



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, OCTOBER 11, 2021

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m., with Don Threewitt, Planning Manager. Chair Kefalas presided and Commissioner Shadduck-McNally was present. Commissioner Stephens was excused. Also present were: Samantha Lasher and Michael Whitley, Community Development; Katie Beilby and Connor Sheldon, Engineering; Andy Lewis and Frank Haug, County Attorney's Office; and Elizabeth Carter, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

CONSENT AGENDA:

1. **RUSTIC BRIDGE LID 2021-1:** Rustic Bridge Local Improvement District (LID) 2021-1 was created by the Board of County Commissioners Hearing on August 23, 2021. This hearing item is to approve the loan for the bridge improvements. There are 45 assessment units in the district each paying \$1,725.76. If a property owner chose to not pay in full, the assessments will be paid in installments with interest (2.49% interest rate) and a collection fee of 1.01% to the County Treasurer. The annual payment will be \$604.14 with interest for three years (not including the Treasurer's fee). The owner of any property not in default as to any installment or payment may at any time, pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment of interest or principal. The Id Construction Fund is loaning the LID the funds necessary to repair the bridge.
2. **BAKER ACCESSORY LIVING AREA SIZE APPEAL, FILE NO. 21-ZONE3049:** This request is an appeal to Article 3.4.5.A.3.b. of the Land Use Code which limits the size of a detached accessory living area to "40% of the square footage in the single-family dwelling, excluding any garage or basement area, whether finished or not, or 800 square feet, whichever is less." The property is a 9.32-acre parcel located in Fort Collins which is north of the intersection of County Road 30 and County Road 13. Until recently, the property contained a 1,150 square-foot single-family residence that had been constructed in 1926. Earlier this year, a demolition permit was issued to remove the home and a permit was issued to construct a new 4,532 square-foot home. The applicant has applied for Administrative Special Review approval to allow an 893-square foot building as an Accessory Living Area. The Accessory Living Area would be connected to the primary home with a roof but not enclosed walls. The unenclosed area between the primary home and the Accessory Living Area is proposed to function as an outdoor-dining room.

The applicant's project description indicates that the Accessory Living Area will be occupied by family members related to the occupants of the primary home. If the size appeal is granted by the Board of County Commissioners, the Administrative Special Review can be approved administratively by the Community Development Director.

REVIEW CRITERIA: 22.2.3 REVIEW CRITERIA FOR APPEALS TO DEVIATE FROM STANDARDS OR REQUIREMENTS OTHER THAN MINIMUM LOT SIZE:

When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the Board of County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following review criteria. 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 the standard is to allow for Accessory Living Areas that are incidental to the primary use of the property as single-family residential and of an appropriate scale. The size limitation was included to ensure the accessory use remains accessory and to prevent the use from turning into multi-family residential and/or rentals where it is not permitted. the primary residence under construction is 4,532 square feet, excluding the garage and basement. The proposed Accessory Living Area would be 893 square feet which is just 19.7% of the size of the primary home and is 11% larger than the allowed maximum size limit of 800 square feet. Given that the Accessory Living Area will not be rented, would not be out of scale for the property, and can meet all other Land Use Code requirements, approval of the appeal would not subvert the purpose of the size standard.
- B. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood. Notice of the Administrative Special Review application and size appeal were sent to surrounding property owners and comments were requested from several referral agencies. No comments were received from neighbors and no referral agencies have raised concerns with the request. It is not anticipated that granting the appeal would be detrimental to the public health, safety, or property values in the neighborhood.
- C. Approval of the appeal is the minimum action necessary. Approval of the appeal is the minimum action necessary to allow the proposed 893-square foot Accessory Living Area.
- D. Approval of the appeal will not result in increased costs to the general public. It is not anticipated that the project will result in the need for improvements to public facilities or increased costs to the public.

- E. Approval of the appeal is consistent with the intent and purpose of the Code. The intent of the Accessory Living Area regulations is to allow guest quarters that are secondary to the principal single-family home on the property and compatible with uses in the surrounding area. While the proposed Accessory Living Area (ALA) exceeds the 800 square foot maximum size requirement by 93 feet, the ALA would be just 19.7% of the size of the primary home and 11% larger than would be allowed without an appeal. Approval of the appeal would be consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM FINDINGS:

The Development Services Team recommends approval of the Baker Accessory Living Area Size Appeal, File No. 21-ZONE3049 with the following conditions:

1. The Accessory Living Area shall be located as shown on the approved site plan.
2. The use of the building as an Accessory Living Area must be approved through the Administrative Special Review process. The Development Services Team notes that if the proposed appeal is approved, additional conditions will be placed on the Administrative Special Review approval including meeting all development standards, the need for obtaining all applicable permits, and an expiration of the Administrative Special Review approval.
3. **GBU ENTERPRISES, LLC APPEAL, FILE NO. 21-ZONE2979:** This request is an appeal to Article 3.4.5.A.3.b. of the Land Use Code which limits the size of a detached accessory living area to “40% of the square footage in the single-family dwelling, excluding any garage or basement area, whether finished or not, or 800 square feet, whichever is less”. The property is a 3.15-acre parcel located in Loveland on the east side of the road approximately 0.1 miles east of the intersection of Willow Vista Court and W. County Road 20.

The property contains an existing residence and two existing outbuildings, including a detached garage. The existing residence was constructed in 2016 and is 4,117 square feet which consists of a first floor of 1,467 square feet, a second floor of 1,183 square feet, and a finished basement of 1,467 square feet. The detached garage is approximately 1,560 square feet and was first permitted in 1987, with an addition permitted in 2014.

In 2012, the previous owner made attempts to convert a portion of the detached garage to be used as an accessory living area. However, planning approval was never granted because home owners association’s (HOA) covenants did not allow accessory living areas. Since that time, the HOA revised their covenants to allow accessory living areas.

The current owner is in the process of trying to gain approval for the accessory living area, which will be located within the existing detached garage, consisting of a total size of 884 square feet. The square footage of the detached accessory living area is limited to 40% of the primary residence not including the finished basement, or 800 square feet, whichever is less. The single-family dwelling is 2,650 square feet, not including the finished basement. Forty percent of the single-family home, excluding the

basement, is 1,060 square feet. Based on the square footage of the single-family dwelling, an accessory living area could not exceed 800 square feet. As proposed, the detached accessory living area exceeds the 800 square foot limitation.

The accessory dwelling unit is 884 square feet, approximately 33% of the square footage of the single-family dwelling and exceeding the 800 square foot limit by 84 square feet. The applicant's project description indicates that the accessory living area will be occupied by visiting family members on occasion and/or a family member with health conditions on a fulltime basis. The property owner submitted an Administrative Special Review application and size appeal. If the size appeal is granted by the Board of County Commissioners, the Administrative Special Review can be approved administratively by the Community Development Director. Both dwellings will share the existing access point off Willow Vista Court. Adequate parking for the accessory living area is provided in the portion of the structure that contains a detached garage and in the existing driveway in front of the detached garage.

REVIEW CRITERIA: 22.2.3

REVIEW CRITERIA FOR APPEALS TO DEVIATE FROM STANDARDS OR REQUIREMENTS OTHER THAN MINIMUM LOT SIZE: When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the Board of County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following review criteria. 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 the section is to allow for accessory living areas that are incidental to the primary use of the property as single-family residential and of an appropriate scale. The size limitation was included to ensure the accessory use remains accessory and to prevent the use from turning into multi-family residential and/or rentals where it is not permitted. As discussed above, the existing residence is 2,650 square feet, excluding the 1,467 square foot finished basement. Based on the square footage of the single-family dwelling, an accessory living area could not exceed 800 square feet. The accessory living area will be 884 square feet, 84 square feet above the maximum size limit of 800 square feet. Given that the accessory living area will not be rented, would not be out of scale for the property, and can meet all other Land Use Code requirements, approval of the appeal would not subvert the purpose of the size standard.
- B. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood. Notice of the Administrative Special Review application and size appeal were sent to surrounding property owners. One neighbor provided comments. The Engineering Department did not have concerns and parking for both the single-family home and accessory living area will not interfere with the right-of-way. Water will be provided by the Little Thompson Water District. Sewer will be proved by an on-site septic system and the Health Department has no concerns. It is not anticipated that granting the appeal would be detrimental to the public health, safety, or property values in the neighborhood.

- C. Approval of the appeal is the minimum action necessary. Approval of the appeal is the minimum action necessary to allow 884 square feet of the total existing 1,560 square-foot detached garage to be converted into an accessory living area.
- D. Approval of the appeal will not result in increased costs to the general public. It is not anticipated that the project will result in the need for improvements to public facilities or increased costs to the public.
- E. Approval of the appeal is consistent with the intent and purpose of the Code. The intent of the detached accessory living area regulations is to allow guest quarters that are secondary to the principal single-family home on the property and compatible with uses in the surrounding area. While the proposed appeal exceeds the 800 square foot maximum size requirement by 84 feet, it does not change the existing character of the prop.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends Approval of the GBU Enterprises, LLC Appeal, File No. 21-ZONE2979 with the following conditions:

1. The Accessory Living Area shall be located as shown on the approved site plan.
2. The use of the addition to the single-family dwelling as an Accessory Living Area must be approved through the Administrative Special Review process.

The Development Services Team notes that if the proposed appeal is approved, additional conditions will be placed on the Administrative Special Review approval including meeting all development standards, the need for obtaining all applicable permits, and an expiration of the Administrative Special Review approval.

MOTION

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

Motion carried 2-0.

With there being no further business, the Board adjourned at 3:05 p.m.

TUESDAY, OCTOBER 12, 2021

ADMINISTRATIVE MATTERS MEETING

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

Commissioner Kefalas opened the meeting with the Pledge of Allegiance.

1. **PUBLIC COMMENT:** Patrice Marquis, Sarah Morales, Ross Livingston, Stacey Lynn, and Eric Ryplewski addressed the Board.

Chair Kefalas closed public comment.

2. **APPROVAL OF THE MINUTES FOR THE WEEK OF OCTOBER 4, 2021:**

M O T I O N

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the week of October 4, 2021.

Motion carried 3-0

3. **REVIEW OF THE SCHEDULE FOR THE WEEK OF OCTOBER 18, 2021:** Mr. Harvill reviewed the upcoming schedule with the Board. Commissioner Kefalas noted that he will participate in an AARP Forum on Wednesday, October 20, 2021, from 10:00 a.m. to 11:00 a.m. Additionally, Commissioner Kefalas will attend the Veterans through the Community Project on Thursday, October 21, 2021.

4. **CONSENT AGENDA:**

AGREEMENTS:

1. **CROW CREEK - LARIMER COUNTY BOARD OF COMMISSIONERS ESTOPPEL REQUEST 10.5.21 - STAMPED**
2. **LCBHS GRANT AGREEMENT 21-GAD-LCCJS**
3. **LCBHS GRANT AGREEMENT 21-TP2-HOME**
4. **LCBHS GRANT AGREEMENT 21-TP1-HSDLC**
5. **LCBHS GRANT AGREEMENT 21-TP3-CSUSSW**

LIQUOR LICENSES:

Fort Collins Elks Lodge-Special Event 6%-Fort Collins; Fort Collins Running Club-Special Event 6%-Fort Collins.

MISCELLANEOUS:

1. **STIPULATION AGREEMENT REGARDING 2021 TAX YEAR VALUATION FOR WENDY TURNER AND DEAN K. CILLI, LOT 12, IDEAL HEIGHTS**
2. **WARRANTY MEMORANDUM FOR LUKEN SUBDIVISION**
3. **TENANT ESTOPPEL CERTIFICATE – 2573/2601 MIDPOINT**
4. **TENANT ESTOPPEL CERTIFICATE – 2643 MIDPOINT**
5. **TENANT ESTOPPEL CERTIFICATE – 2619 MIDPOINT**

POLICIES:

1. **BOARD OF COUNTY COMMISSIONERS' DIVISION OF RESPONSIBILITIES**

RESOLUTIONS:

1. **RESOLUTION APPOINTING ARBITRATORS TO HEAR APPEALS OF BOARD OF EQUALIZATION DECISIONS**
2. **RESOLUTION AMENDING THE LAND USE CODE TO REPEAL AND REPLACE SECTION 8 (SIGNS)**

M O T I O N

Commissioner Stephens moved that the Board of County Commissioners approve the Consent Agenda for October 12, 2021.

Motion carried 3-0.

5. **COMMISSIONERS GUESTS:** The Commissioners did not have any guests.
6. **COVID-19 UPDATES FROM PUBLIC HEALTH DIRECTOR:** Tom Gonzales, Public Health Director. Mr. Gonzales updated the Board on Larimer County's continued response to the COVID-19 pandemic. He reported to the Board that the metrics within the county are challenging. Since September 1, 2021, 29 lives have been lost to Covid-19. He reminded the public that this is a preventable disease.

Mr. Gonzales reported to the Board that the seven-day case rate is at 248 cases. Of grave concern is that the Intensive Care Unit (ICU) capacity rate is currently at 105% and there are 86 Covid-19 patients in the hospital. Mr. Gonzales also noted that length of stay for Covid-19 patients places a

serious strain on the hospitals and ICU capacity. Most stays run from upwards of 15 days to as many as 30 days.

Mr. Gonzales relayed that there is good news on the horizon with the potential approval of the Pfizer vaccine for children. The Federal Drug Administration (FDA) will be holding meetings over the next number of weeks and the hope is to have the vaccine available to children in early November 2021.

Dr. Jared Olson, Larimer County Population Epidemiologist addressed the Board regarding trials of an antiviral pill which has shown promising results in reducing the number of hospitalizations and deaths due to Covid-19. Dr. Olson also noted that of the patients who have been hospitalized 77 percent are unvaccinated. Additionally, of the Covid patients who are in the ICU, 86 percent are unvaccinated.

There was a discussion between Dr. Olson and the Board regarding booster shots and if it is advisable to mix vaccines.

Mr. Gonzales reported to the Board on the status of Larimer County vaccinations. He relayed that there have been 450,000 shots given to residents. 73.6 percent of eligible residents have received at least one shot and 61.2 percent of residents are fully vaccinated. Mr. Gonzales also noted that it is never too late to get vaccinated. In recent days, 69 individuals over the age of 70 received the first dose of the vaccine.

There was a discussion between the Board and Dr. Olson if Covid patients are placed in other beds or areas of the hospital when the ICU is at capacity. The Board also asked Dr. Olson about concerns for extended over-capacity as we move into influenza and respiratory syncytial virus (RSV) season and the potential diversion of care from other patients.

There was also a discussion between the Board and Mr. Gonzales regarding potential mask requirements at the state and local levels. Additionally, the Board asked Mr. Gonzales about messaging which focuses on the impact not getting vaccinated has upon the economy and the economic impact of the prolonged pandemic. Finally, there was a discussion between the Board and staff about the frequently asked questions (FAQs) section of the Covid-19 webpage and information regarding booster shots.

The Board thanked Mr. Gonzales and Dr. Olson for the update and the public health team's tireless efforts to keep our community safe. The Board also strongly encouraged those who are eligible to get vaccinated and encourage the public to continue to limit indoor gatherings and to continue to wear masks indoors.

7. 2022 VISIT ESTES PARK OPERATING PLAN: Kara Franker, Chief Executive Officer, Visit Estes Park (VEP). Ms. Franker reported that tourism is the largest economic driver in the Estes Valley, creating business opportunities and jobs, and significantly contributing to the amenities the community enjoys year-round. Visit Estes Park works alongside its stakeholders to sustainably strengthen and build on that foundation. Ms. Franker relayed that VEP's approach is a community first, collaborative, and transparent. Everyone is a stakeholder and everything VEP does is geared toward positively contributing to the quality of life for the people of Estes Park. VEP accomplishes

this through integrated marketing and sales strategies to encourage year-round visitor demand responsibly and sustainably, guided by detailed operating and marketing plans.

Ms. Franker noted that the Visit Estes Park team had the opportunity to meet with the Board of County Commissioners earlier in the month. During that meeting, the VEP team presented the 2022 operating plan and was able to hear from the Commissioners on the Board's suggestions and ideas.

Assistant County Manager Volker noted that the Visit Estes Park team comes before the Board each year to seek approval of its operating plan for the coming year.

The Board thanked Ms. Franker and her team for the 2022 Operating Plan. The Board highlighted support for efforts to include messaging on "leave no trace" and being responsible stewards of the land. Additionally, the Board expressed strong support for components incorporating equity and diversion. The Board also noted its strong support for the reporting of concrete metrics to demonstrate how various marketing efforts are working.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the 2022 Visited Estes Park Operating Plan.

Motion carried 3-0

7. COUNTY MANAGER UPDATE: Assistant Manager Volker 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.

9. LEGAL MATTERS: EXECUTIVE SESSION

Executive Session pursuant to C.R.S. 24-6-402(4)(b), conferences with an attorney for the purpose of receiving legal advice regarding *Hutchins v. Larimer County* (US District Court Case #21 CV 2093) and Profile Rockbridge.

Executive Session pursuant to C.R.S. 24-6-402(4)(b), conferences with an attorney for the purpose of receiving legal advice regarding Compliance Order on Consent and Surface Water Discharge Permit from the Colorado Department of Public Health and Environment regarding the Larimer County Landfill.

Executive Session pursuant to C.R.S. 24-6-402(4)(b), conferences with an attorney for the purpose of receiving legal advice regarding placement of 5G wireless towers in state highway right-of-way and local permitting process requirements.

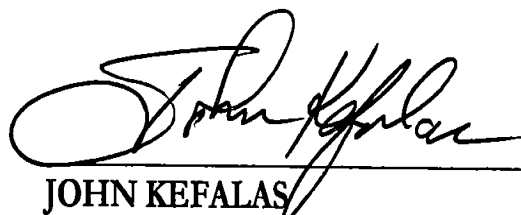
MOTION

Commissioner Stephens moved that the Board of County Commissioners 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 regarding Hutchins v. Larimer County (US District Court Case #21CV2093, and to receive legal advice on a discharge permit from the Colorado Department of Public Health and the Environment regarding the Larimer County Landfill, and to receive legal advice regarding the replacement of 5G wireless towers in the state highway right-of-way and local permitting process requirements.

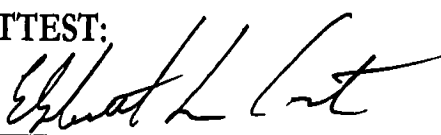
Motion carried 3-0

With there being no further business, the Board adjourned at 11:00 a.m.



JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

ANGELA MYERS
CLERK AND RECORDER

ATTEST:


Elizabeth Carter, Deputy Clerk