



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, AUGUST 23, 2021

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Don Threewitt, Principal Planner. Chair Kefalas presided. Commissioner Shaddock-McNally and Commissioner Stephens were present. Also present were Tracy Hicks and Michael Whitley, Community Development; Lesli Ellis, Community Development Director; Connor Sheldon, Engineering; Frank Haug, County Attorney; Lea Schneider, Health and Environment; and Deirdre O'Neill, Deputy Clerk.

Commissioner Kefalas opened the meeting with the Pledge of Allegiance.

CONSENT AGENDA

- 1. BROWN LOT DEPTH-TO-WIDTH RATIO APPEAL, FILE NO.21-LAND4147:** This request is an approval of an appeal to Article 5.2.1.A.7 of the Land Use Code regarding lot Depth-to-Width Ratio.

The applicant owns two metes-and-bounds parcels that are zoned RR-1 – Rural Estate. The property is located at 7321 Gilmore Avenue, Fort Collins which is located north of Davis Street between Gilmore Avenue and Sunflower Avenue.

One of the existing parcels is 42-acres and contains a single-family home that was constructed in 2005. The second parcel is 20.87-acres and is undeveloped.

The applicant has applied for a Boundary Line Adjustment to adjust the boundary between the two lots. The Boundary Line Adjustment is an administrative process that does not result in the creation of any additional lots.

In the RR-1 – Rural Estate zoning district, the minimum lot size is 10-acres. Approval of the Boundary Line Adjustment would result in a 10-acre parcel and a 52.5-acre parcel.

Because the resultant lot 1 does not comply with the maximum lot depth-to-width ratio of 3:1 required by Article 5.2.1.A.7 of the Land Use Code, an appeal to that standard is required. The appeal must be

approved or denied by the Board of County Commissioners. If the appeal is granted, the Boundary Line Adjustment can be approved by the Community Development Director.

The Board of County Commissioner approved a Conservation Development Preliminary Plat on the subject property on October 26, 2020. The Preliminary Plat included five single-family residential lots and one Residual lot with a residential building envelope.

The property owners applied for a final plat but later withdrew the application because of the inability to obtain water taps from the Northern Colorado Water Association to serve the newly created lot. The association has a moratorium on approving new water taps.

If a home is constructed on lot 2, the property owners would obtain water service from an on-lot well.

The primary reason that lot 1 does not comply with the lot depth-to-width ratio is because it is configured to allow for the dedication of public right-of-way for the continuation of Gilmore Avenue if the newly reconfigured lot 2 is further divided in the future.

The revised Land Use Code that became effective on March 31, 2021, unintentionally did not carry over the criteria for appeals from the previous Land Use Code. Until a code amendment can be approved to include the criteria, the criteria found in Section 22 of the previous Land Use Code will continue to be used to evaluate appeal requests.

REVIEW CRITERIA

- 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 to the public.
- E. Approval of the appeal is consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the appeal to Article 5.2.1.A.7 of the Larimer County Land Use Code

2. WALDEN WEST MINOR LAND DIVISION, FILE NO.21-LAND4162: This is a request of a Minor Land Division to create two lots. Proposed lot 1 measures 2.16-acres and contains the existing single-family residence and existing accessory uses, and contains the existing pond area.

The subject property is located approximately 0.8-miles east of the Intersection of E County Road 30 and S Highway 287. The property is located on the south side of E County Road 30 turns south and

becomes N County Road 13. The property currently contains a single-family home in the southeast corner of the lot. The property is zoned RR2 – Rural Residential, as are all surrounding properties. The RR2 zoning district has a minimum lot size of 2.3-acres. Most of the property is currently covered in a pond.

The proposal is to separate the pond area off from the single-family residential use in the southeast corner of the lot. Proposed lot 1 contains the existing single-family home and accessory structures and contains a 1.42-acre building envelope. Proposed lot 2 contains the pond area as well as a small accessory structure on the west side of the lot. The property currently gains access from a driveway via North County Road 13. This access is proposed to remain unchanged and will access both proposed lots, as well as the lot to the south via an access easement. Additionally, the applicants are proposing a 50-foot-wide easement along the western edge of proposed lot 2, which will contain the existing Loudon Ditch maintenance road.

The entire property is contained within a Conservation Easement held by the City of Loveland, known as the 'Walden West' Conservation Easement. According to the application documents, the original Walden West Conservation Easement was created in 2004 (Reception No. 20040121073) and amended in 2020 (Reception No. 20200073537). Both lots will be subject to the terms and conditions as set forth in the amended Conservation Easement.

REVIEW CRITERIA

To approve a Minor Land Division, the Board of County Commissioners must consider the review criteria found in Article 6.5.8 of the Land Use Code and find that each criterion has been met or determined to be inapplicable. These criteria are noted below and underlined, with staff's assessment immediately following of the criteria.

- A. The property is not part of an approved or recorded subdivision plat.
- B. The property is not part of an Exemption or Minor Residential Development approved under the previous Subdivision Resolution or Minor Land Division.
- C. The newly created parcels will meet the minimum lot size required by the applicable zoning district.
- D. The newly created parcels meet minimum access standards required by the County Engineer.
- E. Approval of the Minor Land Division will not result in impacts greater than those of existing uses. However, impacts from increased traffic to a public use may be offset by the public benefit derived from such use.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Walden West Minor Land, File No 21-LAND4162, subject to the following conditions and authorization for the Chairman to sign the plat when the conditions are met, and the plat is presented for signature:

1. All conditions of approval shall be met, and the final plat recorded by February 23, 2022, or this approval shall be null and void.
 2. Prior to the recordation of the final plat the applicant shall make the technical corrections required by Heather Lassner, Land Surveyor of the Larimer County Engineering Department, in her memo dated July 19, 2021.
 3. Prior to the recordation of the final plat, the applicant shall correct the plat to dedicate 10-feet of right-of-way as well as a 14-foot utility/drainage easement along North County Road 13, as required by Steven Rothwell of the Larimer County Engineering Department in his memo dated July 26, 2021.
 4. Prior to the recordation of the final plat, the applicant shall revise the access easement so that it provides access to both adjacent southern lot and proposed lot 2, as required by Steven Rothwell of the Larimer County Engineering Department in his memo dated July 26, 2021.
2. **EVANS-ISAACS AMENDED PLAT, FILE NO 21-LAND4156:** This is a request for an amended plat to adjust the lot line between two contiguous properties. The proposed amended plat seeks to adjust the lot line between two properties within the Horsetooth Lake Estates subdivision. The subject properties are zoned O-Open. The owner of the southern parcel (#9606207001) is Alan Evans. The property has one single family home. In 2007, the southern parcel (#9606207001) received planning approval for a bed and breakfast with a six-guest occupancy limit. The northern parcel (#9606207002) has been used as restaurant and bar since 1981, according to building permit #81-3281.

The proposed amended plat seeks to adjust common property line between the two properties. Currently, the property line encroaches over the patio located on the Isaac's parcel (#9606207002). This amended plat seeks to adjust the lot line to follow the fence line between the two properties without changing the acreage of either property.

REVIEW CRITERIA

The Larimer County Land Use Code (Section 5.7.3) allows for the approval of a lot consolidation if the following review criteria are met:

- A. No additional lots will be created by the lot consolidation.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by subsection 8.14.1.H. If any of the lots are

nonconforming with respect to the minimum lot size or the lot dimension ratio, the amended plat must not increase the nonconformity.

- C. The lot consolidation will not create a nonconforming setback for any existing building.
- D. The resultant lots will meet the requirements of subsection 8.14.1.I. Lots cannot be divided by a municipal or county boundary line, road, alley, or another lot.
- E. The lot consolidation will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.
- F. Any covenants, deed restrictions or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or note on a plat that are approved with this application. The county commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Evans-Isaacs amended plat, File Number 21-LAND4156 with the following conditions:

1. All conditions of approval shall be met, and the final plat recorded by February 23, 2022, or this approval shall be null and void.
 2. The lot is subject to all covenants, deed restrictions or other conditions that apply to the original lots.
 3. Prior to the recordation of the final plat the applicant shall make the required changes as requested by the planning department.
 4. Prior to the recordation of the final plat the applicant shall make the required changes as requested by the Assessor's Office.
 5. Prior to the recordation of the final plat the applicant shall make the required changes as requested by the County Surveyor.
3. **RAPPEL ALA EXPANSION, FILE NO. 21-ZONE3005:** This is a request for approval for the expansion of an existing ALA. The ALA was originally permitted in 2005 and contained a garage. The garage was later converted to a bedroom without planning approval. Request for approval for the existing 864-square foot ALA (with garage to bedroom conversion).

The property is located at 4101 Minuteman Drive in Fort Collins, CO and is .36-acres in size. The property includes one existing single-family residence that is a total of 1,771-square feet according to the Larimer County Assessor's Office. In addition to the single-family home there is a county approved accessory living area on the property. In 2007, the 576-square foot accessory living received

planning approval (#07-Z1631). A garage was attached to the 576 accessory living area during its 2007 approval. Garages are not considered habitable living space. Because garages are not considered habitable living space, the square footage of the garage was not factored into the living space square footage for the 2007 accessory living area approval.

In 2020, current owners, the Rappel's, applied for bed and breakfast approval (20-ZONE2844). The 20- ZONE2844 application is still pending. A bed and breakfast approval would allow for the owners to stay in the accessory living area while the single-family home was rented out short term. The county's current policy does not allow accessory living areas to be rented out short term.

Through code compliance research it was discovered that the garage attached to the accessory living area had been converted into an additional bedroom. The addition of this bedroom makes the total size of the accessory living area 864-square feet in size. Detached accessory living areas are limited to 40% of the square footage of the single-family dwelling, excluding the basement area, or 800-square feet, whichever is less. 40% of the existing single-family home (1,771-square feet) is 708.4-square feet. Since this is less than 800-square feet, 708.4-square feet is the maximum square footage. The existing accessory living area exceeds this limitation.

REVIEW CRITERIA

- 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 to the public.
- E. The approval of the appeal is consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Rappel ALA Expansion, File# 21-ZONE3005, subject to the following conditions:

1. The accessory living area shall be limited to 864-square feet in size.
2. An as-built alteration permit for the garage to bedroom conversion within accessory living area as identified by code compliance must be obtained.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the items on the Consent Agenda subject to the conditions in the staff report and further moved to authorize the Chair to sign the findings and resolutions.

Motion carried 3-0

With there being no further business, the Board adjourned at 3:10 p.m.

MONDAY AUGUST 23, 2021

LAND USE HEARING

Rustic Bridge Local Improvement District Formation

The Board of County Commissioners met at 3:15 p.m. with Morgan Faye, Engineering. Chair Kefalas presided. Commissioner Shaddock-McNally and Commissioner Stephens were present. Also present were Katie Beilby, Engineering; Frank Haug, Assistant County Attorney; and Deirdre O'Neill, Deputy Clerk.

Frank Haug, Assistant County Attorney, explained that this is a proposal for the formation of a Local Improvement District (LID) 2021-1 Rustic Bridge, followed by a second hearing for cost analysis for the Bridge repairs.

Local Improvement Districts are formed to construct improvements and assess the cost upon the property benefited by the improvements. Improvements may consist of constructing, grading, paving, pouring, curbing, guttering, lining or otherwise improving the whole or any part of any street or providing street lighting or drainage facilities in the unincorporated areas of Larimer County. Improvements may also include constructing, installing, or improving any system for the transmission or distribution of water or the collection of transmission of sewage, or both systems.

Morgan Faye, Engineering, gave a brief presentation on the Rustic Bridge Local Improvement District (LID) 2021-1. It is located off State Highway 14 in the Poudre Canyon. The area consists of 45 lots. The Bridge was built in the 1950's and needs repair. Any public bridge is required to be inspected every two years. This is a publicly dedicated structure but not maintained. Ms. Faye presented photos of the needed repairs. The approximate timeline for the repairs will be in October or November and will take approximately two weeks.

Definition of Essential Bridge Repairs: Repairs necessary to ensure the safe and continued service of off system major bridge structures. Immediate and potentially critical problems with structures should be reported to the designated local agency contact/maintenance personnel as appropriate. Examples of essential repair needs include: a girder severely damaged by an over-height vehicle; a bridge foundation undermined by scour; missing or severely damaged bridge rail, and advanced deterioration of a primary structure member that has undermined its load-carrying capacity. They also include less time sensitive items such as a railing functioning as designed but damaged by an errant vehicle; a plugged drain resulting in embankment erosion; undermined slope paving; and active corrosion that could undermine a bridge's load-carrying capacity before the next inspection.

There were several questions from the Board on whether the steel is being replaced or just repaired as well as explanation of the color classification on the ERF (Essential Repair Findings) chart.

Commissioner Kefalas opened the hearing for public comment. There was not anyone from the public in attendance. Ms. Faye did state that all 45 homeowners agreed to form the Local Improvement District.

Chair Kefalas closed public comment.

MOTION

Commissioner Shadduck-McNally moved to approve Resolution No 08232001R001, a Resolution creating the Larimer County Local Improvement District No 2021-1, Rustic Bridge, in the county of Larimer, Colorado, ordering construction, installation, and completion. Therein of certain local improvements, together with any necessary incidentals; providing for other details in connection with the district.

Motion carried 3-0

Rustic Bridge Local Assessment Hearing

This hearing is to approve the assessment for the loan and the whole costs of improvements. There are 45 assessment units in the district each paying \$1,725.76. The assessments may be paid in full, interest free at the Engineering office on or before September 22, 2021. If a property owner chooses not to pay in full by this date, the assessments may be paid in installments with interest (2.49% interest rate) and a collection fee of 1.01% to the County Treasurer. The annual payment will be \$604.14 with interest for three years (not including the Treasurer's fee). The owner of any property not in default as to any installment or payment may at any time, pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment of interest or principal.

The Id Construction Fund is loaning LID funds necessary to repair the bridge.

If the rate is in excess of the amount required to repay the district's loan, the Board may reduce such rate to such lower amount as determined after construction is completed.

The approval of the loan will be completed in 20-days from the publication of approval of the LID and Whole Cost allowing for any complaints or objections which may be made in writing by the owners to the Board of County Commissioners before the passage of any resolution assessing the cost of said improvements.

MOTION

Commissioner Stephens moved to approve Resolution No. 08232021R002 the Assessment and Whole Cost for Local Improvement District 2021-1 (Rustic Bridge) for a total cost of \$77,659.23 to be divided amongst 45 lots at \$1,725.76 per lot.

Motion carried 3-0

With there being no further Land Use Items, the Board adjourned at 3:45 p.m.

TUESDAY, AUGUST 24, 2021

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with Linda Hoffmann, County Manager. Commissioner Kefalas presided. Commissioner Shadduck-McNally and Commissioner Stephens were present. Also present were: Austin Harvill, Commissioners' Office, and Deirdre O'Neill, Deputy Clerk.

Commissioner Kefalas opened the meeting with the Pledge of Allegiance.

1. PUBLIC COMMENT: Tim Gossar, with Larimer Alliance for Health, Safety, and the Environment, addressed the Board thanking them for the process of the Oil and Gas Regulations to the Land Use Code. Molly Gattilla sent an email stating she is in favor of the placement of the early childhood tax on the upcoming November ballot.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF AUGUST 16, 2021:

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the week of August 16, 2021.

Motion carried 3-0

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF AUGUST 30, 2021: Mr. Harvill reviewed the upcoming schedule with the Board.

4. CONSENT AGENDA:

AGREEMENTS:

1. HERMIT PARK OPEN SPACE FUELS AND FOREST HEALTH AGREEMENT AND SCOPE OF WORK

2. PROFESSIONAL SERVICES AGREEMENT (STORMWATER DESIGN STANDARDS UPDATE)

3. EMERGENCY WATERSHED PROTECTION AWARD INCREASE FOR BLACK HOLLOW

MISCELLANEOUS:

1. REQUEST FOR APPROVAL TO ENTER UPON LANDS-WEED MITIGATION-JOSHUA SMITH

2. REQUEST FOR APPROVAL TO ENTER UPON LANDS-WEED MITIGATION-HORSETOOTH LAKE ESTATE PROPERTY OWNERS' ASSOCIATION

3. LETTER TO GOVERNOR POLIS RE: LARIMER COUNTY DISASTER DECLARATION

LIQUOR LICENSE: REDNECK RIDE FOR PARKINSON'S ASSOCIATION OF THE ROCKIES-SPECIAL EVENT PERMIT-BELLVUE; FORT COLLINS NURSERY ROCK GARDEN CONCERT-THE VEGETABLE CONNECTION-SPECIAL EVENT PERMIT-FORT COLLINS

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the Consent Agenda for August 24, 2021.

Motion carried 3-0

5. COMMISSIONERS GUESTS: The Commissioners did not have any guests.

RESOLUTION ADOPTING AMENDMENTS 11.0 OIL AND GAS FACILITIES, 2.9.4 SETBACKS, AND 3.2 TABLES OF ALLOWED USES OF THE LARIMER COUNTY LAND USE CODE: Frank Haug, Assistant County Attorney, stated that this is a resolution adopting amendments to Oil and Gas regulations. The Board is authorized under Section C.R.S 34-60-131, to enact regulations regarding oil and gas development that may be more protective or stricter than the State of Colorado's oil and gas regulations. The purpose is to adopt the findings and resolution as well as the code language that was consistent with what was discussed in the hearing with the intent on the 2,000-foot setbacks. Following the motion and after review of the hearing, it was determined that two clerical errors were made in the typing of the motion. The Board agreed to modify section 11.3.2 B to add "multi-family dwelling units" to the list of schools and other protected uses that received a 2,000-foot setback and section 11.3.2.c to state "oil and gas locations shall be at least 2,000-feet from the following:

Building units that are not subject to a waiver from all building unit owners and tenants explicitly agreeing with informed consent to proposed oil and gas location.

Publicly maintained trails and trailheads and community park land, public parks and regional park land as defined in the land use code, public water supply surface intakes or public water supply wells.

The Commissioners each took the opportunity to thank staff for all their hard work and expertise to help strengthen regulations that will provide protections for the public, wildlife and environment. Chair Kefalas gave a brief background on the process explaining that in 2019 the Board of County Commissioners of Larimer County adopted a new Comprehensive Plan for unincorporated areas of Larimer County. Larimer County's oil and gas regulations are intended to regulate activities that have the potential for significant immediate, and broad impacts on the public, the environment, natural resources and public recreation areas of Larimer County. In March 2021, the Board adopted a temporary moratorium on oil and gas development within the county, which was extended until

September 15, 2021, to develop regulations for the development of oil and gas facilities within the county in light of the state of Colorado's new rulemaking. The Commissioners also thanked the public for engaging in this process. The Commissioner's specifically wanted to thank Lesli Ellis, Community Development Director, Matt Lafferty, Principal Planner, Frank Haug Assistant County Attorney and Matt Sura, Consultant for their expertise.

MOTION

Commissioner Shadduck-McNally moved to adopt amendments to Articles 11.0 Oil and Gas Facilities, 2.9.4 Setbacks and 3.2 Tables of allowed uses of the Larimer County Land Use Code and to adopt the Findings and Resolution.

Motion carried 3-0

11. **COUNTY MANAGER UPDATE:** Manager Hoffmann updated the Board on this week's coordination meetings and upcoming projects and activities. Manager Hoffmann did speak about the Ranger Unitt Award and those nominations will be accepted through October 15, 2021. The award honors the commitment to community that embodies the spirit of Ranger Unitt. The award is open to any current Larimer County employee who demonstrates their passion to serve the community above anything else.

12. **COMMISSIONER ACTIVITY REPORTS:** The Board detailed their attendance at events during the previous week.

13. LEGAL MATTERS:

Executive Session:

Executive Session pursuant to C.R.S. 24-6-402(4)(b), Conferences with and attorney for the purpose of receiving legal advice regarding Opioid Litigation.

Motion

Commissioner Stephens moved the Board to enter into Executive Session pursuant to C.R.S. 24-6-402(4)(b), Conferences with and attorney for the purpose of receiving legal advice regarding Opioid Litigation.

Motion carried 3-0

With there being no further business, the Board adjourned at 10:45 a.m.

WEDNESDAY AUGUST 25, 2021

COUNTY BOARD OF EQUILIZATION ABSTRACT OF ASSESSMENT

The Board of County Commissioners met at 9:45 a.m. with Lorenda Voelker, Assistant County Manager. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally

were present. Also present were Bob Overbeck, Larimer County Assessor and Yara Zokaie, Chief Deputy Assessor as well as Deirdre O'Neill, deputy clerk.

Chair Kefalas noted that the meeting was to examine and certify that all the valuation changes ordered by the County Board of Equalization have been incorporated and the abstract of completion signed by Assessor.

Bob Overbeck, Assessor explained the process to the Commissioners stating that the Assessor files the Abstract of Assessment with the Property Tax Administrator no later than August 25, 2021, per statute. It contains the aggregate assessed valuation for assessment of all property by class and subclass. The data is the basis for certification of values to the various taxing entities. The abstract values, with changes, serve as the basis of the next year's tax warrant.

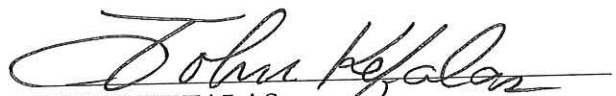
There were some questions and comments from the Commissioners on the process as well as trends on Senior Tax exemption and Veteran Disability exemptions. They also spoke to any anomalies and how COVID-19 adjustments effected the valuations.

MOTION

Commissioner Shadduck-McNally moved that the County Board of Equalization has concluded its hearings, pursuant to the provisions of Article 8 and The Board of County Commissioners, acting as the Board of Equalization, have examined the Abstract of Assessment and that all valuation changes have been incorporated, and sign the Abstract of Assessment upon its completion by the Assessor.

Motion carried 3-0

The Board adjourned at 10:10 a.m.


JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS
CLERK AND RECORDER

ATTEST:


Deirdre O'Neill, Deputy Clerk

