

Date: Wednesday, March 15, 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 a session on Wednesday, March 15, 2023, at 6:00 p.m. in the Hearing Room as well as virtual video. Commissioners John Barnett and Conor Duffy attended virtually. Commissioners Sean Dougherty, Jon Slutsky, Patrick Rowe, and Bob Choate physically attended with Commissioner Best Johnson presiding as Chair. The Larimer County staff that virtually attended were Lea Schneider, Environmental Health Planner, Noel Udell, Environmental Health Specialist I, Tina Kurtz, Environmental Coordinator Specialist; and Shalana Lysaght, Business Operations Supervisor. The Larimer County staff that physically attended were Lesli Ellis, Community Planning Infrastructure, and Resource Development Director; Tawn Hillenbrand, Senior Planner; Frank Haug, Assistant County Attorney; Amy White, Code Compliance Supervisor, Alan Kee, Code Compliance Inspector; Tracy Shambo, Senior Civil Engineer; Matt Lafferty, Principal Planner; and Teresa Mollendor, Community Information Resource Technician, 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 FEBRUARY 15, 2023, PLANNING COMMISSION HEARING

MOTION by Commissioner Dougherty to approve the minutes.

Commissioner Choate seconded the motion.

This received unanimous voice approval.

Motion carried 6-0

AMMENDMENTS TO THE AGENDA

None.

DISCUSSION ITEMS

ITEM #1 – AMENDMENTS TO THE SHORT-TERM RENTAL REGULATIONS, FILE NO. 23-CODE0271

Staff gave a presentation regarding the amendments to the Short-term Rental (STR) regulations contained in Article 3, Use Regulations, Article 4, Development Standards, Article 12, Floodplain, Article 13, Supplemental Regulations for the Estes Valley, and Article 20, Rules of Interpretation and Definitions of the Larimer County Land Use Code. The following requests to amend the Larimer County Land Use Code by the following: add new and revised definitions and use descriptions for Short-term Rentals, Hosted Short-term Rentals, Resort Lodge/Cottages, and Bed and Breakfast Inn found in Article 3, Article 13, and Article 20; revise the use tables found in Article 3 and Article 13, which includes zoning districts and process requirements; update the Use-Specific Standards found in Article 3 and Article 13, including the standards that apply to all short-term rentals and lodging facilities; and amend Article 4 and Article 12 to address parking and floodplain standards associated with short-term rentals and lodging facilities. Larimer County's short-term rental (STR) regulations in the Land Use and Building codes went into effect on September 1, 2019. The county had a compliance grace

period until December 31 of 2021, so operators had time to apply for and obtain planning approvals and building permits. In November of 2021, the county adopted an ordinance for implementation and enforcement of short-term rental regulations that took effect on January 2, 2022. In January 2022, the county sent notifications to unpermitted owner/operators – properties identified by Lodging Revs, requiring them to stop advertising and renting short-term until they completed their approvals and permitting.

The Estes Valley unincorporated area regulations for vacation homes pre-date the countywide STR standards, as they were adopted in 2017. At the time, a cap on the total number of STRs in residential areas was established for the entire Estes Valley, and a waitlist was established in 2018. At that time, the Town of Estes Park was doing development review for the unincorporated area, and the regulations were in the Estes Valley Development Code. When the county began development review for the Estes Valley in March 2020, the Estes Valley Development Code regulations continued to apply to the existing approved Vacation Homes in the Estes Valley, while STR regulations from the Larimer County Land Use Code applied to new applications. The cap on 266 units for vacation home/short-term rentals for the Estes Valley in unincorporated area residential zoning districts was also carried into the Larimer County Land Use Code, now Article 13. The cap does not apply to STRs or vacation homes in the non-residential districts. In 2021, the county adopted small changes in Article 13 of the Land Use Code to allow certain pre-existing lodging facilities (PERFs) to obtain by right approvals in the Estes Valley Accommodation zoning districts.

Larimer County's Land Use Code at the time this project began was viewed as being fairly good regulations, with this project being an opportunity to refine some of the issues around safety and impacts in neighborhoods in particular. In Larimer County and communities with high numbers of visitors such as Estes Park, short-term rentals lead to advantages and challenges. As the demand for second homes and STRs continues to grow, many jurisdictions are working on programs and regulations to manage STRs and achieve positive outcomes. While STRs provide increased revenues and options for visitors and owners, as seen through the work recently done by Visit Estes Park, communities including Larimer County are seeing increasing levels of complaints from neighbors about traffic and noise and are hearing concerns about commercial uses in residential neighborhoods. Also, Larimer County had been hearing more about safety issues from fire districts and neighbors, such as limited access and egress for properties during emergencies and higher levels of fire-related calls in STRs. Additionally, after administering the STR regulations for several years, the county has found that different types of lodging uses may need clarification in the Code because of nuanced requests, different management approaches, and potential impacts to surrounding areas. For example, bed and breakfast (B&B) units and Resort Lodge/Cabins needed to be distinguished from STRs.

In early May 2022, the County began the process to revisit and update the current STR regulations in the Land Use Code to better align with the changes and expansions in the home sharing and rental industry and to address community concern about impacts and compatibility. Over that time, the county has put out a community questionnaire and prepared two public review drafts prior to this Public Hearing Draft – one in October 2022 and one in January 2023. Additionally, staff have been updating the Ordinance for Implementation and Enforcement. Also, since July 2022, the county has hosted the following activities to obtain input on the suggested changes from the public, advisory committees, boards, and commissions. Feedback collected through the activities and meetings listed above, as well as from written email comments received from the public, industry, special interest groups, Boards and Commissions, and others, county staff have developed proposed amendments to the existing short-term rental regulations that we believe respond to comments received. Each of the drafts noted above along with summaries of feedback collected through the activities listed above are posted on the project webpage. Staff closed the presentation with a review of the Larimer County Land Use Code Short-Term Rental, Lodging Regulations Public Hearing Draft and a Estes Valley Planning Advisory Committee recommendations, review criteria, development service team recommendation, suggested motion and an update regarding the amended Ordinance for Implementation and Enforcement of the Short-term rental regulations.

PLANNING COMMISSION COMMENTS AND DISCUSSION

The Planning Commission commented as follows and staff discussed:

- If a neighborhood is in favor of short-term rentals within the neighborhood, they would have the ability to apply for the zoning district specifically for short-term rentals within the neighborhood. The neighborhood would have to complete a specific rezoning process with Larimer County.
- The 500-foot separation requirement was based upon best practice that was seen in other communities.
- After further discussion after the last work session, staff modified how the separation between properties would be measured from center to center of each dwelling.
- If a property owner/operator was not able to respond within the one-hour requirements, then they would be in violation of the regulations and the agreed upon approval for the short-term rental. If the short-term rental receives three complaints

that did not receive any resolution, within the one-hour requirement and within two years, then the short-term rental would be subject to have the license revoked.

- Staff is in process of creating a new short-term rental regulation webpage that will have information for the community that would include a map of all approved short-term rentals county wide, and the ability to provide complaints.
- Short-term rental owners/operator would self-certify to confirm the short-term rental is still within compliance of the regulations on off year's when the County is not required to inspect.
- The County recommends maintaining an active cap for short-term rentals within Estes Valley regardless of the transferability process.
- The county staff worked with the County sales tax staff and didn't find that the number would go down quite as much as some of the other analysis that has been shared in the community.
- A non-conforming use essentially says if you have a use that was approved under regulations that were in place at the time, it can continue to operate under those regulations.
- If a neighborhood does come forward and applies for a rezoning, the county would propose to reduce the cap to reflect the number of short-term rentals within that new zoned district.

PUBLIC COMMENT

Collins Sanders, Jack Irving, Mark Zigray, Richard Mulhern, Bill Brown, Scott Stewart, Frank Theis, Jeff Robbins, Tom Moretti, William Kiefer, Peter Holt, Bryan Pearson, Elizabeth Mulhern, Jane Livingston, Drew Webb, Mike Kennedy, and Rich Chiappe

Comments

- All Larimer County areas should have one standard for short-term rentals.
- Some members of the public think of transferability only in the family.
- Some members of the public think transferability should be forever and to anyone.
- Short-term rental owners invest a lot in their homes.
- The 500-foot limitations indicates that there are few, if any, areas of residential zones in which a new short-term rental license could ever be issued.
- If more limitations are implemented for short-term rentals, the negative impacts such as a decrease in housing stock and the tourism economy taxes that are collected from the vacation rentals.
- The 500-foot limitation should be more of a suggestion and looked at on a case-by-case basis.
- Reports of noise issues, lighting issues, parking issues, trespassing violations, and personal property damages due to short-term rentals.
- Digital 24/7 monitoring system should be investigated as an alternative monitoring system.
- Licenses should not be transferable due to limitations for future sales for community members they might become workers within Estes Valley.
- How will the 500-foot limitations be determined within the center of the short-term rental?
- New zoning should be given to all neighborhoods and not just Windcliff.
- Short-term rentals are positive and vital to Estes Park by helping it grow financially.
- Larimer County should investigate unlicensed short-term rentals.
- Transferability should be limited to one time for everyone that owns a short-term rental and include the homeowners that on currently on the short-term rental waiting list.

RECESS

Start – 8:00 p.m.

End – 8:08 p.m.

PLANNING COMMISSION DISCUSSION

Commissioner Duffy lost connectivity and was not able to rejoin.

Staff gave a brief population analysis about where the STRs are located in Larimer County. The majority of the current short-term rentals approved exist in the Estes Valley Area. There is an increase in numbers countywide with a cap enforced within residential zone districts only in the Estes Valley. The short-term rental regulations will be enforced countywide with Article 13 addressing any specific or unique use standards specific to the Estes Valley.

The Planning Commission and staff discussed the following:

- Transferability
 - o Keeping the language as listed in the draft. New short-term licenses granted after June 1, 2023, are not transferrable.
 - o Allowing all short-term rentals to be transferable. When a property owner is approved, they expect to be able to retain the approval even upon sale of the property.
 - o Allowing transferability of short-term rentals to only within families.
 - o Less concerned about transferability and more concerned about regulating bad behavior.
- 500-foot setback and density
 - o Discussed the intent of the separation requirements and value in distributing the location of STRs.
 - o Having the 500-foot setback be a suggestion instead of a requirement.
 - o 500-foot setback only applies to single family residential zone districts.
 - o The 500-foot setback is intended to help with the short-term rental density.
 - o Accepting the language of the 500-foot setback as written and proposed by staff.
- Response time
 - o The one-hour response time is more reasonable than a set boundary within the short-term rental.
 - o If the owner/operator will not be available within the booking of the short-term rental, then they should assign someone to be available to answer any complaints/concerns within a one-hour time limit.
 - o Agrees that manager should be responsive but would suggest that the PC not dictate what that may look like.
- Property Manager Location – Estes Valley
 - o Questioned the value of a required location of the property manager if there is a required response time. The property manager shall live within the boundaries of the Estes Valley Recreation and Park district boundary to affirmatively respond to complaints within one hour.
- Zoning cap in Estes Valley
 - o Including the option to include the language that staff has provided would allow for the future legislative rezoning of appropriate areas in accordance with the EV E-1S.

MOTION

Commissioner Dougherty 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 that short term rentals, current and future, all be allowed to be transferred on sale.

Commissioner Barnett seconded the motion.

VOTE

Commissioner Barnett, Rowe, Choate, Slutsky, Dougherty, and Chair Barnett voted in favor of the motion.

Motion carried 6-0

MOTION

Commissioner Dougherty moved that the Planning Commission adopt the following motion:

BE IT RESOLVED that the Planning Commission recommend to the Larimer County Board of County Commissioners to amend the proposed language to indicate that reasonable response time throughout the county rather than one hour.

Commissioner Choate seconded the motion.

VOTE

Commissioner Dougherty voted in favor of the motion.

Commissioner Choate, Rowe, Slutsky, Barnett, and Chair Best Johnson voted in opposition of the motion

Motion failed 1-5

MOTION

Commissioner Rowe moved that the Planning Commission adopt the following motion:

BE IT RESOLVED that the Planning Commission recommend to the Larimer County Board of County Commissioners to amend the residency within the Estes Valley Recreation and Park District boundary.

Commissioner Dougherty seconded the motion.

VOTE

Commissioner Slutsky, Rowe, and Dougherty voted in favor of the motion.

Commissioner Choate, Barnett, and Chair best Johnson voted in opposition of the motion

Motion failed 3-3

MOTION

Commissioner Choate moved that the Planning Commission adopt the following motion:

BE IT RESOLVED that the Planning Commission recommend to the Larimer County Board of County Commissioners to include the option to include the language that staff has provided that would allow for the future legislative rezoning of appropriate areas in accordance with the EV E-1S..

Commissioner Dougherty seconded the motion.

VOTE

Commissioner Barnett, Choate, Rowe, Dougherty, and Chair Best Johnson voted in favor of the motion.

Motion carried 6-0.

MOTION

Commissioner Choate 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 Land Use Code amendments regarding short-term rental operation, File No. 23-CODE0271 Short-Term Rental Regulation Code Amendments subject to the amendments made by the Planning Commission and the effective date to be June 1, 2023.

Commissioner Dougherty seconded the motion.

VOTE

Commissioner Slutsky, Rowe, Choate, Barnett, Dougherty, and Chair Best Johnson voted in favor of the motion.

Motion carried 6-0.

REPORT FROM STAFF

None.

ADJOURN

With there being no further business, the hearing adjourned at 9:44 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.