the Poudre Park area which is identified as a Rural Center in the Comprehensive Plan. According to Section 2.4.2.B of the Land Use Code, “The RC district is intended for areas identified in the Comprehensive Plan as “rural centers” or “retail service nodes.” The district accommodates a mix residential, civic, commercial,

retail, educational, and accommodation uses where appropriate water and sewer infrastructure is available.” This property already contains a retail store and accommodation uses. The proposed rezoning will allow for the expansion of the accommodation uses on the property through the Special Review process. Input from surrounding property owners is an important consideration when evaluating compatibility. In this instance, notice of the rezoning application and public hearings was sent to property owners within 500 feet. No neighbors have expressed concerns regarding the proposed rezoning. The Development Services Team finds that the proposed rezoning to RC – Rural Commercial should result in development that will be consistent with the physical character of existing or permissible uses surrounding the subject property and should result in a logical and orderly development pattern in the neighborhood.

2. **Community Need or Public Benefit** The proposed change in zoning addresses a demonstrated community need or otherwise results in one or more particular public benefits that offset the impacts of the proposed uses requested, including but not limited to: affordable and senior housing; childcare facilities; medical facilities; transportation efficiencies; public recreational opportunities; infrastructure improvements; and preservation of lands of high conservation value.

Rural Centers were first identified in the current Comprehensive Plan which was adopted on July 17, 2019, and the RC – Rural Commercial zoning district was added to the Development Code on March 31, 2021. The identification of Rural Centers and the creation of the Rural Commercial zoning district was based on a perceived community need for the allowance of retail and accommodations uses in specific rural areas. Given that the property currently contains retail and accommodations uses, that the rezoning would allow for further investment in the property in an area, and that the zoning is consistent with the Comprehensive Plan, the Development Services Team concludes that the proposed rezoning would address a demonstrated community need.

3. **Change of Circumstances** The proposed change in zoning addresses or responds to a beneficial material change that has occurred to the immediate neighborhood or to the greater Larimer County community.

Until March 2020, the desired expansion of the existing campground could have been accomplished through the Special Review process with the property’s current O – Open zoning. In March 2020, campgrounds were removed as possible uses in the Open zoning district and the RC - Rural Commercial district was created. These regulatory changes require that the property owners rezone their property to pursue that expansion through the Special Review process. The Development Services Team concludes that the changes to the Comprehensive Plan and the Land Use Code are changes in circumstances and that the request complies with this criterion.

4. **Adequate Infrastructure** The property subject to the proposed change in zoning is, or may be served by adequate roads, water, sewer, and other public use facilities.

The property gains access from Highway 14 which is a state highway. Water is provided by an on-site well and sewer is provided by an on-lot septic system. Fire protection is provided by the Poudre Canyon Fire Protection District. Infrastructure requirements are

evaluated as specific development is proposed. In this instance, a Special Review to expand the campground is being reviewed concurrently with this rezoning request. The Colorado Division of Water Resources has indicated that the on-lot well is adequate to support the proposed campground expansion and the Larimer County Department of Health and Environment has proposed conditions of approval to ensure that the on-lot septic system is either adequate or will be expanded to accommodate the proposed expanded occupancy of the campground. The proposal complies with this criterion.

5. **Natural Environment** The proposed change does not result in significant adverse impacts on the natural environment.

The changes to the RC – Rural Commercial zoning would not directly approve further development of the property and would therefore not result in significant adverse impacts on the natural environment. There have been no environmental concerns identified during the Special Review process. The proposal complies with this criterion.

6. **Additional Review Criteria in Growth Management Area (GMA) Districts**

- a. To establish or enlarge a GMA district, the County Commissioners must also find that the criteria in §4.2.1.B.3 have been met; and The request would not enlarge the existing GMA therefore this criterion is not applicable to this application.
- b. The Board of County Commissioners may exclude or remove an area from an established GMA district boundary if they find one or more of the review criteria in Article 4.2.1.B.3 can no longer be met. This criterion is not applicable to this application.

Section 6.3.8.D. General Review Criteria.

1. Generally.
 - a. Unless otherwise specified in this Code, County review and decision-making bodies shall review all development applications submitted pursuant to this article for compliance with the General Review Criteria stated below. This rezoning request is being evaluated for compliance with the General Review Criteria.
 - b. The application may also be subject to additional review criteria specific to the type of application, as set forth in §6.4 through §6.7. This application has been evaluated for compliance with the rezoning review criteria found in Section 6.6.1.D of the Land Use Code.
 - c. If there is a conflict between the General Review Criteria in this section and the specific review criteria in §6.4 through §6.7, the specific review criteria in §6.4 through §6.7 control. The Development Services Team has not identified any conflicts between the General Review Criteria and the rezoning review criteria found in Section 6.6.1.D of the Land Use Code.
2. Compliance with this Code.

The proposed use and development shall comply with all applicable standards in this Code unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal. Compliance with all applicable standards is being evaluated through a Special Review application which is being concurrently reviewed.

3. Compliance with Other Applicable Regulations.

The proposed use and development shall comply with all other County regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant entities with jurisdiction over the property or the current or proposed use of the property. In addition to the Land Use Code, the Special Review request is subject to compliance with regulations administered by the Engineering Department, Building Division, the Department of Health and Environment, and the Colorado Department of Transportation.

4. Compliance with Prior Approvals.

The proposed use and development shall be consistent with the terms and conditions of any prior land use approval, plan, or plat approval for all or part of the property that is in effect and not proposed to be changed. This includes consistency with any approved phasing plan for development and installation of public improvements and amenities. The property is currently operating in compliance with two prior approvals – the Columbine Lodge Special Review (File No. 09-1745) and the Columbine Lodge Amended Special Review (File No. 18- ZONE2434). There would not be a conflict between the proposed rezoning to RC – Rural Commercial and the prior approvals. If the Special Review application is approved, the adopted conditions of approval for that application will supersede the conditions associated with prior approvals.

5. Compliance with Zoning District Standards.

The proposed development shall comply with the standards of the zoning district in which it is located and any standards applicable to the particular use, as identified in §3.3, Use-Specific Standards. Campgrounds are allowed in the RC – Rural Commercial with Special Review approval. Compliance with the standards specific to Campgrounds are being evaluated through a separate Special Review application and are discussed in that report. The property is 1.23 acres. The minimum lot size in the O – Open zoning district is 10 acres and the minimum lot size in the RC – Rural Commercial zoning district is 2.3 acres when a well and/or septic system is utilized. While the lot size will remain nonconforming, the degree of nonconformity would be reduced with a rezoning to Rural Commercial. Setback variances have been requested through a separate application and those variances will be approved or denied by the Board of Adjustment at a public hearing.

6. Compliance with Development Standards.

The proposed development shall comply with the applicable standards in Article 4.0, Development Standards. Compliance with the applicable standards found in Article 4.0 have been evaluated with the Special Review application.

7. Compliance with Other Code Provisions.

The proposed development shall comply with all other standards imposed on it by all other applicable provisions of this Code, including but not limited to standards relating to establishment and operation of uses, layout of the site, and general development characteristics. There are no other Land Use Code standards applicable to this request.

DEVELOPMENT SERVICES TEAM REVIEW COMMENTS:

The application was referred to a variety of agencies concurrently with the applicant's Special Review request. No referral agencies had comments specific to the rezoning request.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Riverside Colorado LLC Rezoning, File No. 23-ZONE3520.

2) RIVERSIDE COLORADO LLC SPECIAL REVIEW & APPEALS

The subject property is a 1.23-acre parcel at 9940 W. Highway 14, Bellvue, which is located north of Highway 14 approximately 500 feet east of the intersection of Highway 14 and Poudre River Road. The Columbine Lodge Special Review was approved by the Board of County Commissioners on July 27, 2010. The Special Review granted approval for an existing nonconforming resort lodge, RV park, and retail store and allowed for the expansion of the use to include a tent campground and office/retail space for a recreational business. In conjunction with the Special Review, appeals were granted to Sections 18.4.1.B (8-acre minimum size for a campground), 18.4.3.B (access road width), 18.4.3.D (campsite setbacks) and 18.4.4.A (comfort station requirement) of the Land Use Code.

REVIEW CRITERIA:

In reviewing a proposed Special Review application, the review bodies shall consider the general approval criteria in §6.3.8.D, General Review Criteria and also whether:

- A. The proposed use has minimal impacts on existing and future development of the area.
- B. 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.
- C. The recommendations of referral agencies have been considered and adequately addressed.
- D. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan.

- E. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations. Section 3.3.5.C of the Land Use Code contains use regulations for campgrounds. Those regulations include, but are not limited to, property size requirements, maximum density, road requirements, setbacks, landscaping, buffering, sanitary facilities, water supply, refuse disposal, and fire safety.

Section 6.3.8.D General Review Criteria

1. Generally

- a. Unless otherwise specified in this Code, County review and decision-making bodies shall review all development applications submitted pursuant to this article for compliance with the General Review Criteria stated below.
- b. The application may also be subject to additional review criteria specific to the type of application, as set forth in §6.4 through §6.7.
- c. If there is a conflict between the general review criteria in this section and the specific review criteria in §6.4 through §6.7, the specific review criteria in §6.4 through §6.7 control. This application is being reviewed for compliance with the Special Review review criteria found in Section 6.4.2 of the Land Use Code. There are no conflicts between the General Review Criteria and the Special Review review criteria.

2. Compliance with this Code

The proposed use and development shall comply with all applicable standards in this Code unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal. This project has been reviewed by the Development Services Team and outside referral agencies for applicable standards of the Land Use Code. The Development Services Team finds that the request complies with the standards except for those subject to the appeal request.

3. Compliance with Other Applicable Regulations

The proposed use and development shall comply with all other county regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant entities with jurisdiction over the property or the current or proposed use of the property. In addition to the Land Use Code, this request is subject to compliance with regulations administered by the Engineering Department, Building Division, the Department of Health and Environment, and the Colorado Department of Transportation.

4. Compliance with Prior Approvals

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

two prior approvals – the Columbine Lodge Special Review (File No. 09-1745) and the Columbine Lodge Amended Special Review (File No. 18-ZONE2434). If this Special Review application is approved, the adopted conditions of approval for this application will supersede the conditions associated with prior approvals.

5. Compliance with Zoning District Standards

The proposed development shall comply with the standards of the zoning district in which it is located and any standards applicable to the particular use, as identified in §3.3, Use-Specific Standards. A Rezoning from O – Open to RC – Rural Commercial is being reviewed concurrently with this Special Review application. Campgrounds are allowed in the RC – Rural Commercial with Special Review approval. Compliance with the standards specific to Campgrounds are being evaluated through this Special Review application and are discussed in this report. The property is 1.23 acres. The minimum lot size in the O – Open zoning district is 10 acres and the minimum lot size in the RC – Rural Commercial zoning district is 2.3 acres when a well and/or septic system is utilized. While the lot size will remain nonconforming, the degree of nonconformity would be reduced with a rezoning to Rural Commercial. Setback variances have been requested though a separate application and those variances will be approved or denied by the Board of Adjustment at a public hearing.

6. Compliance with Development Standards

The proposed development shall comply with the applicable standards in Article 4.0, Development Standards. 308 292 Compliance with the applicable standards found in Article 4.0 has been evaluated with this Special Review application.

7. Compliance with Other Code Provisions

The proposed development shall comply with all other standards imposed on it by all other applicable provisions of this Code, including but not limited to standards relating to establishment and operation of uses, layout of the site, and general development characteristics. All of the Land Use Code standards applicable to this Special Review application are found in Articles 3.0 (Use Regulations) and 4.0 (Development Standards). Compliance with these standards has been evaluated in this report.

APPEALS:

Appeals to the following Land Use Code Sections have been requested: Sections 3.3.5.C.4.b.ii allow for a maximum density of eight camp sites per acre. Because the cabins and units within the main building are classified as resort cottages, staff has calculated the density using only the camp sites and RVs. With 30 camp sites and 9 RVs on 1.23 acres, the resultant density is 31.7 units per acre.

Section 3.3.5.C.4.d.ii states that each campsite shall provide at least 1,260 square feet of space for tent-only campsites and 1,750 square feet for campsites that accommodate RVs. According to the information provided by the applicant, each tent site is approximately 240 square feet and RV sites average 700 square feet.

Section 3.3.5.C.6.d (Table 3-9) requires a campsite setback of 25 feet from the perimeter of the campground, 250 feet from existing residentially developed or residentially zoned property, and 100 feet from the boundary of a public right-of-way.

Section 3.3.5.C.7.b requires that one tree be provided for every two campsites.

Section 3.3.5.C.4.d.vi requires that each campsite front upon a conforming road, and each campsite not fronting directly upon a conforming road must have a clear and unobstructed access of not less than 10 feet in width to a conforming road.

Section 4.8.1.B.3.c requires an 80-foot setback buffer between commercial and residential uses. Campgrounds and resort cottages are classified as commercial uses in the Land Use Code.

When considering whether to approve an appeal to deviate from standards or requirements of the Code, other than minimum lot size requirements, the County Commissioner may grant the appeal subject to safeguards and conditions 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.

Generally, the campground standards are intended to result in the development of a campground with private space for each tent or RV, to provide separation between each tent and/or RV space, and to provide a large buffer between the campground and surrounding residential development. The applicant's project description and appeal request make the point that regulations regarding campgrounds have been added to the Land Use Code in the last several years and the existing campground, which is compliant with the two previous Special Reviews, does not comply with current regulations.

In 2010, the Board of County Commissioners approved appeals to Sections 18.4.1.B (8-acre minimum size for a campground), 18.4.3.B (access road width), 18.4.3.D (campsite setbacks) and 18.4.4.A (comfort station requirement) of the Land Use Code as a part of the Columbine Lodge Special Review. It should be noted that the setbacks and buffers found in Section 3.3.5.C of the Code are applicable to the tent sites and RVs, but not to the cabins or lodgings within the existing building.

Tent and RV sites are indicated on the Site. The parcel is 200 feet wide and there are either residential homes or residentially zoned properties on all sides of the property. Many of the camp sites are less than 5 feet from property lines and four of the proposed RV sites are within 100 feet of the Highway 14 right-of-way. Approval of the setback standards found in Sections 3.3.5.C.6.d and 4.8.1.B.3.c would be consistent with the previous appeal regarding campground setbacks granted by the Board of County Commissioners in 2010. The applicant represents that the proposed changes to the property are intended to be an upgrade to the property and that compliance with current standards is not feasible given the size and configuration of the property.

The applicant believes that the standards found in the Land Use Code are appropriate for a traditional campground but that the facility they would like to create is not a traditional

campground and would provide a more communal experience for guests. Collectively, the appeals are intended to allow for the creation of that communal experience.

Given that there is an existing campground that does not comply with current standards, given that the applicant's intent is to provide smaller individual spaces and provide for communal gathering spaces, and given the lack of concerns from neighboring property owners, the Development Services Team does find that appeals to these standards would not subvert the purpose of the standard.

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

For an appeal to a campground standard to be detrimental to the public health or safety, it would have to result in a development that creates an unsafe environment either for guests of the campground or for surrounding properties. None of the proposed appeals would result in those conditions. None of the surrounding property owners have objected to the proposed appeals which indicates that there is not a concern that the Special Review request or the associated appeals would be detrimental to property values in the neighborhood. The request complies with this criterion in that there is no evidence that approval of the appeals would be detrimental to the public health, safety, or property values in the neighborhood.

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

Approval of the appeals is the minimum action necessary to create the facility intended by the applicant and property owner.

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

None of the proposed appeals would result in development that would impose additional financial burdens on taxpayers or the community at large. Approval of the appeal would not result in increased costs to the general public.

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

As with the first criterion, the Development Services Team finds that given there is an existing campground that does not comply with current standards, given that the applicant's intent is to provide smaller individual spaces and provide for communal gathering spaces, and given the lack of concerns from neighboring property owners, approval of the appeals would be consistent with the intent and purpose of the Land Use Code.

DEVELOPMENT SERVICES TEAM SPECIAL REVIEW FINDINGS:

1. The proposed use has minimal impacts on 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. The proposed use is consistent with the Comprehensive Plan.
5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.

DEVELOPMENT SERVICES TEAM APPEAL FINDINGS:

1. Approval of the appeals would not subvert the purpose of the standard or requirement.
2. Approval of the appeals would not be detrimental to the public health, safety, or property values in the neighborhood.
3. Approval of the appeals is the minimum action necessary.
4. Approval of the appeals would not result in increased costs to the general public.
5. Approval of the appeals would be consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Riverside Colorado LLC Special Review and Appeals, File No. 23-ZONE3519 subject to the following conditions:

1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
2. The Site shall be developed consistent with the approved plan and with the information contained in the Riverside Colorado LLC Special Review, File No. 23-ZONE3519 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 Riverside Colorado LLC Special Review.
3. Phase One shall include the caretaker unit, two lodge units, seven cabins, nine RVs/tiny homes, communal gathering/cooking areas, the retail/general store, road improvements, parking, landscaping and no more than 18 camp sites. Each overnight unit shall have a maximum occupancy of two.
4. Phase Two may include up to 12 more camp sites for 24 additional guests.

5. During Phase One, a minimum operating period of three months at full capacity during a summer season will be required for a wastewater analysis. The property owner shall collect daily water flow logs and guest occupancy numbers. Wastewater samples must be collected and tested during periods of full capacity.
6. Phase Two shall not be permitted until the Department of Health and Environment has determined that the existing wastewater system would be adequate to support the demands of Phase Two or the wastewater system is upgraded to accommodate the additional capacity.
7. The applicant shall apply for a change of water right with the Division 1 Water Court to reflect the proposed use within one year of approval and shall provide documentation of the change of water right to the Planning Division and the Larimer County Department of Health and Environment.
8. The applicant shall update their drinking water monitoring plan with the Colorado Department of Health and Environment within one year of approval and shall provide documentation regarding to updated plan to the Planning Division and the Larimer County Department of Health and Environment.
9. The applicant shall provide an emergency preparedness plan to the Planning Division and Department of Health and Environment prior to expanding the current operation.
10. Failure to comply with any conditions of the Special Review approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
11. This application is approved without the requirement for a Development Agreement.
12. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
13. County may conduct periodic inspections of the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.
14. The Findings and Resolution shall be a servitude running with the Property. Those owners of the Property or any portion of the Property who obtain title subsequent to

the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.

STAFF PRESENTATION:

Mr. Whitley addressed the Board. He explained that the two items before the Board are the Riverside Colorado LLC Rezoning, rezoning the property from O-Open to RC-Rural Commercial, and the Riverside Colorado LLC Special Review & Appeals for the expansion of the campground and appeals to the several sections of the Land Use Code. The property in question is a 1.23-acre parcel located on W. Highway 14 in Bellvue.

The Columbine Lodge Special Review, approved by the Board in 2010, limited campers to 35 people in 10 designated camping sites. At the time of approval, the northern quarter of the property was within the Cache La Poudre floodplain. The 10 designated camping areas were located outside of the floodplain. In 2012 the property owners completed a Letter of Map Revision (LOMR) process to remove the property from the floodplain.

Mr. Whitley stated that in 2019 an Amended Special Review was approved by the Board of County Commissioners that allowed seven of the 10 camping areas to be relocated to be along the northern property line adjacent to the Cache la Poudre River. Approval of the Amended Special Review did not increase the number of camping sites, or the number of campers allowed on the property.

The property is currently zoned O – Open. Until 2020, campgrounds were allowed in the Open zoning district with Special Review approval. Campgrounds are no longer allowed in the Open zoning district, but Modern Campgrounds are allowed in the RC – Rural Commercial zoning district with Special Review approval.

Mr. Whitley reported that the property owner has submitted four land use applications. The first application seeks to rezone the property from O – Open to RC – Rural Commercial. The second application is this Special Review to expand the campground. These two applications will be reviewed by the Planning Commission and the Board of County Commissioners concurrently. Although the subject property has one parcel ID number and functions as a single lot, the property consists of four separate parcels within the Poudre Park Annex Subdivision plus a portion of vacated right-of-way. The third application is an amended plat to combine the lots into a single 1.23-acre parcel. This application will be approved or denied administratively by the Community Development Director. The final application is a setback variance to allow 13 tents/glamping sites to be closer to side and rear property lines than the required 5-foot setback and to allow 12 tents/glamping sites and one privy to be closer than 100 feet from the centerline of waterways. The setback variance will be approved or denied by the Board of Adjustment at a public hearing.

Mr. Whitley stated that the Special Review application seeks to add two units for rent within an existing building, add 20 campsites (for a total of 30), remove several mobile homes and replace them with cabins, and add nine RV sites to be occupied by tiny homes on wheels. In total, there would be 49 overnight sites – one caretaker's quarters and two rental units in one building, 30 campsites, 9 RVs/tiny homes, and seven cabins. Each site would be limited to an occupancy of two persons. The applicant describes the project as a "glamping" or "glamour camping" operation. Rather than have customers bring their own tents or RVs, tents on platforms and RVs/tiny homes are available on-site

to rent. Instead of individual fire pits, two to three communal fire pits and two communal cooking areas would be shared by guests. Catering is also proposed to be provided.

The project description indicates that it is anticipated that approximately 70% of the guests would arrive by individual car with the remainder arriving via shuttle or carpooling arranged by the campground. The project description also indicates that a shuttle and carpooling will be provided to guests while they stay on-site to various recreation areas nearby. Mr. Whitley conveyed to the Board that the Development Services Team has no concerns with the rezoning request's ability to meet the requirements of the review criteria.

As for the Special Review Criteria, Mr. Whitley noted there have been discussions between the applicant and staff about the septic system. The Department of Health and the Environment expressed concerns about the current septic system's ability to meet the demands of increased occupancy. Because of this concern, the applicant and the Department of Health and the Environment have agreed to a phased approach for the completion of the slated improvements. This will allow for the collection of data to determine if the septic system will be able to meet the demands of increased occupancy. Finally, Mr. Whitley reported that up until recently there has been no opposition to either of the requests. On April 22, 2024, staff received two emails expressing concerns about occupancy and the ability of the septic system to meet the increased demand.

The Board had questions for staff regarding the phased approach as it relates to the septic system and what the next steps would be if the septic system proves to be insufficient. The Board asked staff to expound on the type of septic system that is in place and the capacity of the system. Additionally, the Board requested clarity on how data about the septic is collected. The Board also had questions about adjustments to the setback requirements and the process for appealing those requirements.

APPLICANT PRESENTATION:

Tom Donnelly spoke on behalf of the applicant Royal Holdings LLC. Mr. Donnelly reported that a few years back the County conducted a survey asking community members some of their priorities for the future of Larimer County. He noted that overwhelmingly the County heard about the need to preserve history. The area in Poudre Park is defined by two primary locations, the Mishawaka and the Columbine Lodge. The measures before the Board today offer the opportunity to preserve the campground for future generations. Mr. Donnelly also highlighted that Danielle "Dani" Grant is a known entity in Larimer County and has a proven track record running Mishawaka for the last 12 years.

Mr. Donnelly introduced Dani Grant and Michael Jensen, the owners of the campground. Ms. Grant addressed the Board. She explained that the High Park Fire highlighted the need to preserve the area in a way that is responsible and sustainable. Both are central components of the proposal before the Board today. Ms. Grant reported that a community meeting was held to get feedback from neighbors and to hear some of their concerns and to better understand how those concerns can be mitigated. Ms. Grant also noted that the project includes some important security upgrades including 30 security cameras and an onsite manager.

Mr. Jensen addressed the Board. Mr. Jensen relayed to the Board that multiple mobile homes have been removed and those individuals have been relocated with the help of Neighbor to Neighbor. Additionally, Mr. Jensen stated that while the campground will be utilized by concertgoers, it also has

the potential to be utilized by campers, hikers, mountain bikers, and many others wanting to recreate on the Poudre River.

The Board asked the applicants to expound upon “glamping” and what the model is for this type of camping. The Board also asked for clarity about the limit of two occupants per unit. Additionally, the Board asked about the convenience store and if it would be accessible to those who live in the area.

PUBLIC COMMENT:

Chair Kefalas opened public comment.

Chris Hardy and Jen Gousewel addressed the Board in support of the application. They both are residents of the Poudre Canyon and believe that the Columbine Lodge is critical to the history of the region and will offer an additional means of preserving and celebrating the region and its community.

Sean Dougherty addressed the Board and referred to an email he sent expressing concern about the wastewater system. He is extremely pleased to hear about the protections in place to ensure that the wastewater system can meet the increased demand. Many of his concerns regarding the proposals have been alleviated.

Stephen Gardea addressed the Board via Zoom. Mr. Gardea stated that he has concerns about the amount of wastewater. Additionally, he expressed concerns about runoff into the Poudre River and wants to be sure that the some of these concerns are mitigated.

Chair Kefalas closed public comment.

The applicant was invited forward to respond to public comments. Ms. Grant addressed some of the concerns regarding water usage. She noted that laundry would not be done onsite and many of the other activities such as food service would be contracted out to vendors operating offsite. Mr. Donnelly also noted that the tiny homes will be relocated from their current location and spread out. Additionally, he reported that the applicants have met with the fire department to ensure that fire hazards are mitigated. Finally, Troy Jones, the land planner and architect for the project noted that the proposed changes will have a swale leading into four sand pits before the water hits the river. These changes have been made in consultation with the Engineering Department.

The Board had questions for staff regarding the floodplain and why this property is not located in the floodplain. The Board also asked about the ramifications of a failed septic system and how you know if a system is in danger of failing. The Board asked for additional clarity about food services and the conditions around those services. The Board also asked staff to speak about lighting and night sky implications.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Riverside Colorado LLC Rezoning, File No. 23-ZONE3520.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Riverside Colorado LLC Special Review & Appeals, File No. 23-ZONE3519 subject to the conditions found in the recommendation above.

Motion carried 3-0.

With there being no further business, the Board recessed at 4:25 p.m.

LAND USE HEARING

The Board of County Commissioners reconvened at 6:00 p.m. with Rebecca Everette, Community Development Director. Chair Kefalas presided. Commissioner Shadduck-McNally and Commissioner Stephens were present. Also present were John Barnett, Community Development; Jenny Axmacher, Planning Manager; Steven Rothwell, Engineering; Lea Schneider, Environmental Health Planner; Frank Haug, Assistant County Attorney; Bill Ressue, County Attorney; and Elizabeth Carter, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

PUBLIC HEARING DISCUSSION ITEMS:

1. THORNTON WATER PROJECT SEGMENT F 1041 PERMIT 23-ZONE3584

Ms. Everette gave a brief overview of 1041 regulations.

- Gives local governments the authority to regulate matters of statewide concern.
- Include the development of regional transportation and utility infrastructure.
- Can also be used to protect specific geographic areas with historical, cultural, or natural resources of statewide importance.

Ms. Everette reported that 1041 regulations were first adopted in Larimer County in 2008. In 2009, water and sewer were added to be included in 1041. In 2010, solar facilities were added. Finally, in 2022, the review criteria for 1041 applications were significantly revised.

STAFF PRESENTATION:

John Barnett, Community Development, presented the item to the Board. Mr. Barnett relayed that the City of Thornton is requesting approval of a proposed 10.4-mile, 42-inch steel raw water transmission line and associated appurtenances, Segment F of the 70-mile Thornton Water Project (TWP) to convey up to an average of 14,000 acre-feet of raw water per year. The City of Thornton currently owns decreed water rights for the water that would be transported. The pipeline would extend from Water Supply and Storage (WSSC) Reservoir #3 to the Wes Brown Water Treatment Plant in Thornton, Colorado. The proposed TWP would be capable of conveying 40 million gallons per day (mgd). Associated appurtenances to the proposed TWP would include buried fiberoptic cable, various buried water pipeline structures, and valve vaults including access manways, blow-off assemblies, air release vaults, isolation valve vaults, source water connection, and a 10,000 square foot source water pump station.

In 1996 the City of Thornton litigated over the water rights that it intends to use for this project, and a water court decree was issued that allows the water to be used for the purposes intended by Thornton. All of the water Thornton proposes to convey via its pipeline has, for over 100 years, been diverted from the Poudre River at the location established in Thornton's water court decree. Thornton does not propose changing the diversion point for its water or the amount of water being diverted from the Poudre River. What will change with the use of Thornton's pipeline is that the water currently and historically being diverted from the Poudre will, over time, cease being used for agricultural purposes and instead be conveyed via the pipeline to Thornton for municipal purposes.

Mr. Barnett stated that the area of the easement for the pipeline is approximately 63 acres. The pump station includes a 10,000 square-foot building that will occupy 6.2 acres owned by WSSC. He noted that the areas impacted will be a mix of agricultural and residential land. Mr. Barnett also detailed the path of the segment F portion of the pipeline.

Staff has recommended that several conditions be included in any approval if the project moves forward. These conditions are intended to bridge gaps between the submittal and the criteria that were identified during staff review, to help clarify how the project is to be implemented and operated, and to guide the Technical Review Process. Conditions must be related to the criteria for approval and the impacts the TWP would have.

Mr. Barnett reviewed the detailed site plan for the Board. This includes the access road used to haul in the pipe along with the location of the powerlines. He then reviewed the location of the pump station. He noted that there is a wetland in the area. Mr. Barnett continued to lead the Board through the pipeline's alignment to the Weld County line.

REVIEW CRITERIA:

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

Mr. Barnett noted that according to Section 10.9.1 of the Land Use Code, the following 22 criteria are required to be met by all 1041.

A. The project will mitigate impacts to property held by others.

To meet ordinance requirements, the TWP contractor may need to mitigate noise levels using the following best management practices:

- Ensuring equipment is serviced and maintained to manufacturer's specifications.
- Using appropriate mufflers.
- Idle equipment motors down when the equipment is not in immediate use.
- Schedule trucks to minimize long queue lines of idling trucks.

- Plan site circulation to minimize backup distances for trucks and other equipment.
- Use white noise backup alarms (instead of beepers) on trucks and equipment.
- Use of sound attenuated pumps and “quiet” generators where practical.
- Install temporary sound barriers when feasible near loud operations.
- Use portable sound barriers when feasible near jackhammer and concrete saw work.

In addition to implementing these best management practices, Thornton will require the TWP contractor to implement an outreach program that will include:

- 24-hour telephone contact line for questions and concerns.
- Issue monthly flyers to the residents located in close proximity to the project area informing them of planned construction activities in advance.

B. The proposed project is consistent with any applicable intergovernmental agreements affecting land use and development.

C. The applicant has adequately considered reasonable siting and design alternatives, including co-location when requested by Larimer County, or shown why such alternatives are not available or not feasible, and the proposed project is the best alternative available based on consideration of consistency with the Comprehensive Plan, Land Use Code, need, existing technology, cost, and impact on the site and surrounding property.

The City of Thornton evaluated 10 alternative routes according to 11 criteria:

- Accesses or driveways crossed
- Homes within a half mile of the pump station (with more weight given to homes closer to the pump station)
- Days of construction within road rights of way
- Easements needed from distinct property owners
- Length of public road privately maintained
- Length of pipeline within wetlands
- Riparian areas or tree cover
- Feet of pipeline within conservation areas
- Feet within public right-of-way
- Features of historic or cultural significance near the alignment
- Feet of alignment crossing a hazard area

D. The proposal is technically and financially feasible. The applicant has the necessary expertise and financial capability to develop and operate the proposed project for its intended design and functional lifespan in a manner consistent with all requirements and conditions.

E. The proposed project incorporates and reflects the growth, development, and environmental and mitigation policies in the Larimer County Comprehensive Plan and regulations in Article 4.0, Development Standards to ensure that the development, to the greatest extent possible, has mitigated any impacts to the environment and natural resources, and will not significantly degrade the environment or natural resources, or exacerbate or worsen climate change. The mitigation shall follow a hierarchy to first avoid impacts to resources of highest value, second minimize the impacts that are unavoidable and finally mitigate the impacts that occur. For purposes of this section, the term environment shall include:

1. Air quality,
2. Surface water quality and stream and river health,
3. Groundwater quality,
4. The ecological and functional health of wetlands and riparian areas,
5. Terrestrial and aquatic animal life,
6. Terrestrial and aquatic plant life,
7. Soils and geologic conditions, and
8. Visual quality.

While Thornton is located outside Larimer County and its future growth is outside the County's jurisdiction, Staff's examination of Thornton's growth and development projections and policies did not reveal any deficiencies.

F. The proposed project demonstrates how it mitigates impacts on rivers, streams, and wetlands to the greatest extent possible, including following a mitigation hierarchy to first avoid impacts to resources of highest value, second minimize the impacts that are unavoidable and finally mitigate the impacts that occur.

G. The proposed project will not result in unreasonable risk of releases of or exposure to hazardous materials.

H. The proposed project will not have a significant adverse effect on or will adequately mitigate significant adverse effects on any adjacent existing land use and development patterns, such as neighborhoods or rural development, or adjacent natural resources.

I. The proposed project will not have significant impact on natural resources of statewide importance, including critical habitat for threatened and endangered species.

J. The proposed project will not adversely affect any sites and structures listed on the State or National Registers of Historic Places or identified through a Class 1 Cultural Resource Survey, when required.

K. The proposed project will not significantly impact public health and safety.

L. The proposed project will not be subject to risk of significant damage or harm to human life or structures from natural hazards including floods, wildfire, or geologic hazards.

M. Adequate public facilities and services, including sufficiency of water supplies and wastewater treatment capacity, are available for the proposed project or will be provided by the applicant.

N. The proposed project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.

O. The proposed project will not significantly degrade any current or foreseeable future sector of the local economy.

P. The proposed project will not unduly degrade the quality or quantity of recreational opportunities and experience.

Q. The planning, design, and operation of the proposed project will reflect principles of resource stewardship and conservation, which is characterized by but not limited to: energy efficiency, recycling or reuse, adaptive management, and conservation or mitigation strategies for forest, water, soil, and other applicable natural assets.

R. The proposed project will not interfere with public view of scenic viewsheds, ridgelines, or vista; riparian tree canopies; or unique land formations, or that the potential interference has been adequately mitigated.

S. The applicant will mitigate any construction impacts to county roads, bridges, and related facilities caused by the proposed project. Construction access will be re-graded and revegetated to minimize environmental impacts.

T. The benefits, in terms of physical improvements, enhanced services, or environmental impacts, of the proposed project outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.

U. The application demonstrates that the costs to mitigate the proposed project are proportional to the benefits achieved from the mitigation.

V. The recommendations of staff and referral agencies have been addressed to the satisfaction of the County Commissioners. 10.10. Additional Specific Review Criteria and Standards.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Review Team recommends approval of the application for a 1041 Permit for the Thornton Water Project Segment F 1041 Permit, File 23-ZONE3584, subject to the following conditions:

CONDITIONS:

Mr. Barnett briefly reviewed the purpose of the conditions. The conditions help to bridge the gap between the project and the criteria, they clarify how the project is to be implemented and operated,

and the conditions guide the Technical Review Process. Mr. Barnett noted that there were four internal referral departments and 15 outside referral agencies. These entities were responsible for the development of the conditions.

GENERAL CONDITIONS

1. Technical Review and approval are required prior to any construction at the site and prior to applying for any permits from the County. This Technical Review shall include the final pipeline location, engineering design, construction, and access plans for the TWP corridor, including all temporary easements and staging areas.
2. All construction activities associated with the approval of this 1041 Permit shall comply with all associated regulations and obtain all required county, state, and federal permits.
3. Failure to comply with any conditions of this 1041 approval may result in reconsideration of and possible revocation of the approval by the Board of County Commissioners.
4. If the pipeline is used to convey water beyond the water rights that are contained in Thornton's application, it could be deemed an increase in the intensity and impact of the project, which could necessitate a permit amendment pursuant to LUC Section 10.14.
5. This approval shall automatically expire unless the applicant takes affirmative action consistent with this approval within three years of the date of final approval.
6. Final engineering documents shall include trench plugs or pipeline collars at appropriate material and spacing to prevent drainage of groundwater along the bedding of the trench that exceeds historic groundwater flows. Of particular concern is the potential for drainage of wetlands or nearby reservoirs. Additional trench plugs may be added during construction where appropriate.
7. The applicant shall consider minor adjustments in the routing of the pipeline to avoid or minimize impact of the Proposed TWP on wetlands or their buffers as required by LUV Section 4.4.2. Any such relocation may not increase adverse impacts to adjacent residents. Approval of County staff shall be required for any such adjustments.
8. The applicant shall prepare and implement a plan based on best management practices ensure any of its land within Larimer County that is no longer to be farmed will be appropriately revegetated to NRCS standards and managed as native prairie to prevent wind and water erosion and invasion by weeds. These properties shall be managed and maintained in a way that will ensure they do not violate any fugitive dust standards or soil erosion standards, and do not result in noxious species and/or weeds being unreasonably on the property. This could include dedicating the land through conservation easements to an entity with an effective stewardship program as described in their application, but could also include other mechanisms to ensure that the land does not become a nuisance.
9. Where the proposed pipeline crosses existing conservation easements, the site shall be restored to either agriculture or previously existing land cover.

10. The applicant shall retain a qualified wetland consultant to complete an on-site wetland delineation following the USACOE Wetland Delineation Manual and the High Plains Regional Supplement as soon as possible after they have obtained permission to access the property. Once the applicant has completed the delineation, they shall prepare wetland mitigation design and construction documents that shall provide at least 100% of the wetland area and buffer destroyed or damaged during construction. This wetland shall provide an ecological function that at least equals that of the resource value that is lost.
11. If cultural resources are found during Technical Review or construction, the applicant shall notify the County immediately, consult with the State Historic Preservation Office, and begin appropriate measures to preserve the cultural resource, including historic or archeological excavation, reasonable project redesign, or relocation activities. Any such mitigation efforts shall be taken in coordination with and with the approval of the County.
12. The applicant shall prepare and follow a plan for the involvement of nearby residents in the design of the architectural character of the exterior of the pump house.

HEALTH CONDITIONS

Noise

13. A revised sound study for the full operation of the pump station shall be completed for the future Technical Review Site Plan that aligns with the actual design and configuration of the pump station.
14. Within 30 days of operation, a sound evaluation shall be conducted that evaluates both A-weighted decibel levels and low frequency sounds at the pump station property lines and nearby residential receptors and provided to Larimer County demonstrating compliance.
15. Thornton and representative contractors shall comply with maximum decibels for pump station construction activities as outlined in the Larimer County Noise Ordinance. Any exceptions to these parameters must be approved by Larimer County Departments including Health, Community Development, and Engineering.

FUGITIVE EMISSIONS DURING PROJECT CONSTRUCTION

16. Thornton and/or respective contractors shall create a fugitive dust and other emissions control plan(s) specifically addressing controls used for the pump station construction and additional controls for the pipeline corridor. The fugitive dust and emission control plan(s) shall be submitted as part of the Technical Review.
17. Thornton and/or respective contractors shall create an air emission control plan for reducing impacts of other emissions beyond dust/particulate matter specifically for the pipeline construction. The Plan for the pipeline corridor shall include discussion on emission control strategies for odor-producing equipment and activities, as well as reducing potential exposure from generators and associated powered equipment when used near residences.
18. In addition to the minimum controls required under permits issued by Air Pollution Control Division, the mitigation listed in the submitted Air Quality Impact and Mitigation Report with

edits, shall become conditions of approval for construction of both the pump station and pipeline corridor:

- No off-site transport of visible emissions from disturbed areas, dirt access roads, stockpiles, and haul trucks for both the pump station and pipeline corridor construction activities.
- A water truck shall be on-site during operating hours and nonoperating hours including Sundays to regularly apply water to active construction areas, dirt access roads, stockpiles, and other areas of disturbed soil to prevent visible emissions from the pump station and corridor active construction areas.
- No earthwork allowed during days of high wind of 30 miles per hour or greater (this is also in the General Permit).
- Speed limit signs shall be posted in active construction areas restricting speeds to 15 miles per hour.
- Loaded haul trucks shall be covered during transport and storage to prevent visible emissions.
- Sediment deposition shall be removed promptly when it occurs on public roads or rights-of-way as a result of the owner's or operator's operations.
- Minimize drop height: drivers and operators shall unload truck beds and loader or excavator buckets slowly and minimize drop height of materials to the lowest height possible.
- Stockpiles shall remain at a height that a water haul truck or manual water hose can apply water on all surfaces.
- Cover loads of material hauling trucks: Loads shall be completely covered, or all material enclosed in a manner that prevents the material from blowing, dropping, sifting, leaking, or otherwise escaping from the truck.
- Litter Control: work sites, temporary staging areas, field trailer areas, finished construction areas and where workers gather for breaks shall be maintained litter-free and supplied with lidded trash enclosures/dumpsters that can withstand water and wind.

PROJECT PIPELINE CORRIDOR CONSTRUCTION NOISE

19. Project corridor construction noise levels shall comply with the Larimer County Noise Ordinance as specified in the Ordinance when construction activities are conducted on or adjacent to properties with residential uses. Exceptions shall be evaluated and approved by Larimer County Departments including Health, Community Development, and Engineering.

20. Hours of construction activity shall be conducted between 7:00 a.m. to 7:00 p.m. Monday through Saturday. Exceptions for time-sensitive tasks shall be evaluated and approved by Larimer County Departments including Health, Community Development, and Engineering.
21. A noise mitigation plan shall be submitted with the final design plans for the Project corridor outlining control methods that will be implemented during construction amongst residential properties to remain within the County Ordinance, but also minimize negative impacts on the residents in the area.
 - i. The Plan shall include adequate recommendations on how low frequency sound/vibrations are managed.
 - ii. The Plan shall also include the details of the outreach and communication plan/program. As part of this plan/program, easily visible signage with contact information (phone number, email, and website if created) for addressing questions and concerns, shall be posted in active construction areas.
 - iii. The Plan shall include additional noise mitigation to be implemented when construction activities are approved to go beyond the 7 a.m. to 7 p.m. time period and all 24-hour operations near occupied residences. This plan shall include best management practices which may include but not be limited to:
 - Ensuring equipment is serviced and maintained to manufacturer's specifications.
 - Using appropriate mufflers
 - Idle equipment motors down when the equipment is not in immediate use.
 - Schedule trucks to minimize long queue lines of idling trucks.
 - Plan site circulation to minimize backup distances for trucks and other equipment.
 - Use sound attenuated pumps and "quiet" generators where practical.
 - Install temporary sound barriers when feasible near loud operations.
 - Use portable sound barriers when feasible near jackhammer and concrete saw work.
22. Construction equipment and fleet trucks shall utilize white noise backup beepers for construction along the Project corridor.
23. Thornton shall require the Project contractor to implement an outreach program that includes:
 - 24-hour telephone contact line for questions and concerns.

- Complaint resolution workflow to contact all complainants and attempt to resolve any problems or issues.
 - Issue monthly flyers to the residents located within a distance to be determined during Technical Review of the TWP construction area informing them of planned construction activities in advance.
24. Construction hours will typically be from 7:00 a.m. to 7:00 p.m., Monday through Saturday unless otherwise approved by Larimer County Community Development staff. Construction may extend beyond these hours only as required, and on a case-by-case basis approved by the County staff.

Utility Infrastructure

25. On-site wastewater treatment systems (OWTS) and other private, onsite services/utilities/infrastructure for residences (wells, gas storage tanks, irrigation systems, etc.) within 50 feet of the final Project corridor (90 feet easement) shall be identified on the final design plans, as well as identified in the field prior to construction.
26. Commercial infrastructure and easements for businesses shall be identified on the final design plans (and through utility locates in the field prior to construction).
27. The Thornton and/or representative contractors shall be responsible for arranging for and funding all costs of damage, repair, replacement, and/or relocation of all public and private property utilities and infrastructure as necessary to accommodate the Project corridor.
28. Creation and implementation of an Emergency Utility Plan or equivalent plan that outlines Thornton or respective contractors' responsibilities, when and how they will provide temporary utilities or alternative accommodations in the event of damage to property private or public utilities (unless addressed in the easement agreements for the permanent and temporary construction easements).
29. Thornton and/or respective contractors shall be responsible for immediate repair/replacement of damaged utilities (public and private) and all associated costs experienced by properties.

ENGINEERING CONDITIONS

DESIGN AND ALIGNMENT

30. The final design and any alignment adjustments that may occur during construction that would move the TWP closer to an existing structure, or that would move into an existing or future road right-of-way (ROW) corridor (as determined by road functional classification) will be subject to review by Larimer County Departments, including Engineering, Community Development, and Health. In locations where the pipeline is located outside of the existing County ROW, it shall do so in a manner to either:
1. Be located outside of the ultimate ROW width corresponding to the functional classification of the roadway, or

2. Obtain and convert to a Larimer County road right-of-way easement for any additional pipeline easement widths falling within the ultimate roadway ROW. Final design plans and specifications for alignments within the ROW will need to be prepared for review and approval by the Larimer County Engineering Department. Should it be discovered that the final design, in the County Engineer's opinion, deviates significantly from the conceptual alignment to change the nature of impacts of the pipeline within the permit limits, the County reserves the right to require that the design and alignment be modified to address infrastructure and property impacts as deemed necessary by the County Engineering Department.

CONSTRUCTION

31. A geotechnical subsurface investigation shall be submitted to Larimer County during the Technical Review for those portions of the alignment to be within County ROW, to determine required trench backfill and compaction specifications, subgrade mitigation, and pavement design for areas disturbed by the pipeline installation. Any additional subsurface investigations that may be required by other local and state governments, federal agencies, or impacted utilities, including irrigation and water storage companies, shall be made available to Larimer County for review.
32. The applicant shall provide Larimer County with a pre-project video capturing existing conditions of the proposed water line installation corridor in and near the existing ROW.
33. Unless otherwise approved by Larimer County Engineering, all proposed roadway crossings shall be completed by the specific construction method proposed in the Traffic Impact Report. Any proposed open cut road crossing shall be flow-filled to a depth of 2-feet below the surface of the roadway. Design approval of these crossings shall be per the Code of Ordinances and the Land Use Code.
34. During construction, the applicant shall stabilize and repave all pavement areas disturbed or damaged during pipeline installation in accordance with the Larimer County Rural Area Road Standards for work areas outside the GMA, as directed by the County. If pipeline construction activities involve more than 100 linear feet of disturbance, the applicant shall be responsible for pavement repairs and patching/overlay extending to the full limits (width) of the existing pavement.
35. The applicant shall submit phasing plans, including planned workdays and hours, to be reviewed by Larimer County Engineering Department. Maximum open trench lengths will be defined in consultation with the Larimer County Engineering Department.
36. Material test reports, as per Larimer County Standard, shall be submitted to and approved by Larimer County for any work to take place within County ROW.
37. A pre-construction inventory of County roads to be used for construction traffic shall be created and updated as needed by the applicant during construction, documenting preconstruction conditions and the work conducted by the applicant to return the roads to pre-construction conditions when construction is complete.

38. The applicant shall be responsible for arranging and paying all costs of:
- Utility relocations and irrigation company requirements necessary to accommodate the water pipeline in the road ROW.
 - The replacement of existing storm drainage infrastructure, culverts, roadway signage, pavement striping/symbols, landscaping and property fencing necessary to accommodate the water pipeline in the ROW.
 - Damage or relocation of private property services as necessary to accommodate the water pipeline corridor if a reasonable alternative is not possible.
39. The applicant shall allow access to Larimer County staff and consultants for inspections and construction observation throughout the Project and for the term of the construction and any required ongoing monitoring during site reclamation and/or operations.
40. The applicant shall reimburse Larimer County for reasonable costs associated with County-provided construction observation/inspection staff and/or independent, supplemental geotechnical or materials testing deemed appropriate by the County Engineer for purposes of quality assurance/control. The applicant shall also reimburse Larimer County for time and expenses incurred with Project coordination, design review, permit review and processing and related Project activities during the duration of Project construction and closeout for the work conducted in unincorporated Larimer County.
41. The applicant shall invite Larimer County staff to attend regularly scheduled coordination meetings during construction, at a frequency to-be-determined, to understand planned construction activities and stay abreast of issues arising from construction impacts to County infrastructure or the public.
42. The applicant shall provide a public information contact with a phone number and email address that the public can contact to ask questions, express concerns, or receive project updates.

TRANSPORTATION AND ACCESS

43. The applicant shall coordinate with Larimer County Emergency Services and Poudre R-1 School District on road closures with advance notice to address school bus access.
44. The applicant shall submit to Larimer County a Traffic Control and Management Plan for review by the County Engineer prior to construction addressing traffic control devices/personnel (warning signs, flaggers, traffic control supervisors, etc.), any specific delay times, adjacent neighboring property owner notifications, and use and placement of message boards. The Traffic Control and Management Plan will include requirements to provide safe and acceptable access for emergency responders, mail and package delivery, garbage pickup, and school bus stops. The Traffic Control and Management Plan will also identify all proposed access points.

Whenever it is necessary to cross, close, or obstruct roads, driveways, and walks, whether public or private, the applicant will provide and maintain suitable and safe detours or other temporary expedients for accommodation of public and private travel, emergency vehicles, delivery services, garbage pickup, school bus stops, etc.

45. When construction activity is taking place within or impacting Larimer County ROW in any way, the applicant shall obtain and abide by the standards and conditions of applicable County ROW permit(s), per the Code of Ordinances and the Land Use Code. Construction plans shall be provided to detail the work to be completed. Additionally, Traffic Control Plans, developed by a certified traffic control company, must be submitted for all work performed within road ROW or that will directly affect the travelling public.
46. Larimer County regulates access to county roads to maintain safe traffic flow, road drainage facilities, and efficient use of the County's roads. Access Permits will be required for any new access from Larimer County ROW regardless of whether they are to be used for temporary construction purposes or are to be permanent. Staff may also require an Access Permit for existing access points proposed to be utilized for temporary construction or permanent access.
47. The applicant shall be required to designate planned haul routes. The existing surface condition of all planned haul routes will need to be evaluated prior to construction. If it is determined by the County Engineer that there has been an acceleration in deterioration of the roadway surface during or after construction as a result of construction traffic, equipment, or hauling, the applicant will be required to restore the roadways to their prior condition. This may include the need for regrading and or resurfacing.
48. Heavy equipment traffic will be subject to all weight limit restrictions along adjacent roadways and will obtain oversize/overweight permits.

DRAINAGE AND EROSION CONTROL

49. The applicant shall obtain a storm water discharge and construction dewatering permit from the Colorado Department of Public Health and Environment for construction at drainage crossings and for land disturbances of one acre or more, per Section 8.12 of the Land Use Code. These permits will include the preparation of a Storm Water Management Plan and Best Management Practices to prevent storm water runoff and sediment in disturbed areas from reaching nearby waterways or otherwise leaving the site. Multiple state permits may be required for the different project areas.
50. The applicant shall comply with Larimer County MS4 regulations for all applicable work within the most up to date Larimer County MS4 boundary.

SURFACE WATER QUALITY AND STREAM HEALTH

51. The applicant shall develop a comprehensive document describing best management practices (BMPs) to be employed for utility planning and construction that potentially affects developed, rural, wetland and riparian land areas or may involve stream crossings. Such documentation is to include, but not be limited to, preconstruction and construction BMPs

relating to surface water, erosion and sediment control and prevention; groundwater considerations and protection; topsoil conservation and restoration and vegetation/revegetation considerations. Lastly, the document shall address cover post-construction BMPs and monitoring requirements and plans for adaptive management if necessary.

FLOODPLAIN

52. The applicant shall comply with County floodplain regulations. The applicant shall adhere to all requirements noted in the attached Floodplain Memorandum in the Engineering Comments. The applicant shall coordinate directly with the Larimer County Floodplain Administrator as it relates to floodplain regulations.

CONSTRUCTION PERMITTING

53. The applicant shall obtain any additional State, Federal, or Local permits necessary for construction. When applicable, the applicant or its contractors shall obtain other Larimer County issued permits as well. These could include, but are not limited to, Building Permits, Floodplain Development Permits, and/or Utility Permits.

POST CONSTRUCTION REQUIREMENTS (CLOSEOUT, OPERATION, AND MAINTENANCE):

54. The applicant shall develop and provide Larimer County with accurate as-built horizontal and vertical survey data (state plane coordinates and elevations in NAVD 88) and GIS shapefiles describing the location of the pipeline and all appurtenant structures.
55. The applicant shall provide Larimer County with as-built construction drawings certified by a Colorado registered professional engineer, for all portions of the pipeline located in unincorporated Larimer County.
56. The applicant shall provide information that discusses how the proposed pipeline sections located within County ROW will be accessed for maintenance and operation.
57. If a relocation of the pipeline should in the future be desirable to accommodate some other or enlarged use of the County Road right-of-way by any party or entity other than the County, and provided that the applicant agrees to such relocation, then all expenses of such relocation shall be paid for entirely by the party or entity desiring such relocation. If the relocation is to be made at the request of the County to accommodate changes in or improvements of public roadways or associated infrastructure, and not for purposes of accommodating any third party, then the applicant shall provide for pipeline relocations at their own cost on a reasonable schedule established by the County Engineering Department. This condition is only applicable for instances where the pipeline is being proposed within the County's Ultimate ROW.

WILDLIFE AND VEGETATION CONDITIONS

58. During the Technical Review of the Thornton Water Project, Thornton shall provide documentation that they have consulted with U.S. Fish and Wildlife Service and the

Colorado Department of Parks and Wildlife on the final engineering of the TWP and shall follow their recommendations for mitigating impacts to threatened and endangered species and wildlife habitat.

59. Thornton shall clear vegetation in construction areas during the winter months, before the nesting season, to minimize impacts on nesting birds. Thornton would review the status of any potential raptor nests, known eagle nests, and eagle roosts prior to construction. If any active raptor or bald eagle nests are located, Thornton shall comply with CPW seasonal restrictions associated with surface activity within recommended buffers around active nest sites and coordinate with CPW to determine and implement any BMPs to minimize or eliminate impacts on active raptor or bald eagle nests.
60. The recommendations of Submittal Item 11- Wildlife Mitigation Plan Thornton Water Project Within Larimer County, Colorado dated November 9, 2023, shall be followed. A detailed mitigation plan showing how these recommendations are integrated into the engineering and construction related applications and how implementation is to be monitored shall be submitted as part of the Technical Review.
61. During Technical Review, Thornton representatives or consultants shall consult with the Colorado Department of Parks and Wildlife and the U.S. Fish and Wildlife Service for concurrence related to potential federally listed species that may occur within the work limits or in the site inventory area. If any species of concern are identified during Technical Review or construction, mitigation measures as required by the Colorado Department of Fish and Wildlife and the U.S. Fish and Wildlife Service shall be followed.
62. During construction, wildlife crossovers (trench plugs) with ramps on each side of the trench shall be installed at well-defined game trails, as identified during Technical Review, other permitting processes, or on-site during construction.
63. A site-specific Stormwater Management Plan and Erosion and Sediment Control Plan shall be developed and submitted to the County for approval.
64. A detailed restoration plan and specifications shall be developed in consultation with the applicant's environmental consultants during the Project's design phase. The restoration plan shall involve pre- and post-construction surveys and appropriate seed mixes for restoring the various vegetation classes within the work limits. Thornton's construction contract shall include a warranty period that covers not only the installation of the Project but also restoration. Furthermore, the construction contractor's state stormwater discharge permit shall not be closed until 70 percent vegetation cover is achieved and County Community Development staff have deemed the landscape restoration complete.
65. The areas of construction shall be accessed using existing roads to the maximum extent possible. Any temporary access roads shall be removed upon completion of the Project, and the area restored to preconstruction conditions.
66. BMPs will be implemented during construction, which will help minimize impacts in the Project work limits. These BMPs shall be determined during Technical Review and could include installing temporary fencing to deter access to sensitive areas, placing staging areas in

previously disturbed upland areas, and installing sediment- and erosion-control devices to minimize surface runoff in disturbed areas.

67. Temporary impacts will be fully restored to pre-project conditions after completion of the proposed activities.
68. Topsoil shall be salvaged and used in disturbed areas, which will be revegetated where practicable.
69. All temporarily disturbed areas shall be planted with County-approved native seed mixes, or as reasonably specified by the property owner, and mulched, to increase diversity and decrease nonnative and noxious weed cover.
70. To limit the introduction or spread of noxious weeds in the site inventory area, a preconstruction and post-construction weed management approach will be implemented. Weed management strategies for each of the project stages shall be followed as described in the Noxious Weed Management Plan in the Item 10 Wetland Mitigation Plan (ERO 2023).
71. During construction, open-cut trenches shall be as narrow as safely practicable when crossing waters of the U.S. and non-jurisdictional waters and wetlands. Final design shall include criteria to ensure that impacts on aquatic resources will be minimized.
72. Additional site assessments will be completed during the Technical Review phase to determine the boundaries of potential or suitable habitat for federally listed threatened, endangered, or candidate wildlife species to confirm that construction will not occur in those areas. A habitat assessment shall be submitted to the Service prior to construction to confirm that the Project will have no effect on federally listed species.
73. If construction occurs between February and August, a preconstruction nesting bird survey shall be conducted by a qualified wildlife biologist prior to any clearing or tree removal. Where feasible, Thornton plans to clear vegetation in construction areas prior to the nesting season to minimize impacts on nesting birds. Thornton shall review the CPW raptor nest data (CPW 2022b) and perform nest surveys for raptors prior to the nesting season to identify potential active raptor nests prior to construction. Thornton shall coordinate with CPW regarding any potential conflicts between scheduled construction and potential raptor nests and develop measures acceptable to CPW to minimize impacts on nesting raptors.

CULTURAL AND HISTORIC RESOURCES CONDITIONS

74. The City of Thornton should consider using an archeological monitor especially where the project is within 200 feet of a waterway or when in proximity to the 22 features of historic and cultural significance.
75. The City of Thornton Shall provide a listing and location of features of historic and cultural significance at the time of Technical Review as well as any appropriate mitigation measures that may be appropriate.

Mr. Barnett also noted that at the time of technical review there are significant Federal, state, and local permits that will need approval. Mr. Barnett also reported that many of the concerns that have been articulated to date relate to the Poudre River and issues that are not part of this application.

APPLICANT PRESENTATION:

Brett Henry, the City of Thornton's Interim City Manager, addressed the Board. Mr. Henry thanked the Board and staff for their time and effort. Additionally, Mr. Henry extended the City of Thornton's gratitude to the community residents who participated in the community conversations and public meetings. The feedback and sharing of ideas were an essential part of bringing this application forward.

Carolynne White with the Brownstein Law Firm addressed the Board on behalf of the applicant. Ms. White introduced several additional presenters from the City of Thornton including Todd Barnes, Communications Director for the City of Thornton, and Emily Hunt, the Deputy Utilities Director for the City of Thornton. Tami Yellico, the City Attorney, was also present.

Mr. Barnes addressed the Board and discussed both how the application meets the Land Use Code regulations for a 1041 permit and the City's communication efforts with those who will be impacted by the project. Additionally, he highlighted many of the differences between this application and the previous application for the pipeline. These include precise alignment, the length of the pipeline, the location of the pump station, and the number of properties the pipeline will cross. Mr. Barnes also noted that the City engaged residents within the pipeline corridor through a survey requesting feedback on the project. Additionally, the City held two open houses in August 2023 which were attended by 184 community members.

Mr. Barnes also spoke about the scope of the project. He reported that 85 percent of the pipeline is either in design, ready for construction, or under construction. The last portion of the pipeline located in Larimer County is what is before the Board this evening. Mr. Barnes noted that Thornton is committed to the health of the Poudre River. The health and sustainability of the Poudre is crucial to Thornton's future plans.

The combination of these factors led to the selection of the alignment being presented to the Board. This alignment locates the pump station at the preferred location of WSSC, Reservoir #3, impacts 17 property owners, is the least impactful to traffic, co-locates with the Northern Integrated Supply Project (NISP), and is the least impactful to the environment. Mr. Barnes stated that the City of Thornton also conducted a sound study modeling station operations and concluded that the pump station would comply with the Larimer County Noise Ordinance. He also reminded the Board that the pipeline will be underground.

Ms. Hunt addressed the Board about key partner outreach efforts. This outreach included discussions with WSSC, Northern Water, and specific landowners directly impacted by construction. Thornton partnered with WSSC to determine an area to locate the pump station where it would not impact private landowners. Additionally, Ms. Hunt noted that the City of Thornton worked closely with Northern Water to identify areas where co-location with NISP was possible. Ms. Hunt also stressed that the project will not remove additional water from the Poudre River and that the City of Thornton has worked diligently for decades, including 10 years in water court, to utilize their WSSC Shares. Ms.

Hunt reviewed with the Board how the water will be diverted and noted that this is the same location where WSSC has diverted its water since the late 1800s.

Ms. White addressed the Board regarding the 1041 criteria and how the project complies with the Land Use Code and Comprehensive Plan. Ms. White discussed the selection of the preferred alignment and the alternative alignments that were considered by the City of Thornton. She reported that 10 possible alignments were identified. The 10 alignments were based on 12 selection factors. The 12 factors were derived from community feedback, compliance with the Land Use Code, and the NISP factors. The factors include impacts to private property, pump station location, the fewest number of properties impacted, traffic impacts, duration of construction, co-location with NISP, and environmental impacts. The preferred alignment co-locates with NISP along 44 percent of the route, is the least impactful to traffic, impacts 17 properties, and has minimal impact on wildlife and the environment.

Ms. White then turned to how the preferred alignment mitigates impacts. She reported that a variety of mitigation reports and plans have been incorporated into the application and that these efforts will meet, if not exceed, all of the applicable criteria. She explained that any impact to the land and environment along the preferred alignment will be minimal and temporary. No road closures will take place unless permitted by Larimer County. Ms. White did acknowledge noise is a potential impact of the construction. There are conditions of approval that will mitigate noise impact and Thornton is happy to comply with these conditions. Additionally, the City of Thornton is also requiring contractors to have ways in which the public can contact the contractor with any questions or concerns. Lastly, Ms. White reported that overall Thornton has proposed over 150 measures to minimize or prevent temporary impacts during construction.

Ms. White addressed how the application complies with the Comprehensive Plan. Knowing that impacts on the environment and wildlife are a specific concern to the Board, Ms. White noted that impacts on wildlife and habitat would be minimal and temporary. She also reported on how the project will mitigate impacts on rivers, streams, and wetlands.

Finally, Ms. Hunt addressed the Board to speak about the benefits to the community. She explained that the City of Thornton owns numerous farms in Larimer County. Thornton is willing to place some of these farms into a conservation commitment. Ms. Hunt also discussed the creation of a Poudre River Enhancement Fund to enhance the health of the river. The fund would address issues such as watershed health, enhanced flows, and other goals outlined in Larimer County's Water Master Plan. It is estimated that roughly 1,324 acres of land will be conserved and anywhere from \$3 million to \$9 million will be invested into the Poudre River Enhancement Fund.

The Board took a brief recess. The Board reconvened for public comment.

PUBLIC COMMENT

Chair Kefalas opened the meeting to public comment.

The following community members addressed the Board either in person or by Zoom in opposition to the City of Thornton's 1041 application: Gary Wockner (Save the Poudre), Warren Lemerich, Mila Garelle-Essam, Karen Wagner, Eric Steidl, Preston Brown, Gailmaire Kimmel, Liam Myer, Dolores Williams, Jerrold Pault, Nancy York, Lori Rock, Ashlyn Nelson, Patty Clifford, William Timpson, Tim

Carney, Josie Farwell, Patricia Babbitt, Besty Cox, Glenna Brissey, Elaine Spencer, Larry Mowery, Terri Butkovich, Tom Moore, Stephen Pharr, and Alice Bergeron. Their collected concerns include the impact on the Poudre River, the burden being placed on the rural residents and farmers, the impact on the environment and habitat, the coupled impact of diverting water and climate change, the right of the river and the ecosystem to sustain itself without interference, and the concern that while Thornton did purchase water rights, it did not purchase water-quality. Many members of the public also spoke in favor of the “Poudre River Option”.

The following community members addressed the Board either in person or by Zoom in support of the City of Thornton’s 1041 application: Morgan Cullen (Home Builders Association), Jake Schroeder, Chad Murphy, Zell Cantrell, and Adam Zard. The supporters of the application noted the housing crisis that is facing much of the Front Range and the impact the lack of affordable housing is having on the economy.

Zach Thode and Mick Ondris also spoke in favor of the application. Mr. Thode did note that it is critical that farmers be adequately compensated for disruptions to their crops and also encouraged staff to consult with or refer future applications to an Ag Group or an Ag Association. Mr. Ondris stated that he supports the application as the least offensive of the options.

Chair Kefalas closed public comment.

The Board in consultation with the County Attorney reported that the hearing will be continued until Monday, May 6, 2024, at which time public comment will be open for those who have not commented.

With there being no further business, the Board adjourned at 9:15 p.m.

TUESDAY, APRIL 23, 2024

ADMINISTRATIVE MATTERS MEETING

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

Commissioner Kefalas opened the meeting with the Pledge of Allegiance.

PUBLIC COMMENT: There was no public comment in person or on-line.

Chair Kefalas closed public comment.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF APRIL 15, 2024:

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the minutes for the week of April 15, 2024.

Motion carried 3-0.

3. **REVIEW OF THE SCHEDULE FOR THE WEEK OF APRIL 29, 2024:** Ms. Martin reviewed the upcoming schedule with the Board.

4. **CONSENT AGENDA:**

ABATEMENTS

1. **PETITION FOR ABATEMENT OR REFUND OF TAXES.** Exceeds the allotted refund amount of \$10,000 – Laubhan LLC, R0057517
2. **PETITION FOR ABATEMENT OR REFUND OF TAXES.** Exceeds the allotted refund amount of \$10,000 – Laubhan LLC, R0057509

AGREEMENTS

1. **COLORADO STATE FOREST SERVICE FINANCIAL ASSISTANCE PROGRAM – PROJECT AWARD NOTIFICATION**
2. **GRANT OF EASEMENT FOR A SANITARY SEWER**
3. **FY23 BUREAU OF RECLAMATION TITLE 28 GRANT AGREEMENT – ACTIVITIES AT HORSETOOTH AND PINEWOOD RESERVOIRS, BROADBAND CABLE INSTALLATION AND ASPHALT REPAVING.**

APPOINTMENTS

1. **CORRECTION OF PREVIOUS APPOINTMENT TO THE RED FEATHER LAKES PLANNING ADVISORY COMMITTEE-** Lora Gaskill

LETTERS OF SUPPORT

1. **I-25 NORTH SEGMENT 5 PROJECT – LETTER OF SUPPORT**

LIQUOR LICENSES

1. **FINDINGS AND ORDER-RIVERSIDE COLORADO LLC dba POUDRE PARK MARKET-FORT COLLINS, CO**
2. **LIQUOR LICENSE RENEWAL-SHIV LLC DBA CHILL-TAVERN-FORT COLLINS, CO**
3. **LIQUOR LICENSE RENEWAL – MINI MART INC DBA LOAF N JUG 750825-FERMENTED MALT BEVERAGE &WINE-FORT COLLINS, CO**

4. LIQUOR LICENSE RENEWAL-REV ENTERPRISES INC DBA SANDY'S CONVENIENCE STORE- FERMENTED MALT BEVERAGE &WINE-LOVELAND, CO

MISCELLANEOUS

1. Q1 2024 PUBLIC TRUSTEE REPORT
2. WATERBURY ORCHARDS LLC STIPULATION AS TO TAX YEAR 2023 VALUE
3. WATERBURY ORCHARDS LLC STIPULATION AS TO TAX YEAR 2023 VALUE
4. WATERBURY ORCHARDS LLC STIPULATION AS TO TAX YEAR 2023 VALUE
5. WATERBURY ORCHARDS LLC STIPULATION AS TO TAX YEAR 2023 VALUE
6. WATERBURY ORCHARDS LLC STIPULATION AS TO TAX YEAR 2023 VALUE
7. DRAFT HORSE DRIVE LLC STIPULATION AS TO TAX YEAR 2023 VALUE
8. HANA DUL INC STIPULATION AS TO TAX YEAR 2023 VALUE
9. 1403 E 2ND LLC STIPULATION AS TO TAX YEAR 2023 VALUE
10. REQUEST FOR ADDITIONAL APPRAISER 1

POLICIES

1. ADMINISTRATIVE POLICY-DISCOVERY PRESERVATION

M O T I O N

Commissioner Shadduck-McNally moved the Board of County Commissioners approve the Consent Agenda for April 23, 2024.

Motion carried 3-0.

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

6. DISCUSSION ITEMS:

1. PROCLAMATION DECLARING APRIL 21-27, 2024, AS NATIONAL CRIME VICTIMS' RIGHTS WEEK-Kylie Massman, District Attorney's Office.

David Moore, Executive Director, Larimer County Sheriff's Office relayed to the Board that since 1981 National Crime Victims' Rights Week has challenged the country to remove barriers to achieving justice for all victims of crime. The week celebrates the accomplishments of the victims' rights

movement and offers a moment of reflection on the barriers that remain for victims seeking justice. Mr. Moore reported that the theme for this year is, “How would you help? Options, service, and hope for crime survivors”. This is a call to action to all of us to provide crime victims a safe space to share what happened to them. By creating a safe environment for victims, the County with its partners is able to offer options, resources, and most importantly hope. Mr. Moore extended thanks to the many staff, community partners, and volunteers who work tirelessly to bring hope and reassurance to those who have been impacted by crime.

Kate Perrill, Larimer County District Attorney’s Office addressed the Board. Ms. Perrill extended a big thank you to many non-profits in the community who partner with the both the District Attorney’s Office and the Sheriff’s Office to bring services and support to victims of crime. Ms. Perrill noted that a Resources Fair was held on April 21, 2024, highlighting the various services that are available in the community. She also noted that there will be another event on Thursday, April 25, 2024, featuring various speakers including survivors. Lastly, Ms. Perrill re-introduced Zion. Zion is a therapy dog who supports victims in a variety of situations. Zion brings comfort and reassurance during what is often an exceptionally stressful time. Community members can learn more about Zion by following his Instagram, [zion_cofacilitydog](#).

Commissioner Stephens read the proclamation.

The Board thanked the District Attorney’s and Sheriff’s Offices and all those in attendance for their work on behalf of victims and survivors and bringing hope to those who are often the most vulnerable. The Board also extended its thanks to the many non-profits, community groups, and volunteers who work together and pool resources to assist victims of crime. Lastly, the Board highlighted the effort of the many volunteers who freely give of their energy and time to support victims. These volunteers are true unsung heroes.

Manager Volker also extended her thanks to the many partners in the County who advocate for victims.

M O T I O N

Commissioner Stephens moved the Board of County Commissioners to approve the Proclamation declaring April 21-27, 2024, as National Crime Victims’ Rights Week.

Motion carried 3-0.

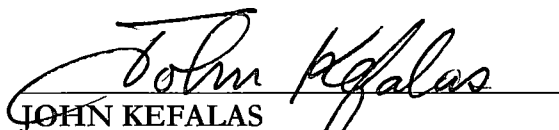
Chair Kefalas was excused for the remainder of the hearing to attend a ribbon cutting for a housing project. Chair Pro Tem Stephens chaired the remainder of the hearing.

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

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

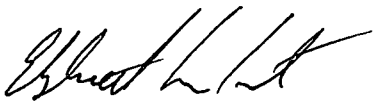
9. LEGAL MATTERS: None requested.

With there being no further business, the Board adjourned at 9:55 a.m.


JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS
CLERK AND RECORDER

ATTEST:


Elizabeth Carter, Deputy Clerk

