



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, FEBRUARY 8, 2021

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Don Threewitt, Principal Planner. Chair Kefalas presided. Commissioner Stephens and Commissioner Shaddock-McNally were present. Also present were Jen Cram, Tracy Hicks, Community Development; Samantha Mott; Traci Shambo, Engineering; Jeanine Haag, County Attorney's Office; and Deirdre O'Neill, Deputy Clerk.

Chair Kefalas opened the hearing with the Pledge of Allegiance and noted that the following items were on the consent agenda and would not be discussed unless requested to do so by the Board, staff, or members of the audience.

Janet McWilliams approached the Board and stated she would like to pull item number 2, Poudre Park Second Annex Lots 23 and 24 and Lot 2 Amended Plat of Lots 19-22 Lot Consolidation, FILE NO 20-LAND4061 from the consent agenda.

1. SULLIVAN/MONTAGUE APPEAL, FILE NO. 20-GNRL0495: This is a request for an appeal for an exemption to the subdivision regulations (Section 5.1 of the Land Use Code) and an appeal to the minimum lot size requirements in the O-Open zoning district to recognize two parts of Lot 29, Redstone Estates First, as separate legal lots. The properties are located approximately 2.5-miles south of the intersection of Rist Canyon Road and Davis Ranch Road in the Redstone Estates subdivision off Valnes Lane.

The Redstone Estates First Filing subdivision was recorded on January 23, 1970. Lot 29 was shown as a 11.894-acre lot. The lot was first split on June 19, 1972, without going through the subdivision process and a building permit was issued for a single-family dwelling on this illegally created lot. Lot 29 was then further split without going through the subdivision process in August 1973. At one point, there were three illegal pieces of Lot 29. Two of those pieces were combined in 2001 (the northernmost parcel). If lots were divided after May 5, 1972, a subdivision process was required; otherwise, they are considered illegal lots. Since Lot 29 was split into additional lots after this date without going through the subdivision process, the lots are considered illegal.

This request is to appeal to the Board of County Commissioners for recognition of a legal lot status for the northern lot which is 5.76-acres in size, and the southern lot which is 6.16-acres in size as two separate legal lots. The lots are zoned O-Open which requires a minimum lot size of 10-acres. Since both lots are smaller than 10-acres, this request includes an appeal to Section 4.1.5 of the Land Use Code to allow the existing lots to remain smaller than the required minimum lot size.

The lots in the area range in size from 4.01-acres to 28.15-acres. There are immediately-adjacent lots of 4.69-acre and 6.02 acres. The lots created by this appeal would be consistent with lot sizes in the area.

In September 2019, the Larimer County Planning Department researched one of the lots to determine if it was a legal lot, and provided a letter to one of the property owners. (A copy of the letter is attached to this report.) The subject of the research was Parcel Number 07053-05-040, the 5.76-acre northern lot. It was determined that it was split after May 5, 1972, and therefore not considered a legal lot and not eligible for building permits.

REVIEW CRITERIA

When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following factors. The 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.
- B. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood.
- C. Approval of the appeal is the minimum action necessary.
- D. Approval of the appeal will not result in increased costs to the general public.
- E. Approval of the appeal is consistent with the intent and purpose of the Code.

APPEAL TO THE MINIMUM LOT SIZE REQUIREMENT

- A. The lot size being proposed is consistent with the pattern of existing lots in the neighborhood.
- B. The proposed lot has sufficient area to support the intended use of the lot.
- C. There are physical features of the site or other special circumstances that support the proposed lot size.

- D. Granting the lot size appeal is consistent with the intent and purpose of this code.

The Development Services Team recommends the Board of County Commissioners approve the Sullivan-Montague appeal, File #20-GRNL0495.

2. POUDRE PARK SECOND ANNEX LOTS 23 AND 24 AND LOT 2 AMENDED PLAT OF LOTS 19-22 LOT CONSOLIDATION, FILE NO 20-LAND4061: This is a request to consolidate three lots in the Poudre Park Second Annex into one lot.

The applicant would like to consolidate Lots 23 and 24 and Lot 2 Amended Plat of Lots 19-22 Poudre Park Second Annex. The three contiguous lots are owned by David Wiedemann and are located at 200 Falls Creek Road in Bellvue, CO.

Lots 23 and 24 are currently 0.18-acres and Lot 2 Amended is currently 0.14-acres according to the Assessor's records. The proposed consolidation of the three lots will result in one lot totaling 0.330-acres. All lots and the surrounding area are zoned O-Open. There is an existing shed on Lot 24. A building permit has been issued for a new single-family residence that is currently under construction on Lot 2 Amended.

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

- A. No additional lots will be created by the lot consolidation.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by subsection 8.14.1.H. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, the amended plat must not increase the nonconformity.
- C. The lot consolidation will not create a nonconforming setback for any existing building.
- D. The resultant lots will meet the requirements of subsection 8.14.1.I. Lots cannot be divided by a municipal or county boundary line, road, alley, or another lot.
- E. The lot consolidation will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.
- F. Any covenants, deed restrictions or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or note on a plat that are approved with this application. The County Commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

The Development Services Team recommends approval of the lot consolidation of lots 23 and 24, and lot 2 amended plat of lots 19 through 22, Poudre Park Second Annex, File #20-LAND4061, subject to the following conditions:

1. All conditions of approval shall be met, and the final resolution recorded by August 8, 2021, or this approval shall be null and void.
2. Prior to the recordation of the final resolution the applicant shall make the technical corrections required by the Larimer County Surveyor.
3. The resultant lot is subject to all covenants, deed restrictions, or other conditions that apply to the original lots.

3. BERTHOUD LAKE RANCHETTES PUD FIRST, TRACT A, AP, FILE NO. 20-LAND4053: This is a request of an amended plat to transfer a part of Tract A to the Town of Berthoud for open space purposes.

The property is Tract A of the Berthoud Lake Ranchettes PUD First which was approved in 1996. Tract A is comprised of open space and is owned by the Berthoud Lake Ranchettes Association. Tract A is a vacant parcel and wraps around the perimeter of the PUD. There is a fence that offsets the eastern property line (adjacent to Berthoud Reservoir). The area east of the fence is currently being used by the Town and covered by an existing Public Use and Access Easement.

The applicants (Town of Berthoud) are proposing to subdivide Tract A of Berthoud Lake Ranchettes PUD into two separate lots. The new lot that will be created will be designated as Outlot A. The intent is to create Outlot A from the area designated as Public Use and Access Easement and then to ultimately transfer Outlot A to the Town of Berthoud where it will become a part of the Berthoud Reservoir Recreation Area.

The Larimer County Land Use Code (Section 5.7.3) allows for the approval of an amended plat if the following review criteria are met:

- A. No additional lots will be created by the amended plat.
- B. The resultant lots will meet the required minimum lot size of the applicable zoning district and the lot dimension ratio required by subsection 8.14.1.H. If any of the lots are nonconforming with respect to the minimum lot size or the lot dimension ratio, the amended plat must not increase the nonconformity.
- C. The amended plat will not create a nonconforming setback for any existing building.
- D. The resultant lots will meet the requirements of subsection 8.14.1.I. Lots cannot be divided by a municipal or county boundary line, road, alley, or another lot.
- E. The amended plat will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area.

- F. Any covenants, deed restrictions or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat, except those changes to a condition or a note on a plat that are approved with this application. The County Commissioners shall consider the original reason or circumstance for a condition or note on a plat when approving a change.

The Development Services Team recommends approval of the Berthoud Lake Ranchettes PUD First, Tract A, AP File Number 20-LAND4053 with the following reasons:

1. All conditions of approval shall be met, and the Findings and Resolution recorded by August 8, 2021, 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 subdivision.

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the items 1 and 3 on the Consent Agenda subject to the conditions in the staff report and further moved authorizing the Chair to sign the Findings and Resolutions.

Motion passed 3-0

Chair Kefalas invited Jen Cram, Community Development, to present consent agenda item number 2, Poudre Park Annex to the Board.

While staff was preparing their PowerPoint presentation a member of the audience asked if she could ask a question that did not pertain to item number 2, Poudre Park Second Annex.

Kathy Benningfield asked to have item number three, Berthoud Lake Ranchettes PUD First, Tract A, AP, FILE NO. 20-LAND4053 explained.

Traci Hicks, Community Development, explained that this is a request to subdivide part of Tract A and create an outlot that will be transferred to the Town of Berthoud for the purposes of their recreation area. Ms. Hicks mentioned that she would be happy to speak with Ms. Benningfield offline if she has any questions.

Jen Cram presented an overview of Poudre Park Second Annex Lots 23 and 24 and Lot 2 Amended Plat of Lots 19-22 Lot Consolidation, FILE NO 20-LAND4061 to the Board. Ms. Cram stated that the property is located at 200 Falls Creek Road in Bellvue, Colorado, and did mention that no easements or rights-of-way are being vacated in conjunction with this request. Ms. Hicks went over

the review criteria for an amended plat stated above. The Developmental Services Team did find that this request does meet the review criteria and has recommended approval.

Ms. Cram stated that the applicant, David Weideman, is attending the meeting virtually, but does not have anything further to add to Ms. Cram's presentation, but would be happy to answer any questions.

Chair Kefalas opened the hearing for public comment.

Linda McWilliams addressed the Board. Miss McWilliams explained that she owns Lot 25 which is adjacent to Lots 23 and 24. Miss McWilliams has some concerns regarding a gate which has been put in at the beginning of the entrance that she does not have access to because of the need for a code to open and close the gate as well as damage to the private road that she believes was due in part from the culvert that Mr. Weideman had installed. Miss McWilliams also wanted to ask if his lot will now be viewed as one lot after the consolidation for the purpose of financial split for road maintenance for the lot owners.

The applicant, David Weideman, was asked to provide the access code for Miss McWilliams and explained that the gate was installed within the last few years and was part of the neighborhood agreement to mitigate traffic.

Mr. Weideman was also asked about the damage to the road due to the culvert. Mr. Weideman explained that there were two twelve-inch culverts at the first stream crossing because it was too steep for service trucks, are not permanent but a temporary fix, and will be re-adjusted before the upcoming summer season.

The Commissioners thanked Mr. Weideman and Ms. McWilliams and offered the assistance of the engineering department if they have any further questions or comments as these issues do not directly relate to the approval process for a lot consolidation per the Land Use Code.

Chair Kefalas closed public comment.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Lot Consolidation of Lots 23 and 24 and Lot 2 Amended Plat of Lots 19-22 Poudre Park Second Annex, File # 20-LAND4061, subject to the conditions as outlined in the staff report and based on the comments presented and further authorize the Chair to sign the Findings and Resolution.

Motion carried 3-0

With there being no further business, the Board adjourned at 3:40 p.m.

TUESDAY, FEBRUARY 9, 2021

ADMINISTRATIVE MATTERS MEETING

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

Chair Kefalas opened the meeting with the Pledge of Allegiance.

1. PUBLIC COMMENT: The following comments were submitted by email: Donna Roth, Greg and Peggy Skibo, Judy Kummrow, Steve Maslak and Nancy Day concerning the Feedlot on Owl Canyon Road in Wellington. The following spoke in person: Doug Henderson, Ed Behan and Sarah Johnson spoke about Gas and Oil Regulations; Clayton Roth and Daniel Roth spoke about concerns pertaining to the Feedlot on Owl Canyon Road. The following spoke via telephone: Dr. Cory Carroll and Karen Artel, Gas and Oil Regulations. Karen Artel also followed up with an email containing the comments she brought forth to the Board.

Chair Kefalas closed public comment.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF FEBRUARY 1, 2021

MOTION

Commissioner Stephens moved that the Board of County Commissioners approve the minutes for the week of February 1, 2021.

Motion carried 3-0.

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF FEBRUARY 15, 2021: Ms. Jeffers reviewed the schedule for the upcoming week with the Board.

Commissioner Shadduck-McNally mentioned that she will also be attending The CCAT (Counties and Commissioners Working Together) meeting on Wednesday, February 17, 2021 with Chair Kefalas and according to the calendar, the Commissioners will be attending the Cameron Peak Fire Community Town Hall meeting on February 17, 2021.

4. CONSENT AGENDA:

ABATEMENTS: Recommended Approval: Wal-Mart Stores East LP MS-0555-R1297988

AGREEMENTS:

1. Livermore Community Water Loan
2. Renewal Agreement-2021 Larimer County Conservation Corps (LCCC) Water & Energy Program

3. Small Business Relief Program, City of Loveland Intergovernmental Agreement (IGA)
4. Small Business Relief Program, Town of Estes Park Intergovernmental Agreement (IGA)
5. Memorandum of Understanding for purpose of Community Services Block Grant (CBSG)
6. Memorandum of Understanding for Temporary Assistance for Needy Families (TANF) Service Delivery Agreements
7. Development Agreement for the Thunder View Subdivision

APPOINTMENTS:

1. Recommended Appointments to the Berthoud Community Library District Board of Trustees: Bob Latchaw, Julie Oelman, Kathleen Mitchell
2. Recommended Appointment to the Workforce Development Board: Andrew Pipes

DEEDS:

1. Deed of Dedication for Thunder View Subdivision
2. Deed of Dedication: Additional right-of-way is needed for Project Number 335 on CR 72
3. Deed of Dedication: Additional right-of-way is needed for Project Number 335 on CR 72

LIQUOR LICENSE: Boyd Lake Marina Inc-Loveland- Fermented Malt Beverage Off Premises; Sylvan Dale Ranch LLLP-Loveland- Hotel & Restaurant with Optional Premise

MISCELLANEOUS: Final Plat of the Thunder View Subdivision; Treasurer's Six-Month Report

RESOLUTIONS:

1. Resolution Establishing Compensation for Deputy District Attorney I
2. Resolution Establishing Compensation for Deputy District Attorney I
3. Resolution Establishing Compensation for Deputy District Attorney III
4. Resolution Establishing Compensation for Deputy District Attorney III
5. Resolution for Statutory Vested Rights for the Rock Ridge Rural Land Use Plan File 19-LAND3932

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Consent Agenda for Tuesday, February 9, 2021.

Motion carried 3-0

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

6. COVID-19 UPDATES AND DECISIONS: Linda Hoffmann, County Manager, introduced Tom Gonzales, Public Health Director, via teleconference. Director Gonzales updated the Board and announced that the county has some good news to report. As of Friday, February 5, 2021, the dashboard dial has moved into the 2.0 (Caution) per the state. The major changes are the added 7-day case rate per 100,000 instead of the 14-day case metric which allows for adjustments based on the data in the community. As of Saturday, February 6, 2021, Larimer County is now in the yellow phase which lessens restrictions in the business community.

Director Gonzales did want to remind everyone that we still need to be diligent in face coverings, hand washing and social distancing so we do not have another uptick in cases which would result in more restrictions. Director Gonzales went over the number of hospitalizations including ICU capacity. Currently, we have 22 COVID-19 patients in the hospital, and our 14-day test positivity percentage is under 5%. This is great news.

Director Gonzales announced that there is an added tab on the dashboard labeled "Vaccinations." The data represents the total vaccination doses received by residents, and is broken down into several categories including age and race. Ten percent of Larimer County residents have received their first dose of the vaccine. Fifty percent of those individuals 70 years of age and older have received at least their first dose of the vaccine.

Director Gonzales urged the public in the current phase to register for the vaccine at covid19updates@larimer.org or they may call 970-498-5500. Director Gonzales mentioned that improvements are necessary to increase vaccinations given by ethnicity, especially the Latinx community. We are working diligently with the community to explain the safety of the vaccine and accessibility.

Commissioner Shadduck-McNally wanted to let Director Gonzales know that Katie O'Donnell, Health and Environment, attended a virtual community conversation with Commissioner Shadduck-McNally, and it was very informative to the public. The Commissioner did have a question concerning other counties within the state of Colorado as far as left-over vaccine doses. Director Gonzales mentioned that the left-over doses are mainly due to no-shows. He urged the public that if you are unable to make their appointment, to please let the provider know so that the next person on the call-down list can be notified.

Commissioner Stephens expressed her concerns about the Latinx population vaccination numbers on the dashboard and asked why they are trending downward. She also asked for further elaboration regarding the plan to get the members of this community vaccinated. Director Gonzales stated that it is due in part to a language barrier, but more so to the vaccine hesitancy. The health department is working diligently with the community, library district, La Familia and other organizations to build trust and to understand that the side effects of the vaccine are minor. The other obstacle is transportation. Shayle Sabo will update the Board on this concern, and what is being implemented to provide assistance.

The Commissioners thanked the Director for his update and for all the hard work of the health department. They did have some questions on the pop-up and mobile clinics.

Shayle Sabo, Recovery Manager, updated the Board on the implementation of the recovery plan including economic and government policy and education. Ms. Sabo let the public know that they can go to www.larimerrecovers.org to find information on business recovery. There are helpful links on how to get assistance for funding and finance as well as information on the recovery resources for residents impacted by the 2020 Larimer County wildfires including Cameron Peak.

Ms. Sabo spoke about the transportation issue reporting that they are working on a “one-stop-shopping” program. There are a lot of complex, moving parts. Larimer County does have many volunteer and non-profit organizations that are working together on how vaccine providers get notified when someone needs transportation. As part of the online registration, they have added a question on the need for transportation and providers will now be made aware of this assistance. Transportation will be on an appointment basis, and there is a team solely responsible for communication to let residents know how they can request to be scheduled. Ms. Sabo wanted to thank the North Front Range Metropolitan Planning Organization (NFRMPO) which includes Van Go and Find my ride transportation services who are leading the charge. Ms. Sabo also spoke about the mobile clinics for those that live in rural communities.

The Commissioners wanted to thank Shayle for all the information for those in need of transportation.

7. COUNTY MANAGER WORKSESSION: Manager Hoffmann updated the Board on upcoming projects and activities.

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

LEGAL MATTERS

NO DECISION EXPECTED

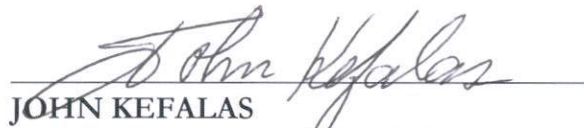
Executive Session pursuant to C.R.S. 24-6-402(4)(b): Conference with an attorney for the purpose of receiving legal advice on specific legal questions regarding NISP Statutory Vested Rights and discussion regarding letter from Attorney John Barth.

MOTION

Commissioner Stephens moved that the Board enter into Executive Session pursuant to C.R.S. 24-6-402(4)(b): Conference with an attorney for the purpose of receiving legal advice on specific legal questions regarding NISP Statutory Vested Rights and discussion regarding letter from Attorney John Barth.

Motion carried 3-0

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

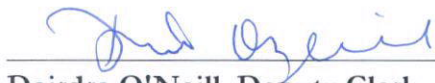


JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS

CLERK AND RECORDER

ATTEST:



Deirdre O'Neill, Deputy Clerk

