LARIMER COUNTY
COMMITTED TO EXCELLENCE

MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, DECEMBER 9, 2024

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Jenny Axmacher, Planning Manager. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally were present. Also present were Danielle Reimanis, Jacy McNulty, Christina Scrutchins, Ryane Oswandel, and Samantha Lasher, Community Development; Michael Whitley, Senior Planner; David Pringle, Engineering; Ashton Brodahl and Lea Schneider, Health and Environment; Lesli Ellis, Community Planning, Infrastructure, and Resources Director; Christine Luckasen, Assistant County Attorney; and Lindsey Jones, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

The Board did not wish to remove any items from the Consent Agenda. No members of the public wished to remove any items from the Consent Agenda.

PUBLIC HEARING CONSENT ITEMS:

1. CHOICE ORGANICS TRANSFER OF MEMBERSHIP INTEREST, FILE NO. 13-G0257: The subject property is 813 Smithfield Drive, Fort Collins which is located approximately 1,200 feet southwest of the intersection of Mulberry Street and I-25. The property is zoned CC – Corridor Commercial, is within the Fort Collins Growth Management Area, and within the East Mulberry Corridor Plan area. The site is 1.16 acres, and the existing building has a footprint of 8,400 square feet.

Choice Organics, Inc. was formed in 2010 by Brian and Erica Freeman. Choice Organics received Special Review approval from the Board of County Commissioners on October 18, 2010, to operate a Medical Marijuana Dispensary & a Medical Marijuana Grow Operation within Units A & B of the building. Choice Organics, Inc. was issued a Retail Marijuana Store License and a Retail Marijuana Cultivation License in 2014 to operate within Units C & D of the building. Those licenses have been renewed each subsequent year until 2023. In 2023, Choice Organics elected to not renew their Retail Marijuana Cultivation License. The Retail Marijuana Store license was renewed in 2023 and 2024.

Sections 4-209 (b) and (c) of the Larimer County Code read,

(b) Any proposed transfer of capital stock or any change in principal officers or directors of a corporation holding a license shall be reported to the administrator and approved by the Board prior to such transfer or change.

(c) Any proposed transfer of membership interest or any change in members of any limited liability company holding a license shall be reported to the administrator and approved by the Board prior to such transfer or change.

In 2021, the Board of County Commissioners approved a sale of 100% of Brian and Erica Freeman's shares in Choice Organics, Inc. to DP Holdings, LLC, which was owned by Alexander Levine, Andrew Levine, and Lisa Leder. DP Holdings is an arm of the Green Dragon Brand, which holds approximately 25 marijuana licenses across several companies. A request was submitted by Lucas Ewing, Compliance Counsel & Director of Compliance for Ease, Inc. and it describes the proposed ownership reconfiguration that would result in an ownership change of Choice Organics, Inc. from DP Holdings, LLC to Eaze Inc. and Eaze Colorado LLC. Eaze Inc. and Eaze Colorado LLC are owned by James Clark.

Closing of the transaction is contingent upon securing the approval of Larimer County. No changes to the location, physical composition, or structure of the facility are proposed. Although the ownership interests are proposed to change, Choice Organics, Inc. will continue to hold the Retail Marijuana Store License. The Special Review approval for the medical marijuana dispensary within Units A & B is independent of the retail marijuana license and is not affected by the change in principal officers and transfer of ownership interest of Choice Organics, Inc.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends that the Board of County Commissioners approve the Choice Organics, Inc. Change in Principal Officers and Transfer of Membership Interest, File No. 13-G0257.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Consent Agenda subject to the conditions in the staff reports and further moved to authorize the Chair to sign the Findings and Resolutions.

Motion carried 3-0.

PUBLIC HEARING DISCUSSION ITEMS:

1. HESLEP APPEAL, FILE NO. 24-ZONE3651: Jacy McNulty introduced this request for an appeal to §4.3.7.B.1 and §4.3.7.B.2 of the Land Use Code for an existing Accessory Living Area (ALA) to utilize a well as the primary source of domestic water within the Northern Colorado Water Association's service area. Ms. McNulty detailed the location of the subject property at 6699 Savvy

Place, which is approximately 0.75 miles southwest of the intersection of N. County Road 21 and W. County Road 60E. The property is currently developed with a 3,200 square foot garage containing an 800 square foot apartment that will be converted into the ALA. There is also a 2,000 square foot garage on the property that contains a garage, wet bar, and game room. The applicant would also like to construct a new single-family home on the lot.

Ms. McNulty shared the two portions of the Land Use Code that are being appealed. Ms. McNulty also shared the review criteria and conditions of approval for this appeal.

REVIEW CRITERIA

When considering whether to approve an appeal to deviate from standards or requirements of the Code, other that minimum lot size requirements, the Board of County Commissioners may grant the appeal subject to safeguards and conditions 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 appeal:

a. Approval of the appeal will not subvert the purpose of the standard or requirement.

The purpose of §4.3.7.B of the Larimer County Land Use Code is to implement the Comprehensive Plan goal of ensuring that adequate public and/or private utilities, facilities, and services are provided and maintained concurrently with development. Utilizing a well to supply water to an ALA within a water service area will not subvert the purpose of the standard or requirement because the well complies with State permitting requirements and is potable with treatment and filtering systems. The purpose of such standards typically includes protecting water resources, ensuring equitable access, and maintaining infrastructure integrity. A properly regulated well that serves only the ALA aligns with these goals by avoiding undue strain on the service area's water supply while adhering to sustainable groundwater management practices. This approach ensures that the well's use supports, rather than undermines, the objectives of resource conservation, public safety, and equitable water service.

b. Approval of the appeal will not be detrimental to public health, safety, or property values in the neighborhood.

Utilizing a well to supply water to an ALA within a water service area will not be detrimental to public health, safety, or property values if the well is properly maintained and monitored to meet all applicable water quality and safety guidelines. Ensuring the water is safe for consumption through regular testing protects residents and the broader community. Proper permitting and adherence to the County's Land Use Code will ensure the well is consistent with neighborhood standards, minimizing any risk of adverse effects on property values. Additionally, by limiting the well's use to the ALA and managing its impact on local water resources, the arrangement supports sustainable development without compromising the health, safety, or appeal of the neighborhood.

c. Approval of the appeal is the minimum action necessary.

Utilizing a well to supply water to an ALA within a water service area is the minimum action necessary when extending public water infrastructure to the ALA is not feasible due to the NCWA's tap moratorium. Because NCWA cannot adequately support the additional demand, a well provides a straightforward and self-sufficient solution. This minimizes disruption to the broader water service area while still meeting the essential water needs of the ALA. By ensuring the well's use is limited and compliant with regulations, this approach balances practicality with adherence to resource management principles.

d. Approval of the appeal will not result in increased costs to the general public.

Utilizing a well to supply water to an ALA within a water service area will not result in increased costs to the public because the well is privately maintained by the property owner without relying on public resources. By independently sourcing water, the well eliminates any added demand on the public water infrastructure, which helps avoid the need for system upgrades, increased water production, or higher operational expenses for the utility. Additionally, the absence of a connection to the public water system means no additional burden on the association's other members, ensuring the public does not bear any financial impact from the ALA's water needs. Proper management further prevents any indirect costs related to resource depletion or contamination.

e. Approval of the appeal is consistent with the intent and purpose of the Code.

This property is located within the Open (O) zoning district, which is intended for rural residential uses and agricultural uses. Both single-unit and residential use and ALAs are allowed uses within this zoning district. The existing ALA complies with all other standards in the Land Use Code, aside from the use of a well for water supply, which is the subject of this appeal. The property is also located within the Mountains & Foothills framework of the County's Comprehensive Plan. This appeal is consistent with this framework because the use of a well to supply water to the ALA will not negatively impact air and water quality or cultural or natural resources. The utilization of the well will minimize fragmentation of the landscape by providing an alternative water source, which does not require that public water infrastructure be unnecessarily extended beyond its operational capacity.

Utilizing a well to supply water to an ALA within a water service area is consistent with the intent and purpose of the Code because it adheres to regulations designed to protect public health, ensure sustainable water use, and support orderly development. The Code aims to manage resources responsibly while accommodating diverse housing needs, including ALAs, within established guidelines. A well that complies with permitting, environmental, and safety standards aligns with these objectives by ensuring a safe and reliable water source for the ALA without burdening the public system. By maintaining the balance between resource conservation, public welfare, and private property rights, the use of a well upholds the principles underlying the Code. Therefore, staff has made an assessment that the proposed appeal meets the intent and purpose of the Land Use Code since there will be no impact to the general welfare of Larimer County and it does not change the existing character of, or uses on, the subject property.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Heslep Appeal, File No. 24-ZONE3651 subject to the following conditions:

1. Following the approval of this appeal, the applicant must also receive Administrative Special Review approval for the ALA prior to the commencement of its use.
2. The piping system supplied by a private well shall not be connected to the Northern Colorado Water Association's potable water system.
3. The property's existing Northern Colorado Water Association tap must serve only the proposed single-unit residence once construction is completed.
4. Should water service from a water provider become available to the ALA in the future, the structure could be converted to that supply, instead of the well, at the request of the County.
5. A cistern may be used to augment the well supply, but a cistern cannot be used as the primary source or water supply for any dwelling, as it would not meet the Code's requirement for a permanent domestic water supply.
6. This appeal is only for the existing ALA to utilize the well for water supply. Water supply for any other future buildings on the property shall be evaluated by the County at the time that an application for a building permit is received.

Should the Board of County Commissioners approve this appeal, the Heslep Accessory Living Area Administrative Special Review, 24-ZONE3651, will also be approved administratively, as recommended by the Development Services Team, subject to the following conditions:

1. The single-unit character of the property must be maintained.
2. The accessory living area shall be limited to 800 square feet.
3. The accessory living area shall be located as shown on the approved site plan.
4. The accessory living area must not be rented or leased for less than 30 days (as a Short-Term Rental) separately from the single-unit dwelling.
5. The accessory living area must be used solely for guests of the occupants of the single-unit dwelling, long-term tenant occupants (greater than 30 days), or those providing a service on site in exchange for their residency.
6. An address must be assigned to the accessory living area prior to issuance of a Certificate of Occupancy.
7. The owner is responsible for paying all applicable fees, which may include building permit fees, impact fees, and Transportation Capital Expansion Fees applicable to an accessory living area.
8. This Administrative Special Review approval shall be automatically null and void in the event the applicant fails to comply with any conditions of approval or fails to use the property consistent with the approved Administrative Special Review.
9. This approval shall automatically expire three years from the date of approval if the use has not commenced and/ or a building permit is not issued.
10. One off-street parking space shall be provided for the Accessory Living Area.

11. Staff recommends the applicant read and address all referral agency comments. Comments may be enforced by the respective referral agencies, including those not included as conditions of approval in this report.

APPLICANT PRESENTATION:

The applicant, Daniel Heslep, opted not to give a presentation.

PUBLIC COMMENT: There was no public comment in person or online.

Chair Kefalas closed public comment.

QUESTIONS FOR APPLICANT AND STAFF:

The Board asked why the applicant is requesting a well rather than a normal water tap through the Northern Colorado Water Association (NWCA). Ms. McNulty explained that Mr. Heslep applied for approval for an Accessory Living Area (ALA) in April of 2024. As his application was nearing final approval, NCWA rescinded the applicant's ability to apply for a water a tap for this ALA, so the applicant is seeking an alternative solution. The well on the property is an existing well. The existing NCWA water tap will be moved to the new primary residence after construction, and the well will be used to supply water to the ALA.

Jenny Axmacher further expanded on the NCWA policy change that led to this situation.

The Board commented that review criteria have been met for this appeal. If the appeal is approved, it will then move through an administrative review process.

DELIBERATION:

The Board expressed their approval for this application and sympathized with the homeowners in the area who are facing similar issues with water taps. The Board mentioned the review criteria and conditions that were added to move this application forward.

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the Heslep Appeal, File No. 24-ZONE3651, subject to the conditions outlined above.

Motion carried 3-0.

2. MANUFACTURED HOUSING PARK PRESERVATION (MHP-P) ZONING DISTRICT, FILE NO. 24-CODE0279: Danielle Reimanis gave a presentation describing the purpose and the goals of the proposed Manufactured Housing Park (MHP-P) Zoning District. This new zoning district is intended to maintain affordability and to preserve natural alternative housing opportunities and strong communities. It is intended to help preserve existing manufactured housing parks and to encourage manufactured housing as the primary use in the zoning district. This is in alignment with the Larimer County Comprehensive Plan goals of Housing Needs and Housing Diversity. Ms. Reimanis noted that the City of Fort Collins has recently created a similar zoning district.

Ms. Reimanis read the proposed intent statement for the MHP-P zoning district. There are two phases of this project. The first phase is currently in progress and will result in adoption of the new zoning district. The second phase in 2025 and beyond will include implementation of the MHP-P zoning district through legislative rezoning. Phase two is not being discussed at this meeting.

Ms. Reimanis gave some background on mobile home parks in unincorporated Larimer County. There are currently 33 manufactured home parks in Unincorporated Larimer County. There is already a Manufactured Housing Park (MHP) zoning district that currently includes 13 parks. Nine of the existing parks are located in the O-Open zoning district, which does not allow for manufactured housing parks, so those parks are considered nonconforming uses. The remaining parks are located in various other zoning districts. The proposed MHP-P zoning district would allow the 20 parks not currently in the MHP zoning district to come into legal compliance as conforming uses.

Samantha Lasher explained some of the proposed Land Use Code changes that would come about with this new zoning district. The proposed MHP-P district would limit allowed principal, accessory, and temporary uses, focusing on supporting residents and preserving communities. Another change to the Land Use Code would match lot and building standards to the existing MHP zoning district. Ms. Lasher also reviewed some of the benefits of this zoning district.

Ms. Lasher noted that this item was on the agenda for the November 20, 2024, Planning Commission public hearing at 6:00 p.m. The Larimer County Planning Commission voted 5-2 to recommend the adoption of the MHP-P Zoning District to the Board of County Commissioners. Those in favor highlighted the importance of preserving manufactured housing parks and communities. Those who were opposed felt the project added complexity without sufficiently addressing affordable housing challenges. Staff recommends approval of the adoption of the MHP-P Zoning District, File No. 24-CODE0279, pursuant to the recommendations outlined in the Planning Commission Meeting Minutes from November 20, 2024.

The Board asked Staff to elaborate on the reasons some Planning Commissioners gave for voting against recommending approval. The Board specifically wanted to know if the concerns raised were regarding the district itself, or about implementation of the new district. Ms. Reimanis responded that many of the concerns raised were in connection with addressing housing affordability and that this new district does not necessarily address this issue. That issue is out-of-scope for this specific project because affordability cannot be meaningfully impacted through zoning.

The Board asked about allowed accessory uses, specifically regarding backyard poultry. Ms. Lasher explained that backyard poultry, accessory apiaries, and farmstands would be allowed uses under the new zoning district as long as the Homeowners Associations or park managers allowed those uses in individual communities.

The Board asked what takeaways from the City of Fort Collins can be applied to Larimer County in the creation of this new zoning district since they implemented a similar district. Ms. Reimanis commented that one of the main concerns the City of Fort Collins mentioned was implementing a process for handling new manufactured housing parks. The MHP-P zoning district is intended to protect existing parks, but there is not a plan in place yet for introducing new parks. This will need to be addressed in phase two of the plan. Ms. Lasher added that the new zoning district in Fort Collins was adopted at the end of 2020 and was implemented about one year later. Ms. Lasher detailed some of the public interest in that project. Fort Collins rolled out changes en masse to most of their manufactured housing parks, while Larimer County will most likely make changes to each individual park on a case-by-case basis.

PUBLIC COMMENT:

Tiffin Vaughn spoke in favor of the proposed MHP-P zoning district. Ms. Vaughn appreciated that this proposed zoning district was intended to improve conditions in the manufactured housing communities. Ms. Vaughn also requested that protections be included to prevent heavy industry from being built near any of the existing communities to protect the residents from poor air quality.

Carol Mahoney addressed the Board via Zoom. Ms. Mahoney commented that she was listening in because she is a City of Fort Collins Neighborhood Services staff member and was interested in the process.

Chair Kefalas closed public comment.

QUESTIONS FOR STAFF:

The Board asked about zoning and environmental adjacency rules as mentioned by Ms. Vaughn. Ms. Lasher stated that in theory a commercial or industrial property could be adjacent to a residential community. There would be a thorough review process if this were to be proposed, especially if a heavy industry was trying to build next to an existing residential area.

DELIBERATION:

The Board mentioned the work that is being done to provide affordable housing in Larimer County and that this zoning district would be a step in the right direction. The Board appreciated the reference made to the 2019 Comprehensive Plan and the specific goals that this proposal addresses. Manufactured housing communities are natural affordable housing, so preserving these units is a top priority when considering affordable housing and housing diversity. Preserving these units prevents homelessness by preventing vulnerable residents from being displaced. The Board recommended several considerations for Staff as they move into phase two of the project.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the adoption of the Manufactured Housing Park Preservation (MHP-P) Zoning District, File No. 24-CODE0279.

Motion carried 3-0.

3. LARIMER COUNTY WATER MASTER PLAN, FILE NO. 24-CODE0280: Danielle Reimanis presented a brief overview of the Water Master Plan. The Plan outlines the County's role in supporting water conservation, protecting watershed health, collaborating with water providers and stakeholders to address water supply challenges, mitigating hazards, and ensuring long-term water security for the community and region. If adopted, the Water Master Plan will become an element of the Comprehensive Plan. There are 10 strategies that will be utilized as the plan continues to unfold over the coming years.

Initiated in late summer 2023, the Water Master Plan project has involved significant collaboration among the Board of County Commissioners, board members, staff and consultants from the Planning team, and a diverse array of stakeholders representing utilities, agricultural sectors, watershed coalitions, environmental organizations, and other key sectors affected by and interested in water resource issues. This inclusive approach has allowed the County to address specific community water needs, identify priority areas, and develop strategies that reflect a shared vision for Larimer County's water future.

Ms. Reimanis noted that the Water Master Plan was adopted at a Planning Commission hearing on November 20, 2024. The Planning team is bringing forward the adopted Water Master Plan for the Board of County Commissioners to consider and approve. The Board of County Commissioners reviewed the adoption draft at a work session on November 18, 2024.

Ms. Reimanis thanked the Board for their enthusiasm about this project and their partnership in helping to create the Plan. The Water Master Plan can be found online at larimer.gov/planning/water.

STAFF RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS:

Staff recommends that the Board of County Commissioners approve the adoption of the Water Master Plan, File No. 24-CODE0280, with any changes to timeframe strategies and which to prioritize proposed by the Board of County Commissioners at their work session on November 18, 2024. The proposed plan is based on a thorough and inclusive public engagement process, and it meets the criteria set forth in Colorado Revised Statutes Title 30, § 30-28-106. Specifically, the plan:

- Provides a comprehensive guide for sustainable management of Larimer County's water resources, aligning with the needs of current and future development.
- Includes a water supply element that supports the conservation, quality, and efficient use of water resources, consistent with the Colorado Water Plan.

- Demonstrates coordination with local water providers and stakeholders, enhancing compatibility with regional water management goals.
- Reflects a robust approach to public engagement, incorporating community input and addressing key concerns.

QUESTIONS FOR STAFF:

The Board asked if stakeholders will be provided with a hard copy of the Water Master Plan. Ms. Reimanis responded that the final version of the Plan will be shared with stakeholders and community partners, but at this time a hard copy has not been created or bound. Lesli Ellis mentioned that not all partners would want a hard copy, but they can certainly consider printing hard copies for those partners who would want it depending on the budget.

The Board asked if the additional strategies considered but not selected would be included in the final copy. Ms. Reimanis stated that leaving those items in the appendices is a possibility if it adds value to the plan. Ms. Ellis commented that this plan will remain online in full for the entire lifetime of the plan.

The Board asked if Staff has considered how this information can be presented to the community. Ms. Reimanis mentioned one of the strategies included in the plan that is specifically geared toward raising awareness and sharing this information with the community. There has been consideration of making a video or publishing an article in a local news source.

PUBLIC COMMENT: There was no public comment in person or online.

Chair Kefalas closed public comment.

DELIBERATION:

The Board thanked Staff for their hard work and community engagement. This is a comprehensive plan that creates many protections for the community regarding water quality, watersheds, agricultural land, and more. Tying water to land use planning is crucial as the County plans for long-term droughts and climate issues. This is a living document that can be changed as needs evolve. The Board emphasized the importance of this plan and how it can impact the lives of Larimer County residents. The Board also wanted to recognize Ms. Ellis for her dedication to the creation of this plan.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the adoption of the Water Master Plan, File No. 24-CODE0280, to become an element of the Larimer County Comprehensive Plan as proposed.

Motion carried 3-0.

With there being no further business, the Board recessed at 4:30 p.m.

LAND USE HEARING

The Board of County Commissioners met at 6:30 p.m. with Jenny Axmacher, Planning Manager. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally were present. Also present were Michael Whitley, Senior Planner; Traci Shambo, Engineering; Christina Scrutchins and Ryane Oswandel, Community Development; Rebecca Everette, Community Development Director; Lea Schneider, Health and Environment; Christine Luckasen, Assistant County Attorney; and Lindsey Jones, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

PUBLIC HEARING DISCUSSION ITEMS:

1. MUSTANG MOUNTAIN COASTER EXPANSION/CHANGE IN CHARACTER OF A NONCONFORMING USE, FILE NO. 24-ZONE3615: Michael Whitley introduced this request for a one-time expansion/change in character of the Mustang Mountain Coaster use, consisting of the expansion of the parking lot and approval of a 20-foot by 20-foot observation deck. Mr. Whitley noted that in the request proposal, there were several references to proposed exterior lighting changes. Since the application was initially presented, it has become apparent that the exterior lighting was already approved and installed under the original development plan. There are conditions of approval regarding bringing existing lighting into compliance with current standards and mitigating the impacts of the exterior lighting.

Mr. Whitley described the subject property, which is a 186.75-acre parcel at 1180 Dry Gulch Road, Estes Park, northeast of the intersection of Dry Gulch Road and Highway 34. The property is zoned EV RE-1 – Estes Valley Rural Estate and is within the Estes Valley Planning Area. The Estes Mountain Coaster Development Plan was approved by the Town of Estes Park Community Development Director on August 6, 2018. The approved Development Plan consists of a mountain coaster, a 19-space parking lot, a building containing a ticket office and restrooms, and a storage building. A shuttle system was proposed to bring customers from a 38-space off-site lot to the property.

Mr. Whitley provided some background information on the legal history of this property due to public concern that has been raised over the initial approval process. When the mountain coaster project was reviewed and approved, an intergovernmental agreement (IGA) between Larimer County and the Town of Estes Park was in effect. Land within the Estes Valley Planning Area was subject to the Estes Valley Development Code and that Code was administered by Town of Estes Park staff. At the time of approval, the Estes Park Community Development Director determined that the proposed mountain coaster should be classified as a Park and Recreation Facility and not an Outdoor Commercial Recreation or Entertainment Establishment. Park and Recreation Facilities were allowed by the property's zoning, but Outdoor Commercial Recreation or Entertainment Establishments were not allowed. Both the classification of the mountain coaster as a Park and Recreation Facility and the approval of the mountain coaster were appealed by surrounding property owners. The classification and approval were both upheld by the Board of County Commissioners at two public hearings. Those decisions were appealed by neighbors. Ultimately, courts upheld both decisions by the Board of County Commissioners.

Mr. Whitley further explained that the IGA between Larimer County and the Town of Estes Park expired in 2020. Administrative approvals on unincorporated properties within the Estes Valley Planning Area are now approved or denied by the Larimer County Community Development Director. The Land Use Code defines a nonconforming use as "a use that does not conform to the requirements of this Code but did conform to all applicable zoning requirements at the time of adoption, revision, or amendment of this Code." The Land Use Code has been amended since approval of the Mustang Mountain Coaster, and private Park & Recreation Facilities are no longer allowed in the EV RE-1 - Estes Valley Rural Estate zoning district. The use on this property is therefore nonconforming. The Land Use Code allows for a one-time limited expansion or change in character of a nonconforming use. The extent of the allowed expansion or change is specified in Section 1.10.7.D.1.a., and further detailed in the Review Criteria below.

The application currently under review is a request for the one-time expansion/change in character and consists of expanding the existing 19-space parking lot serving the Mustang Mountain Coaster by adding 50 on-site parking spaces, including one ADA compliant space and seven Electric Vehicle (EV)-capable spaces. The applicant has requested to continue to use the shuttle system as needed, and some conditions of approval concerning the shuttle system are included below.

The applicant also requests a retroactive approval of an existing 20-foot by 20-foot observation deck adjacent to the parking lot. The deck was not approved with the original development plan and a permit was not obtained for the deck prior to construction. Mr. Whitley noted that Staff was also recently notified of an area near the observation deck that was paved without review or approval by the County. This was intended to be an undisturbed area. Staff does not have a specific recommendation about the paved area, but the Board of County Commissioners could establish conditions for the use or lack of use of this area as they consider approval.

Mr. Whitley reviewed Section 1.10.7.C.4 of the Land Use Code, which guides the review and approval of these types of applications. The Community Development Director determined that this application required a public hearing given that some neighbors continue to have concerns with the request.

In response to some public comments received, Mr. Whitley noted that the applicant had no intention of running chuckwagon dinner rides, which had been run by Sombrero Stables on the property from the 1960s up until 2019. The condition of approval regarding chuck wagon dinners has been removed, but Mr. Whitley noted that those would not be allowed to resume at any time because they were never an allowed use. In addition, unapproved overflow parking and storage areas were developed around the existing parking and ticket office. While some application materials indicate that the area north and east of the ticket office could be used for vehicle storage, the applicant has agreed to not use any portion of the property for overflow parking or outdoor storage of any kind.

Mr. Whitley emphasized that this is a one-time allowed expansion. Further changes would require a separate approval process consistent with the property's zoning. Since private parks and recreation uses are not allowed by the property's current zoning, there would not be a path forward for changes to the development plan unless the Land Use Code was amended to allow those uses. Mr. Whitley also noted that the Mustang Mountain Coaster would be able to continue regular operations even if this application is not approved, as long as they operate subject to the conditions of approval for the original development plan. The continued use is not a question for this hearing, regardless of public interpretation.

Mr. Whitley also noted that there is a history of code compliance violations on this property. However, the Land Use Code specifies that the presence of a code compliance case is not to be considered when determining if an application should be approved or denied. The application must be considered independently based upon the review criteria regardless of any current or past code compliance violations.

Mr. Whitley briefly touched on the review criteria below. Mr. Whitley also reviewed the Estes Valley Planning Commission and the Larimer County conditions of approval. It will be left up to the Board of County Commissioners which conditions to impose. Revisions to the original conditions of approval are indicated in italics below.

REVIEW CRITERIA

Section 1.10.7.D (Expansion or Change in Character of a Nonconformity Review Criteria):

1. General criteria to approve a request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure, the Director or County Commissioners shall consider the following criteria and find that each has been met or determined to be inapplicable:

a. The extended, expanded, enlarged, or changed use, building, or structure will not be more than 2,000 square feet or 50 percent larger or more intense than the initial use, building, or structure as measured by indoor area and/or outdoor use area or as measured by other means deemed applicable by the Director or County Commissioners;

In this case, it is the mountain coaster use that is nonconforming. The expansion of the parking lot and an observation deck is an expansion of the infrastructure supporting the coaster but is not an expansion of the nonconforming use itself. The proposed changes would not extend or enlarge the coaster track, would not expand the number of people served by the mountain coaster, and would not expand the hours of operation. The subject property is 186.75 acres, and the mountain coaster and associated improvements occupy approximately 8 acres of the site. The proposed parking improvements would add approximately 14,400 square feet of pavement to the site and the deck occupies 400 square feet.

The application materials indicate that the applicant intends to continue using the shuttle on an as-needed basis. The Traffic Impact Study submitted by the applicant indicates that the proposed 69 total spaces would accommodate peak demands, but it also recommends retaining the shuttle to accommodate excess demand should the need for the shuttle arise. The applicant's FAQ Sheet indicates that the coaster currently has 50 off-site parking spaces, and this application proposes to relocate those parking spaces from off-site to on-site. With the intent of minimizing vehicle trips and limiting potential increases in the number of guests served, the Development Services Team recommends a condition of approval that requires discontinuing the use of off-site parking lots and the shuttle system.

The Development Services Team finds that the request complies with this criterion.

b. The request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure complies with all applicable requirements of this Code and any applicable supplementary regulations to the maximum extent practicable;

The existing on-site infrastructure complies with all applicable requirements of the Land Use Code. The proposed parking spaces would comply with minimum required dimensions, paving requirements, accessible parking standards, and electric vehicle parking space requirements. A permit from the Building Division will be required for the deck which will allow for the evaluation of compliance with applicable building code standards.

The Development Services Team finds that the request complies with this criterion.

c. The request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure complies with all conditions of approval imposed by the County Commissioners, the Board of Adjustment, or Flood Review Board under another approval process authorized by this Code;

The mountain coaster was initially approved by the Town of Estes Park Community Development Director on August 6, 2018, as authorized by the intergovernmental agreement in effect at the time of approval. The approval letter contains five conditions of approval. Condition 3 states that the construction and use of the coaster shall be consistent with the approved plans. Construction of the deck without zoning approval or permits is not consistent with that condition, but approval of this request would allow the property owner to bring the deck into compliance. All other elements of the use are compliant with the conditions of the original approval. There have been no additional conditions imposed by the Board of County Commissioners, the Board of Adjustment or the Flood Review Board.

The proposal complies with this criterion.

d. The proposed use will be compatible with existing and allowed uses in the surrounding area;

Compatibility of the mountain coaster with the surrounding area was not a criterion when the use was approved as a Park and Recreation facility in 2018. The predominant concerns expressed by neighbors have been traffic and noise. While the applicant has addressed those concerns through the conducting of a neighborhood meeting and information in their application materials, the concerns remain unresolved.

Currently, every mountain coaster customer first arrives at the property in a private vehicle. If the 19 parking spaces are full, the vehicle must follow a shuttle to a satellite parking area, then the shuttle brings the customer(s) back to the site. The customer(s) are shuttled back to their vehicle after riding the coaster. The expanded on-site parking and discontinuance of the shuttle system would decrease the overall vehicle trips. None of the proposed improvements would change the noise situation as it would not increase the number of customers and would not change the hours of operation. The existing mountain coaster is a legal use operating in compliance with an approved Development Plan.

The Development Services Team finds that because the proposed request would not increase traffic or noise impacts, it would not change the compatibility of the existing operation and would therefore comply with the criterion.

e. The proposed use will not result in a substantial adverse impact on other property in the vicinity of the subject property.

As discussed above, the proposed changes would not increase traffic or noise impacts. The proposed changes should therefore not result in a substantial adverse impact on other property in the vicinity.

The Development Services Team finds that the request complies with this criterion.

2. Determination of Change in Character of Nonconformity – In determining whether there would be a change in character of a use, building, or structure, the following factors may be considered:

a. Whether there will be a change in the location, nature, volume, intensity, frequency, quality, or degree of the use, building or structure. (For example, would there be a significant increase in the number of employees or traffic volume; a change in the days or hours of operation; or would the physical dimensions of the building or structure be increased?);

While the proposed request would expand support infrastructure on the property and would shift off-site parking to on-site, it would not change the location, nature, volume, intensity, frequency, quality, or degree of the mountain coaster use.

b. Whether there would be a change in the activity, products, or services. (For example, a dog grooming facility that has been converted to a retail store for pet supplies could be considered a change in the character of use.);

The proposed site improvements would not be a change in the activity or services provided by the nonconforming mountain coaster use.

c. **Whether the new use, building, or structure would reflect the nature and purpose of the prior use or structure. (For example, an air strip used for seasonal crop-dusting operations that is subsequently used only for recreational parasailing could be considered a change in the character of use.);**

The proposed on-site changes are in support of the existing mountain coaster and would not change the nature or purpose of use.

d. **Whether the new use would be different in kind on its effect on the neighborhood. (For example, has there been a change in environmental influences on the neighborhood, such as light, noise, or air quality?).**

There is not a new use proposed. As previously discussed, the proposed changes would not increase traffic or noise and would not change hours of operation.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team and Estes Valley Planning Advisory Committee recommend approval of the Mustang Mountain Coaster Expansion/Change in Character of a Nonconforming Use, File No. 24-ZONE3615.

While two sets of conditions are found below, the Development Services Team defers to the discretion of the Board of County Commissioners regarding which conditions to adopt should the Board approve the application.

The Estes Valley Planning Advisory Committee recommends the six conditions below:

1. Remove the auxiliary vehicle storage area because it would exceed 50% of the originally approved 46,466 feet and require that area to be revegetated.
2. Maintain the original approved plan's daylight hours and allow no additional recreational facilities.
3. The applicant must agree to revegetate all areas damaged and any areas where parking is removed.
4. The applicant must agree to no night lights or operations.
5. The applicant must complete a supplemental traffic appraisal to evaluate the need for right and left turn lanes.
6. The property will be subject to regularly scheduled inspections. (Staff note: If the Board imposes this condition, staff requests direction regarding frequency of inspections and what the inspections are intended to accomplish.)

The Development Services Team recommends the conditions below. A memo with modified proposed conditions of approval was provided to the Board of County Commissioners on December 5, 2024. The modified conditions are indicated in italics below:

1. No portion of the property may be used for overflow parking or outdoor storage of any kind.
2. Areas previously used for unauthorized overflow parking and/or unauthorized outdoor storage shall be revegetated *within one year from the date of approval.*
3. The use of off-site parking lots and the use of a shuttle shall be discontinued.
4. *Cut sheets of existing exterior lighting fixtures shall be provided and a photometric plan demonstrating compliance with illumination standard shall be submitted, reviewed, and approved within six months from the date of approval.*
5. All exterior lighting not necessary for security purposes shall be reduced, activated by motion sensor devices, or turned off during non-operating hours. Any illumination between 8:00 p.m. and sunrise shall be reduced to levels sufficient for security purposes only.
6. A permit must be obtained from the Building Department for the existing deck within one year from the date of approval.
7. *There shall be no public access to the deck until a letter of completion has been issued for the deck.*
8. *The hours of operation shall be restricted to 8:00 a.m. to 8:00 p.m., or until 30 minutes after the official sunset, whichever occurs first. These hours of operation shall supersede all previous assumed or explicit approved hours of operation.*
9. No further expansion of the use or infrastructure supporting the use can be considered through the expansion of a nonconforming use or change in character of a nonconforming use process.

The Board asked about compatibility of the coaster with the surrounding area. Mr. Whitley responded with details about the original development plan and how this plan would decrease traffic on Dry Gulch Road. Concerns with compatibility in the surrounding area would not be increased by approving this application. The Board asked if the applicant has considered alternatives to managing traffic concerns such as timed entry. Mr. Whitley deferred to the applicant to answer this question.

The Board asked for clarification about Staff's understanding of the coaster being the nonconforming use and not the parking or infrastructure around it. Mr. Whitley explained that this is an expansion of sorts, but it is not an expansion of the actual coaster itself, the hours of operation, or the number of customers served. This is just an expansion of the infrastructure surrounding the nonconforming use.

The Board asked for additional context surrounding the initial approval for the coaster by the Town of Estes Park, specifically since the original parking request was for the unusual number of 19 parking spaces. Mr. Whitley responded that the 2018 Estes Valley Development Code that no longer exists specified that park and recreation facilities containing 20 or more parking spaces would require a public hearing with the Estes Valley Planning Commission. At 19 parking spaces, the application could be approved through an administrative approval process with no public hearing. The Director at that time determined that the original application could be approved administratively. After many appeals to both the Board of County Commissioners and the courts, the approval was ultimately upheld based on the Code that existed at the time of approval.

The Board commented on the history of code violations with this property, such as the deck built without a permit, the paved area near the observation deck, nighttime operations, a petting zoo, chuckwagon rides, and unapproved overflow parking. The Board sought to understand why this history of violations could not be considered when deciding whether to approve the application. Mr. Whitley reiterated that when an application is received for a property with past or current code compliance violations, the review criteria for the application under review is the review criteria found in the Code. This means that when the Board evaluates this application, they should only consider the review criteria for this application, which is for the expansion/change of character of a nonconforming use, without regard to a history of compliance. The Board may add conditions of approval aimed at enforcing future compliance or to establish parameters under which the operation is allowed to continue.

The Board asked about the one-time expansion policy and how that pertains to the overflow parking the applicant has already been using. Mr. Whitley explained that the extended parking was not a formal or approved expansion. This application is the only opportunity to have an expansion approved unless the Land Use Code is amended. Changing the site without approval does not count as a modification to the development plan. Mr. Whitley also commented on a Planned Development (PD) question that has been raised by the public. A PD is a specific zoning district that proposes a use that falls outside of the limits of the Land Use Code. If the applicant were to apply to rezone to a PD, the PD would result in a development that would be in line with the Comprehensive Plan, and this property is currently zoned for residential uses under the Comprehensive Plan. The Coaster could not exist within a residential use, so Staff would recommend denial.

APPLICANT PRESENTATION:

Greg Hecker, Director of Operations for the Mustang Mountain Coaster, explained this project proposal. This proposal is for an additional 50 parking spaces on site, which would shift off-site parking to on-site. There will also be one new ADA-compliant parking space added for a total of three, and seven Electric Vehicle (EV) spaces. The reasons for the application include consolidating operating activities on site, reducing the operating footprint, focusing on the core competency of offering coaster rides, and amending the operating plan to reflect the new parking and traffic patterns.

Mr. Hecker outlined the top 10 concerns raised by the public, which include traffic, potential future expansion, shared land use, public trust and adherence to the operations plan, impact on natural resources, limiting shuttle operations, noise, overflow parking and storage, chuckwagons and night rides, and the justification for 50 spaces.

Mr. Hecker offered a response to many of the public's concerns and shared how approval of this application would address many of these issues. Traffic would be reduced with the limiting or elimination of shuttle rides as the number of trips for a single visitor would be reduced from 5 trips to 2 trips. Informal petting zoos and chuckwagon rides were operated by Sombrero Stables, not

Mustang Mountain Coaster, and these operations will not be reinstated. Since receiving a formal notice of non-compliance from the County in September 2023, no further compliance violations have occurred. Mr. Hecker stated that he is now the formal Compliance Officer for the business and that his contact information will be made available to the public to direct any complaints.

Mr. Hecker stated that his business has no objections to the Larimer County conditions of approval. Mr. Hecker did request a provision for shuttling employees and customers in large vehicles such as Recreational Vehicles (RVs) or private buses from the off-site parking lot. Mr. Hecker also had questions regarding what revegetating certain areas would specifically entail.

The Board asked about oversized vehicles coming to the property. Mr. Hecker answered that some customers arrive to the coaster in oversized vehicles such as private buses with groups, RVs, and motor homes at least 10-15 times per week. If they are not able to use the off-site parking, they may need to be turned away.

The Board asked the applicant if the business has considered an online ticketing system, timed entry, or other means for managing traffic on the property. Mr. Hecker responded that timed entry would result in a dramatic decline in the number of customers they are able to serve. Other solutions such as shuttle staging zones or road signage would require additional staffing, resources, and approvals from various entities. Mr. Hecker also stated that in his experience, directions and wayfinding signage are largely ineffective and would not prevent customers from driving up to the main lot first before parking in the overflow lot to ride the shuttle.

The Board asked if a customer in an oversized vehicle could park across a couple of parking spaces. Mr. Whitley explained that none of the proposed parking spaces are head-in. They are all single spaces, so an RV would not be able to pull through. Mr. Hecker also clarified that they are willing to concede the RV parking and the shuttle use if that request will prevent approval of the application. The Board asked if the applicant has considered converting single spaces into oversized vehicle spaces. Mr. Hecker responded that it was more lucrative to provide more spaces for singular vehicles rather than fewer large spaces for larger vehicles. The Board expressed concerns with continuing to allow the shuttle because regulating when and how it is used would be more difficult to enforce than disallowing it altogether. Mr. Whitley offered some potential changes that could be made to the plan to accommodate RVs, including an option of allowing additional spaces beyond the 50 proposed spaces.

The Board asked why the existing directional signage does not mention the shuttle. Mr. Hecker stated that the public does not read or pay attention to signs. The safest operation they have found is to let customers go to the main lot first and then redirect them to the off-site shuttle lot. This minimizes people making U-turns on Dry Gulch Road or trying to read extensive signage while they are driving.

The Board asked about the history of violations and how the Board can expect to trust that the applicant will not continue to violate conditions of approval. Mr. Hecker explained that the business was issued a formal letter of non-compliance in 2023. Since the letter was received, there have been no further complaints aside from the observation deck. Many of the violations occurred between

2021-2022 after the IGA was dissolved and it was not clear who the regulatory agency was. Mr. Hecker presented several ideas for enforcement, reporting, or regulation of the business going forward.

PUBLIC COMMENT:

Geoffrey Letchworth, John Gehlhausen, Janet Gehlhausen, and Steve Ryland addressed the Board in opposition to this application. Many members of the public expressed concerns over past violations and dishonesty from the owners, questionable circumstances surrounding the initial approval, excessive noise from the coaster riders and the coaster itself, and negative impacts on nearby property owners. Some commenters worried that granting approval for the observation deck after it was built without approval would call into question the legitimacy of the County's permit system. Others stated that the proposed increase in parking exceeds the 50% limit stipulated in the Land Use Code. Several commenters also recommended certain conditions of approval such as tearing down the observation deck, prohibiting food or drink service on site, and additional rules for enforcement.

Bob Leavitt spoke in favor of the application with strict conditions that will establish firm rules for the business going forward. Mr. Leavitt stated that it would be more beneficial in the long run to allow this one-time expansion in the interests of preventing future violations and reducing traffic.

Fred Barber addressed the Board via Zoom, stating that the coaster itself is inappropriate in a residential neighborhood. The coaster generates a great deal of traffic and noise. Expanded parking could facilitate other disallowed uses, and the owner has a history of violations. Mr. Barber proposed some conditions of approval, including prohibiting uses unrelated to the coaster such as food service and large special events. Mr. Barber believes that clear conditions going forward will benefit both the applicant and the public.

Chair Kefalas closed public comment.

APPLICANT REBUTTAL:

Mr. Hecker addressed some of the public's concerns, stating that no additional services will be made available and food carts will not return. This application is specifically a request to expand the parking lot and not for any other changes. Mr. Hecker also repeated his earlier statement that no violations have been made since the 2023 letter was received. The observation deck was built before that point. The 50 parking spaces will consolidate operations and reduce the overall impact on the neighborhood.

QUESTIONS FOR APPLICANT AND STAFF:

The Board asked about food service on site and gatherings such as weddings or employee picnics. Mr. Whitley responded that food trucks are not allowed in this zoning district. Mr. Whitley also mentioned the Special Event application process and allowances. Outside of the Special Event process, there are no planned large gatherings for this site.

The Board asked about the conditions of approval from the Estes Valley Planning Advisory Committee. There is some overlap between these conditions and the County conditions, as well as some additional conditions mentioned by the public. Mr. Whitley clarified that the Staff conditions are intended to refine the conditions from Estes Valley Planning Advisory Committee.

Christine Luckasen, Assistant County Attorney, advised that no conditions of approval should be included that are duplicative of uses that are already disallowed in the Code or in the previous approval. For instance, chuckwagon dinners are already not allowed, so there is no need to include that as a condition of approval. Mr. Whitley explained that beyond the coaster, the only other historically approved use on the property is trail rides on the property led by Sombrero Stables.

The Board asked how they could prohibit parking of large vehicles such as Recreational Vehicles (RVs). Mr. Whitley offered a few options, such as disallowing parking of RVs, allowing the shuttle on a limited basis for large vehicles only, or adding additional spaces for large vehicles.

The Board had questions about the condition of approval regarding revegetation. Mr. Whitley stated that Staff is open to options, but the main intent of this condition is to make it physically apparent that the areas in question are not to be used for overflow parking, storage, or any other use. River rock, gravel, live plantings, or fencing are all options that can be considered.

The Board asked about the possibility of an appropriate condition of approval regarding enforcement. Ms. Luckasen explained that there is an enforcement mechanism built into the Land Use Code. Anything beyond the conditions in the Land Use Code would not be appropriate as a condition of approval. Each application must be considered independently, and prior conduct is not an appropriate consideration, whether prior conduct is positive or negative.

Rebecca Everette, Community Development Director, commented that the Code Compliance process is effective. This application is a direct response to the Code Compliance process, and this is the applicant's attempt to discontinue prohibited uses.

The Board asked for clarification around the 50% expansion that a member of the public mentioned. Mr. Whitley responded that from Staff perspective, increasing the infrastructure around the nonconforming use would not expand the nonconforming use itself. Mr. Whitley also explained that the Board is allowed to interpret this criterion differently and make a decision accordingly.

The Board asked about the paved area that was mentioned. Mr. Whitley stated that the Board must decide whether the paved area be allowed to remain or must be removed. The Board asked the applicant why this area was built without the proper permits. Mr. Hecker explained that the deck was built to address safety concerns with patrons walking in the drive aisle. The paved area was laid to provide access to the observation deck, which is intended for patrons to safely stand to take photos of people riding the coaster. Mr. Hecker also confirmed that picnic tables are set up all throughout the observation deck and the paved access. Mr. Whitley further explained that if the deck is allowed to continue to exist, it will need to be permitted, and the public will not be allowed to use it until a permit is issued. Ms. Axmacher clarified that removable furniture is normally not regulated beyond ADA compliance, and that no permit is required for pouring concrete.

DELIBERATION:

The Board discussed some reasons to approve the application. Since the coaster itself was already approved years ago, there is not much that can be done to fix the problems around the noise from the coaster and its patrons. Approving this application would address traffic concerns and would not increase the noise. The Board's decision must be based on the existing Land Use Code, which does not allow the Board to consider past bad behavior when coming to a decision. While the Board empathizes with the neighbors' concerns, many of those concerns cannot be addressed with this application. The Board also emphasized that this application will not allow any additional uses, and that implementing new rules will allow for further Code Compliance enforcement.

Conversely, the Board did not agree with Staff that all conditions of approval have been met, stating that adding more than double the amount of current parking spaces is expanding the intensity of use by more than the allowed 50%. More cars in the lot would increase the adverse environmental impact on the properties in the vicinity. More on-site parking could increase the number of visitors to the coaster as well, thus increasing the noise level. The Board considered what would be the best option for the surrounding community. This is a one-time request that will include strict conditions of approval. However, the Board does not agree that proposed expansion of the parking lot is changing the infrastructure only and not expanding the use of the main activity.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the Mustang Mountain Coaster Expansion/Change in Character of a Nonconforming Use, File No. 24-ZONE3615, subject to the nine conditions in the December 9, 2024, memo.

Motion failed 1-2, Commissioner Kefalas and Commissioner Shadduck-McNally dissenting.

With there being no further business, the meeting was adjourned at 9:15 p.m.

TUESDAY, DECEMBER 10, 2024

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with County Manager Lorenda Volker. Chair Kefalas presided. Commissioner Shadduck-McNally was present. Commissioner Stephens was excused. Also present were Sarah Martin, Commissioners' Office, and Lindsey Jones, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

1. **PUBLIC COMMENT:** Cindy Buckardt, Larimer County 4-H Foundation President, addressed the Board regarding the status of the Larimer County 4-H Foundation as a nonprofit entity. Because of this status, the 4-H Foundation will be required to pay for use of facilities at The Ranch, which will make it more difficult to fund 4-H programs as usual. The 66th Annual Larimer County 4-H Carnival is approaching, and the 4-H Foundation will be required to pay close to $12,000 for the use of facilities at The Ranch. Ms. Buckardt stated that the 4-H Foundation has never been charged for the use of facilities in its 70-year history in Larimer County and questioned why this change has come about.

There was no public comment online.

Chair Kefalas closed public comment.

The Board responded to Ms. Buckardt's comments, stating that the Board and Larimer County Staff have responded to various emails and will let those emails stand as their formal response.

2. **APPROVAL OF THE MINUTES FOR THE WEEK OF NOVEMBER 26, 2024:**

M O T I O N:

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the week of November 26, 2024.

Motion carried 2-0.

3. **REVIEW OF THE SCHEDULE FOR THE WEEK OF DECEMBER 16, 2024:** Ms. Martin reviewed the upcoming schedule with the Board. The Board made several additions to the upcoming schedule.

4. **CONSENT AGENDA:**

ABATEMENTS

1. **PETITION FOR ABATEMENT OR REFUND OF TAXES: EXCEEDS THE ALLOTTED REFUND AMOUNT OF $10,000 – R1667984 – Fort Collins/I-25 Interchange Corner LLC – Tax Year 2023**

AGREEMENTS

1. **AGREEMENT TO TERMINATE POUDRE VALLEY RURAL ELECTRIC ASSOCIATION INDEFEASIBLE RIGHT OF USE AMENDMENT**

2. **AGREEMENT FOR ACCESS EASEMENT (LITTLE THOMPSON FARM)**

3. **EASEMENT AND RIGHT-OF-WAY AGREEMENT (FORT COLLINS LOVELAND WATER DISTRICT) (PE-01)**

4. **INTERGOVERNMENTAL AGREEMENT – MAINTENANCE AND SECURITY OF VIESTENZ SMITH PARK, ROUND MOUNTAIN TRAILHEAD AND PRAIRIE RIDGE NATURAL AREA**

5. **EASEMENT AND RIGHT-OF-WAY AGREEMENT (FORT COLLINS LOVELAND WATER DISTRICT) (PE-03)**

6. **EASEMENT AND RIGHT-OF-WAY AGREEMENT (FORT COLLINS LOVELAND WATER DISTRICT) (PE-05)**

7. **GRANT AWARD LETTER INTERGOVERNMENTAL AGREEMENT – STATE OF COLORADO**

APPOINTMENTS

1. **RECOMMENDED APPOINTMENT TO THE RETIREMENT BOARD –** Giulia LaPlante

LIQUOR LICENSES

1. **LIQUOR LICENSE RENEWAL – JJ'S LIQUOR LLC DBA JJ'S LIQUOR – RETAIL LIQUOR STORE – FORT COLLINS, COLORADO**

MISCELLANEOUS

1. **OB-GYN INVESTMENTS LLP STIPULATION AS TO TAX YEAR 2021 AND 2022 VALUE**

2. **FORT COLLINS/I-25 INTERCHANGE CORNER LLC STIPULATION AS TO TAX YEAR 2024 VALUE**

3. **COLORADO PARKS AND WILDLIFE – CONCURRENCE LETTER**

4. **TEMPORARY EASEMENT (FORT COLLINS LOVELAND WATER DISTRICT) (TE-02)**

5. **TEMPORARY EASEMENT (FORT COLLINS LOVELAND WATER DISTRICT) (TE-04)**

6. **TEMPORARY EASEMENT (FORT COLLINS LOVELAND WATER DISTRICT) (TE-06)**

7. **LARIMER COUNTY NATURAL RESOURCES LAND STEWARDSHIP ADVISORY BOARD BYLAWS (UPDATE)**

8. STATEMENT OF AUTHORITY TO PURCHASE LAND

9. MORGUARD SETTLERS CREEK APARTMENTS LLC STIPULATION AS TO TAX YEAR 2024 VALUE

10. RHI 1 MAX FLATS LLC STIPULATION AS TO TAX YEAR 2024 VALUE

11. 2025-2026 LEGISLATIVE AGENDA

RESOLUTIONS

1. RESOLUTION APPROVING INTER-COUNTY LOAN FROM THE SOLID WASTE FUND TO THE RANCH FUND

2. RESOLUTION APPROVING INTER-COUNTY LOAN FROM THE CONSERVATINON TRUST FUND (CTF) TO THE RANCH FUND

MOTION

Commissioner Shadduck-McNally moved that Board of County Commissioners approve the Consent Agenda for December 10, 2024.

Motion carried 2-0.

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 of the previous week.

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

9. EXECUTIVE SESSION:

Executive Session pursuant to C.R.S.24-6-402(4)(f): Personnel matters regarding waiver of Policy 321.5, Section III.C.1 as it applies to Kristen Dasko.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners enter into Executive Session pursuant to C.R.S.24-6-402(4)(f): Personnel matters regarding waiver of Policy 321.5, Section III.C.1 as it applies to Kristen Dasko.

Motion carried 2-0.

The Board entered into Executive Session.

The Board returned to session.

Mark Pfaffinger, Support Services Director, explained that the discussion was regarding allowing the employee Kristen Dasko to keep a portion of her pay above the top of the pay scale after a reorganization.

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the waiver of Larimer County Human Resources Policy 331.5, Section III.C.1, for employee Kristen Dasko to retain her current compensation above the maximum of the range.

Motion carried 2-0.

With there being no further business, the meeting was adjourned at 10:10 a.m.

WEDNESDAY, DECEMBER 11, 2024

2024 REVISED AND 2025 BUDGET ADOPTION HEARING

The Board of County Commissioners met at 2:30 p.m. Chair Kefalas presided. Commissioner Shadduck-McNally was present. Commissioner Stephens joined the meeting via phone. Also present were Lorenda Volker, County Manager; Josh Fudge, Director of Performance, Budget and Strategy; Matthew Behunin, Budget Team Lead; Alex Jordan, Budget Analyst; and Lindsey Jones, Deputy Clerk.

County Manager Volker opened the meeting by giving a brief overview of the creation of the budgets over the past year, which included various meetings with Human Resources, each department within the County, and the public. Public meetings and community conversations were hosted with the intention of making the entire budgeting process as transparent as possible. Manager Volker noted that the 2024 budget was a plan, so the resolutions being presented today include amendments to the 2024 budget as well as the adoption of the 2025 budget.

Matthew Behunin reviewed the agenda for the meeting and gave a brief description of the resolutions that will be signed.

1. PUBLIC COMMENT ON 2024 BUDGET AMENDMENT AND 2025 ADOPTION OF BUDGET: No members of the public wished to address the Board.

Chair Kefalas closed public comment.

2. RESOLUTION TO TRANSFER FUNDS AND AMEND 2024 LARIMER COUNTY BUDGET: Mr. Behunin explained that this Resolution will amend the 2024 budget from the original adopted budget to include all the carryover requests from the prior year and additional revenue from grants or fees. The total change in expense budget was just over $87 million, mostly in carryover funds from the prior year. What remains of the carryover in revenue will be designated for future uses.

The Board asked for clarification regarding how the 2024 budget changed from the original adopted plan to the amount it has reached today. Mr. Behunin answered that each year, a budget is adopted. Approval is required from the Board of County Commissioners to change the budget from the original plan. Mr. Behunin gave some examples of the types of changes that had to be made.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners amend the 2024 budget to amounts as approved by the Board of County Commissioners and County Manager.

Motion carried 3-0.

3. RESOLUTION TO ADOPT 2025 BUDGET AND ADOPT MILL LEVIES FOR LARIMER COUNTY GOVERNMENT: Mr. Behunin explained that this Resolution establishes the budget by fund, identifies that the County operates under a balanced budget, and establishes the mill levies that are needed to finance the budget. The proposed budget was released in October 2024. Mr. Behunin reviewed some of the changes that have been made since the proposed budget was released.

The Board thanked all County Staff who worked on the 2025 budget. The Board also commented on the proposed Emergency Services building that was added to the 2025 plan. This new building will facilitate moving the old Emergency Services building out of a flood plain and into a more beneficial location for public safety. The Board emphasized the importance of protecting Larimer County's most vulnerable residents, and this will continue to be a priority in the creation of future budgets.

The Board asked how the 2025 budget compares to the 2024 revised budget. Mr. Behunin answered that the 2025 adopted budget is around $16,000,000 less than the 2024 revised budget. This is due to a reduction in one-time spending, including completion of ongoing projects such as the Fleet Campus project and disaster recovery spending from the COVID-19 American Rescue Plan.

The Board also asked how the various legislative sessions and bills concerning property taxes and assessed values factored into the 2025 budget. Mr. Behunin answered that the County will be subject to a 10.5% growth in property tax revenue per cycle for a total of 5.25% per year, which is historically lower than prior years. This revenue cap may cause constraints in the future, which will need to be a consideration for future budgets. Manager Volker explained that 2025 is a reappraisal year, so these changes will likely become a factor for the 2026 budget.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners adopt the 2025 budget and set mill levies for Larimer County government as outlined in the Budget Adoption Resolution.

Motion carried 3-0.

4. **RESOLUTIONS TO ADOPT THE 2025 BUDGETS AND SET MILL LEVIES FOR LARIMER COUNTY IMPROVEMENT DISTRICTS, SHARED ROAD, PUBLIC TRUSTEE, AND PEST CONTROL DISTRICT:** Mr. Behunin explained that this Resolution mainly relates to Improvement Districts. Mr. Behunin explained the role of these General and Public Improvement Districts and how they can tax themselves for costs such as road maintenance. The Public Trustee and the Pest Control District are also included in this Resolution.

LARIMER COUNTY GID #2 PINEWOOD SPRINGS

LARIMER COUNTY GID #4 CARRIAGE HILLS

LARIMER COUNTY GID #8 NAMAQUA HILLS

LARIMER COUNTY GID #1991-1 ARAPAHOE PINES

LARIMER COUNTY GID #10 HOMESTEAD

LARIMER COUNTY GID #11 MEADOWDALE

LARIMER COUNTY GID #12 CLUB ESTATES

LARIMER COUNTY GID #13A RED FEATHER

LARIMER COUNTY GID #14 LITTLE VALLEY ROAD

LARIMER COUNTY GID #16 KITCHELL SUBDIVISION

LARIMER COUNTY GID #17 COUNTRY MEADOWS

LARIMER COUNTY GID #18 VENNER RANCH

LARIMER COUNTY PID #19 HIGHLAND HILLS

LARIMER COUNTY PID #20 PTARMIGAN

LARIMER COUNTY PID #21 SOLAR RIDGE

LARIMER COUNTY PID #22 SADDLEBACK

LARIMER COUNTY PID #23 EAGLE ROCK RANCHES

LARIMER COUNTY PID #24 WESTRIDGE

LARIMER COUNTY PID #25 ESTES PARK ESTATES

LARIMER COUNTY PID #26 EAGLE RANCH ESTATES

LARIMER COUNTY PID #27 CROWN POINT

LARIMER COUNTY PID #28 TROTWOOD

LARIMER COUNTY PID #29 VINE DRIVE

LARIMER COUNTY PID #30 POUDRE OVERLOOK

LARIMER COUNTY PID #31 FOOTHILLS SHADOW

LARIMER COUNTY PID #32 CHARLES HEIGHTS

LARIMER COUNTY PID #33 PRAIRIE TRAILS

LARIMER COUNTY PID #34 MOUNTAIN RANGE SHADOWS

LARIMER COUNTY PID #35 BRUNS

LARIMER COUNTY PID #36 BONNELL WEST

LARIMER COUNTY PID #37 TERRY COVE

LARIMER COUNTY PID #38 CENTRO BUSINESS PARK MAINTENANCE

LARIMER COUNTY PID #39 RAINBOW LAKES ESTATES

LARIMER COUNTY PID #40 PARAGON ESTATES

LARIMER COUNTY PID #41 THE BLUFFS

LARIMER COUNTY PID #42 COTTONWOOD SHORES

LARIMER COUNTY PID #43 GRAYHAWK KNOLLS

LARIMER COUNTY PID #44 HORSESHOE VIEW SOUTH

LARIMER COUNTY PID #45 WILLOWS

LARIMER COUNTY PID #46 KORAL HEIGHTS

LARIMER COUNTY PID #47 PARK HILL

LARIMER COUNTY PID #48 PUEBLA VISTA ESTATES

LARIMER COUNTY PID #49 WAGON WHEEL

LARIMER COUNTY PID #51 CLYDESDALE ESTATES

LARIMER COUNTY PID #52 SOLDIER CANYON ESTATES

LARIMER COUNTY PID #53 HORSESHOE VIEW NORTH

LARIMER COUNTY PID #54 TERRY SHORES

LARIMER COUNTY PID #55 STORM MOUNTAIN

LARIMER COUNTY PID #56 BOYD'S WEST

LARIMER COUNTY PID #57 COBBLESTONE FARMS

LARIMER COUNTY PID #58 MISTY CREEK

LARIMER COUNTY PID #59 GRASSLANDS

LARIMER COUNTY PID #60 SMITHFIELD MAINTENANCE

LARIMER COUNTY PID #61 LITTLE THOMPSON

LARIMER COUNTY PID #62 RIDGEWOOD MEADOWS

LARIMER COUNTY PID #63 AUTUMN CREEK

LARIMER COUNTY PID #64 SOARING PEAKS RANCHES

LARIMER COUNTY PID #65 RIVIERA ESTATES

LARIMER COUNTY PID #66 CARTER LAKES HEIGHTS

LARIMER COUNTY PID #67 MANOR RIDGE ESTATES

LARIMER COUNTY PID #68 SCENIC RANCH ESTATES

LARIMER COUNTY PID #69 CRYSTAL VIEW

LARIMER COUNTY PID #70 TRAPPERS POINT

LARIMER COUNTY PID #71 ROCKVIEW WILDFLOWER RIDGE

LARIMER COUNTY PID #72 TANAGER

LARIMER COUNTY PID #73 MEADOWS AT ROLLING HILLS

LARIMER COUNTY PID #74 EAGLE CREST

LARIMER COUNTY PID #79 FOX RIDGE ESTATES

LARIMER COUNTY SHARED ROAD

LARIMER COUNTY PUBLIC TRUSTEE

LARIMER COUNTY PEST DISTRICT

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissions adopt the 2025 budgets and set mill levies for other entities listed on the agenda including County-managed Improvement Districts, the Public Trustee, and the Pest Control District.

Motion carried 3-0.

5. **RESOLUTION TO APPROPRIATE SUMS OF MONEY FOR 2025:** Mr. Behunin explained that this Resolution authorizes departments and elected offices to make expenditures for County purposes within specific limits.

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners appropriate sums of money for 2025 for each Larimer County spending agency and amounts specified in the Budget Resolution.

Motion carried 3-0

6. **RESOLUTION TO DESIGNATE 2025 ENDING FUND BALANCES:** Mr. Behunin explained that this Resolution is intended to designate the usage of future unspent sums, including a TABOR required reserve under State law.

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners designate 2025 ending fund balances as summarized in the Budget Resolution.

Motion carried 3-0.

7. **RESOLUTION TO DELEGATE CERTIFICATION AND SUBMISSION OF BUDGET YEAR 2025 MILL LEVIES, AND TO SUBMIT REQUIRED MILL LEVY INFORMATION FOR TAXING AUTHORITIES:** Mr. Behunin explained that this Resolution came from an update to State law that allows the Board of County Commissioners to delegate authority to certify mill levies for other tax districts within Larimer County, such as school districts, municipalities, water districts, metropolitan districts, fire districts, and others.

The Board wanted to remind the public that property taxes fund many taxing districts, and a full property tax bill does not directly fund Larimer County. Only about 25% of the property tax payment directly funds Larimer County expenses.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners delegate authority to the Larimer County Director of Performance, Budget, and Strategy to certify and submit mill levies to the Office of the Assessor and appropriate State agencies.

Motion carried 3-0.

Manager Volker thanked the Board, the public, and the Budget team who contributed during the creation of these budgets. Manager Volker also thanked the Sheriff's Office for agreeing to reduce spending to allow for the Emergency Services proposal.

The Board asked when the public should look for budget planning for the coming year. Departments can submit amendments to the budget as of January 2, 2025. There is a carryover session planned for late March 2025. Mr. Behunin encouraged the public to vote, to join an advisory board, and attend community conversations from the budget office and the Board of County Commissioners if they are interested in becoming involved in this process.

With there being no further business, the Board adjourned at 3:15 p.m.

John Kefalas

JOHN KEFALAS, CHAIR
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS
CLERK AND RECORDER

ATTEST:

Lindsey Jones, Deputy Clerk

LARIMER COUNTY CLERK
SEAL
COLORADO