

Date: Wednesday, November 17, 2021
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_7cn_iMsATpm51RMqFbFr9Q

PLANNING COMMISSION MEETING MINUTES

The Larimer County Planning Commission met in a session on Wednesday, September 15, 2021, at 6:00 p.m. in the Hearing Room as well as virtual video. Commissioners John Barnett, Anne Best Johnson, Nancy Wallace, Sean Dougherty, and Bob Choate attended virtually. Commissioners Jordana Barrack, and Patrick Rowe physically attended with Commissioner John Barnett presiding as Chairman. The Larimer County staff that virtually attended was Lesli Ellis, Community Development Director. The Larimer County staff that physically attended were Don Threewitt, Planning Manager; Tawn Hillenbrand, Planner II; Steven Rothwell, Civil Engineer II; Conner Sheldon, Civil Engineer I; Lea Schneider, Environmental Health Planner; and Christina Scrutchins, Recording Secretary.

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.

APPROVAL OF THE MINUTES FROM THE OCTOBER 13, 2021, PLANNING COMMISSION HEARING

MOTION by Commissioner Choate to approve the minutes.

Commissioner Best Johnson seconded the motion.

This received unanimous voice approval.

Motion passed 8-0

APPROVAL OF THE MINUTES FROM THE OCTOBER 20, 2021, PLANNING COMMISSION HEARING

MOTION by Commissioner Choate to approve the minutes.

Commissioner Best Johnson seconded the motion.

This received unanimous voice approval.

Motion passed 8-0

AMMENDMENTS TO THE AGENDA

None.

CONSENT ITEMS

ITEM #1 – KIDS LLC SPECIAL REVIEW, FILE NO. 21-ZONE2936:

Ms. Hillenbrand gave a brief presentation regarding the applicants' request for a Special Review approval for a school-age Child Care Center, for up to 10 total children, located in the existing Chapel of the Pines facility. This use was previously granted approval through the Temporary Allowance for Educational Facilities (Covid-19). The proposed Kids LLC Child Care Center would operate between the hours of 8:30am and 3:00pm, Monday through Friday and would be closed on major holidays. The applicant indicated that the hours may change to after-school hours from 3:00pm to 6:30pm Monday through Friday if the need arises. The applicant has indicated that 1-2 employees, including the owner of the childcare facility, would be present on site as needed on a daily basis. If a need arises in the future, the applicant may hire one additional part-time teacher which would increase the maximum number of employees to 3 total. The Kids LLC Day Care Center use was previously granted temporary approval through the temporary Allowance for Educational Facilities. The Allowance for Educational Facilities was created in response to the Covid-19 pandemic and the need for alternative schooling arrangements related to temporary school closures, remote learning, and quarantines brought on by the pandemic. The Resolution states that long-term approval beyond June 30, 2021, would necessitate the Applicant to submit a planning application to the County within six months of being granted the temporary use approval. The Larimer County Land Use Code defines a 'Day Care Center' use as "a facility providing for the care, protection, and supervision of more than eight children under 16." Additionally, the Land Use Code states that a church that includes a school or day care requires approval through the Special Review process in all zoning districts where churches are allowed. Ms. Hillenbrand closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

PLANNING COMMISSION COMMENTS

The Planning Commission discussed the hours of operation, the fire inspection report completed by the State, and the Wildfire inspection.

The Larimer County Staff addressed that if the hours of operations are modified and the approval is contingent, based on the changed hours of operations, the applicant could be asked to submit the new hours of operation to the Boards. The fire inspection report confirmed all requirements had been met and all other addressed comments and attachments can be found on the Larimer online portal.

PUBLIC COMMENT

None

ITEM #2 – COVEY SPECIAL EXCEPTION POST APPROVAL MODIFICATION, FILE NO. 18-ZONE2425:

Ms. Hillenbrand gave a brief presentation regarding the applicants' request an Amended Special Exception approval to allow: 1.) Outdoor amplified music and microphone use during ceremonies in the garden area; 2.) The existing overhead doors on the community hall building to be open during receptions; 3.) An increase in the allowed maximum number of events per year from the previously approved 24 events annually to a maximum 50 events annually; and 4.) An increase in the allowed maximum number of attendees per event from the previously approved 130 to 150 total attendees per event. The property currently contains a single-family residence, detached garage, multiple outbuildings, and an approximately 6,400 square foot Community Hall facility used for special events. The applicant received Special Exception approval in 2019 for the existing Community Hall use (Reception #20190051336). The existing Community Hall building resembles a barn. Parking for the facility is located on the north side of the building, between the building and County Road 64. The portion of the property containing the Community Hall is currently zoned FO – Forestry. In 2019, at the time of approval, a Community Hall use was not permitted in the FO – Forestry zone district, thereby triggering the Special Exception approval process. According to the conditions of approval contained in the recorded Special Exception Findings & Resolution for the Covey Community Hall, the hours of operation for the Community Hall are currently limited to 9am to 10pm daily. Additionally, the applicants/owners are allowed a maximum of 24 events per year with no more than 130 attendees at any event. Per the Findings & Resolution, 52 parking spots are required to accommodate guests. The applicants/owners are requesting to amend the Special Exception Findings & Resolution conditions of approval, specifically condition #9, #10 and #13. Condition #9 of the Special

Exception approval states that the overhead doors on the Community Hall building shall not be open during events. Condition #10 of the approval prohibits outdoor amplified music. A sound evaluation was conducted in 2018 that evaluated indoor amplified music and outdoor crowd noise. The evaluation found that crowd cheering outside of the event building could possibly result in noise that briefly exceeds the standard of 50 decibels at the property line; therefore, the approval restricted the use of the proposed overhead doors on the event building and prohibited outdoor amplified music with the goal of ensuring compliance with the noise standards and minimizing potential noise disturbances for neighbors. Condition #13 of the Special Exception approval restricts the maximum number of events per year to 24 total events. The original request in 2018 proposed no more than one event per day with a maximum of 50 events per year. Additionally, condition #13 restricts the number of attendees at any event to the original request proposed by the applicants of 130 attendees per event. The applicants/owners request Amended Special Exception approval to allow: 1.) Outdoor amplified music and microphone use during ceremonies in the garden area; 2.) The existing overhead doors on the community hall building to be opened during receptions; 3.) An increase in the allowed maximum number of events per year from the previously approved 24 events annually to a maximum 50 events annually; and 4.) An increase in the allowed maximum number of attendees per event from the previously approved 130 to 150 total attendees per event. The applicants/owners have indicated that the request has been made out of necessity to ease the financial burden brought about by the pandemic and events being cancelled, postponed, or rebooked, and to accommodate Covid-19 best practices (social distancing, increase air flow). This Special Exception Post Approval Modification application was submitted prior to March 24, 2021, prior to the adoption of the new Land Use Code, therefore this application is required to meet the standards of the old code. It should also be noted that with the new Land Use Code, an event center or community hall use would be classified as an 'Assembly' use and is currently permitted in both the O – Open and FO – Forestry zone districts following either Administrative Special Review or Special Review. MS. Hillenbrand closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

PLANNING COMMISSION COMMENTS

The Planning Commission discussed that due to the public wanting to voice their concerns, Item #2 – Covey Special Exception Post Approval Modification, File No. 18-ZONE2425 was removed from the consent agenda and moved to a Discussion Item.

MOTION

Commissioner Best Johnson moved that the Planning Commission adopt the following Resolution:

BE IT RESOLVED that the Planning Commission recommend approval of the Kids LLC Special Review, File #21-ZONE2936, subject to the following conditions listed in the staff report.

Commissioner Wallace seconded the motion.

VOTE

Commissioner Wallace, Choate, Best Johnson, Green, Rowe, Dougherty, Barrack, and Barnett.

Motion passed 7-0

DISCUSSION ITEMS REMOVED FROM CONSENT: ITEM #2 – COVEY SPECIAL EXCEPTION POST APPROVAL MODIFICATION, FILE NO. 18-ZONE2425

PLANNING COMMISSION COMMENTS

The Planning Commission discussed noise during events with the doors open and closed as well as outside the facility that seemed louder than the 50 decibels that is allowed, if the Larimer County noise ordinance follows the state statute, and if there had been any registered complaints and what actions have been taken to address the complaints.

The Larimer County Staff stated that the noise study was completed at the property line but when the crowd is outside there are times where the noise periodically can reach a little over the 50 decibels allowed. The Larimer County noise ordinance does have the same parameters that follow the state statute but if the noise becomes a compatibility issue, then the Board of County Commissioners would make the determination moving forward. The Larimer County Code Compliance department have received complaints and have addressed them with the applicant.

APPLICANTS PRESENTATION

Janice and Lloyd Leflet gave a brief presentation in addition to Ms. Hillenbrand's presentation. They stated the Covey Event Center was specifically built for an event center that would help mitigate noise during any event and opened two weeks before the COVID-19 pandemic. The COVID-19 pandemic restricted all events where the number of guests had to be reduced and fresh air to allow circulation. All night events must end at 10:00 pm but activity continues due to event clean up and guests leaving. Mr. and Ms. Leflet attend every event along with security cameras, and a certified sound monitor to ensure noise and activity from guests are monitored. Google Maps has been contacted many times to help correct the directions for the facility but have not been successful with Google addressing the correction needed. Signs have been placed to also help with directing traffic to the proper location, but guests still have been known to continue to use other roads/driveways to turn around. Mr. and Ms. Leflet closed the presentation with additional comments and asked for approval of their request.

PUBLIC COMMENT

Commenters: Ms. Rogers, Zach Rogers, Julie Rohloff, Russel Rohloff, April Christianson, and Jay Hallman.

Comments:

- Property damage to surrounding neighbor property's
- Traffic concerns
- Guests trespassing
- Not enough signs, large enough signs or signs that can be seen at night
- Surrounding Neighbors having to purchase their own mitigation
- Events disturb the animals
- Events lasting past midnight
- Lights left on past 10 pm
- Loud noises
- Have not stayed under the 25 events
- Lights too bright
- Amplified sound would cause more issues
- Exceeded the number of people allowed
- Exceeded the number of events allowed
- Rules are not followed by owners
- Number of people are not followed
- Would like for a 24-hour notice to surrounding neighbors prior to the event
- Would like for the applicants to change the time from 10 pm to 9 pm
- Would like all doors to remain closed

APPLICANTS REBUTTLE

Janice and Lloyd Leflet addressed the public comments by stating they have not exceeded the number of events or number of guests allowed. Rehearsals are included in the event that is limited to an hour the day before the event. When property damage has occurred to any surrounding neighbors, it is not at the neighbors' expense. Larimer County Code Compliance did address a concern regarding the owner does not stay in compliance, where the noise receptors, would the owners allow the noise receptor complete a noise study on the surrounding neighbor, topography noise studies, Neighbors properties being lower than the Covey, Earlier ending time, take the application as it has been presented as well as take the public comment into consideration, was a sign legally placed, time and door being open is fine and if they do not have turned down lights then they need to install them, F&R should specify if rehearsal and personal events are included in the event minimum, amend the conditions to make it better, require traffic control any event over 30 people, adding noise compliance language, include no doors to be opened and noise must be turned off at a specific time, include a condition that specifies

trespassing, noise ordinance included as a conditions of approval, remove paragraph #11. Further define what an event is. Rewriting the conditions of approval. Table the case and have the case come back after staff has worked through public concerns. – Definition of an event, noise ordinance will be included, live body traffic control during events, and 24 events stay the maximum, lighting, and definition of amplified music and when it can or should be Timing for when the event will end, and if the doors should be open or closed. Code Compliance did suggest to the surrounding neighbors to place a sign that states “This is not the Covey” and they refused. Studies have been completed that have confirmed lights and sounds are in compliance. Increased traffic was approved, and they are still trying to help with mitigating any trespassing as much as they can. Unfortunately, they do not have the ability to direct everyone to the correct location and some guest could possibly drive to the wrong locations. If there had been lights on past 10:00 pm it was due to personal use.

PLANNING COMMISSION DISCUSSION

The Planning Commission discussed if the rehearsals and private events included with the allowed total events per year, how was the number of events decided, if there have been concerns during an event that were escalated where Larimer County staff was contacted to confirm Mr. and Ms. Leflet are in compliance, if any noise studies during events, had been completed at the surrounding neighbors property lines, would the applicant be comfortable with noise studies being completed at the surrounding neighbor's property lines, if noise studies had been completed with the analysis of predicted carried noise and how it was addressed, if the surrounding neighbors are elevated below the property line, if the County offers any mediation to help addressing neighbors' concerns but with caution, if the applicant would be willing to give the surrounding neighbors a 24 hours' notice regarding any schedule events, if the applicant would be willing to end night events earlier, how was the sign placed on the property code enforced or did the applicants have to conduct a sign permit, compatibility of the hours being extended as well as the number of guests and the door being open or closed during events, and if the application is ready to be approved before concerns regarding traffic control, noise, lights, trespassing and further define what an event entails.

The Larimer County Staff stated that the original condition of approval states the number of events are 24 total. It does not specify if it includes rehearsals or private events. The number of events decided per year was based on surrounding neighbors' concerns. Code Compliance had received complaints throughout the year, but they did not have a report of the intensity of the concerns as well as the outcomes at the time of the hearing. Noise studies were only completed during events inside the property line and not directly at the applicant's property line and the studies are to be completed at the source of the noise and not the receptor of the noise. On the East side of the Covey is elevated higher than the surrounding neighbors. Signs listed to help direct traffic is still recommended but most navigation software's is very difficult to make changes to each software. Information regarding the decision of the sign was not accessible at the time of the hearing.

The Planning Commission, Larimer County Staff, and the applicant agreed to Table the approval of the Covey Special Exception Post Approval Modification, File No. 18-ZONE2425 due to the Planning Commission wanting to clarify the conditions of approval.

MOTION

Commissioner Wallace moved that the Planning Commission adopt the following Resolution:

BE IT RESOLVED that the Planning Commission Table the approval of the Covey Special Exception Post Approval Modification, File No. 18-ZONE2425 to December 15, 2021.

Commissioner Best Johnson seconded the motion.

VOTE

Commissioner Barrack, Dougherty, Wallace, Choate, Best Johnson, Green, Rowe, and Barnett

Motion passed 8-0

REPORT FROM STAFF

None

ADJOURN

With there being no further business, the hearing adjourned at 8:05 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.