



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, MARCH 27, 2023

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Michael Whitley, Community Development Senior Planner. Chair Shadduck-McNally presided. Commissioner Kefalas and Commissioner Stephens were present. Also present were Samantha Mott, Tawn Hillenbrand, Tracey Hicks, and Samantha Lasher, Community Development; Rebecca Everette, Community Development Director; Connor Sheldon, Engineering; Leslie Ellis, Community Planning, Infrastructure, and Resources Director; Frank Haug, Assistant County Attorney, and Elizabeth Carter, Deputy Clerk. Lea Schneider, Health and the Environment Department joined the meeting via Zoom.

ITEMS TABLED FROM PREVIOUS HEARING:

1. **TOWN OF WELLINGTON MLD, FILE NO. 22-LAND4267:** The applicant/property owner requests a Minor Land Division to divide a 273.85-acre parcel owned by North Poudre Irrigation Company (NPIC) into three lots. NPIC's parcel consists of Reservoir 3 which is used by NPIC for water storage, a private boat club, and campground located at the south end of the Reservoir, in addition to the Town of Wellington's Water Treatment Plant, and the Town of Wellington's Pretreatment facility and raw water pump station. The Town of Wellington currently leases the land where the Water Treatment Plant and intake facility are located and has decided to purchase the land rather than rely on a 40-year-old lease agreement.

Specifically, the request is to create a new north parcel (Lot 1), and a new south parcel (Lot 2), with the remainder of the existing parcel designated as Lot 3.

Proposed Lot 1 will be 8.97-acres and will contain the current treatment plant with additional area for future expansion, which will include a new treatment building, ozone building, chemical building, three new solids drying beds, two new backwash ponds, and a new septic system. This lot is proposed to be acquired by the Town of Wellington.

Proposed Lot 2 will be 1.53-acres and will contain the Town's Raw Water Intake Facility from North Poudre Reservoir #3. The new lot will be larger than the existing operations area to accommodate future expansion of the intake facilities. This lot is proposed to be acquired by the Town of Wellington.

The remainder of the property is proposed Lot 3, which will consist of the remaining 263.36-acres. This lot contains the North Poudre Reservoir #3 and the existing campground.

The property is zoned O, O-Open which has a minimum lot size of 10 acres. The town is requesting an appeal from this requirement to allow for the creation of an 8.97-acre lot (Lot 1) and a 1.53-acre lot (Lot 2). The configuration of the lots and the resulting lot sizes have been carefully considered by the town. In negotiating the terms of the land purchase, the town sought to balance the many goals and interests of the community in an equitable fashion, weighting the amount of land necessary to accommodate future expansions needed to meet the growing demand from the town and to keep costs manageable for utility rate payers.

REVIEW CRITERIA: MINOR LAND DIVISION REVIEW CRITERIA:

The Minor Land Division process can be used to divide off an existing legal use from the remaining vacant property with the condition that the development of the vacant property must be approved through the appropriate land division process and for the division of land for open space or other public uses. To approve a Minor Land Division, the Board of County Commissioners must consider the review criteria below and find that each criterion has been met or determined to be inapplicable.

- A. The property is not part of an approved or recorded subdivision plat. The subject property is not currently part of an approved or recorded Subdivision plat.
- B. The property is not part of an Exemption or Minor Residential Development approved under the previous Subdivision Resolution or a Minor Land Division. This property is not part of an Exemption or a Minor Residential Development or a Minor Land Division.
- C. The newly created parcels will meet the minimum lot size required by the applicable zoning district. The parcel is zoned O, Open, which has a minimum lot size of 10 acres. The newly proposed lots will be approximately 8.97-acres (Lot 1), 1.53-acres (Lot 2), and 263.36-acres (Lot 3) in size. Proposed Lot 1 and Lot 2 do not meet the minimum lot size requirement in the O zoning district. The applicant is seeking an appeal to this requirement which is discussed under the review criteria below.
- D. The newly created parcels meet minimum access standards required by the County Engineer. The Larimer County Engineering Department has indicated that they do not have any issues with the proposal, but any further division or development of these parcels would require another application for land division and/or a development review process. The two proposed lots each have a single access to County Road 11 that meet the spacing requirement. The existing uses of the proposed lots are not changing.
- E. Approval of the Minor Land Division will not result in impacts greater than those of existing uses. However, impacts from increased traffic to a public use may be offset by the public benefit derived from such use. The newly proposed lots will not result in impacts greater than those of the existing uses. The resultant 8.97-acre lot and the 1.53-acre lot are already developed, and the expansion of the facilities will not result in an increase of traffic.

APPEAL REVIEW CRITERIA:

An appeal to deviate from Minimum Lot Size Requirements. When considering whether to approve an appeal to deviate from the minimum lot size requirements of this Code, the Board of County Commissioners may grant the appeal subject to the safeguards and conditions consistent with their findings concerning the following factors. The Board of 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. The lot size being proposed is consistent with the pattern of existing lots in the neighborhood. The area surrounding the subject property is primarily comprised of large acre agricultural parcels. East and adjacent N. County Road 11 is the Wilson Conservation Development Subdivision which is comprised of six residential lots averaging approximately two acres each. Approval of the appeal would not appreciably impact the pattern of existing lots in the area, as there is considerable variability in lot sizes. Additionally, the Minor Land Division is being used to separate the different uses that are existing onto separate parcels and no additional developable lots are being created with this plat.
- B. The proposed lot has sufficient area to support the intended use of the lot. All three lots have sufficient area to support the existing uses of the lots and have sufficient area to expand the intended uses of the lots. Proposed Lot 1, which will consist of 8.97 acres is served by an On-Site Wastewater Treatment System, where a minimum of 2.29 acres is required per the Land Use Code. Proposed Lot 2 is not large enough to support wastewater treatment. However, the use on this lot is an intake facility which is generally only accessed for maintenance on equipment and do not require potable water supply and wastewater.
- C. There are physical features of the site or other special circumstances that support the proposed lot size. The newly proposed lots being acquired by the Town of Wellington were sized to support the existing uses and the necessary expansion of the facilities needed to support the town's water needs for the next 20 years. The presence and shape of the reservoir make the subject property particularly unique. The town's facilities are already in place and the inclusion and acquisition of the narrow strip of land connecting the two sites would not benefit the town. Moreover, the cost to acquire this narrow strip of land would correlate to price increases for utility rate payers. Ordinarily, staff would not consider a financial hardship as a special circumstance. However, this project contributes to the provision of basic services needed to support the Town of Wellington, and cutting costs for the beneficiaries is, in this case, considered a special circumstance. The shape of usable land due to the reservoir, the location of the existing facilities, and the public cost all constitute a special circumstance.
- D. Granting the lot size appeal is consistent with the intent and purpose of this Code. The uses are existing, and the Minor Land Division is being used to separate the uses into separate lots. The smaller lot sizes will not adversely impact the development pattern of the area and are offset by the public benefit derived from these uses.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

- A. The Development Services Team recommends approval of the Wellington Minor Land Division, File #22-LAND4267, subject to the following conditions and authorization for the chair to sign the plat when the conditions are met, and the plat is presented for signature:
1. All conditions of approval shall be met, and the final plat recorded by February 6, 2024, or this approval shall be null and void.
 2. 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 Minor Land Division approval.
 3. The appropriate oil and gas regulations will apply at the time that the lots are further developed.
- B. The Development Services Team recommends Approval of the Appeal to deviate from the Minimum Lot Size Requirements.

PUBLIC HEARING CONSENT ITEMS:

1. **GLACIER VIEW MEADOWS 12TH FILING PUD, LOT 54 AND LOT 55, LOT CONSOLIDATION AND EASEMENT VACATION, FILE NO. 22-LAND4296:** The applicant/property owner requests a Lot Consolidation to combine two contiguous legal lots, Lots 54 & 55, of the Glacier View Meadows 12th Filing PUD and vacate the northeastern 335-feet of the existing 20-foot utility easement, located along the common lot line. The two lots are currently combined through the Larimer County Assessor's Office, which is why one parcel number, and one address are currently assigned to both lots.

The subject existing utility easement is 20-feet wide and approximately 629-feet long and was dedicated as part of the Glacier View Meadows 12th Filing PUD in the 1990s. The southwestern 295-feet of the easement is currently being used by Poudre Valley REA for their power line and guy wires. The northeastern 335-feet of the easement is not being used and the applicant/property owner is proposing to vacate this portion of the easement to allow more buildable space on the proposed combined lot. Poudre Valley REA has no concerns with the proposed easement vacation.

Additionally, building envelopes were placed on all lots when the Glacier View Meadows 12th Filing PUD was created. The existing building envelopes on Lots 54 and 55 are not being altered with this request, so the proposed lot will contain two building envelopes. Any alteration to the building envelope(s) in the future will be required to gain approval for the appropriate process(es).

REVIEW CRITERIA:

The Larimer County Land Use Code (Section 6.5.7.D.3) allows for the approval of an Amended Plat if the following review criteria are met:

- A. No additional lots will be created by the amended plat. No additional lots will be created by the amended plat. The lot consolidation would combine two existing, contiguous legal lots into one lot.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by Section 5.2, Lot and Block Standards. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, the amended plat must not increase the nonconformity. The minimum lot size for a lot located in the RR-2 – Rural Residential zone district is 2.29 acres if the property is served by an on-site well and/or on-site septic system and 0.5 acres if the property is served by both public water and public sewer. The two existing lots are currently 6.85 acres and 2.52 acres and are served by an on-site well and on-site septic system. The proposed lot consolidation would create one 9.38-acre lot, much larger than the minimum lot size required in the RR-2 – Rural Residential zone district. Additionally, the proposed lot consolidation will meet the required lot dimension ratio.
- C. The amended plat will not create a nonconforming setback for any existing building. The lot consolidation to combine two existing contiguous lots would not create a nonconforming setback for any existing or proposed buildings.
- D. The amended plat will not adversely affect drainage or utility easements or rights-of-way serving the property or other properties in the area, and no right-of-way is proposed to be vacated. The applicant/property owner is proposing to vacate 335-feet of an existing 20-foot existing utility easement along the common lot line of the two existing lots. The remaining length of the easement (295-feet) will remain as Poudre Valley REA is currently using the easement for their power line and guy wires. Poudre Valley REA provided comments that indicate they have no concerns with the partial vacation of the existing easement. The lot consolidation to combine two existing contiguous lots would not adversely affect drainage or utility easements or rights-of-way serving the property or other properties in the area.
- E. Any covenants, deed restrictions, or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or note on a plat that are approved with this application. The Board of County Commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change. There are no changes to any conditions or notes on the plat proposed with this request. Any covenants, deed restrictions, or other conditions of approval that apply to the original lots would still apply. In reviewing a proposed plat modification, the Board of County Commissioners shall consider the general approval criteria in §6.3.8.D., General Review Criteria and the following (Section 6.5.8.D.):

Vacation of Right-of-Way or Easement

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

services. No right-of-way is proposed to be vacated with this request and the proposed easement vacation is not expected to leave any property without utility or drainage services. Therefore, this criterion has been met.

- B. The recommendations of referral agencies have been considered. Referral agencies have no concerns with the proposed utility easement vacation. Poudre Valley REA is using a portion of the existing easement but has no concerns with the vacation of 335-feet of the existing easement, as this portion is not currently being used. No other utilities had concerns or provided comments regarding the proposed easement vacation.
- C. Any right-of-way that is vacated will be divided equally between the lots on each side unless it can be demonstrated that all of the right-of-way was originally taken from one parcel. In that case, the right-of-way will be returned to that parcel. Property owners on each side of the right-of-way may agree to divide the vacated right-of-way differently but must sign deeds to transfer ownership after the Board of County Commissioners approve the vacation, and no right-of-way is proposed to be vacated with this request; therefore, this criterion is not applicable.
- D. Right-of-way vacations must also meet the requirements of C.R.S. § 43-2-303. No right-of-way is proposed to be vacated with this request; therefore, this criterion is not applicable.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

1. The property will be subject to all restrictions, covenants, and conditions as set forth in the plat of record for the Glacier View Meadows 12th Filing PUD.
2. Any future uses on the consolidated lot shall obtain approval through the applicable review procedure as established in the Larimer County Land Use Code prior to the 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 Lot Consolidation approval.

2. DAVIS ADMINISTRATIVE SPECIAL REVIEW FOR AN ALA AND APPEAL, FILE NO. 22-ZONE3361: The subject property is 3.46-acres, and it is zoned RR-2 Rural Residential. It is located approximately half a mile east of the intersection of W. County Road 24 and N. County Road 27 in Loveland.

This request is for Administrative Special Review approval for a detached Accessory Living Area with an appeal to Article 3.4.5.A. of the Land Use Code which limits the size of a detached Accessory Living Area (ALA) to 40% of the square footage of the single-family dwelling or 1,200 square feet, whichever is less, for properties greater than 100,000 square feet in size. Please note that the proposed

accessory living area is 1,173 square feet and meets the 1,200 square feet limitation but does not meet the 40% of the single-family dwelling limitation.

The property contains a single-family residence constructed in 1963 and remodeled in 1989. According to the Assessor's information, the home is 1,828-square-feet. There is also an outbuilding that is 768 square feet, according to the Assessor. The applicant is proposing to locate a detached Accessory Living Area on the property for his son. The proposed accessory living unit is 1,173 square feet. The proposed square footage exceeds the 40% requirement but meets the 1,200 square feet requirement of the Larimer County Land Use Code. The existing dwelling is 1,828 square feet in size. The proposed accessor living area exceeds the size limit of 40% of the size of the principal dwelling ($1,828 \times 40\% = 731.2$) but meets the 1,200 square foot size limit. Because the applicant is unable to meet the 40% threshold, they are required to appeal this standard. As previously mentioned, the purpose of this accessory living area is for the applicant's son. The applicant cites the following reasons in his project description for the accessory living area: affordable housing for a family member, enables a family member to help with the upkeep of the property and costs, provides a separate living area to reduce contact during health pandemics, and it enables the applicant to live out his remaining years at home instead of a nursing home. The existing residence is currently served by septic and Little Thompson Water District. Neighbor notification of the proposed project was sent to properties within 500-feet of the subject property. Staff did not receive any comments from neighbors.

REVIEW CRITERIA:

The Larimer County Land Use Code (Article 6.4.3.D) allows for the approval of an Administrative Special Review if the following review criteria have been met: This Administrative Special Review application meets the General Review Criteria in §6.3.8.D: General Review Criteria, in addition to the following Review Criteria (§6.4.3.D):

1. The proposed use has minimal impacts on the existing and future development of the area. Staff's Response: This proposed change of use should have minimal impact on the existing and future development of the area. Notice of the application was sent to property owners within 500-feet of the applicant's property boundaries. Staff received no comments of concern or opposition from neighbors.
2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated. Staff's Response: The proposed accessory living area should not cause any adverse impacts.
3. The recommendations of referral agencies have been considered and adequately addressed. Staff's Response: This application was referred to the applicable referral agencies. The comments have been or will be adequately addressed.
4. Within a Growth Management Area (GMA) district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan; and Staff's Response: The subject property is not located within a GMA district. This property is zoned RR-2 Rural Residential which allows Accessory Living Areas if approval is received through this Administrative Special Review process.

5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations. In addition to the §6.4.3.D, Review Criteria for Administrative Special Review, applications for Accessory Living Areas shall comply with the following standards (Article 3.4.5.A):

Occupancy

- Lodging Facilities (as defined in §20.2.4.C) are prohibited within an Accessory Living Area. The accessory living area shall not be rented for 30 days or less (a short-term rental unit as regulated by §3.3.5.B).
- The Accessory Living Area may be occupied by one additional Living Unit, separate from the principal dwelling unit.

Review Required

- An Accessory Living Area in a detached building or in a portion of a residence that is attached with no direct access from the primary residence is subject to review and approval through the Administrative Special Review process in §6.4.3.
- Building permit applications for Accessory Living Areas are subject to all applicable impact fees, including transportation capital expansion fees.

Number and Size

- One Accessory Living Area is permitted per lot.
- The total square footage of the Accessory Living Area shall comply with the standards.
- The Director may approve an Accessory Living Area in an existing structure that exceeds the maximum total area requirement in Table 3-15 if the accessory living area is incidental to the principal dwelling unit and meets one or more of the following criteria:
 - i. The existing structure is recognized as contributing to the historic, rural, or neighborhood character of the area.
 - ii. The interior configuration of the existing structure is arranged in a manner that the space to be used as the Accessory Living Area cannot feasibly be divided in conformance with the size requirements.
 - iii. There are unusual physical circumstances or conditions in the design of the existing structure that affect the total allowed area.

Site Standards:

- The single-family character of the property shall be maintained.
- One additional off-street parking space shall be provided for the Accessory Living Area.
- If the Accessory Living Area is located in a detached building, to the maximum extent practicable it shall be located within 300 feet of the primary residence.

APPEAL: APPEAL TO DEVIATE FROM THE STANDARDS OR REQUIREMENTS

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

REVIEW CRITERIA FOR APPEALS TO DEVIATE FROM STANDARDS OR REQUIREMENTS OTHER THAN MINIMUM LOT SIZE (Article 6.7.2.B):

- Approval of the appeal will not subvert the purpose of the standard or requirement. As discussed above, the proposed accessory living area is 1,173 square feet, and the size limit is 1,200. However, the applicant does not meet the 40% standard within Article 3.4.5.A. of the Land Use Code. In this case, the proposed accessory living area is still subservient to the single-family home, is not out of scale for the property, and, is less than 1,200 square feet. Approval of the appeal would not subvert the purpose of the size standard.
- Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood. It is not anticipated that granting the appeal would be detrimental to the public health, safety, or property values in the neighborhood.
- Approval of the appeal is the minimum action necessary. Approval of the appeal is the minimum action necessary to allow a detached Accessory Living Area to exceed the size limitation of 40%. The proposal meets the other limitation of 1,200 square feet.
- Approval of the appeal will not result in increased costs to the general public. It is not anticipated that the request will result in the need for improvements to public facilities or increased costs to the public.
- Approval of the appeal is consistent with the intent and purpose of the Code. The intent of the detached Accessory Living Area regulations is to allow guest quarters that are secondary to the principal single-family home on the property and compatible with uses in the surrounding area. The Land Use Code was recently updated which increased the allowed sizes of ALAs. While the proposed ALA does exceed the 40% threshold of the existing single-family residence, it meets the 1,200 square feet in size limitation. It is subordinate in size to existing single-family dwelling (1,828 square feet).

Therefore, approval of the Appeal would be consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends Approval of the Davis Administrative Special Review for ALA and Appeal, File #22-ZONE3361, subject to the following conditions:

1. Upon approval of the accessory living area, a new building permit will be required for the accessory living area.
2. Because the proposed accessory living area is a prefabricated manufactured home built to HUD standards, the applicant must obtain an installation permit from the Colorado Division of Housing.
3. The Accessory Living Area shall be located as shown on the approved site plan.
4. Prior to the issuance of a building permit, the applicant must satisfy the requirements of the Little Thompson Water District (LTWD) and provide documentation from LTWD to the Planning Department that the requirements have been met.
5. The Accessory Living Area must not be rented or leased for 30 days or less (as a Short-Term Rental) separately from the single-family dwelling.
6. The Accessory Living Area must be used solely for guests of the occupants of the single-family dwelling, long-term tenant occupants (greater than 30 days), or those providing a service on-site in exchange for their residency.
7. An address must be assigned to the Accessory Living Area prior to issuance of a Certificate of Occupancy.
8. The owner is responsible for paying all applicable fees which may include building permit fees, impact fees, and Transportation Capital Expansion Fees applicable to an Accessory Living Area.
9. Failure to comply with any conditions of the Administrative Special Review approval may result in reconsideration of the use and possible revocation of the approval by the Board of County Commissioners.
10. This approval shall automatically expire in three years if the use has not commenced and/ or a building permit is not issued.
11. One off-street parking space shall be provided for the Accessory Living Area.

12. The Site shall be developed consistent with the approved floor plan and with the information contained in the Davis Administrative Special Review for an ALA and Appeal, 22-ZONE3361, and the supplemental regulations listed above, except as modified by the conditions of approval or agreement of the County and owner. The owner shall be subject to all other verbal or written representations and commitments of record for the Davis Administrative Special Review for an ALA and Appeal.

3. **VANDER MOLEN CONSERVATION DEVELOPMENT - DEVELOPMENT AGREEMENT MODIFICATION AMENDED PLAT, FILE NO. 23-LAND4308:** This request for an amended plat is to amend the Development Agreement for the Vander Molen Conservation Development to remove the fire sprinkler requirement. The Vander Molen CD was recorded in 2003. Currently, the language in Section 20 of the Development Agreement states:

20. Fire Protection

The Berthoud Fire Protection District shall provide fire protection. The water system shall be a minimum 6" dia. water main looped from County Road #4 then Southerly along Windy Acres Lane and then Easterly to the existing 2" dia. water main located along Sherlyn Court. Automatic residential fire sprinkler systems are required to be installed in all residential structures and must comply with the Berthoud Fire District's requirements. All fire hydrant locations will be approved by the Berthoud Fire Department and the Little Thompson Water District.

There are eight residential lots and one residual lot with a building envelope for a total of 9 developable lots within the Vander Molen Conservation Development. All the lots except for Lot 2 currently have single-family homes. The owners of Lot 2 currently have a building permit in process and have requested this Amendment to the Development Agreement. Section 38 of the Development Agreement for the Vander Molen Conservation Development indicates that the Agreement may be modified by mutual consent of the county and 75% of the property owners based on one vote per lot, provided such amendment is in writing. An amendment would require seven of the nine lot owners to approve this request. The applicants have provided signatures of seven of the other lot owners for a total of eight lot owners, including themselves, in support of this request. Traditionally amended plats may be approved by the Director, however, amending a Development Agreement requires a hearing and approval by the Board of County Commissioners.

REVIEW CRITERIA:

The Larimer County Land Use Code below (Section 6.5.7.D.3) allows for the approval of an Amended Plat if the following review criteria are met in addition to the General Review Criteria, found in Section 6.3.8.D:

- A. No additional lots will be created by the amended plat. The amended plat will not create any additional lots.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by Article 5.2, Lot and Block Standards. If any of the lots are nonconforming with respect to the minimum lot size or the lot

dimension ratio, the amended plat must not increase the nonconformity. Lot sizes or ratios will not change with this amended plat.

- C. The amended plat will not create a nonconforming setback for any existing building; No lot lines are changing in this amended plat and therefore will not create any nonconforming setbacks.
- D. The amended plat will not adversely affect access, drainage, or utility easements, or rights-of-way serving the property or other properties in the area. The amended plat will not adversely affect access, drainage, or utility easements, or rights-of-way serving the property or other properties in the area and therefore complies with this criterion. No easements or rights-of-way are proposed to be vacated with this request.
- E. Any covenants, deed restrictions, or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or note on a plat that are approved with this application. The Board of County Commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change. If this amended plat is approved, the resultant lots will still be subject to all other restrictions, covenants, and conditions as set forth in the plat of record for the Vander Molen Conservation Development.

DEVELOPMENT SERVICES TEAM RECOMMENDATION: The Development Services Team recommends approval of Vander Molen Conservation Development - Development Agreement Modification Amended Plat, File #23-LAND4308, with the following conditions:

- 1. All conditions of approval shall be met, and the Amended Development Agreement shall be recorded by September 27, 2023, or this approval shall be null and void.
- 2. The Amended Development Agreement must be signed by at least 75% of the lot owners within the Vander Molen Conservation Development, with one vote per lot.
- 3. The applicant must provide an Ownership and Encumbrance for each lot that signs the Amended Development Agreement and all lot owners identified on the Ownership and Encumbrance must sign if there are multiple owners of a lot.
- 4. The lots are subject to all restrictions, covenants, and conditions as set forth in the plat of record for the Vander Molen Conservation Development.

MOTION

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

Motion carried 3-0.

With there being no further business, the Board recessed at 3:05 p.m.

LAND USE HEARING

The Board of County Commissioners reconvened at 6:30 p.m. with Leslie Ellis, Community Planning, Infrastructure, and Resources Director. Chair Shadduck-McNally presided. Commissioner Kefalas and Commissioner Stephens were present. Also present were Tawn Hillenbrand, Community Development; Frank Haug, Assistant County Attorney; and Elizabeth Carter, Deputy Clerk.

DISCUSSION ITEMS:

1. PROPOSED AMENDED LARIMER COUNTY ORDINANCE FOR IMPLEMENTATION AND ENFORCEMENT OF SHORT-TERM RENTAL REGULATIONS: Pursuant to H.B. 20-1093 which provides counties the authority to grant approval and regulate short-term rentals, the proposed Amended Ordinance for the Implementation and Enforcement of Short-Term Rental Regulations is presented to the Board of County Commissioners. The original Ordinance was adopted in 2021, and changes are necessary to reflect proposed amendments to the Land Use Code relating to short-term rentals. Proposed amendments to the Land Use Code regulations were heard at a March 15, 2023, Planning Commission public hearing and will be heard this evening, March 27, 2023, at a public hearing by the Board of County Commissioners. Of note, the following items have been updated in the Amended Ordinance:

1. Clarify the purpose and intent to require a short-term rental license which would be given when planning approval had been given and the Certificate of Occupancy for the conversion building permit was obtained.
2. Clarify the county's limited liability.
3. Clarify and strengthen the language around the "Cease & Desist" letters for illegal short-term rentals.
4. Impose a penalty fee for short-term rentals who seek planning approval after receiving a "Cease & Desist" letter.
5. Require that long-term rentals clearly state such in the "banner heading" of any advertising.
6. Require license numbers to be in the "banner heading" of any advertising.
7. Address the use of other vehicles and structures on the short-term rental property.
8. Require compliance with other applicable laws and noting that an infraction with another jurisdiction at the short-term rental will be counted as a violation in Section
9. Require the Property Manager to provide a report of actions taken to mitigate a complaint.
10. Note that egregious and/or severe life-safety violations may be subject to immediate revocation.

Amy White, Code Compliance Director, read the Ordinance into the record.

2. AMENDMENTS TO THE SHORT-TERM RENTAL REGULATIONS, FILE NO. 23-CODE0271: Tawn Hillenbrand, Community Development

BACKGROUND:

Ms. Hillenbrand provided the Board with background on the short-term rental issue in Larimer County

Ms. Hillenbrand explained that Larimer County's short-term rental (STR) regulations in the Land Use and Building codes went into effect on September 1, 2019. The county had a compliance grace period until December 31, 2021, so operators had time to apply for and obtain planning approvals and building permits. In November 2021, the county adopted an ordinance for the implementation and enforcement of short-term rental regulations that took effect on January 2, 2022. In January 2022, the county sent notifications to unpermitted owner/operators – properties identified by Lodging Revs, requiring them to stop advertising and renting short-term until they completed their approvals and permitting.

STR Standards for the Estes Valley

Ms. Hillenbrand relayed to the Board that the Estes Valley unincorporated area regulations for vacation homes pre-date the countywide STR standards, as they were adopted in 2017. At the time, a cap on the total number of STRs in residential areas was established for the entire Estes Valley, and a waitlist was established in 2018. At that time, the Town of Estes Park was doing a development review for the unincorporated area, and the regulations were in the Estes Valley Development Code.

Ms. Hillenbrand explained that when the county began the development review for the Estes Valley in March 2020, the Estes Valley Development Code regulations continued to apply to the existing approved vacation homes in the Estes Valley, while STR regulations from the Larimer County Land Use Code applied to new applications. The cap on 266 units for vacation homes/short-term rentals for the Estes Valley in unincorporated area residential zoning districts also carried into the Larimer County Land Use Code, now Article 13. The cap does not apply to STRs or vacation homes in the non-residential districts. In 2021, the county adopted small changes in Article 13 of the Land Use Code to allow certain preexisting lodging facilities (PERFs) to obtain by right approvals in the Estes Valley Accommodation zoning districts.

The Town of Estes Park administers a similar set of regulations for the vacation homes in the town and has recently undertaken changes to its program related to a moratorium on the waitlist, transferability, linkage fees, and increased compliance measures.

STR Issues and Reason for the Project

Ms. Hillenbrand reviewed with the Board the genesis of the new draft regulations. She noted that Larimer County's Land Use Code at the time this project began was viewed as being fairly good regulations, with this project being an opportunity to refine some of the issues around safety and impacts on neighborhoods in particular. The standards included allowances for STRs in certain zoning

districts with an administrative review process, requirements for life-safety inspections, and STR permit renewal every other year.

In Larimer County and communities with high numbers of visitors such as Estes Park, short-term rentals lead to advantages and challenges. As the demand for second homes and STRs continues to grow, many jurisdictions are working on programs and regulations to manage STRs and achieve positive outcomes. While STRs provide increased revenues and options for visitors and owners, as seen through the work recently done by Visit Estes Park, communities including Larimer County are seeing increasing levels of complaints from neighbors about traffic and noise and are hearing concerns about commercial uses in residential neighborhoods. Also, Larimer County had been hearing more about safety issues from fire districts and neighbors, such as limited access and egress for properties during emergencies and higher levels of fire-related calls in STRs.

Additionally, after administering the STR regulations for several years, the county has found that different types of lodging uses may need clarification in the Code because of nuanced requests, different management approaches, and potential impacts to surrounding areas. For example, bed and breakfast (B&B) units and Resort Lodge/Cabins need to be distinguished from STRs.

Finally, the demand for STRs and the conversion of long-term rentals and housing to STRs appear to correlate with the loss of rental units and homeownership opportunities. Communities have been taking action to put incentives, standards, and fees in place to offset impacts and support long-term workforce housing.

Short-term Rental Regulations Update Project Timeline and Public Input

Ms. Hillenbrand reported to the Board that in early May 2022, Larimer County began the process to revisit and update the current STR regulations in the Land Use Code to better align with the changes and expansions in the home sharing and rental industry and to address community concern about impacts and compatibility. Over that time, the county has put out a community questionnaire and prepared two public review drafts prior to this Public Hearing Draft – one in October 2022 and one in January 2023. Additionally, staff has been updating the Ordinance for Implementation and Enforcement. Ms. Hillenbrand stated that since July 2022, the county has also hosted the following activities to obtain input on the suggested changes from the public, advisory committees, boards, and commissions:

Ms. Hillenbrand highlighted the various community meetings and work sessions that have been held over the last many months.

May 11, 2022: BCC-PC Work Session – Project Introduction and Discussion Meeting.

May 19: Estes Valley Planning Advisory Committee (EVPAC) - Project Introduction and Discussion Meeting.

May 26: Red Feather Lakes Planning Advisory Committee (RFLPAC) - Project Introduction and Discussion Meeting.

July 6 – August 28: Online Community Questionnaire.

August 8: BCC Work Session to provide an update on preliminary questionnaire results and public input.

August 9: Countywide Virtual Open House – Project Introduction and Discussion (34 attendees).

August 15: Estes Valley Open House at Community Center - Project Introduction and Discussion (43 attendees).

August 18: EVPAC – Project Update to discuss preliminary questionnaire results and public input.

August 25: RFLPAC – Project Update to discuss preliminary questionnaire results and public input.

September 14: BCC-PC Work Session to discuss questionnaire results and options for revision to the regulations.

September 19: BCC Work Session to further discuss results and options.

October 11: EVPAC – Discuss questionnaire results and options for revisions to the regulations.

October 18: LaPorte Area Planning Advisory Committee (LAPAC) – Provide brief project update.

October 27 – December 14: Initial Public Discussion Draft – Posted for Public Review and Comment.

November 1: Estes Valley Virtual Open House (141 attendees).

November 7: Countywide Virtual Open House (82 attendees) November 9: BCC-PC Work Session to discuss the initial draft.

November 17 & 21: EVPAC – Discuss and receive feedback on the Initial Public Discussion Draft.

December 8: RFLPAC – Brief update on the initial draft.

December 15: EVPAC – Additional discussion on the Initial Public Discussion Draft January 13 – January 30, 2023: Public Review Draft #2 and Amended Enforcement Ordinance – Posted for Public Review and Comment, including online questionnaire.

January 19: EVPAC – Discuss and receive feedback on Public Review Draft #2 and Amended Enforcement Ordinance.

January 25: Estes Valley Open House at Community Center (52 attendees) January 26: Countywide Virtual Open House (70 attendees).

January 30: BCC Work Session to discuss feedback received at open houses.

February 8: BCC-PC Work Session to discuss proposed revisions to the draft.

February 15 – March 9: Public Hearing Draft and Draft #2 Amended Enforcement Ordinance – Posted for Public Review and Comment.

February 16: EVPAC – Recommendation on Public Hearing Draft and Draft #2 Amended Enforcement Ordinance.

Feedback collected through the activities and meetings, as well as from written email comments received from the public, industry, special interest groups, Boards and Commissions, and others, county staff has developed proposed amendments to the existing short-term rental regulations that staff believes respond to comments received. Each of the drafts noted above along with summaries of feedback collected through the activities listed above are posted on the project webpage.

OVERVIEW OF PROPOSED REGULATIONS:

Ms. Hillenbrand reported to the Board that included in the Public Hearing Draft of Propose Short-term Rental is Article 3, Use Regulations, Article 4, Development Standards, Article 12, Floodplain, Article 13, Supplemental Regulations for the Estes Valley, and Article 20, Rules of Interpretation and Definitions of the Larimer County Land Use Code (LUC).

Ms. Hillenbrand highlighted for the Board the following new or updated definitions included in the draft regulations.

STRs, Large Hosted STRs, and Bed and Breakfast Inns

The Public Hearing Draft proposes three types: STR, STR Hosted (formerly B&B), and a new Bed and Breakfast Inn definition, as referenced in the definitions and use tables for countywide and the Estes Valley. Includes clarification of total maximum occupancy for each lodging type. Other minor edits are proposed in the definitions.

‘Large’ STRs

The Public Hearing Draft proposes limiting the size of STRs to no more than 10 total guests. The ‘Large’ STR (more than 10 guests) option has been removed from the countywide definitions and zoning tables, including the Estes Valley.

Minimum Separation Between STRs in Residential Areas

The Public Hearing Draft proposes a minimum separation between STRs of 500-feet. At the Board of County Commissioner-Planning Commission work session on February 8th, there was a discussion about the separation, and board members suggested different approaches but did not agree on a certain measurement; therefore, staff left the proposed 500- foot separation in the draft. The EVPAC recommended a larger separation when they reviewed the draft.

Non-Conforming STRs countywide including the Estes Valley The Public Hearing Draft includes language providing clarification that “a short-term rental with a valid approval under the previous

Land Use Code from April 1, 2020, until May 31, 2023, may continue to operate as defined under the previous code.”

Floodplain Overlay District Standards

The Public Hearing Draft includes revisions to the floodplain standards do not allow STRs (including Hosted STRs) structures, any portion of the primary parking, and 100-feet of the existing driveway abutting the primary parking within the Floodplain Overlay District AE (Floodway), Floodplain Overlay District AE (Flood Fringe), Floodplain Overlay District Zone A, Floodplain Overlay District Zone AH, or Floodplain Overlay District Zone AO. The draft also includes language requiring the posting of flood hazard warning signs should any portion of the property be within a floodplain. New requirements for the Operations Manual and posting of information in the home addressing flood risk are included.

Local Roadway and Access Standards

The Public Hearing Draft proposes standards for safe and adequate access provided by the County Engineering team.

Life-Safety Inspection and License Renewal

The Public Hearing Draft clarifies that a life-safety inspection is required and requires license renewal every other year, when registration is currently required, with a Building Division reinspection every fourth year at the same time as the license renewal.

Transfer of Short-term Rental License

The Public Hearing Draft proposes language that allows transferability of license for all STRs approved before June 1, 2023 (or another date certain). New approvals on or after June 1, 2023, would not be able to transfer licenses. Staff continues to explore the feasibility of creating a time limit to license transfer for existing STRs or a one-time transfer option as recommended by EVPAC and will discuss this at the hearing. EVPAC recommended a possible sunset provision.

Required Property Manager Travel Time in the Estes Valley

The Public Hearing Draft proposes new language requiring Estes Valley STR property managers to be located within the Estes Valley Recreation and Park District boundary and affirmatively respond to complaints within one hour. As mentioned previously, it is proposed that the one-hour distance requirement remains applicable for the rest of the county outside the Estes Valley.

New Zoning District Option for Estes Valley

Although not included in the proposed STR regulations referenced above, the Public Hearing Draft includes an option at the end on page 17 to address unique circumstances for HOAs that support STRs, such as Windcliff Estates in the Estes Valley. This option would require the creation of a new zoning district in Article 13 (EV E-1S) that is based on the EV E-1 – Estes Valley Estate zoning district with all the same standards except for allowing STRs to be exempt from the cap and from the separation requirements.

If Windcliff or another subdivision wanted to rezone to this district, a legislative rezoning process for the subdivision would need to occur once the new STR regulations are put in place. It is also recommended that a change to reduce the cap by the number of STRs in the subdivision (i.e., 57 for Windcliff) for other residential zoning areas.

ESTES VALLEY PLANNING ADVISORY COMMITTEE (EVPAC) RECOMMENDATION
ON FEBRUARY 16, 2023:

Ms. Hillenbrand, stated that on February 16, after many months of reviewing drafts and providing input, the Estes Valley Planning Advisory Committee (EVPAC) unanimously (4-0) recommended in favor of the Short-term Rental regulations, public hearing draft, with the following exceptions or changes:

1. Consider a minimum 1,000-foot separation requirement rather than a 500-foot requirement. (3-1 vote)
2. Support the Estes Valley Recreation and Park District boundary change for property management location but would request that the response time be 30-minutes instead of one-hour. (4-0 vote)
3. Consider including the language on the last page of the public hearing draft regarding the creation of a new EV E-1S zoning district that Windcliff and other similar neighborhoods or HOAs could apply to rezone. (3-1 vote)
4. Consider adding a sunset requirement for transferability or a one-time transfer allowance for existing legal STRs. New licenses would continue to not have the ability to transfer. (4-0)

Additionally, consider adding a family transfer allowance (3-1). The committee members also discussed but did not vote on or propose specific changes related to:

Floodplain language – supported the new language.

A possible moratorium on the waiting list.

Definitions of Hosted STRs vs. Bed and Breakfast Inns.

The June 1, 2023, effective date for the regulations and ordinance, 23.

Including a notation in the ads about wildfire and flood zones.

A penalty with a higher cost than \$500/day and coordinating with the town which may have a penalty of \$1,000/day.

Reconsidering the enforcement ordinance in two-years, and - what to do about unused licenses and a process to eliminate them as a priority.

PLAN THEMES:

Ms. Hillenbrand walked the Board through the central themes of the draft plan.

- A. The proposed change is consistent with the Comprehensive Plan and the intent and purpose of this Code; and/or

Plan Themes - #1: Inclusive Opportunities - promoting a sustainable, resilient, and diverse economy to support a range of housing and employment opportunities and a high quality of life for all.

Plan Themes - #3: Health Guides Decision Making - upholding and advancing the community's health, safety, and well-being.

Plan Themes - #6: People are Our Strength - promote inclusivity to accommodate the diversifying population and ensure Larimer County remains an accessible and welcoming community for all.

Chapter 3, Policy Framework – Community: #C6 – Rural Development: Larimer County balances growth and preservation of community character through flexible and predictable land use strategies, processes, and development standards in unincorporated areas.

The policy statements found in Chapter 3 of the Comprehensive Plan under Community, indicate that the objectives of the county are to ensure new development or uses within the county adequately mitigate land use impacts, conflicting community values, natural resource protection, and economic growth.

Ms. Hillenbrand explained that the proposed amendments to the Short-term Rental Regulations contained in the Land Use Code are consistent with the principles and policies of the Comprehensive Plan and the intent and purpose of the Land Use Code, as the proposed regulations provide for both public process and development standards that identify, avoid, and mitigate the impacts associated with STRs.

PLANNING COMMISSIONS RECOMMENDATION:

County staff recommends that the Larimer County Planning Commission recommend to the Board of County Commissioners approval of the Land Use Code amendments by::

1. Add new and revised definitions and use descriptions for short-term rentals, Hosted Short-term Rentals, Resort Lodge/Cottages, and Bed and Breakfast Inn found in Article 3 (Use Regulations), Article 13 (Supplemental Regulations for the Estes Valley), and Article 20 (Rules of Interpretation and Definitions).
2. Revise the use tables found in Article 3 (Use Regulations) and Article 13 (Supplemental Regulations for the Estes Valley), which includes zoning districts and process requirements.
3. Update the Use-Specific Standards found in Article 3 (Use Regulations) and Article 13 (Supplemental Regulations for the Estes Valley), including the standards that apply to all short-term rentals and lodging facilities.
4. Amend Article 4 (Development Standards) and Article 12 (Floodplain) to address parking and floodplain standards associated with short-term rentals and lodging facilities, as found in File #23-CODE0271 - Short-term Rental Regulations Code Amendments, subject to the following:

1. The effective date of the regulations will be June 1, 2023.

There was an extensive discussion between the Board and staff regarding the proposed draft. The Board had questions regarding the Larimer County Rural Area Roadway Standards (Appendix G), access for emergency vehicles, road grades and, width requirements. The Board also asked for clarification if an applicant fails to meet the criteria in Appendix G if that would prevent the applicant from moving forward.

The Board had questions about complaints received and whether the majority are from the Estes Valley. There was also a discussion surrounding what the flexibility of applying the draft amendments to various areas within the county. The Board also asked about the practicality of applying the setback standards on a case-by-case basis outside the Estes Valley.

The Board had questions for staff about whether there were regularly scheduled reviews of proposed draft amendments should the Board pass them. There were also questions from the Board regarding safety requirements particularly wildfire prevention.

Lastly, the Board and staff discussed hosted short-term rentals versus bed and breakfasts. The Board asked for clarification on the standards applicable to each. Additionally, the Board asked staff to clarify whether or not events can be held at hosted short-term rentals.

PUBLIC COMMENT:

Chair Shadduck-McNalley opened public comment.

The following members of the public addressed the Board: Richard Mulhern, Liz Mulhern, Jane Livingston, and Bart Dannels spoke in favor of transferring licenses with the sale of the property. Bob Leavitt, Drew Webb, Steven McCrane, and Mike Kennedy spoke in favor of the draft regulations. Jennifer McCallum, Susie Germany, John McCall, Steven Allely, and Andrew Graham expressed concern about the 500-foot limitation on STRs and on placing restrictions on an owner's ability to transfer licenses. Jack Irving voiced his support for owners being allowed to transfer the license and for the 500-foot separation between STRs. Brian Pierson stated that he has been on the waiting list for Estes Park for several years and supports STRs as they offer access to Rocky Mountain National Park for visitors to the area.

Mark Zigrey, Sr., Ryan Zigrey, Mark Zigrey, Jr., and Casey Zigrey addressed the Board. Their collective concerns centered on excessive regulation and implementing a one-size fits all approach. Collins Sanders and Suzy Blackhurst spoke about the divisiveness of the issue and suggested slowing down the process of implementing the new regulations. Mel Causer, Scott Stewart, Micky Ruff, and Colleen Mecseji spoke in opposition to owners being allowed to transfer STR licenses. Mark Mesceji, Caroline Ogden, and Venessa Mancill expressed concern regarding wildfire and safety risks.

Karen Thompson, Scott Lehmkuhl, and Danny Kaiser spoke to the Board about the need for better enforcement of existing regulations and STRs in general. Tom Moretti relayed that he sees the most significant problems where there is a cluster of STRs within a neighborhood or area. Bill Brown noted that the most frequent complaints he hears about are noise, trespass, and lighting, yet none of these issues are addressed. Laura Hoover spoke to the Board about the floodplain overlay restrictions. Lisa DeForge stated that STRs are not appropriate in certain neighborhoods or areas and supports, on principle the 500-foot restriction but can see where there might need to be exceptions.

Chair Shadduck-McNalley closed public comment.

MOTION

Commissioner Kefalas moved that the Board of County Commissioners continue the hearing until April 3, 2023, at 6:30 pm.

Motion carried 3-0.

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

TUESDAY, MARCH 28, 2023

ADMINISTRATIVE MATTERS MEETING

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

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

1. PUBLIC COMMENT: Chair Shadduck-McNally opened public comment. Linda Green and Noel Green addressed the Board regarding the project at Centerra South development. Larry Sarner also addressed the Board about Centerra South development.

Chair Shadduck-McNally closed public comment.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF MARCH 20, 2023:

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the minutes for the week of March 20, 2023.

Motion passes 3 - 0.

3. **REVIEW OF THE SCHEDULE FOR THE WEEK OF APRIL 3, 2023:** Ms. Martin reviewed the upcoming schedule with the Board. The Board had multiple updates for Ms. Martin.

4. **CONSENT AGENDA:**

AGREEMENTS:

1. **PROFESSIONAL SERVICES AGREEMENT (P22-28 RE-SOLICITATION OF RESIDENT SERVICES FOR COMMUNITY JUSTICE ALTERNATIVES)**

2. **2023 GRANT AGREEMENT BETWEEN LARIMER COUNTY, COLORADO ON BEHALF OF LARIMER REGIONAL OPIOID ABATEMENT COUNCIL, REGION 2 (COLLECTIVELY "GRANTOR") AND COLORADO STATE UNIVERSITY, GRANTEE**

APPOINTMENTS:

1. **RECOMMENDED REAPPOINTMENTS TO THE TO THE BOXELDER BASIN REGIONAL STORMWATER AUTHORITY-Eric Tracy**

2. **RECOMMENDED APPOINTMENT TO THE AUTUMN CREEK PUBLIC IMPROVEMENT DISTRICT-Harry Cavey**

LIQUOR LICENSE:

Hidden Lakes Golf & Trout Club LLC dba Golf Club at Fox Acres-Hotel and Restaurant-Red Feather Lakes, Colorado; Fort Collins Elks Lodge BPOE 84- Special Event 6%-Fort Collins, Co; Creepy Walk in Woods- Special Event 6%-Loveland, Colorado.

MISCELLANEOUS:

1. **HSRE FLATS AT THE OVAL LLC STIPULATION AS TO TAX YEAR 2022 VALUE**

2. **JMJC FIVE LLC STIPULATION AS TO TAX YEAR 2021 VALUE**

3. **JMJC FIVE LLC STIPULATION AS TO TAX YEAR 2022 VALUE**

4. **PARK-IN-LIEU FEE UPDATE**

POLICY

1. **FINANCIAL POLICY AND PROCEDURE 320.25C**

RESOLUTIONS:

1. **RESOLUTION DECLARING SEASONAL ALLOWANCE FOR CERTAIN SPECIAL EVENTS RELATED TO THE SALES OF LOCAL GROWN FOOD AT SMALL FARMERS' MARKETS**

2. RESOLUTION ESTABLISHING COMPENSATION FOR DEPUTY DISTRICT ATTORNEY III

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the Consent Agenda for March 28, 2023.

Motion carried 3 – 0.

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

6. DISCUSSION ITEMS:

RESOLUTION RESCINDING LOCAL DISASTER EMERGENCY: Kohl Parrott, Office of Emergency Management.

Mr. Parrott noted that the Larimer County Emergency Manager and the Larimer County Director of Public Health advised the Board of County Commissioners of Larimer County of the Novel Coronavirus 2019 (COVID-19) Pandemic disaster on March 9, 2020, in unincorporated Larimer County. COVID-19 posed an imminent threat of widespread or severe economic damage, injury, or loss of life or property resulting from the COVID-19 Pandemic requiring, emergency action to avert danger or damage and to protect the public's health. Mr. Parrott noted that on March 17, 2020, the Board of County Commissioners declared a disaster in Larimer County. Today's action rescinds that disaster declaration.

Tom Gonzales, Public Health Director, addressed the Board. Mr. Gonzales explained that while COVID-19 is not going to pass away, the county is in a much better place to effectively combat the virus. He noted that the level of infection remains at low levels, the public is better equipped to protect itself from the virus, and there are vaccines and therapeutics to treat the virus. Mr. Gonzales reported that the Department of Public Health will continue to monitor new infections and hospitalizations and continue its efforts to engage and educate the community.

Mr. Parrott noted that the action by the Board this morning will bring the county in step with the Federal government and the State of Colorado, whose disasters will expire on May 11, 2023, and April 30, 2023, respectively.

The Board expressed its appreciation to the Office of Emergency Management, the Department of Public Health, and the departments throughout the county for their creativity, resilience, and perseverance. The Board also thanked its many partners in both the public and private sectors who have been part of the county's response to the pandemic.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Resolution Rescinding Local Disaster Emergency.

Motion carried 3 - 0.

The Board took a brief recess. The Board reconvened.

8. COUNTY MANAGER UPDATE: Manager Volker updated the Board on upcoming projects and activities.

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

Chair Shadduck-McNally took a moment of personal privilege for a moment of silence in honor of Scott Webermeier an Estes Park Town Trustee and Mayor Pro Tem who suddenly passed away last week.

10. LEGAL MATTERS: Executive Session pursuant to C.R.S. 24-6-40(4)(b) conferences with an attorney for the purpose of receiving legal advice on specific legal questions regarding case number 23CV30199, Stacy Lynne v. Office of the Larimer County Sheriff and former Sheriff Justin Smith.(Decision expected).

M O T I O N

Commissioner Kefalas moved that the Board of County Commissioners move into Executive Session pursuant to C.R.S. 24-6-40(4)(b) conferences with an attorney for the purpose of receiving legal advice on specific legal questions regarding case number 23CV30199, Stacy Lynne v. Office of the Larimer County Sheriff and former Sheriff Justin Smith.

Motion carried 3-0.

William Ressue, Larimer County Attorney, provided a brief description of the measure before the Board. He stated that today's action will allow Larimer County to defend former Larimer County Sheriff Justin Smith in court case number 23CV30199.

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve Larimer County to defend former Larimer County Sheriff Justin Smith in court case number 23CV30199 to the extent the claims arise under the Colorado Governmental Immunity Act and relate to conduct within the scope of official duties, and further authorize hiring outside counsel for such representation.

Motion carried 3-0.

11. EXECUTIVE SESSION:

Executive Session pursuant to C.R. S.24-6-402(4)(a) regarding purchase acquisition, lease, transfer, or sale of any real or personal property. (No Decision Expected).

Executive Session pursuant to C.R.S. 24-6-402(4)(e) to determine positions, develop strategy, and instruct negotiators relative to an intergovernmental agreement with the Loveland Urban Renewal Authority and future tax increment financing revenue for the proposed Centerra South development. (No decision expected)

MOTION

Commissioner Kefalas moved that the Board of County Commissioners move into Executive Session pursuant to C.R. S.24-6-402(4)(a) regarding purchase acquisition, lease, transfer or sale of any real or personal property and further moves that the Board of County Commissioners move into Executive Session pursuant to C.R.S. 24-6-402(4)(e) to determine positions, develop strategy, and instruct negotiators relative to an intergovernmental agreement with the Loveland Urban Renewal Authority and future tax increment financing revenue for the proposed Centerra South development.

With there being no further business, the Board recessed at 10:45 a.m.


JODY SHADDUCK-MCNALLY
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS
CLERK AND RECORDER

ATTEST:


Elizabeth Carter, Deputy Clerk

