



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, NOVEMBER 7, 2022

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Don Threewitt, Principal Planner. Chair Stephens presided. Commissioner Kefalas and Commissioner Shadduck-McNally were present. Also, present were Matt Lafferty, Samantha Lasher, Community Development; Lesli Ellis, Community Development Director; Lea Schneider, Health, and Environment; Laurie Clark and Connor Sheldon, Engineering, Tina Kurtz, Engineering joined the meeting virtually; Frank Haug, Assistant County Attorney; and Elizabeth Carter, Deputy Clerk.

Chair Stephens opened the meeting with the Pledge of Allegiance.

PUBLIC HEARING ITEMS:

1. WELLINGTON OPERATING CO. 3D SEISMIC STUDY ADMINISTRATIVE SPECIAL REVIEW, FILE NO. 22-ZONE3348- (Matt Lafferty-Planning)

Mr. Lafferty reported to the Board that the Wellington Operating Co. is requesting approval of an Administrative Special Review application to perform a 3D seismic test in an approximate 6-mile study area. If approved the seismic study will occur over a period of three to four weeks with an anticipated start-up in mid-November. Article 11.2.2.A requires approval of an Administrative Special Review (Article 6.4.3) application prior to conducting seismic surveys.

Mr. Lafferty stated that Article 6.4.3. Administrative Special Review states that such applications are approved by the Community Development Director. The Article also states that at the discretion of the Director, such decisions may be elevated to the Board of County Commissioners for final approval. With regards to this application, it has been determined by the Director that given this is the first application of this type to be considered by the county that the final decision should be made by the Board. The purpose of the seismic study is to use a minimally obtrusive method to map the location of potential oil and gas resources. Mr. Lafferty relayed that an ad was placed in the newspaper regarding today's hearing. Additionally, a mailing was also sent to residents within a one-half mile of the boundary line.

Mr. Lafferty explained that after placement of the receivers, a vibrosis vehicle locates over a planned position and sends a seismic wave (vibration) into the ground, which bounces off potential resources

and returns the data to the receivers. The data is then used to map the location of the oil and gas resources. According to the applicant's materials, vibrations will occur approximately every three to five minutes, which is the approximate travel time between each testing point. Information provided with the application indicates that most of the seismic testing will occur only on private properties where the applicant has secured approval from the property owners to perform such operations. The remainder of the testing will be conducted on portions of County Roads 11, 13, and 72.

Mr. Lafferty noted that while seismic testing such as the one being proposed can occur at any time of the year, coordination with property owners to minimize impacts to agricultural operations and the like have influenced the timing of this study to occur during the month of November. Field operations, staging, and equipment storage during the study will occur on property owned by the Wellington Operating Co. along County Road 70 in the southern reaches of the study area. All operations are planned to occur within daylight hours.

REVIEW CRITERIA:

Mr. Lafferty walked the Board through the review criteria as it relates to the request for the Administrative Special Review application.

1. **The proposed use has minimal impacts on existing and future development of the area.** The proposed 3D seismic study will have a minimal impact on existing and future Development in the area as it is a temporary activity, a maximum of three weeks to complete, and involves no permanent improvements to the area.
2. **Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated.** Given the nature of the proposed activity, it is expected that there will be temporary impacts (such as noise, vibrations, and traffic) on residents and wildlife in the area. While the impacts of noise and vibrations cannot be avoided, they can be minimized by limiting the operational activities to daylight hours and maintaining physical separation of operations from activity potentially impacted sources.

To minimize the potential of damage to infrastructure (culverts, bridges, etc.) and water wells in the study area, the applicant has identified the location of known wells and infrastructure and will maintain a buffer of 300 feet from all wells and 100 feet from all structures.

With regard to transportation impacts, the applicant has provided a traffic control and operations plan addressing safety and traffic operations on the affected roadways. The County Engineering Department has reviewed this application and finds the traffic control plan to be acceptable. Additionally, it is required that the applicant provide a video recording of the road conditions before the study occurs so that any damages to the roads and other infrastructure in the right-of-way resulting from this activity can be easily identified. If damages to the road are identified, the applicant will be

responsible for repairs. Finally, the applicant has been advised that a right-of-way Permit will be required prior to operations ensuring coordination of activities is planned and that adequate financial assurances are provided to address damages should any occur.

Correspondence received from the Colorado Parks and Wildlife (CPW) indicates that the study area is in an area identified as Pronghorn Winter Concentration High Priority Habitat Area. As such, it is recommended that the seismic study operation occurs outside of the pronghorn winter season (January 1-April 30), and should activity occur after December 1st, the applicant should consult with CPW to discuss best management practices. CPW also noted that the Boxelder Creek crossing a portion of the study area is identified as Aquatic Native Species Conservation Water. Because of this designation, the CPW recommends that vehicular activity associated with the operations avoid and not cross any portions of Boxelder Creek in the study area. Finally, CPW noted that seismic activities should not occur between April 1 to August 31 to avoid impacts on songbirds in their nesting season.

Comments from the Health Department recommend that due to the potential of nuisance impacts (noise and vibration) that operations for the study do not commence until after 7:00 am. Additionally, the Health Department recommends that well water testing for consenting properties should occur within 72 hours of the seismic activity and a follow-up test within three months.

3. **The recommendations of referral agencies have been considered and adequately addressed.** The proposed application has been reviewed by the Larimer County Engineering, Health and Planning Departments as well as the CPW. The relevant aspects of these comments have been addressed above, and recommended conditions of approval are included in the suggested motion to ensure the proposed request minimizes impacts on the affected interest in the study area.
4. **Within a Growth Management Area (GMA) district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan.** The proposed seismic study is not subject to any supplementary regulations and is not situated within a GMA district. The proposed operations are consistent with the Comprehensive Plan as the study aims to identify recoverable resources that may be mined.
5. **The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.** There are no Use Regulations in Article 3.0 of the Land Use Code pertaining to this request.

DEVELOPMENT SERVICES TEAM FINDING:

The Development Services Team finds that the proposed Administrative Special Review for a 3D Seismic Study will:

- Have minimal impacts on existing and future development in the area.
- Mitigate adverse impacts on the environment, wildlife, access, and traffic, in and around the study area.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Wellington Operating Co. Administrative Special Review for a 3D Seismic Study, File #22-ZONE3348, subject to the following conditions:

1. The seismic survey shall be conducted consistent with the submitted application materials contained in File # 22-ZONE3348 - Wellington Operating Co. Administrative Special Review except as modified by the conditions of approval contained herein.
2. The approval for this seismic study shall expire on January 31, 2023.
3. Should any seismic testing occur after December 1, 2022, the applicant shall be required to consult with the Colorado Parks and Wildlife regarding additional best management practices.
4. Seismic testing shall only be conducted during daylight hours between 7:00 am and 5:00 pm.
5. Prior to conducting any seismic survey operations, the applicant shall provide a video of existing public roadway and structure conditions in the study area.
6. Prior to conducting any seismic survey operations, the applicant shall obtain a Larimer County Right-of-Way Permit.
7. Prior to conducting any seismic survey operations, the applicant shall obtain a Larimer County Temporary Floodplain Development Permit
8. No vehicular crossing or activity shall occur within the high-water mark of Boxelder Creek.

There was a discussion between the Board and staff regarding the property owners within the area who did not consent to testing on their property and how that will impact the study results. The Board also had questions regarding the applicant's communications with the Town of Wellington. Additionally, the Board asked for clarity regarding testing along county roads and near culverts. Lastly, the Board expressed concerns regarding the time period for the testing and its impact on wildlife, especially as it relates to the pronghorn antelope.

Chair Stephens invited the applicant to come forward and address the Board. Tom Shaw a geologist with Wellington Operating Co. addressed the Board and introduced his colleagues in the audience, Graham Patterson and Ryder Reddick. He also noted that Chandler Knox the Chief Executive Office of Wellington Operating Co., was online to answer any questions. Mr. Shaw took the Board through a presentation regarding the application. He noted that they use vibrations to generate low frequency sound waves allowing imaging of the subsurface. The study will allow for the assessment of the remaining oil and gas resources to determine if additional development of mineral estate is warranted. Mr. Shaw emphasized that approval of this application is not approval to drill.

Mr. Shaw relayed to the Board that the survey area was roughly 3800 acres and that 81 percent of the landowners agreed to allow access to their property. There are no parks, schools, churches, or commercial uses in the area. It is a largely agricultural and light residential area.

Mr. Shaw stated that the seismic access agreements address the protection of structures, roadways and paths, water resources, and animals and livestock. The agreement provides for the return of the land to the original condition or better, and the operator assumes all liability of the landowner. Additionally, the agreement provides for compensation and a claims provision if there is a dispute or reported damage.

There was a discussion between the Board and the applicant regarding communications with the Town of Wellington and if the applicant was open to those discussions. There was also a discussion between the Board and staff regarding the testing of wells and if that was voluntary. There was also a discussion surrounding the previous testing and if additional testing would yield better results. Lastly, the Board had questions for the applicant regarding damages and how long the property owner is protected.

Chair Stephen opened public comment. No one from the public addressed the Board. Chair Stephens closed public comment

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Wellington Operating Co. Administrative Special Review for a 3D Seismic Study, File #22-ZONE3348, subject to the conditions as outlined in the Development Services Recommendations in addition to a changing the date in Condition #2 to January 1, 2023.

Motion carried 3-0.

2. STONEHENGE SHORT-TERM RENTAL & EXPANSION OF NONCONFORMING USE ADMINISTRATIVE SPECIAL REVIEW (Samantha Lasher, Community Development)

Ms. Lasher reported to the Board that the subject property is located in Estes Park, Colorado. The property currently contains two single-family dwellings and is zoned EV RE – Estes Valley Rural

Estate. The applicant requests Administrative Special Review approval for a small short-term rental (STR) located in the existing single-family residence with a three-bedrooms and one additional sleeping area for a maximum occupancy of eight total guests, two guests per bedroom/additional sleeping area. Ms. Lasher relayed that the application also includes a concurrent Administrative Special Review for an Expansion of a Nonconforming Use due to a second primary residence located on the property. The subject property is legally nonconforming because the property has two primary dwellings, both of which were constructed prior to permitting requirements in 1972, and the EV RE zone district only allows for one primary dwelling. The main dwelling was initially constructed in 1937, and the second dwelling was constructed in 1967, per the Larimer County Assessor. The concurrent Administrative Special Review for the Expansion of a Nonconforming Use is included in this application because the conversion of the main dwelling into a short-term rental constitutes a change in character of the nonconforming use. There is a concurrent building permit, 21-RES0436, currently in process to add an addition to the main dwelling. The nonconforming second dwelling may continue to be used as a long-term rental for one living unit, separate from the living unit in the main dwelling.

Administrative Special Review for an STR requires both Planning Division and Building Division approval. For this case, the Planning Division review has been conducted first, and the Building Division review will be conducted if this application is approved. In general terms, the Planning review process involves:

1. Pre-application conference and application submittal.
2. Staff and referral agency evaluation and comment review.
3. Review and recommendation by the Estes Valley Planning Advisory Committee, if applicable.
4. Community notice and community comment review.
5. The scheduling of a public hearing, if applicable, or an administrative review and decision by the Community Development Director.

Ms. Lasher stated that county staff mailed a courtesy community notification about the proposed project to properties within 500-feet of the subject property when the application was originally submitted. Staff mailed 34 notices on September 2, 2021. Staff received community comments from three community members noting concerns via email.

Ms. Lasher reported to the Board that the subject property is located within the Estes Valley Plan Area and was presented to the Estes Valley Planning Advisory Committee (EVPAC) at its regular meeting on November 18, 2021. The Committee voted (4-3) for the Community Development Director to administratively approve the application.

Ms. Lasher noted that following a review of the application, including reviewing community member and referral agency comments, and because of concerns about the proposal from the public, the Community Development Director determined that this application should be scheduled for a public hearing before the Board of County Commissioners for their decision, per Section 6.3.6.D.3 of the Land Use Code, based on the unresolved issues described below.

Administrative Special Review requires General Review Criteria to be met for approval (Section 6.4.3.D in the Land Use Code), in addition to supplemental review criteria for small STRs (Section 3.3.5.B.2 in the Land Use Code).

Ms. Lasher walked the Board through staff findings and the review criteria. She reported that staff finds the application and supporting materials may not have adequately met the following Administrative Special Review General Review criteria in Section 6.4.3.D and Expansion of a Nonconforming Use Review Criteria in Section 1.10.7.D.1. of the Land Use Code, as described under the Review Criteria section below:

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

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

1.7.10.D.1. Criterion d: The proposed use will be compatible with existing and allowed uses in the surrounding area.

1.7.10.D.1. Criterion e: The proposed use will not result in a substantial adverse impact on other property in the vicinity of the subject property.

Staff finds the application meets all other criteria in Section 6.4.3.D, meets or will meet all Short-term Rental Use Regulations criteria located in Section 3.3.5.B.2, and meets all other criteria in Section 1.10.7.D.1. The following section addresses staff findings and the review criteria, including community member concerns.

REVIEW CRITERIA:

In reviewing a proposed administrative special review application, the Board of County Commissioners shall consider the general approval criteria in Section 6.3.8.D: General Review Criteria, and also whether (Section 6.4.3.D):

1. **The proposed use has minimal impacts on the existing and future development of the area.** Community comments indicate the short-term rental would have increased impacts to both the existing and future development of the area. Specific impacts associated with criterion 2 that also impact the future and existing development of the area are discussed in more detail below.
2. **Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated.** The following concerns as related to this review criterion regarding the proposed short-term rental arose with community comments. Concerns include, but are not limited to: increased noise, increased traffic and increased wear and tear on the existing road resulting in increased costs to repair the road, incompatibility of a commercial short-

term rental in a quiet, residential neighborhood, concerns that there are too existing many short-term rentals in the neighborhood, increased wildfire risk, and increased water usage resulting in less water availability on existing wells.

3. **The recommendations of referral agencies have been considered and adequately addressed.** This application was referred to the applicable referral agencies. Those comments are summarized below and attached to this report. The comments have been or will be adequately addressed.
4. **Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan.** The subject property is not located within a GMA district. Chapter 3 of the Estes Park Comprehensive Plan – 1996 identifies specific economic development strategies, including expanding the existing tourism industry. Short-term rentals offer temporary housing for tourists visiting the area, and therefore, allowing short-term rentals is consistent with one of the primary economic development strategies for the area.
5. **The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.** The STR meets or will meet the following supplemental regulations, as noted below. Those requirements that have not yet been met are included as conditions of approval.

Section 3.3.5.B.2 Standards for Short-Term Rentals with Ten or Fewer Occupants.

Staff finds that the following criteria have been or will be met.

- a. Only one short-term rental shall be allowed on a property.
- b. The short-term rental shall only be conducted in a legally constructed dwelling and shall require a change of occupancy permit prior to the commencement of the short-term rental use.
- c. The short-term rental shall have a property manager consisting of the owner or a responsible party representing the owner to manage the use at any time it is occupied. The property manager must be located within one hour or less travel distance from the short-term rental, and their contact information shall be posted outside at the front door and in the operations manual located in the short-term rental. Changes to the contact information form for the property manager shall be provided to the Larimer County Community Development Department within five business days of the change in contact information.

- d. The location of the property boundaries for the short-term rental shall be easily identifiable and posted to prevent trespass.
- e. The short-term rental shall not be located within an established floodplain, and if located within a floodplain, shall require compliance with the applicable requirements of Section 2.7.1. - Floodplain Overlay (FP-O).
- f. The short-term rental shall include maps installed onto or adjacent to the doorway of each habitable room, illustrating how to exit the building. The map should include the address, GPS coordinates, and the phone number of the short-term rental.
- g. The short-term rental shall be equipped with an operations manual/users guide that is in a visible location (such as a kitchen counter or entry table).
- h. The short-term rental shall have a plan for garbage storage and removal. The plan shall clearly illustrate the location of garbage storage areas, the method and frequency of regular garbage pick-up/disposal, and screening of the outdoor storage area.
- i. Accessory Living Areas, Extended Family Dwellings, and Farmstead Accessory Dwellings shall not be utilized as a short-term rental.
- j. Solid fuel (such as wood or coal) fire pits shall not be allowed in identified wildfire hazard areas.
- k. Cooking areas within the short-term rental shall be equipped with a stove top fire stop or approved alternative.
- l. Unless already equipped with an approved automatic fire sprinkler system, approved fire extinguishers shall be installed in readily accessible and visible locations for immediate use in the following locations within the STR.
 - i) In each room with a cooking appliance, fireplace, heating appliance, or water heater.
 - ii) Inside and adjacent to the door leading to a deck, porch, or patio with such appliances.
 - iii) At least one on each story.

To approve a request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure, the Director or the Board of County Commissioners shall consider the following criteria and find that each has been met or determined to be inapplicable, found in Section 1.10.7.D.1:

- a. **The extended, expanded, enlarged, or changed use, building, or structure will not be more than 2000 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 Board of County Commissioners.** This request includes a change in character of an existing nonconforming use to convert the main dwelling into a short-term rental. The proposed short-term rental will take place in the existing main dwelling and will not result in an expansion of the structure or a use of more than 2,000 square feet, or 50 percent larger, or more intense than the initial use. Thus, this request meets 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.** This request will comply with all applicable requirements of this Code and any applicable supplementary regulations to the maximum extent practicable.
- 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 Board of County Commissioners, the Board of Adjustment or Flood Review Board under another approval process authorized by this Code.** The subject property is not located within a flood zone and does not currently require approval from the Board of Adjustment. This request will comply with all conditions of approval imposed by the County Commissioners.
- d. **The proposed use will be compatible with existing and allowed uses in the surrounding area.** Short-term rentals are allowed in the surrounding area with approval through the Administrative Special Review process, per the Larimer County Land Use Code, and there are existing short-term rentals in the surrounding area. However, community comments indicate concerns that the proposed short-term rental will not be compatible with the existing quiet, residential neighborhood and that there are too many existing short-term rentals in the neighborhood.
- e. **The proposed use will not result in a substantial adverse impact on other properties in the vicinity of the subject property.** Community comments indicate the short-term rental would have substantial adverse impacts on other properties in the vicinity of the subject property. Specific impacts associated are discussed in more detail for criterion 6.4.3.D.2. earlier in this report.

REVIEW AGENCY COMMENTS:

The following Larimer County agencies have reviewed the Administrative Special Review for a proposed short-term rental use. Their comments are attached to this report.

- The Building Division indicated that they have no objections to the request and the home must pass the Life Safety Inspection and obtain Planning approval before issuance of the Certificate of Occupancy. County building permit 21-RES0436 (residential addition) must be issued and pass final inspection before any of the associated space may be used for the STR. This has been made a condition of approval.
- The Engineering Department stated that they do not expect the existing drainage patterns would be changed due to this application. If drainage patterns are going to be changed, a drainage plan will need to be submitted to the Engineering Department for review and approval. In addition, no parking is allowed in the right-of-way and the applicant has met parking requirements. The property takes access off Larkspur Road, which is classified as a private roadway. It is the responsibility of the applicant to ensure adequate legal access to use the roadway for the purpose of a short-term rental.
- Code Compliance indicated that research originally indicated a permit was needed for a fourth bedroom in the larger house. Due to septic concerns, the applicant has addressed converting the fourth bedroom into an office, with approval to use this space as an additional sleeping area. A building permit (21-RES0436) for an addition to the main 100 residence is still active, and a permit for the second bathroom in the second residence is required, however, these issues do not affect the timely processing of this application.
- The Department of Health and Environment approved the use of the existing on-site septic system and requested minor edits to the owner's Operations Manual, which have been addressed.
- Division of Water Resources indicated that the current well permit for the subject property may be used as a water supply for the use of the primary residence for short-term rental purposes and the accessory cabin for long-term rental purposes as currently proposed.
- Estes Valley Fire Protection District provided comments which include premise identification, fire apparatus access, and water supplies, in addition to an STR Planning Review Commentary and preliminary Fire & Life Safety Report. Recommendations were made for the property, but only the following requirements:
 - o A \$100 operational permit fee.
 - o A fire code-compliant address.
 - o Adequate portable fire extinguishers.
 - o Meet the open flame cooking, portable outdoor fireplace, and ashtray standards, if applicable.

- o Any existing tree immediately adjacent to the building shall be trimmed to maintain adequate clearances to the structure and to prevent wildfire extension from a ground fire as follows: All limbs shall be pruned so that they are a minimum of 6-feet off the ground.
- o As part of the pending building permit, No. 21-RES0436, alternative fire protection water supply is required, with either an on-site cistern with a dry hydrant connection, or, and NFPA 13D residential fire sprinkler system as approved options.

- Rocky Mountain National Park had no comments on the application except for one minor edit to the Operations Manual, which has been made a condition of approval.

Ms. Lasher relayed to the Board that the Development Services Team is not making a specific recommendation on the Stonehenge Short-Term Rental & Expansion of Nonconforming Use Administrative Special Review for the conversion of a single-family dwelling to a short-term rental, File #21-ZONE3090, and has presented all the information by which the Board of County Commissioners may base their deliberation and decision.

SUGGESTED CONDITIONS:

1. This approval shall automatically expire in three years if the use has not commenced and/or building permit and/or development construction permit are not issued.
2. This Administrative Special Review approval shall be subject to revocation at a noticed public hearing if the owner fails to comply with any conditions of approval or fails to use the property consistent with the approved Administrative Special Review.
3. The Site shall be developed consistent with the approved plan and with the information contained in the Stonehenge Short-Term Rental & Expansion of Nonconforming Use Administrative Special Review, File #21-ZONE3090, and the supplemental regulations listed above, except as modified by the conditions of approval or agreement of the county and owner. The owner shall be subject to all other verbal or written representations and commitments of record for the Stonehenge Short-Term Rental & Expansion of Nonconforming Use Administrative Special Review.
4. The property owner is responsible for obtaining all applicable fees, which may include building permit fees, impact fees, and Transportation Capital Expansion Fees (TCEF) applicable to the use.
5. Prior to operation as a Short-Term Rental, the applicant shall obtain an approved Change of Occupancy Permit from the Larimer County Building Division, and successfully pass the Life Safety Inspection.
6. Larimer County building permit No. 21-RES0436 (residential addition) must be issued and pass final inspection before any of the associated space may be used for the short-term rental.

7. The short-term rental is approved with three bedrooms and one additional sleeping area for a maximum occupancy of eight people.
8. Re-certification shall be required upon notice by the county, which is approximately every two years. Failure to complete and resubmit the re-certification form to the Community Development Department, shall be cause for consideration of revocation of this approval.
9. No parking shall be permitted in the right-of-way, and all parking for the use must be on-site.
10. Prior to operation of the short-term rental, the applicant shall make the correction required by Rocky Mountain National Park.
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.
12. The use must comply with the Larimer County Noise Ordinance, which outlines noise levels as well as noise disturbances, with lower sounds/decibels at property lines between 7: 00 pm and 7:00 am.
13. Upon issuance of the Change of Occupancy Permit, the applicant shall include the approved File Number, 21-ZONE3090, on all advertising websites.
14. Prior to operation as a short-term rental, the applicant shall post the property manager's contact information outside the front door.
15. Upon approval, the property owner shall mail the designated Property Manager's contact information to surrounding property owners within a 500-foot radius of the STR. The owner shall also mail contact information to surrounding property owners whenever the designated Property Manager changes.

Chair Stephens invited the applicant Tommy Caldwell forward to address the Board. Mr. Caldwell noted that his wife Becca Caldwell was also joining the meeting via Zoom. Mr. Caldwell stated that he was born and raised in Estes Park, and he and his wife are raising their two children in Estes Park.

Mr. Caldwell relayed to the Board that his presentation will focus on addressing the concerns that have been expressed by his neighbors. He noted that the three main concerns that have been expressed are an increase in traffic, increased water use, and an increased risk of wildfire. He addressed each of these concerns and how his family has and will continue to work to be good neighbors. He also stated that he and his wife have made significant investments in the road leading to the home to improve access and as means of repairing any damage which might have been incurred by truck traffic from remodeling projects at the home.

There was a discussion between the Board and the applicant clarifying that this is the family's primary residence and that he and his family live in the home year-round. The Board also asked for clarification regarding the second structure on the property, which is a long-term rental. Lastly, the Board had questions for the applicant regarding access for emergency vehicles.

Chair Stephens opened public comment. No one from the public addressed the Board. Chair Stephens closed public comment.

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the Stonehenge Short-Term Rental & Expansion of Nonconforming Use Administrative Special Review for the conversion of a single-family dwelling to a short-term rental, File #21-ZONE3090, subject to the conditions outlined and the additional conditions of a sign being posted stating that the feeding of wildlife is prohibited.

Motion carried 3-0.

3. GOFF SHORT-TERM RENTAL, FILE NO 22-ZONE3281 (Samantha Lasher, Community Development)

Ms. Lasher reported to the Board that the subject property is located on Goff Haven Lane, Glen Haven, CO. The property currently contains an existing single-family residence and is zoned RR-2-Rural Residential. The applicant requests Administrative Special Review approval for a small short-term rental located in the existing three-bedroom single-family residence with an additional sleeping area for a maximum occupancy of eight total guests- two guests per bedroom/additional sleeping area. No construction or modifications to the home are proposed with this request.

Administrative Special Review for an STR requires both Planning Division and Building Division approval. For this case, the Planning Division review was conducted prior to the Building Division review. In general terms, the Planning review process involves:

1. Staff and referral agency evaluation.
2. Community notice and comment review.
3. Review and recommendation by the Estes Valley Planning Advisory Committee, if applicable.
4. The scheduling of a public hearing, if applicable, or an administrative review and decision by the Community Development Director.

Ms. Lasher conveyed to the Board that a courtesy neighbor notification about the proposed project was mailed to properties 500 feet around the Glen Haven subdivision, with 199 neighbors being notified. Staff received emails from eight neighbors voicing concerns regarding the application, and one letter of support. The concerns ranged from fire hazards, trespassing, the maximum occupancy allowance, and the possibility of noise. The applicant provided a narrative responding to neighbor concerns. Due to the number of neighbor concerns received, the Community Development Director determined that the application be scheduled at a public hearing before the Board of County Commissioners per Section 6.3.6.D.3 of the Land Use Code. The proposal is scheduled for the

November 7, 2022, Board of County Commissioners land use hearing. Administrative Special Review requires General Review Criteria to be met for approval (Article 6.4.3.D in the Land Use Code), in addition to supplemental review criteria for small STRs (Article 3.3.5.B.2. in the Land Use Code).

Ms. Lasher noted that staff finds the application and supporting materials may not have adequately met the following Administrative Special Review General Review criteria in Article 6.4.3.D of the Land Use Code:

- 1) The proposed use has minimal impacts on existing and future development of the area and
- 2) Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated. Staff finds the application meets all other criteria in Article 6.4.3.D and all Short-term Rental Use Regulations criteria located in Article 3.3.5.B. The following section addresses staff findings and the review criteria, including neighbor concerns and the applicant's response.

REVIEW CRITERIA:

In reviewing a proposed administrative special review application, the Board of County Commissioners shall consider the general approval criteria in §6.3.8.D: General Review Criteria, and also whether (Section 6.4.3.D.):

1. The proposed use has minimal impacts on existing and future development of the area. Community comments and Glen Haven Fire comments indicate the short-term rental would have increased impacts to the existing development of the area. Specific impacts associated with criterion two that also impact the existing development of the area are discussed below. Glen Haven Fire comments indicate that the community lacks the infrastructure and services needed to accommodate and manage problems from short-term rentals. The referral comments noted that in Estes Park, a majority of the illegal burn calls are located on short-term rental properties. It was also noted that access to some of the properties in Glen Haven by emergency vehicles is difficult due to the narrow private dirt roads and obstruction by parked vehicles.
2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated; The following issues as related to this review criterion arose with community comments. A summary of comments as well as the applicant's response, follows.
 - a. Noise and Occupancy Allowance Comments indicated the potential for noise with the short-term rental use. Loud music, voices, and parties could result in noise carrying to neighboring properties throughout the night. There was additional concern about the occupancy allowance of the proposed STR and the potential for eight guests to be on the property at once. **Applicant's Response:** Guests are informed prior to arrival that the home is located in a residential area, and guests are strongly encouraged to respect the peace and quiet of the area. SkyRun Estes Park, the property management company, has

a “Party Clause” in the guest’s rental management agreement which the guest must acknowledge they have read. In agreement, guests acknowledge that violation of this condition can result in a \$1,000 charge plus having their rental agreement terminated. Additionally, having an occupancy of a maximum of 8 guests is allowed under Larimer County STR regulations. SkyRun Estes Park will enforce the occupancy limit, and guests will be required to agree to the rental contract at the time of booking that will outline the occupancy guidelines.

- b. Wildfire and Wildlife Neighbors voiced concerns over wildfire hazards due to the presence of a firepit on the property and renters’ lack of knowledge regarding safe fire practices and county fire bans. One neighbor noted that a member of the Glen Haven Fire Department had to respond to an incident resulting from the firepit this past July. **Applicant’s Response:** A fire pit, without the knowledge of the owner, was constructed by the owner’s children. The owner removed the fire pit upon learning of it and has instructed family members that this is not allowed on the property. SkyRun Estes Park strongly endorses the no-open flame Larimer County regulation requirement and has not allowed such use on any properties that they manage for the past four years.
 - c. Trespassing Comments noted the potential for trespassing along shared property lines. Applicant’s Response: Upon arrival, guests have an easily accessible map of the property and where the vacation home is located in proximity to the property boundaries. Not only does SkyRun Estes Park management company educate guests about this, but a boundary map is also a Larimer County requirement.
- 3. The recommendations of referral agencies have been considered and adequately addressed. Referral agencies had no concerns with the proposed use.
 - 4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan. This criterion is not applicable.
 - 5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations. The STR meets the following supplemental regulations, as noted below. Article 3.3.5.B Supplemental Regulations for Short-Term Rentals:
 - A. Only one short-term rental shall be allowed on a property.
 - B. The short-term rental shall only be conducted in a legally constructed dwelling and shall require a change of occupancy permit prior to commencement of the short-term rental use.
 - C. The short-term rental shall have a property manager consisting of the owner or a responsible party representing the owner to manage the use at any time it is

occupied. The property manager must be located within one hour or less travel distance from the short-term rental, and their contact information shall be posted outside at the front door and in the operations manual located in the short-term rental. Changes to the contact information form for the property manager shall be provided to the Larimer County Community Development Department within five business days of the change in contact information.

- D. The short-term rental owner or property manager shall at the time of application provide documentation that the short-term rental location has been registered with the local fire department or if none with the local sheriff/police.
- E. The location of the property boundaries for the short-term rental shall be easily identifiable and posted to prevent trespass.
- F. The short-term rental shall not be located within an established floodplain, and if located within a floodplain shall require compliance with the applicable requirements of Section 4.2.2. - Floodplain overlay zones.
- G. The short-term rental shall include maps installed onto or adjacent to the doorway of each habitable room, illustrating how to exit the building. The map should include the address, GPS coordinates, and the phone number of the short-term rental.
- H. The short-term rental shall be equipped with an operations manual/users guide that is in a visible location (such as a kitchen counter or entry table).
- I. The short-term rental shall have a plan for garbage storage and removal. The plan shall clearly illustrate the location of garbage storage areas, the method, and frequency of regular garbage pick-up/disposal. There is no outdoor storage area.
- J. Accessory Living Areas, Extended Family Dwellings, and Farmstead Accessory Dwellings shall not be utilized as a short-term rental.
- K. Solid fuel (such as wood or coal) fire pits shall not be allowed in identified wildfire hazard areas.
- L. Cooking areas within the short-term rental shall be equipped with a stovetop fire stop.
- M. Unless already equipped with an approved automatic fire sprinkler system, approved fire extinguishers shall be installed in a readily accessible and visible locations for immediate use in the following locations within the STR:
 - 1. In each room with a cooking appliance, fireplace, heating appliance, or water heater.
 - 2. Inside and adjacent to the door leading to a deck, porch, or patio with such appliances.

3. At least one on each story.

Ms. Lasher noted that the Development Services Team is not making a specific recommendation on the Goff short-term Rental, File #22-ZONE3305, and has presented all the information by which the Board of County Commissioners may base their deliberation and decision.

RECOMMENDED CONDITIONS OF APPROVAL:

1. This approval shall automatically expire in three years if the use has not commenced and/or building permit and/or development construction permit are not issued.
2. This Administrative Special Review approval shall be subject to revocation at a noticed public hearing if the owner fails to comply with any conditions of approval or fails to use the property consistent with the approved Administrative Special Review.
3. The Site shall be developed consistent with the approved plan and with the information contained in the Goff Short-Term Rental Administrative Special Review, File No. 22- ZONE3305, and the supplemental regulations listed above, except as modified by the conditions of approval or agreement of the county and owner. The owner shall be subject to all other verbal or written representations and commitments of record for the Goff Short-Term Rental Administrative Special Review.
4. The property owner is responsible for obtaining all applicable fees, which may include building permit fees, impact fees, and Transportation Capital Expansion Fees (TCEF) applicable to the use.
5. Prior to operation as a Short-Term Rental, the applicant shall obtain an approved Change of Occupancy Permit from the Larimer County Building Division, and successfully pass the Life Safety Inspection.
6. The short-term rental is approved with three bedrooms and one additional sleeping area for a maximum occupancy of eight people.
7. Re-certification shall be required upon notice by the county, which is approximately every two years. Failure to complete and resubmit the re-certification form to the Community Development Department, shall be cause for consideration of revocation of this approval.
8. No parking shall be permitted in the right-of-way, and all parking for the use must be on-site.
9. 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.

10. The use must comply with the Larimer County Noise Ordinance, which outlines noise levels as well as noise disturbances, with lower sounds/decibels at property lines between 7:00 pm and 7:00 am.
11. Upon issuance of the Change of Occupancy Permit, the applicant shall include the approved File Number, 22-ZONE3305, on all advertising websites.
12. Prior to operation as a short-term rental, the applicant shall post the property manager contact information outside the front door.
13. Upon approval, the property owner shall mail the designated Property Manager's contact information to surrounding property owners within a 500-foot radius of the STR. The owner shall also mail contact information to surrounding property owners whenever the designated property manager changes.
14. Renters must have access to all utility shut-off valves.

There was a discussion between the Board and staff regarding the number of other short-term rentals in the area.

Chair Stephens invited Greg Rosen to address the Board on behalf of the applicant. Mr. Rosner addressed the major concerns that have been expressed by neighbors. These concerns include payments to the road association, fire mitigation and management, an increase in noise, guests staying within the property boundaries, and the number of guests.

Mr. Greg Goff, the owner of the property addressed the Board. He relayed that his family bought its first cabin in the area in 1966. His family's property sustained significant damage during the flood. Mr. Goff is hoping to use the short-term rental as a means of preserving the property for his children and grandchildren.

There was a discussion between the Board and the applicant regarding the adjacent properties and if those properties will be used as short-term rentals. Additionally, the Board asked about emergency vehicle and access and concerns expressed by Estes Valley Fire District. There was also a discussion regarding the floodplain and requirements to shelter-in-place in the event of a flooding event.

Chair Stephens opened public comment. No one from the public addressed the Board. Chair Stephens closed public comment.

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners deny the Goff Short-Term Rental, File #22-ZONE3305.

Motion carried 3-0

With there being no further business, the Board adjourned at 5:25 p.m.

TUESDAY, NOVEMBER 8, 2022

ADMINISTRATIVE MATTERS MEETING

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

Chair Stephens opened the meeting with the Pledge of Allegiance.

1. PUBLIC COMMENT: Chair Stephens opened public comment. Eric Gustafson, Jason Wright, and Debbie Wilson addressed the Board about the Warberg Farm Development and issues with building permits and the developer. Heather Lahdenpear addressed the Board regarding the aftermath of COVID-19. Chair Stephens closed public comment.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF OCTOBER 31, 2022:

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the minutes for the week of October 31, 2022.

Motion carried 3-0

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF NOVEMBER 14, 2022: Ms. Martin reviewed the upcoming week's schedule with the Board.

4. CONSENT AGENDA:

ABATEMENTS:

PETITION FOR ABATEMENT OR REFUND OF TAXES: David B. Snyder-Tax Years 2019/2020- R1541910, Kim and Danyiele Clift-Tax Year 2020- R0591475.

AGREEMENTS:

1. MASTER AGREEMENT SOFTWARE AS A SERVICE

2. LARIMER COUNTY BEHAVIORAL HEALTH SERVICES GRANT AGREEMENT 22-TP4-LCCJS

3. ESTES-LYONS/ESTES-POLE HILL TRANSMISSION LINE ACCESS ROAD CONTRACT AND GRANT OF EASEMENT

4. AMENDMENT TO LARIMER COUNTY RENTAL ASSISTANCE GRANT PROGRAM TWO

APPOINTMENTS:

1. RECOMMENDED MIDTERM APPOINTMENT TO THE LAPORTE AREA PAC- Cody Van

2. RECOMMENDED REAPPOINTMENT TO THE GRASSLANDS PID- Ingle Refvem

3. RECOMMENDED REAPPOINTMENT TO THE COBBLESTONE FARMS PID- John Reinhardt

4. RECOMMENDED REAPPOINTMENT TO THE ESTES PARK ESTATES PID- Svitlana Soltysyak

5. RECOMMENDED MIDTERM APPOINTMENTS TO THE WORKFORCE DEVELOPMENT BOARD- Hope Hartman, David Roecker, and Luke Hammons

6. RECOMMENDED APPOINTMENTS TO THE BEHAVIORAL HEALTH POLICY COUNCIL- Isabel Gwilliam and Jarah Grashorn

7. RECOMMENDED APPOINTMENTS TO THE BEHAVIORAL HEALTH CONSUMER ADVISORY COUNCIL- Glenda Kastle, Mary Maldonado, Hans Pearson, Michael Ellis, Laura Whitney

8. RECOMMENDED REAPPOINTMENTS TO THE BEHAVIORAL HEALTH TECHNICAL ADVISORY COMMITTEE- Michael Ruttenberg, Rachel Olsen, Tom Gonzales, and Cheryl Jacobs

9. RECOMMENDED APPOINTMENTS TO THE BEHAVIORAL HEALTH TECHNICAL ADVISORY COMMITTEE- Amber Franzel, Andrea Linafelter, Erin Hadlow, Jim Fox, Kelly Glick, and Nicole Armstrong

LIQUOR LICENSE: Young's Liquor Inc dba Young's Liquor-Retail Liquor Store-Fort Collins, Co., Green Event Inc- Special Event 6%-Fort Collins, Co.

MISCELLANEOUS:

1. 2023 EMERGENCY MANAGEMENT PERFORMANCE GRANT ANNUAL PROGRAM PAPER JURISDICTIONAL INFORMATION FORM

2. LETTER OF ASSURANCE FOR THE BLACK HOLLOW PROPERTY ACQUISITION THROUGH THE HAZARD MITIGATION GRANT PROGRAM (HMGP)

POLICIES

1. LARIMER COUNTY POLICY AND PROCEDURES: ADMINISTRATIVE POLICY AND PROCEDURE 100.20

RESOLUTIONS

1. RESOLUTION ESTABLISHING COMPENSATION FOR DISTRICT ATTORNEY LARIMER COUNTY DEPUTY DISTRICT ATTORNEY III

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Consent Agenda for November 8, 2022.

Motion carried 3-0

5. COMMISSIONERS GUESTS: Commissioner Stephens noted that in October 2022, the Board of County Commissioners passed a resolution exempting essential hygiene products from sales taxes. In celebration of the resolution, the county placed collection boxes for these products in county buildings.

Commissioner Stephens invited Justin Lord with the Larimer County Food Bank and the Nappy Project and Brennan Snyder with the Homeward Alliance to receive the donations. Mr. Lord thanked the county for the donations. Mr. Lord noted that the need in the community is great and that many families struggle with the decision of feeding their families or having essential items like diapers for their children. He noted that the food bank distributes roughly a million diapers a year. Brennan Snyder with Homeward Alliance also addressed the Board and expressed his thanks for the donations.

The Board thanked Mr. Lord and Mr. Brennan and their organizations for their work in the community and their efforts upon some of the most vulnerable. Providing essential products to those in need goes a long way to maintaining individual dignity.

The Board took a brief recess. The Board reconvened.

DISCUSSION ITEMS:

6. RESOLUTION EXPRESSING INTENT TO PROVIDE FUNDING TO ASSIST WITH A NEW YOUTH SHELTER (Alea Rodriguez, Housing Stability Program Manager). Ms. Rodriguez reported to the Board that this resolution expresses the intent of the Board of County Commissioners to provide \$1,500,000 of American Rescue Plan Act funds to contribute to the operating costs of a new youth drop-in center and overnight shelter. The shelter will be operated by the Matthews House, once the project has full funding and upon the approval of a subsequent, future agreement by the Board of County Commissioners.

Ms. Rodriguez noted that this project has been greatly enhanced by multiple partnerships in the community. She invited Nicole Armstrong with the Matthews House to address the Board. Ms. Armstrong stated that this project targets youth in the community experiencing homelessness or housing instability. She relayed that this has been the effort of multiple partners, including the Poudre School District and the Thompson Valley School District. Ms. Armstrong recognized Dr. Schaffer with the Thompson Valley School District and Mr. Nelson with Poudre Valley School District. Lastly, Ms. Armstrong reported that a building has been identified for use in the Thompson Valley School District and has a target open date of 2024.

The Board thanked the partners for their efforts in creating the youth drop-in center. The Board noted that homelessness and housing instability manifests among young people in many complex and non-traditional ways. The Board thanked the partners for working together to tackle this very complex issue.

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Resolution of the Larimer County Board of Commissioners expressing intent to provide funding to assist with the Youth Shelter in the amount of \$1,500,000 of State and Local Fiscal Recovery Funds received as part of the American Rescue Plan Act.

The motion carried 3-0.

The Board took a brief recess. The Board reconvened.

7. COUNTY MANAGER UPDATE: The County Manager updated the Board on this week's coordination meetings and upcoming projects and activities.

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

With there being no further business, the Board recessed at 10:35 a.m.

EXECUTIVE SESSION

The Board met at 1:30 p.m. with, Christine Keuhnast, Human Resources, for an Executive Session regarding the Annual Evaluation of the County Attorney pursuant to C.R.S 24-6-402(4)(f) personnel matters. Chair Stephens presided. Commissioner Kefalas and Commissioner Shadduck-McNally were present Elizabeth Carter, Deputy Clerk was also present.

M O T I O N

Commissioner Kefalas moved that the Board of County Commissioners enter into Executive Session pursuant to Colorado Revised Statute, 24-6-402(4)(f) to discuss personnel matters.

Motion carried 3-0

With there being no further business, the Board adjourned at 1:45 p.m.



ANGELA MYERS
CLERK AND RECORDER

A handwritten signature in cursive script, reading "Kristin Stephens".

KRISTIN STEPHENS
BOARD OF COUNTY COMMISSIONERS

ATTEST:

A handwritten signature in cursive script, reading "Elizabeth Carter".

Elizabeth Carter, Deputy Clerk

