

LARIMER COUNTY | COMMUNITY DEVELOPMENT



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Date: Wednesday, July 19, 2023
Time: 6:00 PM
Location: Hybrid: In-Person, Hearing Room, 1st Floor, 200 West Oak Street, Fort Collins or Virtual, Zoom link - https://larimer-org.zoom.us/webinar/register/WN_xvEByGr7RVys8d2gYss3HQ

PLANNING COMMISSION MEETING MINUTES

The Larimer County Planning Commission met in the Hearing Room as well as virtually by Zoom video at 6:00 p.m., on Wednesday, July 19, 2023, at which time the following business was transacted.

Board Members Present: Anne Best Johnson (Chair), John Barnett (Secretary), Bob Choate, Patrick Rowe, Jon Slutsky, and Conor Duffy.

Staff Present: Rebecca Everette, Jenny Axmacher, Samantha Mott, Alyssa Martin, Devin Traff, Steven Rothwell, Traci Shambo, Connor Sheldon, Frank Haug, Christine Luckasen, Lea Schneider, and Christina Scrutchins.

COMMENTS BY THE PUBLIC REGARDING THE COUNTY LAND USE CODE OR REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA OR FUTURE PROPOSALS

None.

AMENDMENTS TO THE AGENDA

None.

APPROVAL OF THE MINUTES FROM THE JUNE 21, 2023

Commissioner Choate moved, and Commissioner Barnett seconded the motion to approve the June 21, 2023, minutes of the Larimer County Planning Commission as presented. Motion carried (6-0).

CONSENT ITEMS

ITEM #1 – ADOPTION OF THE PROPOSED LARIMER COUNTY STORMWATER DESIGN STANDARDS REFERENCED IN ARTICLE 4, DEVELOPMENT STANDARDS, ARTICLE 12, FLOODPLAIN, ARTICLE 13, SUPPLEMENTAL REGULATIONS FOR THE ESTES VALLEY, AND ARTICLE 15, FEES AND LAND DEDICATIONS OF THE LARIMER COUNTY LAND USE CODE.

APPLICANT: Larimer County Engineering Department

REQUEST: Adopt the proposed Larimer County Stormwater Design Standards and amend the adoption date of the standards provided in Article 4, Subsection 14.3 of the Larimer County Land Use Code from June 2005 to September 2023.

The current version of the County Stormwater standards manual was last updated in 2005. The purpose of the manual is to help protect public safety and health by providing standards for the design of stormwater facilities such as Culverts, storm sewers, open channels, bridges, detention ponds, and water quality. Notable updates include updated design criteria to meet industry standards, references to current land code and floodplain regulations, current water quality standards per state/county requirements, updated submittal requirements and guidance, user-friendly format, and can be amended over time.

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ITEM #2 – ISAACS-EVANS REZONING, FILE NO. 22-ZONE3307

APPLICANTS/OWNERS: Donovan Isaacs, Alan Evans, and Dawn Isaacs

REQUEST: Applicants request to Rezone the subject properties from O-Open to RC-Rural Commercial.

MOTION

Commissioner Barnett moved that the Planning Commission adopt the following Resolution: BE IT RESOLVED that the Planning Commission recommend to the Larimer County Board of County Commissioners approval of the consent agenda. Commissioner Duffy seconded the motion. Motion carried (6-0).

DISCUSSION ITEMS

ITEM NO. 1 – HOUGH PLANNED LAND DIVISION, PLANNED DEVELOPMENT, AND APPEALS, FILE NO. 21-LAND4129

APPLICANTS/OWNERS: Nancy Hough

REQUEST: Preliminary Plat for a Planned Land Division to divide a 1.05-acre property zoned RR2-Rural Residential into two lots (0.32 and 0.47-acres) and a concurrent rezoning to Planned Development (PD) zone district. The request includes six appeals to Sections 4.5.4.A, 4.5.4.B.1, 4.5.4.D.1, 4.7.4.D.2, 5.3.1.A, 5.3.4, and 5.3.5 of the Land Use Code regarding connectivity/circulation, street landscaping, road surfacing requirements, and required public right-of-way.

The property is at 2533 West Vine Drive, Fort Collins; located on the south side of West Vine Drive between North Taft Hill Road and North Overland Trail. The application was submitted on April 13th of 2021. The new Land Use Code took effect on March 31st, 2021; therefore, the application was reviewed under the new code during both the Sketch Plan phase and for Preliminary Plat. The parcel is within the Fort Collins Growth Management Area (GMA). PLD/PD process is required for any subdivisions in the GMA. The Fort Collins City Plan identifies the property as appropriate for Suburban Neighborhood Development, with a density of 2 to 5 principal dwellings units per acre. The appeal review includes A. Approval of the appeal will not subvert the purpose of the standard or requirement. B. Approval of the appeal will not be detrimental to public health, safety, or property values in the neighborhood. C. Approval of the appeal is the minimum action necessary. D. Approval of the appeal will not result in increased costs to the general public. E. Approval of the appeal is consistent with the intent and purpose of the Code. The Development Services Team finds that the Hough Planned Land Division, Planned Development, and Appeals, File No. 21-LAND4129 complies with some, but not all, of the applicable review criteria and therefore cannot support the application as proposed.

APPLICANTS PRESENTATION

On March 6, 2020, the applicant submitted a request to divide 1.06 lots into 0.5 and 0.56 acres lots (#20-INQ2394). Gravel allowed per existing code. On July 1, 2021, Sketch Plan Review with Agency Comments (#21-LAND4129). The County planner specifies, "Divide a 1.05-acre parcel into two single-family residential lots at approximately 0.50-acres and 0.55-acres each, located in the RR-2 - Rural Residential zone district, in the Northwest Subarea Planning Area." In January 2022 a New County planner was assigned, told two years of input from the previous planner was now incorrect. Now required to divide 1.06 acres into .32 and .47 (losing .27 acres of property ownership to ROW). The county attorney stated there is no transfer of ownership of land with ROW. On March 16, 2022, the applicant submitted Sketch Plan Review Responses. Between May 18, 2021, and August 2022, agency feedback was received. Poudre Fire Authority (PFA) criteria incorporated into the design, PFA approved. Between July 18, 2022, and currently, the applicant is working with the County regarding the appeals of road surfacing, but the Hammerhead cul-de-sac location was denied by County. The appeals listed by the County as denied are 4.5.4.B.1 - Street shall be aligned to join with planned or existing streets; 4.5.4.D.1 - Except as provided for in §C above for cul-de-sacs, no dead-end streets shall be permitted except in cases where such streets are designed to connect with future streets on abutting land, etc.; 4.7.4.D - Landscaping; 5.3.1.A - Public right of way; 5.3.4 - Connectivity and Circulation - Where future connectivity is required to adjacent undeveloped parcels, a road shall be constructed to the property line; and 5.3.5 - Road

surfacing. The applicant listed the following responses to the County's denial: 4.5.4.B.1 - The proposed road is aligned to join the existing drive and meets the criteria; 4.5.4.D.1 - Hammerhead cul-de-sac is proposed and accepted by PFA, location is disputed by County only; 4.7.4.D - Proposal would not cut any trees. The county hammerhead location will require cutting down five trees. No appeal requested or needed; 5.3.1.A - No concerns for this to be a public right of way. However, it may not even be necessary because the County Commissioners may approve a modification to allow a private road within a land division if no foreseeable public purpose or benefit in having a public right-of-way, and road connectivity to adjacent parcels is not needed or practical (5.3.1.B); 5.3.4 - There is no undeveloped land abutting any part of my property. There is no way to connect to another existing road; and 5.3.5 - Because Vine Drive is chip seal this neighborhood is "Rural-Plains" type (Table 5-1), proposed road needs to be gravel. The proposed plan is compliant. The Northwest Subarea Plan's vision is to retain the semi-rural heritage and history and maintain independent and self-reliant neighborhoods. PRINCIPLE GM-8: The City will promote compatible infill as encouraging redevelopment and infill have been a priority of the City of Fort Collins throughout the last ten years. Flexibility in land use planning/zoning, as well as planning processes/review, is critical in helping to encourage redevelopment and infill. Denial of gravel surface proposed location for hammerhead cul-de-sac location and other codes listed discourages infill and creates insurmountable financial obstacles to the applicant. Review criteria for appeals to deviate from 5.3.4 - Connectivity and Circulation. A. Approval of the appeal will not subvert the purpose of the standard or requirement. LCLUC sites connectivity and circulation as the purpose of this standard and the proposed improvement shown in Hough Appeal Attachment 1 maintains the only possible and existing connectivity and circulation, via Vine Drive. B. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood. There is less impact on the neighbor(s)/neighborhood with the approval of this appeal and no impact on public health, safety, or property values. The owner of 2517 W Vine Drive opposes the hard surfacing of the proposed road. C. Approval of the appeal is the minimum action necessary to adhere to the Northwest Subarea Plan and to maintain the character of the country / rural region of Fort Collins. D. Approval of the appeal will not result in increased costs to the general public. No costs to the general public will occur with approval. E. Approval of the appeal is consistent with the intent and purpose of the Code. Approval will maintain the character of this part of Northwest Fort Collins and will maintain existing connectivity and circulation in the only place it is accessible, which is Vine Drive. Review criteria for "appeals to deviate from 5.3.5" - Paved Surface. A. Approval of the appeal will not subvert the purpose of the standard or requirement. LCLUC sites safety, convenience, dust control, and maintenance as the purpose of article 5.3.5. The proposed straight, approximately 100-foot-long road, servicing three single-family homes, does not subvert the purpose of this standard and will not create risk, inconvenience, dust, or issues related to maintenance. B. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood. Approval of the appeal will not cause any problems for public health, safety, or property values in the Vine Drive neighborhood. Indeed, not paving with asphalt maintains the existing safety of public health as fresh asphalt is a major source of hazardous particles. Further, with high temperatures, as we now experience in Fort Collins during the summer months, asphalt releases harmful air pollutants. C. Approval of the appeal is the minimum action necessary to adhere to the Northwest Subarea Plan and to maintain the character of this country / rural region of Fort Collins. D. Approval of the appeal will not result in increased costs to the general public. No costs to the general public will occur with approval. E. Approval of the appeal is consistent with the intent and purpose of the Code. Approval will maintain the character of this part of Northwest Fort Collins and will provide a safe, convenient, all-weather surface for access to one additional single-family home. It will comply with LCLUC 4.3.3 C. All development shall have safe and adequate access to the county roads. It will comply with LCLUC 4.3.3 D. 1. To prevent adverse impacts on vehicles and air quality and to allow for effective road maintenance, roads shall have an all-weather gravel surface.

PLANNING COMMISSION AND STAFF COMMENTS

The Planning Commission, Staff, and Applicant commented the following:

- Clarified that even though the proposed property is within the Fort Collins Growth Management area they did not provide any referral comments of any concerns.

PUBLIC COMMENT

Dennis Sovick, Kathy Forrest, Lou Palangi,

Comments

- The proposal is compatible with the neighborhood.
- The current gravel is not stopping/keeping other properties from development.
- A hard surface road would be out of character for the neighborhood and its history.

PLANNING COMMISSION DISCUSSION:

The Planning Commission discussed the following:

- Some Commissioners feel a "dead end" sign would be appropriate, so members of the Community are less likely to turn down the driveway.
- Some Commissioners agree that not requiring the applicant to pave the road is appropriate.
- Some Commissioners agree that the hammerhead as the applicant proposed is appropriate due to the PFA in agreement.

MOTION

Commissioner Choate moved that the Planning Commission recommends that the Board of County Commissioners approve the Hough PLD/PD and appeal to Section 4.5.4.A, 4.5.4.B.1, 4.5.4.D.1, 4.7.4.D.2, 5.3.4, and 5.3.5 of the Land Use Code, File No. 21-LAND4129, subject to the conditions in the staff report, and deny the appeal to Sections 5.3.1.A, of the Land Use Code. Commissioner Barnett seconded the motion. Motion carried (6-0).

ITEM NO. 2 – CBEP SOLAR 3, LLC 1041 PERMIT, FILE NO. 22-ZONE3408

APPLICANTS: CBEP Solar 3, LLC (Cloudbreak Energy Partners) Zach Brammer

OWNERS: Markus and Anita Krieger

REQUEST: A 1041 permit application for an activity of state interest pursuant to Article 10 of the Land Use Code for a 2.4-megawatt solar facility covering more than 10 acres on a 35.56-acre parcel of land. This is part of the Xcel Energy Solar* Rewards Community program. The property is located approximately 3/4 mile east of the intersection of I-25 and E. County Road 48 on the south side of E. County Road 48, just west of the Larimer and Weld Canal. It is located within the Timnath Growth Management Area, and it is adjacent to the City of Fort Collins. Access to the site will be through the adjacent property to the northwest, which is owned by the same property owners of the subject property. The uses in the surrounding area include agricultural and residential. The property is zoned RR-2 Rural Residential, as are the surrounding properties, with the exception of the properties within Fort Collins city limits to the west. Approximately 50 employees per day during construction, approximately 2-4 employees, 4-8 times a year for operation and maintenance after construction. Notice of the application was sent to property owners within 500 feet of the proposed solar facility. To date, no comments have been received from any community members. The application was also sent out to referral agencies for their review and comments. The conditions of approval will mitigate any impacts during construction and post-construction. In addition to referral comments the applicants, even though Staff did not receive comments from Colorado Parks and Wildlife, had a consultation with them and the Colorado Parks and Wildlife provided some recommendations which Staff incorporated into the conditions of approval. The Development Services Team recommends that the Planning Commission recommend to the Board of County Commissioners approval of the CBEP Solar 3, LLC 1041 Permit, File No. 22-ZONE3408, subject to the conditions as outlined in the staff report.

APPLICANTS PRESENTATION

Cloudbreak Energy was founded in January 2020 with located in Sterling and Boulder. They are one of the fastest-growing energy companies in Colorado and the market leader in Colorado Community Solar. Cloudbreak Energy has more than 80% of their project located in Colorado and ranging from 5 acres to 2,000 acres. The current Colorado projects would generate enough electricity to power about 120,000 Colorado

homes and according to the 2022 Census, there are 164,498 housing units in Larimer County. Cloudbreak Energy recently planted the largest pollinator habitat in the Rocky Mountain West in partnership with the Audubon Society at the location of one of their future solar facilities in Johnstown, CO. The proposed project would be a 2.375-Megawatt A/C Community Solar Project on Mark and Anita Krieger's Land. The project would roughly use 15.02 acres with a timeline of a 4-month construction period, anticipated to begin at the beginning of 2024. The power produced will provide enough electricity to power 675 homes. As a Colorado company, it is very important to them that the project provides significant and direct benefits to the community. The Krieger Larimer Solar Project will: Utilize a local construction team that will generate significant activity for local businesses during the construction of the system; Improve local pollinator habitat and diversity by including a pollinator-friendly seed mixture on the property; Provide a full-ride scholarship to a student at a local institution that is interested in pursuing a career in renewable energy; Generate significant property tax revenue for the county. The property tax generated by the solar project is estimated to be \$1 million over the life of the system; Generate additional sales tax revenue during the construction of the system; and save local Xcel Energy customers about 5-10% on their electricity bills through Xcel's Solar* Rewards Community Program. Their goal is to subscribe as many local Xcel customers as they can. The project location selection included: Proximity to high-quality Xcel Energy distribution infrastructure that has the capacity for a project of this size; Proximity to Xcel Energy's Cobb Lake substation; Outside of floodplains and wetlands; Relatively flat; No geotechnical constraints; Landowner participation and enthusiasm; Economics of the land; Avoids critical habitats with minimal to no impact on surrounding wildlife; and limited disturbance to nearby properties and property owners. The project information included: the timeline, construction hours, Workers, Lighting, construction traffic, land maintenance, system lifespan, operation traffic, drainage emissions/odors, glare, noise, Electromagnetic fields and interference, property values, decommissioning, recycling, and future mineral development.

PLANNING COMMISSION, STAFF, AND APPLICANT COMMENTS

The Planning Commission and Staff commented the following:

- Confirmed that there are no transmission lines with this application.
- The CBEP Solar 3, LLC 1041 Project is the 2nd 1041 project but the 1st 1041 solar facility that is being processed through the new Land Use Regulation adopted in January of 2022.
- Confirmed that the Xcel power lines will be underground until they connect with the five polls. The five polls will be from Vine Drive to the proposed project site.
- Cloudbreak Energy will be responsible for maintaining the property.
- Instead of a Development Agreement, the Larimer County Engineering Department has drafted a Re-established and maintenance agreement that would include Cloudbreak Energy to post collateral at the time of technical review.
- Discussed the applicant's information that the proposed property is too small to be profitable for agricultural use and the well does not produce enough water to raise crops.

PUBLIC COMMENT

David Fareham

Comments

- Neighborhood notice stated the project would be 10 acres and not 15 and it did not mention when comments for the public hearing were due.
- Would like to know if the Timnath GMA reviewed the proposed project.
- Would like to know if the proposed property will stay within the maximum of 15 acres or if the applicant and owner have plans in the future to expand the system.
- How will the applicant or owner maintain the grazing sheep and keep them within the proposed property?
- Are there any traffic issues/concerns the applicant foresees?
- Will the project need to complete a zoning change and if so, would this affect the surrounding

properties?

- How far from Vine Drive will the solar panels be located?

APPLICANTS REBUTTAL

Larimer County had reached out to the Timnath GMA and did not receive comments. The proposed project will only be using a maximum of 15 acres and does not have any future plans to expand the solar system. Cloudbreak did complete a traffic disturbance study and it was concluded that they would not have any adverse effects on traffic flow. The proposed property will have a large game fence to keep the sheep in and the shepherd will also place a small electrical fencing that will be rotated throughout the proposed property. Cloudbreak does not have plans to change the zoning and would like to keep the land zoned as Agricultural. The solar panels are proposed to be 360 feet from Vine Drive.

Staff made additional comments. Staff confirmed they had reached out to the Town of Timnath, and they verbally indicated they did not have any concerns. The neighborhood notice mentioned that because the project is proposing over 10 acres it would be processed as a 1041 project. If the applicant did want to increase the size of the solar system, then the applicant would need to complete a separate process as an amendment to the 1041. With the proposed 1041 process it is specific to the project and there is no rezoning required for the proposed property or surrounding properties.

PLANNING COMMISSION AND STAFF DISCUSSION:

The Planning Commission and Staff discussed the following:

- Confirmed that the Landscaping Plans are included as a condition of approval. This would also include weed management.

MOTION

Commissioner Barnett moved that the Planning Commission recommends that the Board of County Commissioners approve the CBEP Solar 3, LLC 1041 Permit, File No. 22-ZONE3408, subject to the conditions of approval outlined in the staff report, including the two additional conditions. Commissioner Duffy seconded the motion. Motion carried (6-0).

ACTION ITEMS

ITEM NO. 1 – ELECTION OF THE PLANNING COMMISSION CHAIR, VICE CHAIR, AND SECRETARY

Chair – Bob Choate

Vice Chair – Patrick Rowe

Secretary – Conor Duffy

REPORT FROM STAFF

Staff mentioned the newest Planning Commission member, Shelby King, will be starting in August of 2023.

ADJOURN

With there being no further business, the hearing adjourned at 8:33 p.m.

These minutes constitute the Resolution of the Larimer County Planning Commission for the recommendations contained herein which are hereby certified to the Larimer County Board of Commissioners.