



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, FEBRUARY 10, 2025

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Jenny Axmacher, Planning Manager. Chair Stephens presided. Commissioner Shadduck-McNally and Commissioner Kefalas were present. Also present were Kassidee Fior, Principal Planner, Community Development; Traci Shambo, Engineering Leah Schneider, Health and Environment; Scott Benton, Environmental Planner; Ryane Oswandel, Community Development Administrator; Frank Haug, County Attorney's Office; and Deirdre O'Neill, Deputy Clerk.

Chair Stephens opened the meeting with the Pledge of Allegiance.

TABLED ITEM FROM JANUARY 27, 2025

1. SERELL RESORT CABINS ADMINISTRATIVE SPECIAL REVIEW & APPEALS, FILE NO. 23-ZONE3442: Kassidee Fior, Principal Planner, presented this request for an Administrative Special Review for three detached rental cabins with a total of five bedrooms and three additional sleeping areas, for a maximum of 16 guests to be rented on a short-term basis. Two appeals have also been requested: 1. An appeal to Article 13.6.8.1.C.4 to waive the requirement to install concrete curb, gutter and sidewalk and 2. An appeal to Article 13.4.2.A which requires a net land density of 10,890 square feet of lot area per unit, with net land area calculated by 80% of lands located in the 100-year floodplain.

Ms. Fior stated that the subject property is located at 509 Riverside Drive, Estes Park, Colorado. The property is located approximately 0.6 miles northwest of the intersection of Mary's Lake Road and Moraine Avenue and is currently vacant. The applicant requests an Administrative Special Review approval for Resort Cabins that includes three (3) detached rental cabins with a total of five (5) bedrooms and three (3) additional sleeping areas, for a maximum of 16 guests to be rented on a short-term basis. This application also includes two (2) Appeals:

1. An Appeal to Article 13.7.8.1.C.4. to waive the requirement to install concrete curb, gutter and sidewalks.
2. An Appeal to Article 13.4.2.A which requires a net land density of 10,890 square feet of lot areas per unit, with net area calculated by 80% of lands in the 100-year floodplain.

The subject property is currently zoned EV – A-1 (Estes Valley Low Intensity/Accommodations). When this application was submitted in March of 2023, a Resort Lodge/Cabins – Low Intensity use was classified as a Low Intensity Accommodation use per Article 13 in the Larimer County Land Use Code and was permitted in the EV - A-1 zoning district following Administrative Special Review. This use would no longer be permitted in the EV-A-1 zoning district if an application were submitted today.

Ms. Fior explained that in an EV-A-1 zoning district, each unit requires 10,860 square feet. For three separate cabins, 32,670 square feet would be required. The Net Land Area as calculated at 31,051 square feet is approximately 1,619 square feet less than required.

The Resort Lodge/Cabins – Low Intensity use was defined as: “a building or group of buildings, under single management and ownership, containing rooms and/or units available for temporary rental to transient guests, and where the primary attraction is generally recreational features or activities, with no more than a total of 20 guest rooms or 20 guest units” in March 2023. This is the definition that is being used based on the date of application for this proposal. A Resort Lodge/Cabins – Low Intensity use is not subject to the Estes Valley short-term rental cap and associated waitlist.

The property would be served by the Town of Estes Park Water District and Upper Thompson Sanitation District and is accessed from Riverside Drive. The application indicates that adequate on-site parking can be provided for the proposed Resort Cabins, including at least three (3) total parking spots in the driveway as required.

Neighbor notification of the proposed project was mailed to 164 properties within 500-feet of the subject property and in surrounding subdivisions. The first notice was provided in March of 2023, with a second notice sent in February of 2024. The application was also presented to the Estes Valley Planning Advisory Committee in October 2024, with notice provided in October 2024. As of today, 19 comments were received in opposition to or with concerns regarding the proposal. The common concerns expressed were wetland, floodplain/wildlife/tree preservation concerns. Also mentioned were impacts to views and diminished property values.

Ms. Fior explained that the applicant has submitted a tree preservation plan. A wildlife preservation plan is not required; however, the applicant will be making efforts to allow for a wildlife corridor. Ms. Fior also went over the comments by several referral agencies.

The applicant originally requested a third appeal to Article 4.4.2.I.1.c. of the Larimer County Land Use Code to allow for a wetland buffer of 85 feet for the proposed structures instead of 100 feet, as required for Class 3 and 4 wetlands of any size as delineated on Larimer County Partnership Land Use System Wetland Classification and Protection Program Maps. However, administrative (minor) modifications to this standard are permitted under Article 4.4.2.N of the Land Use Code based on the following review criteria, including: that the modification complied with this section; has no appreciable adverse impacts on the wetlands; that any potential adverse impacts are mitigated or offset to the maximum extent practicable; and that the decision of the Community Development Director can be appealed to the Board of County Commissioners under Article 6.7.2, Appeals. As staff found that the reduced wetland buffer, in conjunction with the implementation of the submitted Wetland Mitigation Report, Wetland Delineation Report, and Tree Preservation Plan, would meet the above criteria, an administrative minor modification was approved by the Community Development

Director to address this request and is no longer required to be heard by the Board of County Commissioners as part of this hearing.

While the Administrative Special Review approval could similarly be delegated to the Community Development Director, it has been requested by the Community Development Director that the Board of County Commissioners decide on both the appeal requests as well as the Administrative Special Review.

Administrative Special Review requires Review Criteria to be met for approval (Articles 6.3.8.D and 6.4.3.D in the Land Use Code), in addition to supplemental review criteria for Resort Lodge/Cabins in the Estes Valley Planning Area (Article 13.6 in the Land Use Code). The two appeals are each required to meet the criteria as set out in Article 6.7.2.B.5.

Staff have found that the application and supporting materials may not have adequately met the following Administrative Special Review General Review criteria in Article 6.4.3.D of the Land Use Code, and are therefore not making a specific recommendation in this regard:

Criteria 1: The proposed use has minimal impacts on existing and future development of the area.

Criteria 2: Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated.

REVIEW CRITERIA

ARTICLE 6.4.3.D- REVIEW CRITERIA FOR ADMINISTRATIVE SPECIAL REVIEWS

In reviewing a proposed administrative special review application, the Director/County Commissioners shall consider the general approval criteria in §6.3.8.D: General Review Criteria:

1. GENERALLY

- a. In reviewing a proposed administrative special review application, the Director/Board of County Commissioners shall consider the general approval criteria in §6.3.8.D: General Review Criteria:
- b. The application may also be subject to additional review criteria specific to the type of application, as set forth in §6.4 through §6.7.
- c. If there is a conflict between the general review criteria in this section and the specific review criteria in §6.4 through §6.7, the specific review criteria in §6.4 through §6.7 control.

- 2. COMPLIANCE WITH THIS CODE:** The proposed use and development shall comply with all applicable standards in this Code, unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.

3. **COMPLIANCE WITH OTHER APPLICABLE REGULATIONS:** The proposed use and development shall comply with all other county regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant entities with jurisdiction over the property or the current or proposed use of the property.
4. **COMPLIANCE WITH PRIOR APPROVALS:** The proposed use and development shall be consistent with the terms and conditions of any prior land use approval, plan, or plat approval for all or part of the property that is in effect and not proposed to be changed. This includes consistency with any approved phasing plan for development and installation of public improvements and amenities.
5. **COMPLIANCE WITH ZONING DISTRICT STANDARDS:** The proposed development shall comply with the standards of the zoning district in which it is located and any standards applicable to the particular use, as identified in §3.3, Use-Specific Standards.
6. **COMPLIANCE WITH DEVELOPMENT STANDARDS:** The proposed development shall comply with the applicable standards in Article 4.0, Development Standards.
7. **COMPLIANCE WITH OTHER CODE PROVISIONS:** The proposed development shall comply with all other standards imposed on it by all other applicable provisions of this Code, including but not limited to standards relating to establishment and operation of uses, layout of the site, and general development characteristics.

In this case, staff have found these criteria to be met, aside from the standards currently subject to concurrent appeal requests as part of this application. The Administrative Special Review and associated appeals are subject to both the General Review Criteria as well as the use-specific criteria as set out in the Land Use Code, which are described in more detail above and below. Staff have found that the proposed use and development would comply with all applicable standards in this code, unless the standard is lawfully modified or varied through appeal requests or other processes. Staff have also found that, provided the appeal requests are granted and the recommended conditions of approval are implemented, the proposed use will comply with all other county regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant entities with jurisdiction over the property or the current or proposed use of the property. There are no previous approvals on the property. Staff have found that the proposed application would comply with the relevant use standards in Article 13 (Estes Valley), the Development Standards within article 4 and article 13, and other code provisions, provided that the requested appeals are granted and conditions implemented accordingly. Staff have therefore found the General Review Criteria, listed above, to have been met.

The Director/Board of County Commissioners shall also consider the following specific criteria for Administrative Special Reviews:

1. The proposed use has minimal impacts on existing and future development of the area.

2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated.
3. The recommendations of referral agencies have been considered and adequately addressed.
4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan.
5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.

Ms. Fior informed the Board of County Commissioners that staff are unable to determine whether Criteria one and two have been met.

Article 6.7.2.B.5 – REVIEW CRITERIA FOR APPEALS TO DEVIATE FROM STANDARDS OR REQUIREMENTS OTHER THAN MINIMUM LOT SIZE.

When considering whether to approve an appeal(s) to deviate from standards or requirements of this Code other than minimum lot size requirements, the Board of County Commissioners may grant the appeal(s) subject to safeguards and conditions consistent with their findings concerning the following factors. The Board of County Commissioners will consider each of the following factors and make findings pertaining to each one which, in their discretion, applies to the appeals. Please note, the appeals are listed separately under each criterion.

- a. Approval of the appeal will not subvert the purpose of the standard or requirement.
- b. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood.
- c. Approval of the appeal is the minimum action necessary.
- d. Approval of the appeal will not result in increased costs for the general public.
- e. Approval of the appeal is consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES RECOMMENDATION:

The Development Services Team is not making a specific recommendation on the Serell Administrative Special Review and Appeals, File Number 23-ZONE3442, and has presented all of the information by which the Board of County Commissioners may base their deliberation and decision.

The Board had questions on the reasoning behind allowing for a wetland buffer of 85 feet for the proposed structures instead of 100 feet. Ms. Fior stated that the distance would typically be 100 feet between the delineated wetland edge and the structure, but in this circumstance, it is proposed to be 85 feet, which was supported by Planning staff as it would ensure that existing and established vegetation and mature trees could be maintained on the property. Larimer County does enforce federal floodplain requirements; however the structures proposed as part of this application are not located within the identified floodplain or flood zone areas and no changes are proposed to the river channel, riverbanks, or wetlands.

The Board invited the applicant to approach the Board.

Dr. Sean Serell, owner, stated that he and his wife purchased the property and began site planning in 2019, when the property location fell under the Town of Estes Park development standard. At that time, a round up policy existed that would have allowed for three units to be built on site. The initial public hearing scheduled for March 2020 was cancelled due to the Covid pandemic. Also, subsequent changes to the previous Land Use Code between the Town of Estes Park and Larimer County expired in May of 2020, prior to the formal application being submitted.

Dr. Serell explained that the primary appearance of the buildings/units will be a modern farmhouse and believes it will fit into the low-intensity, rural nature of Riverside Drive in Estes Valley. The overall design will have three primary buildings that can either function as a single large individual residence/resort lodge or as separate short-term rental units/cabins. Each of the three cabins will have a full kitchen. There are a total of six guest rooms in the development. Parking will be provided for the units in the three enclosed garage spaces with an additional three outdoor parking spaces available.

The Board had questions for Dr. Serell on the wildlife preservations plan, especially as this wooded area is conducive to elk migration. Dr. Serell stated that the intent is to preserve the corridor along the river. The Board also had questions on riparian areas and Dr. Serell stated his commitment to protecting and preserving these areas.

Chair Stephens opened the hearing for public comment.

Public Comment: Ronald Springer, via Zoom, spoke in opposition to this application. Mr. Springer lives directly across from the site proposal and feels like wildlife has already been affected by the current construction and spoke about the modification of the setbacks. Scott Meyer tried to make public comments via Zoom but due to technical difficulties, the Board was unable to hear him. There was an email sent from Mr. Meyer and the Board did let Mr. Meyer know that his written comment is part of the public record.

Chair Stephens closed public comment.

Dr. Serell mentioned that the construction that Mr. Springer was talking about is due to the construction that is currently underway by his neighbor, not Dr. Serell's property. The current property in question is currently not under development.

The Board had questions on fire protections and building requirements and asked about adding conditions. Frank Haug, Assistant County Attorney, informed the Board that because this is an Administrative Special Review, the Board could add their own conditions of approval and if not met, the permit could be revoked.

During deliberation, both Commissioner Kefalas and Chair Stephens announced that they would be in support of this application including appeals based on the information provided and believe that the criteria have been met but would be inclined to add a condition of approval based on the requirements of the Estes Valley Fire Protections District. Commissioner Shadduck-McNally thanked everyone for their hard work but stated that she would not be in support of this application due to Criteria Two having not been fully addressed with concerns about the adverse effects on wildlife.

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the Serell Resort Cabins Administrative Special Review & Appeals, FILE NO. 23-ZONE3442 subject to the conditions of approval contained within the staff report and additional conditions as requested by the Board of County Commissioners:

1. The applicant is required to meet all applicable requirements of the Estes Valley Fire Protection District.
2. No outdoor firepits will be permitted on-site.
3. The applicant must post clearly visible information in the interior of the units regarding wildlife and "leave no trace" principles.

Motion carried 2-1, Commissioner Shadduck-McNally dissenting.

With there being no further business, the Board adjourned at 4:25 p.m.

TUESDAY, FEBRUARY 11, 2025

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with County Manager Lorenda Volker. Chair Stephens presided. Commissioner Shadduck-McNally and Commissioner Kefalas were present. Also present were Sarah Martin and Tom Clayton, Commissioner's Office, and Deirdre O'Neill, Deputy Clerk.

Commissioner Stephens opened the meeting with the Pledge of Allegiance.

1. **PUBLIC COMMENT:** No members of the public addressed the Board.

Chair Stephens closed public comment.

2. **APPROVAL OF THE MINUTES FOR THE WEEK OF FEBRUARY 3, 2025:**

MOTION:

Commissioner Kefalas moved that the Board of County Commissioners approve the minutes for the week of February 3, 2025.

Motion carried 3-0.

1. **REVIEW OF THE SCHEDULE FOR THE WEEK OF FEBRUARY 17, 2025:** Ms. Martin reviewed the upcoming schedule with the Board. The Board had several updates for Ms. Martin.

3. CONSENT AGENDA:

ABATEMENTS

- 1. PETITION FOR ABATEMENT OR REFUND OF TAXES: EXCEEDS THE ALLOTTED AMOUNT OF \$10,000 -Hach Chemical Co – R1279858**
- 2. PETITION FOR ABATEMENT OR REFUND OF TAXES: EXCEEDS THE ALLOTTED AMOUNT OF \$10,000 – TGA ESL Fort Collins Owner LLC- R1682324**

AGREEMENTS

- 1. ATTACHMENT A 2025 STATEMENT OF WORK AND BUDGET AGREEMENT BY AND BETWEEN COUNTY OF LARIMER AND TOWN OF BERTHOUD**
- 2. ATTACHMENT A 2025 STATEMENT OF WORK AND BUDGET AGREEMENT BY AND BETWEEN COUNTY OF LARIMER AND TOWN OF WELLINGTON**
- 3. SEVENTH AMENDMENT TO LEASE AGREEMENT**

APPOINTMENTS

- 1. RECOMMENDED REAPPOINTMENT TO BLUFFS PUBLIC IMPROVEMENT DISTRICT-Gene Pakenham**
- 2. RECOMMENDED APPOINTMENTS TO THE STORM MOUNTAIN PUBLIC IMPROVEMENT DISTRICT-Edward Ostransky and David Hoffman**
- 3. RECOMMENDED REAPPOINTMENT TO THE STORM MOUNTAIN PUBLIC IMPROVEMENT DISTRICT - Kenneth Hitch**
- 4. RECOMMENDED APPOINTMENT TO THE PINWOOD SPRINGS PUBLIC IMPROVEMENT DISTRICT - John Dickey**
- 5. RECOMMENDED MIDTERM APPOINTMENT TO THE PRAIRIE TRAILS PUBLIC IMPROVEMENT DISTRICT – Richard Wadley**

MISCELLANEOUS

- 1. LARIMER COUNTY LEGISLATIVE POSITIONS**
- 2. LV34 APARTMENTS LLC STIPULATION AS TO TAX YEAR 2024 VALUE**

RESOLUTIONS

- 1. RESOLUTION APPROVING SECOND CERTIFICATION TO THE LARIMER COUNTY TREASURER OF ZONING VIOLATION PENALTIES AS SPECIAL**

ASSESSMENT RE: 3620 E HIGHWAY 34, LOVELAND, COLORADO, 80537
(PARCEL NO. 8517106701)

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Consent Agenda for Tuesday, February 11, 2025.

Motion carried 3-0.

5. **COMMISSIONERS' GUESTS:** The Commissioners did not have any guests.
6. **DISCUSSION ITEMS:** None Requested
7. **COUNTY MANAGER UPDATE:** County Manager Volker briefly detailed the events from the previous week.
8. **COMMISSIONER ACTIVITY REPORTS:** The Board briefly detailed their attendance at events during the previous week.
9. **LEGAL MATTERS:** None requested.

With there being no further business, the Board adjourned at 9:25 am



Kristin Stephens

KRISTIN STEPHENS
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS
CLERK & RECORDER

ATTEST:

Deirdre O'Neill

Deirdre O'Neill, Deputy Clerk