

Date: Thursday, May 20, 2021
Time: 3:30 PM
Location: Virtual Hearing

ESTES VALLEY PLANNING ADVISORY COMMITTEE MINUTES

The Larimer County Estes Valley Planning Advisory Committee (Committee) met virtually via Zoom and started at 3:30 p.m.

The following committee members were present: David Converse, Mike Kennedy, Linda Moak, Olivia Harper, Rex Poggenpohl, Frank Theis, and Drew Webb. Commissioner Shaddock-McNally also was present. Staff present were Frank Haug, Assistant County Attorney II; Lesli Ellis, Community Development Director; Matt Lafferty, Principal Planner; Michael Whitley, Planner II; Amy White, Code Compliance Supervisor; and Tawn Hillenbrand, Planner II.

Several members of the public attended, including applicants for the cases to be heard.

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. ADOPTION OF AGENDA
- D. APPROVAL OF MINUTES FROM THE APRIL 15, 2021, MEETING
- E. COMMUNICATION ITEMS
- F. PUBLIC COMMENT REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA
- G. ACTION ITEMS
- H. DISCUSSION
- I. ADJOURN

APPROVAL OF AGENDA

Motion

Member Poggenpohl made a motion to approve the agenda. Member Kennedy seconded the motion. The committee unanimously approved the agenda.

APPROVAL OF MINUTES

The April 15, 2021 minutes were not sent in advance of the meeting for review, so staff will send the minutes, and the committee will review and approve the April minutes at the June 17 meeting.

Motion

Member Poggenpohl made a motion to table the approval of the minutes to the next meeting. Member Webb seconded the motion. The committee unanimously approved the motion

COMMUNICATION ITEMS

- Commissioner Shadduck-McNally reminded the committee members about the regularly scheduled Community Conversation on June 17. She also let them know she will be conducting interviews that day and will interview existing board members and others to learn the process and get to know people. Also, she plans to recuse herself during the three cases at this meeting.
- Staff provided an update on other matters, including questions about the board role and review of certain case types.
- Mr. Haug provided an explanation regarding statutory boards and this one. He discussed board roles, insurance, etc. Questions included:
 - Why are some of the things we're reviewing quasi-judicial and some aren't?
 - Can the board look at items just south of the Estes Valley Planning Area?
 - Will Frank do additional orientation with the committee at some point?
- Mr. Haug and Ms. Ellis responded that the committee could have regular item on the agenda to get updates on items that aren't before them for discussion but that are items to be aware of. The committee is a forum for residents to hear items and share items. E.g., Planning Commission hears some matters the day before. Staff updated the board on the action taken on the Park and Recreation, Private code topic.
- The committee also discussed that member Mike Kennedy will be a non-voting member of CompAC, the town's Comprehensive Plan Advisory Committee.
- They reminded the committee about the reading materials list sent by member Poggenpohl.
- Matt Lafferty will send a hard copy of the Larimer County Comprehensive Plan to the committee members.

PUBLIC COMMENTS

- Tom Moretti shared his concerns around vacation rentals and his personal experience. He purchased a home in a residential area in 2006 and in 2013 moved to the area full-time. Vacation renters have trespassed and littered. He has called and complained multiple times about those issues and parking on road, flood lights, motion sensors, etc. He has also called the sheriff and has called the hotline on the weekend – then there is no action the following week. He would like to see the commission make some recommendations. He is not a proponent of short-term rentals in zoned residential areas.

ACTION ITEMS

(Note: Commissioner Shadduck-McNally excused herself during the action items.)

O'Leary Bed & Breakfast, File No. 21-ZONE2927

Ms. Hillenbrand presented a brief overview of the case that is a Public Site Plan with approval by the Director unless sent to the Board of County Commissioners for their review and decision. Members asked the following questions:

- What is the size of the lot and acre?
- What are neighbors reporting about STRs? Staff reply: They are calling sheriff's department about noise, and they are reporting units without prior approval.
- Is it important to have an on-site owner to control? What kind of process if owner isn't occupying? Staff reply: If a B&B, the owner needs to be occupying the site.
- How many similar B&Bs are in the area? Staff: That information is not available as there is no cap or waitlist for B&Bs.
- Who sends out notice? Staff: County Administrative team does.
- Who is responsible for controlling the behavior of guests or is that the role of sheriff? Staff: the owner.
- Members asked to share the review criteria on the screen – Sec. 6.2.3 in the old Land Use Code, which applies because of when the applicant applied. There are 2 criteria in the old LUC and 5 in the new LUC.
- One member expressed she is very concerned about the impact of such a use on neighborhoods. Whispering Pines seems to have a lot of STRs. They should be better regulated.
- Staff noted that the O'Leary's B&B will have different rules and regulations than STRs. 11 of 170 notices responded. Strong responses seem to be around STRs rather than B&Bs.
- Members asked about the decision to distinguish between B&B and STRs and noted that there used to be licensing for B&Bs in the town. Do we do that? Staff: County doesn't have the statutory authority to provide licensing.
- One member observed that an owner living on site cuts down on problems.
- Another member noted concern about another intrusion into neighborhoods and cautioned being careful about violating "no commercial in residential areas".
- A member confirmed that no business license is required for a B&B. The manager on site does help the neighborhood. There is also no requirement for food for guests. While there may be no cap, there is more management than a vacation rental.
- A member asked if a B&B is a permitted use? Staff: Yes, in EV-E.
- The applicant, Mr. Donal O'Leary, spoke and explained that the community has long tradition of hosting guests. He has a relationship with the valley and will manage the unit well.

Public Comments on this Topic

- Mr. Moretti asked if anyone has checked the covenants in the neighborhood?

Motion

Member Poggenpohl moved that the committee make a recommendation to approve the unit with conditions in presentation stated by staff. Member Webb seconded the motion.

Motion passes 6-1 with member Harper voting no.

Discussion:

- One member expressed disappointment about using the old criteria and is concerned about the density of B&Bs in the area.
- Another member expressed support for the B&B because of onsite owner supervision.

Voiland Cabin Trust Short-term Rental, File No.20-ZONE2856

Ms. Hillenbrand presented the case and pointed out the proposal is in the accommodations zoning district (A-1). Members provided questions:

- Will it comply with general rules?
- Is there on-site supervision?
- One member observed that the proposed use is in the A-1 zoning district, and that the cap was not applied there, and the standards were lesser so the proposed units wouldn't have the same restrictions as in residential areas.
- One member requested that the review criteria be at the front of the package in the future and observed that the review criteria support this application.
- Applicant Voiland – spoke and expressed desired to share the cabin with the public.
- The applicant's representative and property manager, Abbey Pontius, expressed that this project has taken a lot of effort coming forward. She is a local property manager who lives in the area.

Public Comments

No public comments.

Motion

Member Webb moved that the committee recommend approval to staff. Member Converse seconded the motion

Motion passes 7-0.

Cozy Cabin Short-Term Rental, File No. 21-ZONE2890

Mr. Whitley presented the case.

Members provided the following questions:

- A member asked about the Fire District comments about addressing on the property. Staff replied there are about 100 addresses in this area to be readdressed. And the approach has been to not hold up applications until the addressing is resolved. There is some concern with STRs and issues with finding them.
- There was a question about emergency response person in case property owner not available.
- One member thinks there is a distinction or problem and is concerned about the size of the use and the lot.
- Another member asked if the engineering comments have been resolved. Staff answered yes.
- A member pointed out that 2 people per bedroom is the standard.
- Applicant, Tim Matlick, spoke and expressed that he understands what the Fire Marshall is saying.

Motion

Member Moak made a motion to recommend that staff approve the request. Member Webb seconded the motion.

Motion passes 6-1 with Member Poggenpohl voting no.

Discussion

- One member opposed on the basis of some unanswered questions and technicalities.
- Another member confirmed that those technicalities are addressed in the conditions of approvals. Staff confirmed there is a permit and follow up life safety inspection as a standard requirement.

DISCUSSION ITEMS

Short-Term Rental Issues

- Staff provided a brief update on the code issues related to Short-Term Rentals on properties in the A and A-1 zoning districts, reminding the committee about additional information in the staff report and that they discussed the matter at the last meeting.
- One member observed that multi-unit buildings are complicated; they have big management companies.
- Another expressed that units from 2016 were all approved and discussed the history of turning such properties into condos.
- The group also discussed the townhome code issue briefly.
- One member noticed that on Page 91 of the report there is information about building codes and that with large properties with multiple dwellings, they need to come up to Code because the potential for safety issue is high. Avoid approving units with different standards.
- Another member observed that there is a lack of housing in Estes and that STRs and investors compete with housing.
- Another stated that Accommodation zoning is intended to be for STRs. They could rezone to Multi Family residential and observed that the County cannot require upgrades to buildings.
- A member is fine with putting off the topic until further study and input from public; it looks like there is an avenue for appeal. Provide more information about building safety issues. Others nodded agreement.
- Board members questioned if the board should keep looking at Administrative Special Review cases for STRs in the future.

Adjournment

The next meeting is scheduled for **Thursday, June 17, 2021, at 3:30 p.m.** It will be in person at the Estes Valley Community Center, 660 Community Drive, in the classroom for committee members who RSVP, and it will be held virtually via Zoom for other members and public attendees and guests).

The meeting adjourned at 6:15 p.m.