

LARIMER COUNTY ESTES VALLEY PLANNING ADVISORY COMMITTEE MINUTES OF THE JULY 21, 2022, MEETING

The Larimer County Estes Valley Planning Advisory Committee met on Thursday, July 21, 2022, at 3:30 p.m. virtually, video only.

Committee members present included: Rex Poggenpohl, David Converse, Mike Kennedy, Linda Moak, Frank Theis, Drew Webb, and Olivia Harper.

Commissioner Jody Shadduck-McNally attended.

Staff present included: Lesli Ellis, Samantha Lasher, Tracy Hicks, Amy White, Don Threewitt, Michael Whitley, and Christina Scrutchins.

Public present included: 28 members, Eric Tuskind, Donna Chapel, Amy Schlotthauer, Bill Thompson, Carol Arnold, Carol Foster, Carol Shirey, Fred Brasch, Glen Shirey, Greg Walter, Harry Schroeder, Howard Norris Light, Jennifer Norris Light, James Cozette, Gail Cozette, James Bernard, Jane Rogers, Lindy Eberhardt, M.H. Mark Quade, Michael Arnold, Philip Moenning, Randall Maharry, Randy Rogers, Stan Foster, Susan Arnold, Terrence Wood, and Thomas Williams, and Joanne Ollerenshaw.

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. ADOPTION OF AGENDA
- D. APPROVAL OF MINUTES FROM JUNE
- E. COMMUNICATION ITEMS
- F. PUBLIC COMMENT
- G. ACTION ITEMS
- H. DISCUSSION
- I. ADJOURN

ADOPTION OF AGENDA

Member Poggenpohl made a motion to approve the agenda.

Member Kennedy seconded.

All voted in favor (7-0).

APPROVAL OF MINUTES FROM THE JUNE 16, 2022, ESTES VALLEY PLANNING ADVISORY COMMITTEE MEETING

Member Kennedy made a motion to approve the minutes from the June 16, 2022, meeting. Member Poggenpohl seconded the motion. All voted in favor (7-0).

COMMUNICATION ITEMS

Commissioner Shadduck-McNally joined for the early part of the meeting and signed off at 3:41 p.m. She discussed her visit to the National Association of Counties, annual conferences held in Denver, Colorado. As part of the National Subcommittee for the Environmental Energy and Land Use she was involved in meetings regarding Land Use and Water Infrastructure and Energy Policy that was presented by CSU. She also mentioned that the Larimer County Manager position has been offered to and accepted by Lorenda Volker who was Larimer County's Assistant County Manager for eight years. During the month of July, Larimer County has had a few unfortunate incidents but are recovering and Larimer County was able to provide Emergency Protective Service Grants for member of the community that were affected. Larimer County and the City of Fort Collins will be moving forward with air quality collective actions together along with purchasing infrared imaging camera to help with education as well as funding to help with the air quality for

residents as well as reimbursement opportunities for Larimer County residents. She made closing comments stating she likely will be attending the Community Feedback open house on August 3, 2022.

STAFF UPDATES

Staff mentioned that on July 27, 2022, at 4:30 pm the discussion item on the July 21, 2022, Estes Valley Planning Advisory Committee Agenda will be continued to allow the Committee members to fully discuss the Action items. The Larimer County has an online questionnaire regarding Short-Term Rentals for community members to give feedback as well as two live meetings on August 9, 2022, and August 15, 2022.

PUBLIC COMMENT REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA OR FUTURE PROPOSAL

None

ACTION ITEMS

ITEM NO. 1 - TRAILS END SHORT-TERM RENTAL, FILE NO. 22-ZONE3197

STAFF PRESENTATION

Staff gave a brief presentation regarding the applicants' request for an Administrative Special Review approval for a small Short-Term Rental locate in the existing 3-bedroom single-family residence with an additional sleeping are for a maximum occupancy of eight (8) total guests; two (2) guests per room. No construction or modifications to the home are proposed with this request. The existing residence is currently served by the Town of Estes Park Water District and Upper Thompson Sanitation District and is accessed from Saint Moritz Trail which is a part of an established private road network owned by the Windcliff Estates subdivision. It appears that the applicant/owner can provide adequate off-street parking for the proposed STR, providing two (2) parking spots in the driveway and two (2) parking spots in the garage for a total of four (4) parking spots. The subject property is currently zoned EV E1 – Estes Valley Estate. A Short-term Rental (STR) use that allows 10 or fewer guests is classified as a Low Intensity Accommodation use per the Larimer County Land Use Code and is permitted in the EV E1 - Estes Valley Estate zone district following Administrative Special Review. A courtesy neighbor notification of the proposed project was mailed to properties within 500-feet of the subject property. As of the date of this memo, we did not receive any comments from neighbors. Staff closed the presentation with additional comments, review criteria, and the Development Review Teams suggested motion.

ESTES VALLEY PLANNING ADVISORY COMMITTEE COMMENTS

Members discussed the following:

- Windcliff Estates subdivision has a high percentage of short-term rentals that includes an on-site short-term rental property manager.
- Some buildings seem to be located in the setback and are illegally non-conforming.
- Some properties have parking outside that and are located in the setback where parking is very close to the road.
- Wondered about the type of fire inspection report that was completed.
- If the Windcliff Estates subdivision has already been discussed with a prior project, then why is the Trails End Short-Term Rental on the agenda?
- If the Fire District had requirement would the project not move forward till the requirements from the Fire District are addressed by the applicant?
- If the fire code inspection does not get completed within a certain time, will the short-term rental still be allowed to operate?
- Members be allowed to add additional conditions to any recommendations to the Board of County Commissioners.

STAFF COMMENTS

Staff stated the following:

- The property is within the Windcliff Estates subdivision but are deemed as condominiums. Condominiums within the County the property lines are aligned with the building footprint and are legally conforming.

- The applicant has proposed a total of four parking spaces to give the guest an additional parking and to go beyond the two limited parking spaces.
- The fire report was not available at the time of the presentation.
- The Trails End Short-Term Rental is on the agenda because the property is located within the EVE1 zone district, that requires the applicant to be removed from the waitlist and be presented to the Estes Valley Planning Advisory Committee before the Board of County Commissioners.
- Staff's recommendation is based on the Land Use code and not on the fire inspections, but if the Estes Valley Fire has regulations that have higher standards than the Larimer County Land Use Code, then Estes Valley Fire would enforce them, and the applicant would have to comply in order to receive their building permit.
- Typically, the Fire inspections should be completed before the project is presented Infront of the Estes Valley Planning Advisory Committee but could not be allowed to operate until all requirements are met.

APPLICANTS PRESENTATION

Applicant stated the following:

- The fire inspection was completed as well as a life safety inspection by the Larimer County building division.

PUBLIC COMMENT

None

MOTION

Member Poggenpohl moved that the Community Development Director administratively approve the Trails End Short-Term Rental, File No. 22-ZONE3197.

Member Converse seconded.

All voted in favor (5-0). Members Harper and Moak were not able to vote due to internet connectivity.

ITEM NO. 2 TUSKIND BED AND BREAKFAST, FILE NO. 22-ZONE3286

STAFF PRESENTATION

Staff gave a brief presentation regarding the applicants' request for an Administrative Special Review approval for a small Bed and Breakfast (B&B) located in the existing 3-bedroom single-family residence with one (1) additional sleeping area to accommodate a maximum occupancy of eight (8) total guests; two (2) guests per bedroom/sleeping area. The applicant has indicated that he will be on-site when the home is rented to guests. The subject property is currently zoned EV RE - Estes Valley Rural Estate. The existing residence is currently served by the Town of Estes Park Water District and an on-site septic system and is accessed from East Lane. The application indicates that the applicant/owner can provide adequate on-site parking for the proposed B&B, providing six (6) total parking spots in the driveway and garage. A courtesy neighbor notification of the proposed project was mailed to properties within 500-feet of the subject property and to those within the Stanley Heights Subdivision. As of the date of this memo, comments were received from twenty-seven (27) community members in opposition and one (1) community member in support of the proposed B&B. Staff closed the presentation with additional comments, review criteria, and the Development Review Teams suggested motion.

ESTES VALLEY PLANNING ADVISORY COMMITTEE COMMENTS

Member Theis recused himself from the discussion and vote due to a conflict of interest for the Tuskind Bed and Breakfast, Filed No. 22-ZONE3286.

Members discussed the following:

- If there are any other short-term rentals already within the neighborhood.
- If the applicant has a short-term rental currently in use without a license.
- If the applicant confirmed, in writing, they will be residing in the bed and breakfast while the home is being rented.
- If the bed and breakfast is their permanent home currently.
- Wanted an example of the conversations between the applicant and surrounding neighbors.

- Wanted to know what the applicant feels the true concern of the neighborhood is against the bed and breakfast.
- Would the bed and breakfast have an adequate septic system and if so, is it permitted to accommodate the requested eight guests?

STAFF COMMENTS

Staff stated the following:

- The Tuskind Bed and Breakfast would be the first bed and breakfast/short-term rental in the neighborhood.
- The applicant confirmed, in writing, they will reside in the fourth bedroom of the bed and breakfast while being rented to guests.
- The home is currently on an on-site septic system and a referral was sent to the Health Department. The Health Department has not sent in their comments yet but if they have concerns with the existing septic system not having adequate capacity to accommodate the number of bedrooms in the home, then the applicant will be required to reduce the number of guests.

APPLICANTS COMMENTS

- The applicant, Eric Tuskind, stated that he apologized for causing the neighborhood concerns and it was not the intent.
- They have experience with having a bed and breakfast in the past and have complied with all rules.
- Airbnb is the platform that it used for booking guests and has many features for the owners to screen and rate guests.
- They have chosen the location and placed buffers so the activity of the guest may not be noticed.
- They feel the neighborhood truly has nice surrounding neighbors and again apologized for causing the neighborhood concerns.
- They moved into the home in April, but the neighbors have shown that they are not happy with the request of a bed and breakfast and the owners have felt uncomfortable and are not residing at the home at this time.
- They have spoken with the surrounding neighbors through email, phone call, and have written a letter.
- They are not operating a short-term rental without a license.
- They feel the neighborhood doesn't not want change within their neighborhood.
- When the home was purchased Larimer County required a septic system with the capacity of 1,250 gallons. They have upgraded their septic system to accommodate the capacity of 2,000 gallons.

PUBLIC COMMENT

Donna Chapel, Philip Moenning, Glen Shirey, Carol Shirey, Amy Schlotthauer, Malinda Everhart, Stacy Bernard, Randy Rogers, and Mark Quade.

Concerns:

- Change in wildlife
- Change in quiet secluded feel
- Owners unnecessary removed a total of 30 – 40 trees to improve views from deck.
- If the septic system is overfilled, then it will drain down the leach field into the neighbors.
- Road conditions
- Letter in support does not reside within the neighborhood of the requested location.
- Wildfire concerns from guests
- Deceptive use of the property.
- Applicant has not introduced himself to all neighbors.
- Neighbors have not made the applicant uncomfortable.
- Applicant already owns short-term rentals and is trying to run multiple businesses inside residential neighborhoods.

- Noise concerns
- Trespassing
- Damage to Neighbors properties

APPLICANTS' REBUTTAL

- Applicant stated that he tried to address and answer neighbors' concerns.
- The trees that had been trimmed or removed was to allow better viewing but also the roots of the trees had been growing into the septic system.
- The septic system was inspected, and it was recommended the trees be removed so they do not damage the septic system.
- Fire danger is important to the applicant and the guests are not allowed to smoke or have any open flames on the property.
- The applicants own a 800-sq foot short-term rental that is licensed by the town of Estes Park that is very well kept.

ESTES VALLEY PLANNING ADVISORY COMMITTEE COMMENTS

Members discussed the following:

- The number of comments that came from the neighborhood regarding the lack of communication by the applicant.
- Would like to know how the conversation wen with the applicant and the Chapel family.
- Remember that all short-term rental and bed and breakfast applicant must comply with all applicable rule, laws, and regulations as well as to ensure that it is compatible with the surrounding neighborhood overall protective community character.
- Concerns regarding the total of 12 people residing in the home during guests stay.
- Most neighborhood concerns are outside of the Larimer County Land Use Code.
- Bed and breakfasts' have a lower impact to neighborhoods then short-term rentals that do not have a live in resident.

APPLICANTS COMMENTS

- Applicant and family moved into the home in April but did not have the Chapel's family phone number, did stop by their home but was not successful in getting in touch with them. When the letters did come back with a phone number, the applicant did call but had to leave a voice mail. Finally, when they did get in touch with the Chapel family, they could never find a time to meet and talk before the applicant removed the trees.

MOTION

Member Kennedy moved that the Community Development Director administratively deny the Tuskind Bed and Breakfast, File No. 22-ZONE3286.

Member Webb seconded.

Three members voted in favor (3)

Two members voted in opposition (2)

The motion passed.

ESTES VALLEY PLANNING ADVISORY COMMITTEE COMMENTS

Members discussed the following:

- How many members does the By-laws stat that is a proper number of votes for a motion to pass/fail?

- If the motion does not have the proper number of members to vote, could the Community Development Director pass the approval/denial for the Tuskind Bed and Breakfast, File No. 22-ZONE3286 to the Board of County Commissioners?

STAFF COMMENTS

- Staff will research the By-laws and will reach out the Committee members and applicant with the findings. (Staff later reported that a majority of those in attendance is needed for a passing vote.)

ITEM NO. 3 WALTER SHORT-TERM RENTAL, FILE NO. 22-ZONE3274

Member Theis joined the members to discuss and vote on the Walter Short-Term Rental, File No. 22-ZONE3274.

STAFF PRESENTATION

Staff gave a brief presentation regarding the applicants' request for an Administrative Special Review approval for a small Short-term Rental located in the existing 4-bedroom single-family residence with a maximum occupancy of eight (8) total guests; two (2) guests per room. No construction or modifications to the home are proposed with this request. The existing residence is currently served by the Town of Estes Park Water District and Upper Thompson Sanitation District and is accessed from Hondius Circle. It appears that the applicant/owner can provide adequate on-site parking for the proposed STR, providing three (3) parking spots in the driveway. The subject property is currently zoned EV E-1 – Estes Valley Estate. A Short-term Rental (STR) use that allows 10 or fewer guests is classified as a Low Intensity Accommodation use per the Larimer County Land Use Code and is permitted in the EV E-1 - Estes Valley Estate zone district following Administrative Special Review. The EV E-1 zone district is also subject to the Estes Valley short-term rental cap. This property was eligible to apply for Administrative Special Review after being on the waitlist prior to application. Per the Land Use Code, a STR is defined as "a dwelling rented to transient guests for short-term lodging when not occupied by the owner/renter." A courtesy neighbor notification of the proposed project was mailed to properties within 500-feet of the subject property. As of the date of this memo, staff has received comments of opposition from eleven (11) community members. Staff closed the presentation with additional comments, review criteria, and the Development Review Teams suggested motion.

ESTES VALLEY PLANNING ADVISORY COMMITTEE COMMENTS

Members discussed the following:

- Based on the number of letters and maps provided by surrounding neighbors, can staff confirm the number of short-term rentals is correct within the area of the proposed short-term rental?
- If there are reports of the other short-term rentals within the proposed short-term rental area of concerns from the surrounding neighborhoods?

STAFF COMMENT

- Staff does review the applicable Land Use Codes to evaluate but density is not one of the criteria's that is looked at when reviewed.
- Staff did reach out to Larimer County Code Compliance regarding other short-term rentals within the requested area.
- Staff mentioned that there are not any formal complaints with Larimer County Code Compliance or law enforcement regarding other short-term rental within the requested area.

APPLICANTS PRESENTATION

- Applicant has been in the process of fixing the home for a year and resides in Fort Collins and is easily able to be in Estes Park.
- The proposed property for the short-term rental is to be the applicants main living residents within four years.
- The proposed short-term rental is to help benefit housing within Estes Park.

- Knowing the proposed property is requested within a residential neighborhood, the applicant has strict quiet hours to accommodate the surrounding neighbors and outdoor gathering places will not be provided to guests to help with noise mitigation.
- Guests will have access to contact property managers outside of the property owners.
- Fire concerns are taking place to make sure the property is well mitigated.

PUBLIC COMMENT

Joanne Ollerenshaw, Bill Thompson, Thomas Williams, Carol Foster, Stan Foster, Howard Light, and Jennifer Light.

In Opposition Comments:

- Road Damage
- Increase in traffic
- ATV joy riding
- Mountain bikers not aware of the property being private
- Noise Concerns
- Number of current rentals
- Current short-term rentals have records of law enforcement being contacted due to guest disturbance.
- Weed control not being maintained
- Winter driving and motor vehicle accidents
- Emergency response takes longer
- Interruption to the community
- Turning the area from residential to commercial and the neighborhood will be unlivable.
- The potential occupancy is because it is not sure of what the future holds.
- Need to keep in mind the economic gain within Estes Park but is not considering long term rental not being proposed.
- Neighbor's need to sympathy's that not all short-term rentals are bad.
- Feels that the Walters will do what they can to make sure that the short-term rental is being taken care of and concerns are being addressed.

APPLICANTS' REBUTTAL

- Concerns of noxious weeds will be addressed.
- In 1952, a Covenant was recorded that the proposed property was intended to be a rental as a family dwelling.
- Applicant did hold a neighborhood meeting and they have also volunteered to be a member of the neighborhood short-term rental committee for the neighborhood.

ESTES VALLEY PLANNING ADVISORY COMMITTEE COMMENTS

Members discussed the following:

- Concerns that the review Criteria states that short-term rentals proposed use have minimal impacts on existing and future development of the area.
- Wanted to know if covenants would be filed with the County and if staff checks if the property prohibits short-term rentals?
- The opportunity to change or discuss the regulations regarding short-term rentals.
- Why is staff still allowing short-term rental owners that are not following policies still to operate.
- Recommending to short-term rentals to consider long-term rental opportunities.
- Some members would like to recommend that new short-term rentals not be allowed to be operational in residential areas and only in commercial or A Zoning area.

STAFF COMMENT

- Covenants are a separate matter and additional private covenants are not reviewed by staff.
- Staff has requested that the applicants have a property manager that resides an hour or less to accommodate any concerns regarding the short-term rentals within a timely manner.
- Unfortunately, Larimer County does not keep track of reports by law enforcement but does have a record of complaints recorded by Larimer County Code Compliance.

MOTION

Member Converse moved that the Community Development Director administratively deny the Walter Short-Term Rental, File No. 22-ZONE3274.

Member Poggenpohl second

All voted in favor (6)

ADDITIONAL DISCUSSION ITEM

MOTION

Member Poggenpohl moved that the Estes Valley Planning Advisory Committee recommend to the Board of County Commissioners reduce the number short-term rentals allowed in residential areas.

Member Kennedy second.

AMENDED MOTION

Member Theis moved that the Estes Valley Planning Advisory Committee recommend to the Board of County Commissioners prohibit short-term rentals allowed in residential areas.

Member Poggenpohl second the motion.

AMENDED MOTION WITHDRAWN

Member Theis withdrew the amended motion after the members discussion.

VOTE

Three members voted in favor (3)

Three members voted in opposition (3)

Motion did not carry.

CLOSING COMMENTS

Staff would like to continue the short-term rental discussion at the continued meeting on July 27, 2022, as well as the discussion item from the July 21, 2022, agenda.

ADJOURN

With there being no further business, the hearing adjourned at 6:03 p.m.