

MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, AUGUST 28, 2023

EXECUTIVE SESSION

The Board of County Commissioners met at 3:00 p.m. with Lorenda Volker, County Manager. Chair Shadduck-McNally presided. Commissioner Kefalas and Commissioner Stephens were present. Also present were William Ressue, County Attorney; Laurie Kadrach, Assistant County Manager; Joshua Fudge, Performance, Budget, and Strategy Director; and Matthew Behunin, Budget Team Lead.

Executive Session pursuant to Colorado Revised Statute 24-6-402(4)(e) to determine positions, develop strategy, and instruct negotiators relative to an intergovernmental agreement with the Loveland Urban Renewal Authority for the sharing of potential future tax increment financing revenue. No decision Expected.

MOTION

Commissioner Stephens moved that the Board of County Commissioners move into executive session pursuant to Colorado Revised Statute 24-6-402(4)(e) to determine positions, develop strategy, and instruct negotiators relative to an intergovernmental agreement with the Loveland Urban Renewal Authority for the sharing of potential future tax increment financing revenue.

Motion carried 3-0.

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Rebecca Everette, Community Development Director. Chair Shadduck-McNally presided. Commissioner Kefalas and Commissioner Stephens were present. Also present were Alyssa Martin, Community Development; Jenny Axmacher, Community Development Planning Manager; Connor Sheldon, Engineering; Frank Haug, Assistant County Attorney; and Tessa Beaty, Deputy Clerk.

PUBLIC HEARING CONSENT ITEMS:

1. LOT 7A CONTINENTAL NORTH 1ST FILING AMENDED PLAT, NO. 23-LAND4347 (ADDENDUM – LOCATION CORRECTION WITHIN AGENDA AND STAFF REPORT): This Amended Plat regards 3317 Dixon Cove Drive, Fort Collins, west of Horsetooth Reservoir. The legal description is Lot 7A, Amd Lots 1-7, 10-12, 14-24, 35-36, 38-41, Continental North Sub, 1st Filing. The parcel is zoned O-Open and currently contains a single-family residence.

The plat for the Continental North 1st Filing has separate setbacks from the base zone district of 50 feet from the front lot line and 15 feet from the side and rear lot lines. This amended plat would

remove this plat note from this lot and allow the O-Open setbacks to apply of 25' from the front/street lot lines, 5' from the side, and 10' from the rear.

A variance was approved on March 28, 2023, from a deck expansion of 9' from the front lot line and 4' from the north side lot line under file number 22-ZONE3405.

No neighbor comments were received.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Lot 7A Continental North 1st Filing Amended Plat, File No 23-LAND4347 with the following conditions:

1. All conditions of approval shall be met, and the final plat recorded within 6 months, 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 in the Continental North Subdivision other than the required setbacks.

2. COUTURE ENTERPRISES RIGHT-OF-WAY VACATION, FILE NO. 23-LAND 4315: The applicant owns the property located at 409 S Summit View Drive, Fort Collins which is southwest of the intersection of S Summit View Drive and E Lincoln Avenue.

The property is currently use for outdoor storage. The property owner intends to develop the property with a three-story, 123,740 square-foot enclosed storage building.

The parcel is triangular and is bound by E Lincoln Avenue to the north, S Summit view Drive on the east, and right-of-way for a spur of E Lincoln Avenue on the south.

The right-of-way south of the parcel connects to S Summit View but the road developed within the right-of-way is a dead end and only provides access to the applicant's property. This proposal would vacate that right-of-way and the land would be incorporated into the applicant's parcel. The segment of road within the right-of-way would become an on-site drive rather than a public road.

A variance to the setback from the centerline of the road north of the property is currently being processed. That variance request was reviewed by the Board of Adjustment at a public hearing on March 22, 2023.

The development of the site with an enclosed storage building will require Site Plan Review approval. The applicant intends to submit a Site Plan application shortly after completion of the setback variance and right-of-way vacation processes.

Notice of this application was sent to property owners within 500 feet of the property. No comments have been received.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Couture Enterprises Right-of-Way Vacation, File No. 23-LAND4315.

3. ISAACS-EVANS REZONING, FILE NO. 22-ZONE3307: The applicants request to rezone the parcels located at 4789 and 4791 W County Road 38E Fort Collins, from O-Open to RC-Rural Commercial. The properties are located south of Holiday Drive, to the east of Catalina Drive, and to the west W County Road 38E.

There are existing commercial uses on both lots. The subject properties currently contain a bed & breakfast and a restaurant/bar with a liquor store and two apartments. The southern parcel, 4789 W County Road 38E, was approved to convert the previous single-family dwelling into a bed and breakfast with a maximum occupancy of 6 guests, Horsetooth Bed & Breakfast Minor Special Review File No. 07-Z1642. The northern parcel, 4791 W County Road 38E, received approval to expand a non-conforming restaurant/bar and add a video/liquor/convenience store to the property. Evans Special Exception File No. 97-VE1049. The approved plans also included two apartments above the restaurant. The applicants are in the process of eliminating the store and converting it back to part of the restaurant/bar.

The applicants are requesting to change the zoning from O-Open to RC-Rural Commercial. The owners of the northern property would like to rent the two existing apartments on a short-term basis which would be considered a resort lodge/cottage. That use is currently not allowed in the O-Open zoning district. The applicant is also considering condominimizing the property. If the rezoning is approved, any changes in the uses on the property would still need to meet the requirements of the Land use Code which may include an additional planning process such as Site Plan Review. The process would follow the rezoning.

The rezoning from O-Open to Rural Commercial at these locations is supported by the Larimer Comprehensive Plan and the Land Use Code.

The Larimer County Comprehensive Plan is a policy document that establishes a long-range framework for decision-making in Larimer County. The Framework Map in the Comprehensive Plan helps guide the location, intensity, and patter of development in the County. The Framework Map identifies this location as a Retail Service Node. This is indicated as an area where expanding or developing future commercial uses are desired.

The Larimer County Land Use Code calls out a Mixed Center character area which supports mixed-use development and uses in non-urban areas. The area is characterized by a combination of commercial, residential, institutional, and recreational uses. This area furthers the Comprehensive Plan goals for specific framework categories identified in the Comprehensive Plan including Retail Services. The character area is comprised of multiple zoning districts including Rural Commercial (RC). The Retail Services areas are small, concentrated areas within communities or at interchanges where commercial and industrial uses are supportive to agricultural or recreational uses

The RC-Rural Commercial district is intended for areas identified in the Comprehensive Plan as “rural centers” or “retail service nodes.” The district accommodates a mix residential, civic, commercial, retail, educational, and accommodation uses where appropriate water and sewer infrastructure is available.

This request to rezone was sent out to both referral agencies and community members. One community member provided comments in opposition to this request.

A neighborhood meeting was required as part of this proposed Rezoning.

DEVELOPMENT SERVICES TEAM RECOMMENDATIONS:

The Development Services Team recommends that the Planning Commission recommend to the Board of County Commissioners approval of the Isaacs-Evans Rezoning, File No. 22-ZONE3307, from O-Open to RC-Rural Commercial.

John Jaginski requested to pull Isaacs-Evans rezoning, file no. 22-zone3307 off of the consent agenda.

MOTION:

Commissioner Stephens moved the Board of County Commissioners to approve the rest of the Consent Agenda subject to the conditions outlined in the staff reports and authorize the Chair to sign the Findings and Resolutions.

Motion carried 3-0.

Ms. Whitely requested that the discussion item be discussed before the pulled consent item. Commissioner Shadduck-McNally agreed.

PUBLIC HEARING DISCUSSION ITEMS:

1. HOUGH PLANNED LAND DIVISION, PLANNED DEVELOPMENT, AND APPEALS, FILE NO. 21-LAND4129: The applicant proposed to divide one 1.05-acre parcel that is zoned RR-2 – Rural Residential into 2 lots of 0.32 and 0.47 acres. The property currently contains a single-family home and an outbuilding on the parcel.

The property is at 2533 West Vine drive, Fort Collins; located on the south side of West Vine Drive between North Taft Hill Road and North Overland Tail.

The property is in the Fort Collins Growth management Area (GMA). The Fort Collins City Plan's Structure Plan Map identifies this property as appropriate for Suburban Neighborhood Development (on the border with Rural Neighborhood).

The minimum lot size in the current RR-2 – Rural Residential zoning district is 2.3 acres if a well or septic system is utilized and 0.5 acre if both public water and public sewer are utilized. With the proposed PD zone district, a minimum lot size of 0.25 acres is requested. The Fort Collins City Plan's Structure Plan Map identifies this property as appropriate for Suburban Neighborhood Development, with density of two to five principal dwelling units per acre. This would be consistent with the proposed minimum lot size of 0.25 acres. Fort Collins Land Use Code requires a minimum of 4 dwelling units per net acre of residential land in the Low-Density Mixed-Use Neighborhood District (LMN). The LMN zone district applies to nearby properties in Fort Collins city limits south of Vine Drive.

The property is to be served with both public water and public sewer by Fort Collins Utilities.

Because the property is in the Fort Collins Growth Management Area, the property must be divided through the Planned Land Division process. A rezoning of the property to PD – Planned Development is required concurrently with the Planned Land Division.

The Rostek Subdivision is west of the subject property and the Crawford Acres Subdivision is to the south. The residential lot to the west is 0.88 acres, the lot to the east is 2.5 acres, and the lots in the subdivision to the south are approximately 0.25 acres.

There is currently a driveway access off Vine Drive. A public right-of-way is proposed on the northern half of the subdivision with an emergency access easement for the southern half. An appeal regarding this access easement is discussed in the subsequent sections.

Larimer County mapping indicates that most of the property is in an area of low geologic hazards and there are no wetlands or waterways on site. The property is not in a mapped floodplain or wildfire hazard area. The property is not identified as an important wildlife habitat.

The property is also within the Northwest Subarea Plan. The Framework Plan provides guidance to land uses, activities, and density levels, but it is not regulatory. It is to be used in conjunction with City and County zoning and development standards (pg. 11, Larimer County Northwest Subarea Plan).

The request includes six appeals to Sections 4.5.4.B.1, 4.5.4.D.1, 4.7.4.D, 5.3.1, 5.3.1, and 5.3.5 of the Land Use Code regarding connectivity/circulation, street landscaping, road surfacing requirements, and required public right-of-way.

Notice of the Sketch Plan application was sent to property owners within 500 feet of the property boundaries. No neighbor comments were received; therefore, a neighborhood meeting was not required.

Notice to property owners within 500 feet was sent again when the Preliminary Plan application was submitted. Again, no neighbor comments were received.

DEVELOPMENT SERVICES TEAM RECOMMENDATIONS:

A. The Development Services Team recommends approval of the Hough Planned Land Division, Planned Development, File No. 21-LAND4129 subject to the following conditions:

1. The final plat shall be consistent with the approved preliminary plan and with the information contained in the Hough Planned Land Division, File No. 21-LAND4129 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal and written representations and commitments of record for the Hough Planned Land Division and Planned Land Development.
2. The following fees shall be collected at building permit issuance for new single-family dwellings: Thompson School District R2-J school fee, Larimer County fees for County and Regional Transportation Capital Expansion, Larimer County Community Park Fees (in lieu of dedication) and drainage fees. The fee amount that is current at the time of building permit application shall apply.

3. All habitable structures will require an engineered foundation system. Such engineered foundation system designs shall be based upon a site-specific soils investigation. The lowest habitable floor level (basement) shall not be less than 3 feet from the seasonal high-water table. Mechanical methods proposed to reduce the ground water level, unless it is a response after construction, must be proposed on a development wide basis.
4. Passive radon mitigation measures shall be included in construction of residential structures on these lots. The results of a radon detection test conducted in new dwellings once the structure is enclosed by prior to issuance of a certificate of occupancy shall be submitted to the Building Department. As an alternative, a builder may present a prepaid receipt from a radon tester which specifies that the test will be done within 30 days. A permanent certificate of occupancy can be issued when the prepaid receipt is submitted.
5. Approval of the rezoning from RR-2 – Rural Residential to PD – Planned Development is subject to the following condition:
 - a. The rezoning shall be effective upon the recordation of the final plat of the Hough Planned Land Division
6. The permitted uses, lot, building and structure requirements, setbacks and structure height limitations for the Hough Planned Land Division shall be as follows:

Uses permitted by right:

Single-family homes and associated accessory uses
Group home
Group home for ages
Group home for persons with behavioral or mental health disorders
Equestrian uses
Parks and open space
Agriculture and livestock

Uses allowed by Special Review:

Family Childcare homes
Assembly uses
Public and private schools

Setbacks:

From a minor arterial roads: 55 feet from right-of-way centerline or 15 feet from right-of-way line, whichever is greater
Private road right-of-way and access easements: 25 feet from the edge of such right-of-way line, whichever is greater
For all other property lines: 10 feet from the property line

Minimum lot size: 0.25 acres

Maximum building height: 40 feet

B. The Development Services Team recommends approval of the appeal to Section 4.7.4.D.2 of the Land Use Code regarding street landscaping.

C. The Development Services Team recommends denial of the appeals to Sections 4.5.4.A, 4.5.4.B.1, 4.5.4.D.1, 5.3.1, 5.3.4, and 5.3.5 of the Land Use Code regarding connectivity/circulation, road surfacing requirements, and required public right-of-way.

STAFF PRESENTATION:

Ms. Martin gave a brief history of this request. This request was to appeal several aspects of the current land use code. This lot is a part of the Fort Collins Growth Management Area. Therefore, specific processes must be followed in view of this subdivision. Ms. Martin explained the appeal to the current land use code, the reason they exist, and why the applicant is requesting an appeal of these aspects of the code. The Larimer County land use code requires roads to be paved, but the applicant is requesting a gravel road. Because this area is in a growth management area, staff is recommending paved roads based on the code. The Planning Commission recommended that the Board allow the road not to be paved and to remain gravel.

COMMISSIONER QUESTIONS:

Commissioner Kefalas requested additional information about the Planning Commission's recommendations. Ms. Martin explained the intricacies of road paving and why it may not be necessary. Mr. Sheldon explained the planning commission's concern that paving the road would damage the rural area. Additionally, no public comment has been received regarding leaving the gravel road. The only request from engineering was to pave 50 feet before the original right-of-way to preserve Vine Drive.

Commissioner Kefalas further asked about the way that some of the appeals would be approved and what would happen to the road. Mr. Sheldon explained the consequences of the appeals and whether the road would have to be additionally paved.

Commissioner Stephens asked about maintenance for the gravel road and what the city of Fort Collins thought about this issue. Ms. Martin explained that the City of Fort Collins is a referral agency and was given notice, though Larimer County has not received any response from the city. Ms. Martin continued to explain the legislation surrounding the growth management area.

Commissioner Shadduck-McNally asked for clarification about the 50-foot paving before the right-of-way and maintenance. Mr. Sheldon explained that though engineering had different paving standards, engineering requests that the county commissioners request the 50-foot paving be included in lot one before Vine Dr.

Commissioner Shadduck-McNally asked for clarification about the aspects of the land use code that was being appealed. Ms. Martin explained that some approval of some appeals would negate others. However, some appeals would deal with issues in the future.

Commissioner Kefalas asked about the issue of public access and future developments. Ms. Martin confirmed that this road would provide connectivity to future developments. Mr. Sheldon stated that there are two ways to approve this proposal. Either the road is paved through lot 2, which would let growth in the future, or only 50 feet of the road is paved, and the future standards will require future pavement.

APPLICANT PRESENTATION:

Nancy Hough, the applicant, gave a presentation about this proposal. Ms. Hough showed images of the parcel of land that is being discussed. The process has included different planners and discussions with different agencies. Ms. Hough explained the landscaping she has done to help with the appeal process. Ms. Hough explained that Poudre Fire Authority has approved the location, and the hammerhead in the road would help with safety. Ms. Hough discussed the issues with the Community Development recommendations. Ms. Hough requests approval for all the appeals.

COMMISSIONER QUESTIONS:

Commissioner Kefalas asked for Ms. Hough's opinion about the 50 feet connection to the right of way. Ms. Hough clarified that she was not made aware of this recommendation. Ms. Hough continued she was in no opposition to the right-of-way.

PUBLIC COMMENT:

No one from the public addressed the Board.

Commissioner Shadduck-McNally closed public comment.

COMMISSIONER QUESTIONS:

Commissioner Stephens asked for clarification about the hammerhead in the road. Mr. Sheldon explained that the Poudre Fire Authority and the engineering department look at different things while reviewing criteria. Mr. Sheldon explained the reasoning that the engineering department suggested the hammerhead be at the end of the road and not in the middle, as the applicant requested.

Commissioner Stephens questioned Mr. Sheldon about how close the hammerhead would be to the original property. Mr. Sheldon explained the intricacies of the engineering department, looking at these issues.

Commissioner Shadduck-McNally asked about the specifics of subdividing the lot. Mr. Sheldon explained that the engineering department is planning for additional roads in the future for future developments.

Commissioner Shadduck-McNally asked for clarification about the 50-foot paved part of the road. Mr. Sheldon explained that the engineering department is asking for paving 50 feet beyond the 12-foot original track.

Commissioner Shadduck-McNally further asked about where on the map this pavement would be. Mr. Sheldon explained the dimensions of the road.

Commissioner Stephens expressed concern about the need to get roads up to urban street standards and how the city may think of this area as rural and would need to keep it as such. Ms. Everette explained that there was a matter of the degree of these needs and how this issue might be more subjective.

Commissioner Kefalas asked about the 50-foot paving and how many other driveways do not have this paving. Mr. Sheldon explained that those streets have already been established, and this is requesting new development, and it is necessary to review these issues on a case-by-case basis.

DELIBERATION:

Commissioner Kefalas was inclined to approve the Planning Commission's recommendations and this development with the specific details outlined in the staff report. Commissioner Kefalas asked about an additional condition of approval of the 50-foot additional paving. Commissioner Kefalas requested the road to remain gravel except for the additional paving to protect the original road.

Mr. Haug explained that there are several issues with the road, and once the Commissioners come to an agreement, they would craft a statement to represent that consensus.

Commissioner Kefalas continued to support the paving appeal and approve the hammerhead location that the Poudre Fire Authority approved.

Commissioner Stephens expressed concern about pressing new standards on older properties without the city's input. Commissioner Stephens was inclined to support the approval of the appeals with the additional 50-foot paving and the hammerhead that the planning commission approved.

Commissioner Shadduck-McNally agreed with her fellow commissioners and the planning commission. Commissioner Shadduck-McNally explained that public safety was another aspect to be included in the discussion and was, therefore, in support of the 50-foot paved element of the road.

Commissioner Shadduck-McNally and Mr. Haug discussed the phrasing of the motion to reflect the commissioner's requests.

Commissioner Kefalas suggested adding a condition of approval for the road. Mr. Haug explained different ways the motion could be made.

MOTION:

Commissioner Kefalas moved that the Board of County Commissioners to approve the Hough planned land division, planned development, File No. 21-LAND4129 subject to the conditions outlined in the Staff Report and adding on the condition of approval of adding 50 feet from the edge of the right-of-way, making a total of 62 feet of pavement from the ultimate right-of-way, Vine Drive.

Motion carried 3-0.

MOTION:

Commissioner Stephens moved that the Board of County Commissioners to approve the appeal Hough planned land division, planned development, and appeal, File No. 21-LAND4129 division to land use code 4.7.4.D. due to the existing trees along Vine Drive.

Motion carried 3-0.

MOTION:

Commissioner Kefalas moved that the Board of County Commissioner to deny appeal to the Hough planned land division, planned development, and appeals, File No. 21-LAND4129 division to land use code 5.3.1.

Motion carried 3-0.

MOTION:

Commissioner Stephens moved that the Board of County Commissioner to approval of the appeal Hough planned land division, planned development, and appeals, File No. 21-LAND4129 division to land use code 5.3.4.

Motion carried 3-0.

MOTION:

Commissioner Kefalas moved that the Board of County Commissioners to approve the appeal Hough planned land division, planned development, and appeals, File No. 21-LAND4129 division of sections 4.5.4.A and 5.3.5 of the Land Use Code.

Motion carried 3-0.

ISAACS-EVANS REZONING, FILE NO. 22-ZONE3307:

Rebecca Everette introduced Samantha Mott, Community Development, and Tracy Stetzinger, Health and Environment.

STAFF PRESENTATION:

Ms. Mott gave a brief history of this property. This request was to change the zoning from O-Open to RC - Rural Commercial. This zoning was supported by the Larimer County Comprehensive Plan and the current land use code. Any future development would have to comply with the planning processes. There were no specific conditions of approval.

COMMISSIONER QUESTIONS:

Commissioner Stephens asked about the neighborhood meeting and the details of that meeting. Ms. Mott explained that staff from Larimer County did attend the neighborhood meeting, but it was facilitated by the neighborhood itself.

Commissioner Shadduck-McNally asked about this property's location in reference to the reservoir. Ms. Mott showed a map of the location of the property and approximated the distance between the property and the reservoir.

Commissioner Kefalas asked about the date of the voicemail expressing opposition to this project. Ms. Mott confirmed that the date was before the writing of the appeal to the planning commission.

APPLICANT PRESENTATION:

Samual Issacs addressed the board. Mr. Issacs explained the want to improve the land and the existing building. Mr. Issacs explained that there were concerns about parking on the street and access to holiday dr. Mr. Issacs explained that the plan was to block off the entrances to the parking lot from Holiday Drive. The parking lot has also been expanded to help with parking.

Allen Evans addressed the Board. Mr. Evans explained his hope to correct the zoning and to allow more business to exist in the space.

PUBLIC COMMENT:

Jim Jaginski addressed the Board. Ms. Jaginski explained that his property access was denied for the issues with the rural road use code. Mr. Jaginski expressed a want to learn the difference between his property denial and this approval.

Commissioner Shadduck-McNally closed public comment.

APPLICANT REBUTTAL

Applicant did not wish to have a rebuttal.

COMMISSIONER QUESTIONS:

Commissioner Stephens asked about the details of the O-Open zoning. Ms. Mott explained that this zoning does not allow for many commercial uses. Ms. Mott explained that the previous restaurant was considered a special exception, no longer used in the current land use code.

Commissioner Stephens asked about any safety issues that would be included in this approval, as there would only be one entrance into the parking lot.

Ms. Stetzing explained that the staff was unaware that both entrances from Holiday Drive would be closed, but the staff was aware of one entrance being closed to create more parking spaces. Ms. Stetzing explained that there were not any specific concerns related to safety.

Commissioner Stephens explained that other issues cannot be discussed at this hearing if unrelated to this agenda item.

Commissioner Kefalas asked for clarification about the purpose of this discussion and whether there should be any development proposals, including a site plan review. Ms. Mott explained that that is correct with most proposed plans. Also, the renovations currently being done are under an existing building plan, as the purpose of the building is not changing.

Commissioner Shadduck-McNally asked about the details of approving this Agenda item. Ms. Mott explained that any changes to the business plan would need to be approved separately after a site plan review. Ms. Mott continued explaining that this discussion is only for application and no other issues.

DELIBERATION:

The Board expressed support for approval for this application as this change aligned more readily with the activity already happening on the land.

MOTION:

Commissioner Kefalas moved the Board of County Commissioners to approve the Issacs-Evans Rezoning.

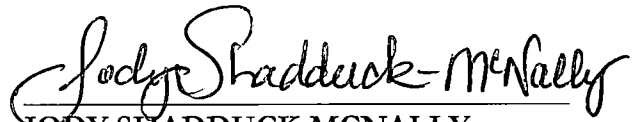
Motion carried 3-0.

With there being no further business, the Board adjourned at 5:05 pm.

TUESDAY, AUGUST 29, 2023

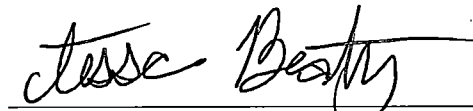
ADMINISTRATIVE MATTERS MEETING

There was no Administrative Matters Meeting this week.


JODY SHADDUCK-MCNALLY
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS
CLERK AND RECORDER

ATTEST:



Tessa Beaty, Deputy Clerk

