

Date: Wednesday, October 16, 2024
Time: 6:00 PM
Location: Hybrid: In-Person, Hearing Room, 1st Floor, 200 West Oak Street, Fort Collins or Virtual, Zoom link -

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, October 16, 2024, at which time the following business was transacted.

Board Members Present: Patrick Rowe, Conor Duffy, Jordana Barrack, Shelby King, Jon Weiss, and Adam Eggelston.

Staff Present: Jenny Axmacher, Planning Manager; Jared Seay, Planner I; Samantha Lasher, Planner II; Michael Whitley, Senior Planner; Conner Sheldon, Civil Engineer I; David Pringle, Civil Engineer I; Lea Schnieder, Environmental Health Planner; Luckasen, Assistant County Attorney I; Melissa Bruski, CIRT, Ryane Oswandel and Christina Scrutchins, Recording Secretary.

AMENDMENTS TO THE AGENDA

None.

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 SEPTEMBER 18, 2024

Commissioner Duffy moved that the Planning Commission adopt the following Resolution: BE IT RESOLVED that the Planning Commission approve the September 18, 2024, minutes of the Larimer County Planning Commission. Commissioner Eggelston seconded the motion. Motion carried (6-0).

CONSENT ITEMS

A member of the public requested that Consent Item No.1 – Special Review for a New Cell Tower at 475 High Lonesome Road, File No. 24-WCF0141, be removed as a consent item and placed as a discussion item.

DISCUSSION ITEMS

ITEM NO. 1 – LPCO LLC REZONING, FILE NO. 24-ZONE3611

Commissioner Barrack requested to recuse themselves from the discussion, citing a potential conflict of interest. They explained that their spouse works in real estate and represents a client with a property adjacent to the boundary of the item under consideration. To avoid any future conflict, Commissioner Barrack opted to step out for this portion of the meeting.

The subject property is a 5.0-acre parcel located on the north side of W County Road 54G approximately one-quarter mile west of N Taft Hill Road/N County Road 19. The homes on the property are addressed 2316 & 2318 W County Road 54G.

The property is zoned O – Open and is in the boundary of the LaPorte Plan Area.

The property contains a home constructed in 1934, a home constructed in 1986, a sawmill business, and a fleet services business. The applicant's project description (Attachment C) contains further descriptions of the various uses and buildings on the property and notes that the property has been used for business purposes since 1971.

In the Open zoning district, one home is allowed per parcel. The Open zoning district does not allow sawmills or fleet services operations, and zoning approval has not been granted for those uses.

There is an open Code Compliance case (File No. 22-CCC0097) for unauthorized uses and construction on the property without building permits.

There is not a standard zoning district that would allow the current mix of uses on the property.

The PD – Planned Development zone district can be used in the area subject to the LaPorte Area Plan to allow development that is consistent with the plan. The Planned Development zoning district is intended to allow greater flexibility in land uses and site design than is available in base zoning districts in exchange for more creative and imaginative designs with a higher level of amenities and public benefits.

The LaPorte Area Plan's Future Land Use Map with the subject property circled can be found as Attachment E. The Future Land Use Map identifies Low Density Residential uses at a density of 2-4 units per acre as appropriate for this property and the immediate vicinity. Neighborhood Business Center uses are identified as appropriate for properties at the intersection of W County Road 54G and N Taft Hill Road/N County Road 19.

The proposed PD – Planned Development zoning district would allow the larger home (constructed in 1986) to remain as a primary dwelling and would allow the smaller home (constructed in 1934) to remain as an Accessory Living Area, subject to compliance with permitting requirements.

The PD would also allow the sawmill and fleet services uses to remain, subject to Site Plan Review approval, subject to compliance with all other applicable development standards. The complete description of the PD zoning can be found as a proposed condition at the end of this report.

A quorum could not be established for a LaPorte Planning Advisory Committee (LAPAC) meeting to review this request. In lieu of a review by LAPAC, a virtual (Zoom) neighborhood meeting is scheduled for October 10, 2024. LAPAC members were invited to the meeting.

This staff report was written prior to the neighborhood meeting so a supplemental memo summarizing the neighborhood meeting will be provided prior to the Planning Commission hearing.

The Development Services Team has no concerns with the proposed Planned Development zoning and concludes the request partially complies with the criterion found in Section 6.6.1.E.4.a of the Land Use Code and complies with all of the other applicable review criteria. There is no known public concern with this request.

The Development Services Team finds that the LPCO LLC Rezoning, File No.24-ZONE3611 complies with the Rezoning Review Criteria found in Section 6.6.1.D, complies with the criteria for rezoning to Planned Development in Section 6.6.1.E, and complies with the General Review Criteria found in Section 6.3.8.D of the Land Use Code.

The Development Services Team recommends that the Planning Commission recommend to the Board of County Commissioners approval of the LPCO LLC Rezoning, File #24- ZONE3611, subject to the following condition:

1. The permitted uses, lot size, setbacks and structure height limitations for the LPCO LLC Planned Development shall be as follows:

Use permitted by right:

- One principal Detached Single-Unit Dwelling
- Accessory uses to the dwelling are permitted as specified for dwellings in the O – Open zoning district, as outlined in Table 3-3, Section 3.2.8 of the Land Use Code.

Uses permitted with Site Plan Review approval:

- Sawmill: A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of the lot.
- Fleet Services: A central facility for the storage of vehicles used regularly in business operation and not available for sale, or long-term storage of operating vehicles. Typical uses include courier, delivery, and express services, recreational touring fleets, taxi fleets, and mobile catering truck storage.
- Setbacks:
 - Front or adjacent to a street: 25 feet
 - Side: 25 feet
 - Rear: 25 feet
 - Additional setback requirements found in Section 2.9.4 of the Land Use Code are also applicable.
- Minimum lot size: 5.0 acres
- Maximum building height: 40 feet
- Compliance with applicable development standards: All Site Plan Review applications must comply with applicable standards found in Article 4.0 (Development Standards) as well as comply with all other applicable development requirements. Compliance with this requirement is determined at the discretion of the Community Development Director.

Multiple Principal Uses and Multiple Principal Buildings Allowed: Only one principal detached single-unit dwelling use shall be allowed. In addition to a detached single-unit dwelling, multiple principal uses non-residential uses and multiple principal non-residential buildings shall be allowed if each use and building can be accommodated within the zoning district's dimensional standards and can comply with all applicable development standards.

APPLICANTS PRESENTATION

Nicole Uthmann provided background on the Uthmann family's longstanding connection to the property under review, explaining that her husband, Chad Uthmann, grew up there and that it has been both their home and the base of their family businesses for over 50 years. Since 1971, the Uthmann family has been deeply rooted in the community, starting with a dairy business established by Chad's parents, Roger and Vicki Uthmann. Over time, the Uthmanns expanded to include essential services in trucking and forestry, employing subcontractors and contributing to the local economy. Nicole Uthmann highlighted the Uthmann family's involvement in community support, particularly during local emergencies, including firefighting efforts in incidents like the High Park Fire and post-disaster recovery initiatives.

Nicole Uthmann detailed that when the Uthmann family officially launched the forestry business in 2006, she verified with the county that operating under the current open zoning was permitted, although she now acknowledges the importance of having this documented. A recent complaint about equipment on the property, however, prompted the Uthmanns to begin a rezoning process to align with the "Planned Development" designation. This designation would formally accommodate their two homes and agricultural commerce activities, securing the continuity of operations without any plans for expansion, increased traffic, or operational changes.

The Uthmann family's contributions to the community go beyond their business operations. Nicole Uthmann noted that four generations of the Uthmann family have attended Cache La Poudre (CLP) Schools in LaPorte, and the family has remained actively engaged with community organizations, including the Poudre Fire Authority, the Livermore Volunteer Fire Department, and the Virginia Dale Community Club, where they helped

restore a historic stage station. Additionally, the Uthmanns have been supporters of local 4-H programs and the Poudre FFA, reinforcing their commitment to community well-being and youth development.

The Uthmann business is also closely integrated with local and regional environmental restoration, particularly through collaboration with the Natural Resources Conservation Service (NRCS) and Forest Restoration projects across Larimer County. Nicole Uthmann emphasized that despite the Uthmann business presence, they have maintained positive relationships with neighboring properties and never encountered complaints, and that their operations are in harmony with similar businesses along the 54G corridor in LaPorte. Nicole Uthmann concluded by expressing a willingness to address any questions or concerns from the community to continue being responsible and supportive neighbors.

PUBLIC COMMENT

Zach Thode, Colton Brown, Matt Mueller, Mark Morgan, Kara Baldwin, Ryan Baldwin, and Seth Baker.

Comments

- Strong local knowledge and community leadership are present in conservation and agricultural efforts.
- The closure of wood product markets has impacted local business sustainability.
- There has been significant investment in fire prevention and forest management, with a focus on retaining local contractors for effective risk management.
- Local agricultural operations play a crucial role in supporting the economic stability of the broader community.
- New zoning options could support diverse agricultural businesses, aligning production with community needs.
- Local firewood resources present an opportunity for affordable heating solutions for lower-income households.
- The loss of local markets has led to business relocations, which weaken support for the industry.
- A shortage of contractors limits the ability to manage forests effectively, impacting ongoing efforts.
- Practical challenges and regulatory restrictions complicate the use of firewood as a low-cost heating option.

PLANNING COMMISSION, STAFF AND APPLICANT COMMENTS

None.

MOTION

Commissioner Duffy 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 LPCO LLC Rezoning, File No. 24-ZONE3611, subject to the conditions of approval outlined in the staff report. Commissioner Weiss seconded the motion. Motion carried (5-0).

ITEM NO. 2 – OLDCASTLE APG WEST INC SPECIAL REVIEW & APPEAL, FILE NO. 23-ZONE3541

Commissioner Barrack rejoined the meeting The subject properties are located at 1820 and 1930 E. Highway 402 in Loveland, Colorado, approximately 0.6 miles east of the intersection of E. Highway 402 and S. County Road 13C, and are located within the Loveland Growth Management Area (GMA).

The two subject properties are currently in the process of being consolidated into one lot through the Lot Consolidation process (File No. 23-LAND4343). 1820 E. Highway 402 (Parcel No. 85300-00-031) is 13.82 acres, and 1930 E. Highway 402 (Parcel No. 85300-00-028) is 11.38 acres, per the County Assessor's records. Once consolidated, the total acreage will be 25.2 acres. The applicant has indicated that they will finalize the Lot Consolidation prior to receiving Site Plan approval. The two properties may be referred to as the "site" or the "subject properties" throughout the report.

1820 E. Highway 402 is currently split zoned between IH - Industrial Heavy and CN – Commercial Neighborhood (as seen in Figure 2 below). 1930 E. Highway 402 is zoned IH – Industrial Heavy.

Per the applicant, the existing site currently contains an office, a break room, a pre-engineered building, a storage building and a manufacturing building. There are also various small concrete storage buildings that are less than 500 S.F.

Both subject properties are part of the Rollin Exemption Plat, approved in 1974 by the Board of County Commissioners. Both properties have been a part of a series of Rezoning applications throughout the 1970s and 1980s as well.

Most recently, Parcel No. 85300-00-031 (1820 E. Highway 402) was rezoned from O-Open to II – Industrial and Special Review approval received in 1988 for Colorado Precast Concrete to manufacture concrete, metal and fiberglass products in addition to providing wholesale and retail of concrete products, welding supplies, and metal products (File No. Z-3-88).

Relatedly, in 2013, Parcel No. 85300-00-028 was rezoned from FA – Farming and C – Commercial to I-1– Industrial to allow Colorado Precast Concrete, the owner of the property at the time, to expand the storage and assembly component of their existing operations on Parcel No. 85300-00-031 (File No. 13-Z1917). The approved Rezoning was followed by a Site Plan Review for Colorado Precast Concrete's proposed assembly and storage uses, approved in 2015 (File No. 15-SP0328).

Approval documents for the above noted files can be found in Attachment H. Please note that I-1 – Industrial was renamed to IH – Industrial Heavy and B – Business was renamed to CN – Commercial Neighborhood with the March 2021 Larimer County Land Use Code (LCLUC) update.

In 2016, Oldcastle purchased the site from Colorado Precast Concrete and continued their reinforced concrete pipe operations up until 2020. At that time, manufacturing stopped on the site, and Oldcastle used the site for the storage and distribution of landscape pavers. Oldcastle has now applied for a new Special Review application to allow the site to be used, once again, as a manufacturing facility, but for products such as concrete pavers, concrete retaining wall products, concrete lawn and garden edging products, and flat concrete patio products.

Most Oldcastle products are designed for residential backyards, but the proposed facility can also make commercial concrete pavers for commercial roadways and seaports. Oldcastle does not sell its product directly to the end user, but rather sold to retail stores, such as Lowes and Home Depot. Professional contractors purchase products through landscape material distribution yards.

To support the proposed manufacturing use, three (3) new silos, an aggregate mixer building, a dry storage building, pallet storage building, and a curing building will be constructed, in addition to 9.95 acres of outdoor storage area. 3.91 acres of outdoor storage area will be constructed and used in the short-term with 6.04 acres of outdoor storage area to be built out in the future. The Larimer County Board of Adjustment approved Height Variances (File No. 24-ZONE3636) in June 2024 for the proposed three (3) silos, the aggregate mixer building, and an existing pre- engineering building to be taller than 40-feet, which is the maximum building/structure height permitted in the zoning districts.

The facility is proposed to run two (2) shifts from 6:30 am - 6:30 pm and 6:30 pm - 6:30 am, five (5) days a week.

The facility currently has four (4) employees. When improvements are made, the expanded facility is proposed to have 30 maximum on-site employees per day and four (4) off-site employees by 2030. The first shift will have 22 employees, five (5) of which are only on-site occasionally, and the second shift will have eight (8) employees.

Additionally, once operational, the site will have a small area dedicated to display product that is produced on site. However, the site will not contain a retail operation. Customers will not be entering or exiting the site on a regular basis.

This application also includes an Appeal to Article 4.3.5.A.2. of the Larimer County Land Use Code (LCLUC) to allow for an on-site wastewater treatment system (OWTS) within the Loveland Growth Management Area. Relatedly, there is an existing plugged and abandoned oil and gas well located in the center of the property, close to existing buildings and proposed buildings. Per Article 2.9.4.G.4., no building can be placed within 200-feet of an abandoned well bore. However, Article 2.9.4.G.4. indicates that "Upon applicant request, the Director of Development Services may approve a reduced buffer distance from a plugged and abandoned well in lieu of the minimum 200-foot buffer distance provided that the approved reduced buffer is not less than 50 feet in width and 100 feet in length. The plugged and abandoned well shall be located in the center of the buffer. There shall be access for ingress and egress to the buffer of a width of not less than 26 feet."

The applicant submitted an Alternative Compliance Buffer for the oil and gas well, which was approved by the Community Development Director (Attachment F). The Director added three (3) conditions of approval to the request, which are listed at the end of this report.

The proposed use of the property is classified as a Heavy Manufacturing Use and therefore, requires Special Review approval in the IH – Industrial Heavy zoning district. Parking for the use is proposed in the CN – Commercial Neighborhood zoned portion of the property, however, no Heavy Manufacturing uses are to occur in that area.

Site Plan Review approval is required following this application's approval.

Article 2.7.2.D.3.b. of the LCLUC allows a Special Review application to be accepted by the County if the municipality denies the petition for annexation. The City of Loveland declined annexation of the subject property, which the Board of County Commissioners accepted and approved on July 11, 2023, allowing the property owner to submit a Special Review application.

Notice of this application was sent to property owners within 500 feet of the property. No written comments were received from community members for this Special Review Public Hearing application.

The following referral agencies provided comments regarding this proposal, which can be found in

Attachment D:

- The Building Division indicated that the applicant acknowledged all prior comments and stated that a fire sprinkler system may be required based on proposed height, area, and construction type of the proposed buildings, which will be resolved at the building permit stage and fire permit plan review.
- The Code Compliance Division indicated that there are no known building code violations on Parcel No. 85300-00-028. Parcel No. 85300-00-031 contains three manufactured trailers that were added to the property sometime between 1998 and 2021 without permits. Building permits and inspection approvals are required if the trailers are to be kept. The applicant indicated that the trailers are currently being used as offices will be removed once the proposed use of the site is initiated.
- The Department of Health and Environment provided a variety of comments related to operation and occupancy of the site, water supply, the applicant's OWTS Appeal, the existing wastewater disposal and septic systems, noise that will be produced by the new use, air and water quality, the

existing oil and gas well on-site, and asbestos considerations. Multiple conditions of approval related to the above noted topics were requested by the Health Department to be added to this application, which are all listed at the end of this report.

- Floodplain Management Staff indicated that the subject properties are located within the floodplain, encroached by flood fringe and Zone X, which is known as the 0.2% ACE Flood Hazard (500-year flood zone). All applicable floodplain development permits and regulations must be met before proposed development of the site can occur, which has been made a condition of approval. Enough information has been provided by the applicant for this Special Review application.
- The Engineering Department provided comments related to transportation and access, drainage, erosion, water quality, and future fees and permits. The Engineering Department asked for five (5) conditions of approval to be added to this application, which are listed at the end of this report.
- The Town of Berthoud, including the Planning, Engineering, and Water Utilities Departments have no concerns with the request.
- The City of Loveland has no concerns with the request, but did provide recommendations for water-wise plants and techniques to improve the overall screening of the site. The City also indicated that it appears that coordination with CDOT has occurred and the applicants will comply with the CDOT Access Control Plan and obtain a CDOT Access Permit. They also recommend that the applicant construct the ultimate 4-lane arterial improvements on E. Highway 402. The applicant has indicated that they are closely coordinating all improvements to

E. Highway 402 with CDOT.

- Loveland Fire Rescue Authority indicated that they will enforce the 2021 International Fire Code and its accompanying local ordinances to this project. They indicated that a detailed Fire Protection Plan will be submitted with the Site Plan Review application and that emergency vehicle access and firefighting water supply requirements will be further evaluated during the Site Plan Review application. Hazardous Materials permits, addressing requirements for new buildings, and emergency responder radio coverage requirements will be evaluated during the building permit submittal, which will be required after Site Plan approval. Confirmation of whether fire sprinkler systems will be required will also be evaluated at the time of building permit submittal, but it is not anticipated that one will be required at this time.
- City of Loveland Water and Power indicated that the subject properties are located within the City's wastewater service area, however, the closest gravity wastewater main is 460-feet from the site. Therefore, a wastewater connection is not required at this time.
- Western Area Power Administration (WAPA) indicated that they have no conflict with this request.
- Little Thompson Water District indicated that they have no concerns with the request and are currently working with the applicant through the Commitment letter process to receive a full outline of the necessary provisions of service. A finalized Water Commitment Letter from the District will be required with the Site Plan Review application.

Lumen (formerly known as CenturyLink)

- Colorado Parks and Wildlife
- Larimer County Weed District
- Weld County
- Town of Johnstown
- Larimer County Road and Bridge

- Larimer County Parks
- Soil Conservation
- Loveland Post Office
- U.S. Fish and Wildlife
- Platte River Power Authority
- Xcel Energy
- AT&T
- Poudre Valley REA
- West Gas
- Larimer County GIS
- Division of Water Resources
- Colorado Department of Transportation (CDOT)

There are no major issues or concerns with this request that have not been discussed in the body of this report.

A separate Site Plan Review process is required subject to approval of this Special Review application.

The proposed Special Review & Appeal meets all the applicable review criteria; therefore, the Development Services Team recommends Approval of this request.

Staff finds that the proposal meets the review criteria and applicable standards, as discussed above.

A) The Development Services Team recommends Approval of the Oldcastle APG West Inc. Special Review, File #23-ZONE3541, subject to the following conditions:

1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
2. The Site shall be developed consistent with the approved plan and with the information contained in the Oldcastle APG West Inc Special Review & Appeal, File #23-ZONE3541, except as modified by the conditions of approval or agreement of the County and applicant.
3. Failure to comply with any conditions of the Special Review approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
4. Site Plan Review and approval is required prior to commencement of the expansion of the approved uses on the property.
5. No Heavy Manufacturing uses are permitted in the portion of the site zoned CN – Commercial Neighborhood.
6. The site's Eastern access will be permanently closed, and the site's proposed access will be configured as a right-in-right-out access.
7. All applicable CDOT permits will need to be obtained prior to commencing construction in the E. Highway 402 right-of-way.
8. If site operation changes and results in an increase in peak hour trip generation, the applicant will need to complete an amended special review with an updated traffic impact study.
9. Drainage easements 20-feet in width will need to be dedicated along the full length of both the east and west property boundaries.
10. All work (e.g., grading, filling, stormwater facilities, access roads, new structures) proposed within a

regulatory floodplain as a part of the project must obtain Floodplain Development Permit from Larimer County prior to construction.

11. Total allowed occupancy for the site and facilities is 30 people total per day unless the septic systems are upgraded under a Larimer County Health Department septic permit to accommodate additional staff per day.
12. A noise study shall be submitted at the time of Site Plan Review to evaluate the cumulative noise levels of the facility and operations at the property lines of the consolidated parcels as required in the Health Department Special Review comments. If the noise study does not demonstrate compliance, additional controls for attenuating sound may be required and could include but not limited to sound walls such as earthen berms, concrete walls, solid wooden fencing, restricting operation hours, relocating structures and/or site operations to other areas of the consolidated parcels.
13. An enclosure shall be installed around the area where cement delivery will occur to fill storage silos to attenuate the sound of the 'air sealed' pumping from pneumatic tank trailer trucks and reduce any residual dust particulates that could escape during the delivery.
14. The conveyors transferring aggregate materials from the hopper bin(s) to the Agg/Mixer building shall be enclosed for sound and dust control.
15. Installation of white noise backup beepers for all operator-owned, on-site construction equipment (including but not limited to loaders, dump trucks, haul trucks) and operator's fleet vehicles (i.e. delivery trucks, forklifts).
16. One-way access/delivery driveways/internal roads shall be implemented with posted directional signs to minimize backup noise from the backup beepers of off-site haulers not owned by the operator for deliveries of aggregate, cement, and other deliveries. This shall be identified in the future Site Plan Review application.
17. Audible observation and sound monitoring shall be conducted by a third party within 30 days of commencing operation to verify that the noise controls are effective in mitigating sounds of the batch plant operations to comply with the County Noise Ordinance for nearby properties with residential uses.
18. No off-property transport of visible emissions shall apply to the entire site including, but not limited to, internal concrete and paved roads and parking, material stockpiles, material transfer points.
19. On-site speed limits shall be restricted to five (5) miles per hour or less and signs posted with the speed limit.
20. Aggregate conveyor for transferring material from hopper to enclosed batch plant shall be enclosed to control dust as well as noise.
21. Site entrance, internal circulation areas, and parking, will be paved (bituminous drives) as described in this application.
22. Access points, internal paved roads and other surfaces shall be vacuum swept (with use of water or vacuum collection and filtration system or other non-dust generating methods) to remove accumulating sediment deposition.
23. Sediment deposition shall be removed promptly when it occurs on public roads or rights-of-way as a result of operations and associated traffic.
24. Minimize drop height of material deliveries: drivers and operators shall unload haul truck beds and loader/excavator buckets slowly and minimize drop height of materials to the lowest height possible.
25. The site must temporarily halt work activities during high wind events greater than 30 miles per hour if operations would result in off property transport of dust.
26. Stockpiled material shall be watered when visible emissions noted.
27. Material loads shall be completely covered, or all material enclosed in a manner that prevents the material from blowing, dropping, sifting, leaking, or otherwise escaping from the haul truck(s).

28. A Dust Control Plan outlining the above as well as the APCD permit requirements, shall be created and implemented. The Plan shall be provided as part of Site Plan Review application.
29. The operation shall obtain the necessary Colorado Department of Public Health and Environment air quality permits as applicable to the operation.
30. The operation shall obtain the necessary Colorado Department of Public Health and Environment water quality permits as applicable to the operation.
31. Final remediation and reclamation of the surface contamination at the well location must be completed by December 31, 2025. Documentation of final soil sampling and compliance with state and federal contamination limits shall be provided to the Community Development Department to verify completion of this work.
32. The 50 x 100-foot rectangular oil and gas well buffer shall be delineated with a fence, bollards, or other barrier to maintain clear access and prevent use of the area around the well.
33. An access path at least 26-feet wide must be delineated on the final Site Plan to ensure clear access to the well area at all times. This can be addressed during the Site Plan process, which will address future improvements on the property.
34. This application is approved without the requirement for a Development Agreement.
35. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
36. 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 the Special Review approval.
37. The County may conduct periodic inspections on the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.
38. The applicant must obtain building permits and pay all applicable fees including Transportation Capital Expansion Fees (TCEF) required by the Larimer County Engineering Department which will be due at the time of building permit issuance.
39. No part of any building may extend into or above any easement. All easements must be shown and labeled on all final plans. The building locations may be adjusted during the Site Plan Review process to meet this requirement.
40. A Development Construction Permit is required prior to commencing any improvements to the site.

B) The Development Services Team recommends Approval of the Appeal to Article 4.3.5.A.2 of the LCLUC to allow for an OWTS in the Loveland GMA, subject to the following condition:

1. Applicable septic permits shall be applied for with the Larimer County Health Department to either repair, upgrade or replace the existing septic systems as needed.

APPLICANTS PRESENTATION

Community Planning Strategies representative Jennifer Henser introduced the special use review application, outlining plans to describe Old Castle's role, proposed operations at the site, historical background, and the

ongoing partnership with county officials. Henser emphasized that Old Castle aims to encourage outdoor living through sustainable, environmentally friendly practices. The company, known for products designed to enhance outdoor spaces, has a robust environmental focus across its operations. With over 250 facilities across North America, Old Castle produces a variety of products, including fencing, railings, and packaged goods like concrete mixes.

Henser provided background on the site, noting its manufacturing history dating back to the 1980s. In January 2022, Old Castle initiated work with county staff to consolidate lots, address flood variance requirements, and file annexation appeals. Throughout 2022 and 2023, Old Castle secured approvals for various aspects of the project, including flood variance and annexation appeal approvals. By August 2023, Old Castle submitted the special use review application and received the first set of review comments, allowing the project to move forward to the planning commission.

Joe Golden outlined planned improvements for the facility, detailing upgrades to existing structures, including a break room to serve as a recharge area for employees. New buildings will house the manufacturing equipment, with dedicated storage space for hardscape products. The manufacturing process for pavers at the site involves curing the materials for up to 24 hours before moving them to storage. Golden highlighted Old Castle's efforts to control environmental impacts, such as by paving most of the site to manage dust and designing a detention area to control runoff, while some areas will remain landscaped with green spaces to complement the surroundings. The primary entrance to the site will help control dust and dirt, especially from delivery trucks.

Golden emphasized that Old Castle will proactively address environmental concerns by implementing preventative technologies to manage dust and dirt from truck traffic. The controlled one-way traffic flow is intended to reduce the environmental impact and ensure that the site is similar in operational standards to distribution centers like Home Depot or Amazon. Renderings of the site were provided to illustrate the scale of the new structures, including how the new buildings will fit within the existing landscape. Landscaping and parking plans are being refined in collaboration with county staff to enhance both functionality and aesthetics across the property.

Golden presented images of a similar Old Castle plant in Washington State to illustrate the planned design and operations. The Washington plant, approximately double the size of the proposed Colorado facility, features extensive paving and clean, organized storage of products. Golden described how trucks follow a specific path around the plant to load products efficiently in the "load lane," helping prevent dust issues. The site includes tall silos and a mixing building, which in Colorado will be fully enclosed to control dust and noise.

Golden highlighted the plant's detailed dust management processes, such as covered conveyors, damp materials, and advanced dust collection systems, all of which reduce airborne particles. In Colorado, an advanced system will monitor cement transfer for potential pressure issues, reducing the chance of fine cement dust escaping. For sound control, Old Castle plans to enclose noisy equipment within soundproofed structures and will install insulated panels if necessary. Golden emphasized the importance of cleanliness, showcasing photos of the pristine Washington plant and noting that Old Castle vacuums daily to maintain similar standards at all facilities.

Golden also discussed Old Castle's dedication to sustainability, including creating clean, dust-free recharge stations where employees can use the company's products for breaks. Inside the plant, concrete is mixed and pressed into products with minimal dust generation due to the dry mix method and internal vacuum systems. Golden explained that plant operations emphasize cleanliness and organization, allowing the Colorado site to operate with a lean workforce while aiming to employ around 30 individuals. Old Castle's production includes efficient stacking and storage of products in orderly lanes for rapid loading and distribution.

Henser addressed specific questions about water supply for the Colorado facility, confirming collaboration with Little Thompson Water District to meet fire flow requirements, including plans for a 90,000-gallon onsite water storage tank. The company has also engaged with Big Thompson Water Manufacturing Ditch and Green Meadows Water Association. Henser mentioned that with final water supply details expected soon, Old Castle

plans to resubmit the lot consolidation application, completing a key step in the project approval process.

PLANNING COMMISSION, STAFF, AND APPLICANT COMMENTS

Commissioner Weiss inquired about visualizing the site's improvements, asking if any images beyond site plans were available to illustrate how the height of new silos and buildings would impact the surrounding area. Staff Member Lasher offered to show renderings from the variance application, which might help with visualizing the changes, and invited the applicant to provide explanations if necessary. Commissioner Weiss also asked about the distance between the road and the new developments. Lasher estimated a setback of 110 feet from the roadway center line, aligning with the classification for arterial roads, but suggested verifying this detail.

Commissioner Weiss then raised a question about the potential widening of the adjacent roadway, noting the city of Loveland's encouragement to expand it. Staff Member Sheldon clarified that since it is a CDOT roadway, any decisions on roadway improvements would fall under CDOT's jurisdiction. CDOT has requested the addition of an auxiliary turn lane to improve site access and has approved limiting site entry to a single right-in, right-out point.

Commissioner Weiss expressed concerns about sewer access and asked if annexation would be required to connect to Loveland's sewer system, which is about 460 feet away. Staff Member Axmacher confirmed that Loveland requires annexation for sewer service access, and since annexation is not planned, the site would continue to rely on its septic systems. Health staff also noted that Loveland had no objections to continued septic use, provided that required repairs are implemented.

Commissioner Weiss also noted the lack of a formal water supply commitment letter in the application materials. Lasher explained that while Little Thompson Water District had verbally indicated no issues with providing water to the site, a finalized commitment letter would be required at the Site Plan stage.

Discussion then shifted to the septic systems, with Commissioner Weiss raising concerns about the site's location within a floodplain. Staff Member Schneider confirmed that while the systems are located outside the floodway, additional repairs and upgrades would be necessary to meet county standards. Weiss also inquired about the septic system's capacity to support the proposed number of employees, to which Schneider replied that the main office septic system was designed for 30 employees but would need some repairs based on recent inspections. If the existing systems are found to be beyond repair, a new septic installation would be required.

Further questions from Commissioner Weiss included concerns about fugitive dust control on the site. Staff clarified that the air quality permit would address dust management requirements, but Weiss voiced skepticism about the efficacy of water-based dust control alone, suggesting that alternative methods could be more effective in the long term.

Other inquiries covered topics such as the property's stormwater detention pond, which Staff Member Sheldon confirmed is intended for stormwater management and will be further analyzed in the Site Plan review. Weiss asked about groundwater depth and soil composition, both of which will be detailed in future geotechnical assessments. He also clarified the timeline for project completion, learning that the approval period spans three years from the county commissioners' final resolution.

Finally, Commissioners Rowe and Duffy raised additional concerns about emissions from the batch plant and its potential carbon footprint. Golden explained that the process relies primarily on electricity and produces minimal emissions due to the automated, computer-controlled production system. He noted that the plant's eventual expansion to a 24-hour, two-shift operation would be supported by staggered shift changes to avoid peak traffic times. Golden also highlighted that this site's strategic location would serve local markets efficiently, as products are typically distributed within a two-hour radius of the plant.

PUBLIC COMMENT

None.

PLANNING COMMISSION DISCUSSION:

Commissioner Barrack expressed support for the project and shared a vision for the future development of the Highway 402 corridor, comparing it to other mixed-use corridors such as Highway 66 or 119 near Longmont, which feature a blend of industrial, commercial, residential, and agricultural elements. While some of Barrack's remarks went beyond the current application's focus on water treatment, they emphasized the long-term benefits of aesthetically integrating industrial sites into their surroundings. Barrack specifically encouraged planting trees as part of the landscaping plan, suggesting that mature trees could help screen industrial buildings and maintain visual continuity with nearby commercial areas. Barrack also raised a concern regarding the oil and gas well on the property, questioning whether it was abandoned and recommending that, if so, Old Castle consider partnering with the Well Done Foundation, a nonprofit that monitors and caps orphaned wells, to address any potential environmental impacts.

Commissioner Weiss offered support for the project while noting several reservations. Drawing on prior experience in glass production and inspections of wet-cast facilities, Weiss voiced concerns about the decision to continue using septic systems rather than connecting to Loveland's sewer line, particularly since the line is only 460 feet away. Weiss expressed a preference for sewer connection over septic for long-term sustainability, despite Loveland's reluctance to annex the site. Another primary concern for Weiss was the absence of a formal water supply commitment, which Weiss advised should be prioritized by the applicant to avoid future complications. While expressing some reservations, Weiss agreed to support the project, trusting that any issues with the water commitment could be resolved promptly.

Commissioner Rowe also voiced support, citing the project's suitability for the location and its alignment with zoning requirements. Acknowledging the multiple variances and appeals associated with the application, Rowe affirmed confidence in the adequacy of the planned water resources, noting options such as on-site storage tanks to mitigate any potential limitations. Rowe felt assured that any outstanding water supply details would be resolved through the Site Plan Review process, leading to a favorable decision in support of the project.

MOTION

Commissioner Duffy 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 Oldcastle APG West Inc Special Review & Appeal, File No. 23-ZONE3541, subject to the conditions of approval outlined in the staff report. Commissioner Eggelston seconded the motion. Motion carried (6-0).

Commissioner Duffy 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 of the Appeal to Article 4.3.5.A.2 of the Larimer County Land Use Code to allow for an OWTS in the Loveland GMA, subject to the conditions of approval outlined in the staff report. Commissioner Eggelston seconded the motion. Motion carried (6-0).

ITEM NO. 3 – NEW CELL TOWER AT 475 HIGH LONESOME ROAD SPECIAL REVIEW, FILE NO. 24-WCF0141

The subject property is located at 475 High Lonesome Road, Livermore, CO and is immediately adjacent to Highway 287, which provides access to the property. The property is 35.04-acres, zoned O-Open, and the current use of the property is single-unit residential.

In the O-Open zoning district, cell tower structures taller than 120 feet are allowed with Special Review approval. This proposal is to build a new 199' cell tower within a proposed 60'x60' lease area. The site is designed to allow for colocation of multiple cell companies. Future tenants would be eligible to co-locate and affix their assets on this tower through subsequent Eligible Facilities Requests if this request is approved.

The application was sent to multiple referral agencies for review, comments were received from the following agencies:

- Building Division
- Code Compliance Division
- Larimer County Health Dept.
- Larimer County Engineering Dept.
- Larimer County Emergency Services – Wildfire
- Livermore Fire Protection Department

No comments were received on this Special Review from Colorado Parks and Wildlife.

Complete referral agency comments are included in Attachment D.

Neighbor notices were sent to all adjacent property owners within 500-feet of the property. At the time of the writing of this report, no written neighbor comments were received.

Per Federal Law/Federal Communications Commission, Section 47 U.S.C. 332(c)(7)(B)(iv) says, "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

It is the assessment of the Development Services Team that this request meets the Special Review criteria provided the applicant satisfies the recommended conditions of approval as set out below.

The Development Services Team recommends approval of the New Cell Tower at 475 High Lonesome Road Special Review, 24-WCF0141 subject to the following conditions:

1. The Site shall be developed consistent with the approved plan and with the information contained in the New Cell Tower at 475 High Lonesome Road Special Review, 24- WCF0141 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the New Cell Tower at 475 High Lonesome Road Special Review, 24-WCF0141.
2. This application is approved without the requirement for a Development Agreement. In the event the applicant fails to comply with any conditions of approval or fails to use the property consistent with the approved Special Review, the applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Administrative Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Administrative Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Administrative Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees. County may conduct periodic inspections to the property and reviews of the status of the Administrative Special Review as appropriate to monitor and enforce the terms of the Administrative Special Review approval.
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 Special Review approval.
4. The owner is responsible for obtaining all required building permits for the cell tower and paying all

applicable fees, including permit fees.

5. This Special Review approval will automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
6. The plans submitted with the building permit shall demonstrate compliance with referral agency standards outlined within the referral comments received in the processing of this application.
7. Any proposed access or utility easement will need to be recorded by a separate document prior to approval of the Special Review.

APPLICANTS PRESENTATION

Anthony Amine, representing Maverick Tower, began by acknowledging Staff Member Seay's thorough presentation on the proposal and affirmed that the project complies with Larimer County's land use code requirements. Amine clarified that, contrary to previous references, the proposed 199-foot structure is a self-support tower rather than a monopole. This type of structure, also known as a lattice or guide tower, is preferred under the county's open land use code over monopole designs. The tower was strategically sited in a lower, "bowl-shaped" area on the parcel, allowing the landscape to naturally screen the lower portion of the structure, thereby minimizing its visual impact on the surroundings.

Amine noted that concealment options were explored, but current code limits concealment techniques like monopine structures to a maximum height of 60 feet, making it impractical for this taller tower. While Maverick Tower is open to alternative suggestions from the planning commission, Amine emphasized that the tower's visibility was already minimized as much as possible.

Highlighting the importance of reliable communication, Amine pointed out that 80-85% of E911 emergency calls are made from mobile phones, underlining the critical need for enhanced coverage in this high-traffic area. He referenced a nearby highway safety sign warning of high accident rates and shared a story from a community member who credited quick emergency response, supported by mobile coverage, with saving his wife's life. CDOT's office is also located across from the proposed tower site, which further supports the importance of stable communication infrastructure in the area.

Acknowledging the challenges of finding an ideal location for such towers, Amine expressed Maverick Tower's commitment to balancing community needs with the least disruptive placement possible. He shared that the company aims to be a good neighbor and work closely with property owners to ensure projects do not harm the community. Amine noted that notification letters sent to nearby residents yielded no negative responses, though one resident present at the meeting voiced concerns. He reiterated Maverick Tower's dedication to serving the broader community, explaining that while the tower may not meet the preferences of every individual neighbor, it is the optimal solution for improved connectivity across the area.

PUBLIC COMMENT

Tabitha Friedman, Danny Friedman, and Anne Brande.

Comments

- The cell tower could improve emergency response capabilities by providing more reliable service for E911 calls in a high-accident area.
- Increased cell service may benefit residents, travelers, and the nearby CDOT office, addressing gaps in communication, especially in rural areas with limited coverage.
- Some community members expressed support for improved communication infrastructure to enhance safety and connectivity.
- Studies and surveys suggest that property values may decrease near cell towers, with potential buyers

hesitant to purchase homes near towers due to perceived risks or aesthetic concerns.

- Concerns were raised regarding outdated FCC regulations on cell tower emissions. Studies suggest potential health risks associated with long-term exposure, including cancer, immune system effects, and other chronic health conditions.
- Electromagnetic radiation from towers may disrupt natural behaviors in local wildlife, including birds, deer, and elk. There is evidence of increased bird deaths due to collisions and potential impacts on pollinator populations, such as bees.
- The tower would be highly visible from nearby properties, potentially diminishing the natural, rural aesthetic valued by residents.
- Some residents have successfully relied on alternative internet options, such as Starlink, and do not see the need for additional infrastructure that could compromise health, property values, and the local environment.
- Once a cell tower is approved, legal provisions allow it to be expanded in height or capacity without further community approval, which may increase the tower's impact over time.
- The proposed tower site lies near an area with high radon levels, which may combine with electromagnetic radiation to pose additional long-term health risks, especially for local wildlife.

APPLICANT'S REBUTTLE

Jennifer Golden, a resident of the property proposed for the cell tower site, shared insights on the project. Initially hesitant about the tower's presence in such a scenic area, Jennifer Golden quickly realized, through discussions with nearby residents, that the tower's arrival in the Virginia Dale area seemed inevitable, as multiple neighbors were negotiating potential placements on their properties. The cell tower company had targeted the area near the busy Highway 287 and rest stop, given the increased traffic since COVID-19 and the highway's growing importance as a trucking route after the paving of Al Canyon. Jennifer Golden noted the frequent accidents and fatalities near the rest stop, often requiring emergency services, and emphasized that the absence of reliable cell coverage there posed significant public safety concerns, particularly when 911 calls are needed in a "dead spot" along the highway. In discussions with the tower company, Jennifer Golden's family sought to minimize the tower's impact by negotiating a design without lights or retention lines and selecting a discreet location on the farthest part of Jennifer Golden's property from other residences. Surrounded by pines and rocks, the tower would be positioned near the highway and at the community's entrance, where most neighbors would be a half mile or more away. Jennifer Golden addressed specific concerns from the Friedmans, clarifying that the tower would be visible only from certain windows on the Friedmans' property, not directly from the front view. Jennifer Golden explained that placing the tower on Jennifer Golden's property was ultimately the least disruptive option among the available sites, considering its placement away from other neighbors' front views and within a spacious area with properties ranging from 35 to over 200 acres.

PLANNING COMMISSION, STAFF, AND APPLICANT COMMENTS

Commissioner Rowe asked the applicant to provide information on the health impacts related to cell towers, noting that people in urban settings often live closer to such structures. In response, Anthony Amine referenced the Federal Telecommunications Act of 1996, which prohibits governing bodies from denying tower installations based on health concerns. Amine cited a 20-year study recently highlighted by CNN, concluding that no adverse health effects are associated with cell phones or wireless facilities. Amine acknowledged the challenge of addressing the diverse studies available, which often present conflicting findings. Amine expressed the telecom industry's reliance on federal guidance and emphasized the importance of adhering to legal standards, while recognizing the emotional nature of the subject and the public's desire for emergency communication options.

Commissioner Rowe also requested clarification from staff regarding setback requirements for cell towers. Staff Member Seay explained that the county's land use code requires the tower to be set back at least twice the tower's height from any nearby residence. Staff Member Axmacher added that this setback aims to ensure the

tower, in the event of a fall, does not endanger nearby properties. Amine noted that the closest neighbors, the Friedmans, live approximately 0.48 miles from the proposed tower site, with the nearest residents at a distance of 0.3 miles.

Staff Member Axmacher then provided additional details on the project's adherence to health and notification protocols. Axmacher stated that the Health Department had reviewed the proposal, noting in a letter dated September 9, 2024, that local governments are restricted from regulating cell towers based on radio frequency emissions. Addressing concerns about project notifications, Axmacher clarified that the county followed all land use code requirements for public notice, including signage on the property, website postings, and newspaper notifications to ensure broad community awareness.

Commissioner Rowe expressed support for the cell tower proposal, agreeing with the owner's perspective that, while there may never be a perfect location for such structures, the benefits and zoning compatibility make this site a sensible choice. Rowe acknowledged the compromises involved but felt that the tower's advantages outweighed potential downsides, solidifying support for the project.

Commissioner Eggelston also voiced approval, emphasizing the importance of emergency services in the area. Drawing from experience, Eggelston highlighted the increased demand for emergency response in this location and the critical need for reliable cell service to support 911 calls. Eggelston recognized the neighbors' concerns but prioritized the cell tower's role in enhancing public safety.

Commissioner King added support for the motion while addressing concerns about health impacts and property values. King acknowledged the apprehensions regarding property value but noted that studies suggest the effect on property values diminishes when a cell tower is situated more than a thousand feet away. King pointed out that, with the proposed tower being nearly half a mile from the nearest property, the impact on property value might be less significant than anticipated. King expressed appreciation for the concerns raised, recognizing the importance of these considerations to the community.

MOTION

Commissioner Duffy moved that the Planning Commission adopt the following Resolution: BE IT RESOLVED that the Planning Commission approve the New Cell Tower at 475 High Lonesome Road Special Review, File No. 24-WCF0141, subject to the conditions of approval outlined in the staff report. Commissioner Weiss seconded the motion. Motion carried (6-0).

REPORT FROM STAFF

Staff Member Axmacher mentioned that several planning commissioners attended the recent State APA Conference and suggested sharing observations, given the originally light agenda for the evening. However, acknowledging the current time, Axmacher offered to postpone the discussion until the next meeting if commissioners preferred to adjourn. Commissioner Rowe, sensing consensus, recommended tabling the discussion, to which Axmacher agreed, confirming no additional reports for the evening.

ADJOURN

With there being no further business, the hearing was adjourned at 8:34 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.