



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, APRIL 14, 2025

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Jenny Axmacher, Planning Manager. Chair Stephens presided. Commissioner Kefalas and Commissioner Shadduck-McNally joined via Zoom. Also present were Kassidee Fior, Principal Planner, Ryane Oswandel and Christina Scrutchins, Planning Administrators; Samantha Mott and Laura Culleton, Community Development; David Pringle, Engineering; Leah Schneider and Ashton Brodahl, Health and Environment; Frank Haug and Christine Luckasen, Assistant County Attorney's; and Deirdre O'Neill, Deputy Clerk.

Chair Stephens opened the meeting with the Pledge of Allegiance.

PUBLIC HEARING DISCUSSION ITEMS:

1. **LARIMER ON THE MOVE-COMPREHENSIVE SAFETY ACTION PLAN (CSAP) AND VISION ZERO POLICY ADOPTION:** Eric Tracy, Senior Engineer and Gaurav Vasisht, consultant, presented this item to the Board of County Commissioners. Larimer on the Move represents a comprehensive initiative by Larimer County, combining the update of the Transportation Plan with the development of a Safety Action Plan (SAP). This dual approach, presented as a single, cohesive project for the public, aims to significantly enhance transportation and safety within the unincorporated area of Larimer County.

Transportation Master Plan: This component focuses on creating a prioritized list of projects, programs, and plans that reflect the community's vision for improved mobility. The goal is to establish a roadmap for efficient investment of county funds, maximizing impact through strategic project selection and leveraging external funding sources. This plan seeks to address the county's transportation needs by prioritizing projects based on technical analysis and community input.

Safety Action Plan (SAP): The SAP is dedicated to improving roadway safety. It aims to identify and address the most critical safety concerns through targeted projects and strategies. The overarching goal is to drastically reduce, and ultimately eliminate, roadway fatalities and serious injuries. Projects were selected and prioritized through technical analysis and community input.

Mr. Vasisht informed the Commissioners that the Larimer County Safety Action Plan (SAP) is a comprehensive strategy dedicated to significantly reducing and ultimately eliminating traffic-related fatalities and serious injuries within unincorporated Larimer County. Recognizing the diverse landscapes of the county, from rural plains to mountainous terrains and urbanizing areas, the SAP addresses the unique safety challenges each presents.

Mr. Vasisht stated that SAP focuses on improving road safety by managing speeds, enhancing infrastructure, and protecting all road users. This includes implementing strategies from Complete Streets philosophy, which aims to create safer and more comfortable streets for everyone. By prioritizing high-risk locations and vulnerable road users, SAP ensures that safety improvements are targeted where they are most needed.

The plan emphasizes the importance of a holistic approach to safety, acknowledging that road design and infrastructure are as crucial as driver behavior. By adopting the USDOT's Safe System Approach, Larimer County is setting a standard for how transportation systems should work together to eliminate traffic fatalities and serious injuries, creating a safer and more equitable transportation network for all.

VISION ZERO COMMITMENT STATEMENT: Larimer County will adopt the Vision Zero philosophy and commits to the following:

On roads and sidewalks under the jurisdiction of Larimer County, the goal is to eliminate traffic-related deaths by 2040 and traffic-related serious injuries by 2045. Vision Zero aims to create a transportation system that is not only safe but also equitable and considers the safety of all users.

Mr. Vasisht went on to explain that providing a focused lens for historically underserved and overburdened communities is important in being able to plan for an equitable and accessible transportation system moving forward and will ensure community members of all ages and abilities can use transportation options throughout the county. Identifying demographic factors can reveal disparities in transportation access, uncover safety risks, and highlight current mobility challenges. This approach enables tailored interventions and policies to address diverse community needs, fostering a more equitable and inclusive transportation system for Larimer County.

It is important to recognize that the Safety Action Plan will be a living document, subject to periodic reviews and updates over the next 20 years. As circumstances evolve, the county may adjust these goals and targets to ensure the plan remains relevant and effective.

Mr. Vasisht announced that the Safety Action Plan will become a formal appendix in the Transportation Plan update. The Engineering Department anticipates a draft of the Transportation Plan will be available in May and there will be a public review period. Adoption of the Transportation Plan will follow master plan processes through the Planning Commission and Board of County Commissioners.

The Safe System approach addresses the safety of all road users, including those who walk, bike, drive, ride transit, and travel by other modes. This Safety Action Plan adopted three of the five Safe System Approach objectives as the implementation strategies intended to accomplish the Vision Zero commitment.

Mr. Vasisht and Mr. Tracy stated that transportation safety is a critical concern for Larimer County, the primary goal is to eliminate fatalities and serious injuries as the county identifies and implements improvements. The plan will focus specifically on the safety needs of Larimer County's unincorporated areas, and the mainline county roads that are owned and maintained by Larimer County.

Chair Stephens opened the hearing for public comment. No members of the audience wished to make public comments.

Chair Stephens closed public comment.

The Board expressed their appreciation for this thorough presentation and that this is an important step moving forward to ensure the safety of all Larimer County residents.

MOTION

Commissioner Shaddock-McNally moved that the Board of County Commissioners adopt the Larimer on the Move -Comprehensive Safety Action Plan including the Vision Zero Commitment statement as presented.

Motion carried 3-0.

The Board took a brief recess.

The Board returned to session.

2. **ISAACS APPEAL, FILE NO. 25-GNRL0564:** Samantha Mott, Planner presented the appeal to the Board of County Commissioners. Ms. Mott informed the Board that this is an appeal of the Community Development Director's decision regarding nonconforming use.

This request is an appeal of the Community Development Director's determination that outdoor amplified music was not considered an existing nonconforming use on the property where the Horsetooth Tavern is located. The property is 4791 West County Road 38E Fort Collins, Colorado; located south of Holiday Drive, to the east of Catalina Drive, and to the west of West County Road 38E.

The property is 0.47-acres in size, zoned RC-Rural Commercial, and contains a restaurant/bar with an outdoor patio and two apartments. Indoor amplified music and outdoor non-amplified music are allowed on the property. The applicants/owners are Donovan and Dawn Isaacs.

Ms. Mott explained that the applicants can apply for an Administrative Special Review in the RC-Rural Commercial zoning district to seek planning approval for outdoor amplified music.

The subject property was zoned O-Open when the Land Use Code was established in October of 1963, and it was rezoned from O-Open to RC - Rural Commercial in 2023. The RC-Rural Commercial zoning district requires Administrative Special Review for an Outdoor Seating Area Within 300 Feet of a Residential Zoning District.

On February 18, 2025, the applicants submitted an appeal to the Community Development Director's administrative decision for Inquiry Number 24-INQ5656, a request for a Nonconforming Determination for outdoor amplified music at the Horsetooth Tavern located at 4791 W County Road

38E Fort Collins, Colorado. The Director determined that outdoor amplified music is not a nonconforming use at that location.

PROCESSES AND STANDARDS FOR AN APPEAL TO A DIRECTOR'S DETERMINATION:

The Board of County Commissioners are authorized to hear and decide appeals where:

- a. A person asserts that there is an error in any order, requirement, decision, or refusal made by an administrative officer or agency in the administration or enforcement of the provisions of this Code except: The minimum setback or structure height requirements of Article 2.0, Zoning Districts; or §2.9.4.E, Setbacks from All Roads, Streets, and Highways, and §2.9.4.F, Setbacks from Streams, Creeks, and Rivers.
- b. A person asserts that the Director made an error in interpreting the text of this Code.

A written application for appeal must be submitted to the Community Development Department within 30 days of the decision or interpretation which the person believes to be in error unless a different timeframe is specified for individual processes. The Director may grant one 30-day extension of this time limit provided that a written request for such an extension is submitted to the Director within the initial 30-day period unless a different timeframe is specified for individual processes.

The appeal must be submitted on a form provided by the Community Development Department and must include a statement of the decision or interpretation being appealed, the date of the decision or interpretation, and facts, legal authority, or other evidence that supports the decision was in error. An application fee established by the Board of County Commissioners must be paid when the appeal is submitted.

PROPERTY HISTORY

Ms. Mott went over the following timeline (mostly based off aerial photographs) of past activities and approvals that have been documented for the subject property located at 4791 West County Road 38E (parcel number 9606210002), and the adjacent lot to the south, 4789 West County Road 38E (parcel number 9606210001), related to the Community Development Director's Nonconforming Use Determination:

- 1963: Land Use Code was established, which zoned these properties as O-Open.
- 1972: The restaurant was constructed.
- 1992: A building permit was issued for a covered stage on the adjacent lot to the south with outdoor music, but no nighttime concerts.
- 1997: Approval to expand a nonconforming restaurant/bar and adding a video/liquor/convenience store to the property, Evans Special Exception File No. 97VE1049. The approved plans also included two apartments above the restaurant.
- 1999: Stage is visible in aerial photos.

- 2002: Aerial photographs no longer show the stage on the adjacent lot to the south and show a fence constructed between the two lots.
- 2005-2007: Bed & Breakfast constructed on the adjacent southern lot, Horsetooth Bed & Breakfast (B&B) Minor Special Review File No. 07-Z1642.
- 2012-2014: The current covered stage was constructed on the subject lot without a building permit or zoning approval.
- 2023: A building permit was issued to remove the liquor store and convert it back to part of the restaurant/bar. Applicant rezoned the property from O-Open to RC -Rural Commercial. A Use Affidavit was signed by the owners limiting the use of the stage to non-amplified music.
- 2024: A building permit was issued for the as-built covered bar and stage. A Use Affidavit was signed by the owners limiting the use of the stage to non-amplified music.

Ms. Mott stated that according to the Larimer County Code Compliance Division's research of the property, the restaurant building was constructed in 1972. There were two lots at that time. The north lot, the subject property, contained the restaurant with seating on the south side. The seating continued south across the property line onto the vacant lot to the south. In 1992, a building permit was obtained to construct a 14'x16' covered stage on the southwest corner of the vacant lot to the south. The County recognized the outdoor music use at that time for daytime use only. It is unclear if it was amplified.

Ms. Mott also informed the Board that according to aerial photos, the stage still existed in 1999, but it appears that it was removed sometime before 2002, based on an aerial photo that was taken along with a fence constructed between the two lots. A bed and breakfast were constructed on the southern vacant lot between 2005-07. Planning approval was obtained for that use, Horsetooth Bed & Breakfast (B&B) Minor Special Review File No. 07-Z1642. The current covered stage on the subject lot, the north lot, was constructed between 2012 and 2014 per the aerial photos. This was constructed without a building permit or zoning approval.

During the review of the 2024 building permit, the County determined that there had not been a previous approval for outdoor music on the northern lot (4791 W County Road 38E) after the southern lot (4789 W County Road 38E) was developed into a Bed & Breakfast. Because there is documentation of an approval for daytime outdoor music associated with the previous restaurant use on the southern property, the County allowed for the new stage on the northern property to be used for non-amplified music, consistent with past approvals. The owners signed two Use Affidavits agreeing to limit use of the stage to non-amplified music, which allowed the "as-built" building permit for the stage to be issued. The Use Affidavits were recorded with the Larimer County Clerk & Recorder on January 3, 2024, and March 20, 2024. It was stated in the Use Affidavit that if there was to be amplified music, a public hearing zoning application would be required. The stage was given final inspection approval on June 11, 2024.

On September 4, 2024, the applicants requested a Nonconforming Use Determination for the property regarding outdoor amplified music.

On December 4, 2024, the Community Development Director wrote a letter finding that outdoor amplified music was not a nonconforming use on the site. The determination was based on the history

of the uses located on the site. It included a review of information submitted by the applicant as well as research conducted by Code Compliance staff.

On February 18, 2025, the applicants submitted an Appeal to the Community Development Director's administrative decision for Inquiry Number 24-INQ5656, a request for a Nonconforming Determination for outdoor amplified music at the Horsetooth Tavern located at 4791 W County Road 38E Fort Collins, Colorado. The Director determined that outdoor amplified music is not a nonconforming use at that location.

Ms. Mott informed the Board that the property owners have submitted information that includes photos and affidavits regarding the music that has been performed on the property in the past. After reviewing the provided information, County records, and the Land Use Code, it is determined that the original stage and outdoor music activities were approved on the southern property (4789 W County Rd 38E). However, there has not been a prior land use approval for outdoor music on the northern property (4791 W County Rd 38E).

Even if the property were to be viewed as a whole (rather than two separate parcels), because the outdoor stage was removed prior to 2002, and the new stage was not permitted until 2024, any prior approval would have lapsed. Land Use Code Section 1.10.3.A.1 specifies that:

"A nonconforming use that has been discontinued for more than 12 consecutive months shall not be reestablished, unless one of the following occurs:

- a. The property owner provides competent evidence for the director's determination that the nonconforming use has not been discontinued.
- b. The Director grants a 12-month extension to the discontinuance based upon a written request by the property owner demonstrating a reasonable cause for such discontinuance (e.g., the sale of a property, or disaster).
- c. A conforming version of the use is approved through the procedures and requirements of this Code."

Ms. Mott stated that per the Community Development Director, competent evidence has not been provided that proves that amplified outdoor music has been performed on the property every year since the Amended Comprehensive Zoning Resolution (now referred to as the Land Use Code) went into effect on November 29, 1973, which clarified allowed uses in the O-Open zoning district. The issuance of the 2024 building permit for the stage, along with the Use Affidavits, established an approval for outdoor music on the new stage. However, this approval only authorizes non-amplified outdoor music.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Board of County Commissioners may choose to:

- 1) Uphold the Director's decision that outdoor amplified music is not considered a nonconforming use on the property.

- 2) Reverse the Director's decision that outdoor amplified music is not considered a nonconforming use at the site and determine that outdoor amplified music is considered a nonconforming use on the property.

Ms. Mott mentioned that it is the conclusion of the Development Review Team that the applicant did not provide evidence that the Community Development Director's decision is in error or inconsistent with the intent and purpose of the Land Use Code. The Development Services Team recommends that the Board of County Commissioners deny the appeal and do not reverse the determination of the director.

The Board had questions on the timeline for an Administrative Special Review if the applicants decide to take that route as well as noise levels.

Leah Schneider, Health Department, stated that they would have to adhere to the noise ordinance of the maximum permissible noise levels in the hours between 7:00 am and 7:00 pm the maximum noise level cannot exceed 55 decibels and from 7:00 pm until 7:00 am the maximum noise level cannot exceed 50 decibels.

Chair Stephens invited the applicants to present this appeal request to the Board of County Commissioners.

Donovan and Dawn Isaacs spoke about the amount of time and money they had to put into this project and detailed their experiences with both the Larimer County Liquor License and the building department which have caused the Isaacs months of delay.

Mr. Isaacs also spoke about all the sound mitigation that he has put into place since owning the establishment as they wish to be good neighbors. The Isaacs believe they have provided ample evidence demonstrating that amplified music has continuously taken place at this property since it was established in 1972. The Planning Director's decision, communicated on December 6, 2024, was based on the assertion that past ownership did not obtain proper permits and approvals for live amplified music. The denial also referenced a Use Affidavit, that was signed in 2024, which was necessary to obtain a building permit for renovations.

The Board had questions on the signed affidavit and that some folks have expressed loud music past 10 p.m.

Mr. Isaacs stated that the kitchen closes at 9:00 pm during the week and 10:00 pm on the weekends but the music both indoor and outdoor stops at 10:00 pm.

Chair Stephens opened the hearing for public comment.

The following members of the public spoke in support of the applicants having outdoor amplified live music:

Steve Johnson, Michael (did not provide last name), Bob Choate, Matthew Wilburn Skinner, Heather Jarvice, Renee Skinner, Chris Porowski, Arden Punjabi, Tim Fritz, Courtney Lofflin, William Puddle, Henry Marchell, Jessica Saperstone, Benjamin Jones, Anita Ekren, Angela and Alice DeSalvo, Mark Williams, James Hathaway, Alan Miller, Luke Siddens, Melissa (did not provide last name), James Gonzales, Nick Chokas, Susan Punjabi, Deb Balk, Steven Sarno, Matthew Skinner, Josh Randall, Scott Kwiatek and Tim Matther.

Their collective comments included, but not limited to: important establishment in the neighborhood; excited about the remodel and looking forward to the return of summer music nights; more than just a restaurant-one of the few places near the reservoir where neighbors and visitors alike can relax and connect over live music and good company; cornerstone of the community for decades; amplified live music has been performed there for decades; appreciate the owners and the beautiful remodel turning a run-down place into a modern welcoming venue; outdoor music offers opportunities for local musicians to share their music and bring people together; the Isaac's have worked so hard in renovating this space and is a beautiful setting-they have created a welcoming, friendly community oriented environment; please be considerate of those of us who live on the outskirts of town; family friendly establishment actively enriching those who walk through their doors; creates jobs; Horsetooth Tavern has been an important part of the community, offering a welcome space for friends, families and local musicians to gather and connect; music has never been disruptive, it was part of the easygoing summer atmosphere that made this area feel special; key role in local culture; live music has long been an integral part of the character and vibrancy of our neighborhood-it brings people together, enriches our community, and contributes meaningfully to the local quality of life.

Rebecca Gonzales Rodgers and Ruth Rollins did not state being in support or in opposition, but did both say that if approved, they hope it will stay within the decibel levels provided within the Larimer County Land Use Code noise ordinance.

The applicants both stated that with previous owners, this establishment has always had loud music but that this is not their intention. They just want people to be able to enjoy music with their friends and families in a welcoming environment. The Isaacs also explained why they signed the affidavit. They needed to be able to open the establishment and start moving forward.

The Board had some questions for staff about when the stage was built and the history of the property as well as noise decibels and ways that sound can be mitigated.

Commissioner Kefalas announced that in this appeal process, the Board has the authority to reverse the director's decision based on preponderance of evidence or deny the appeal. At the time of the director's decision, the director had based that on the evidence through code compliance records and a variety of other things that had determined that the applicants had not met the burden of proof. The Board mentioned that they have the utmost respect for the Community Development Director.

The Board thanked everyone for coming and speaking out in overwhelming support for the Isaacs as well as those speaking about noise levels which can be addressed and mitigated to be sensitive to everyone's needs.

Commissioner Kefalas spoke about being supportive of economic development in rural areas. Commissioner Kefalas stated that the fact that this area was zoned from O-Open to RC-Rural Commercial zoning reinforces the importance of having some type of sustainable business. The turnout of residents demonstrates the aspect of the Land Use Code that pertains to the idea of building a community. Commissioner Kefalas believes that the applicants have shown evidence that outdoor amplified music has occurred at this establishment for a long time via verbal testimony and social media posts.

Commissioner Shadduck-McNally does not believe that the director's decision was in error or that physical evidence was provided showing decades of outdoor amplified live music but would be willing to reverse the director's decision with conditions of approval. Commissioner Shadduck-McNally thanked the public for being staunch supporters of the Isaacs.

Chair Stephens does believe that evidence was shown via affidavits and public testimony that there has always been amplified music played at this establishment but will consider a condition protecting the citizens who live in the area against loud noise.

The Board and staff worked on adding conditions of approval.

MOTION

Commissioner Kefalas moved that the Board of County Commissioners grant the appeal based on the fact that the applicant has met the burden of proof based on evidence that outdoor amplified music has existed and the Board has heard evidence of that use, and pursuant to 1.10.7.C.8 that the purpose and intent of this code and the Comprehensive Plan can be met by granting this appeal with the following conditions:

1. Outdoor amplified music is allowed from 11:00 a.m. until 10:00 p.m. and must comply with the noise ordinance.
2. The owners shall purchase a professional sound meter that can be calibrated (and calibrated annually) with records on site.
3. Any expansion of the stage would require that use to come into compliance through the appropriate Land Use Code process as required.

Motion carried 3-0.

The Board took a 30-minute recess at 6:00 p.m.

The Board reconvened at 6:30 p.m.

3. HELLER SHORT-TERM RENTAL, SPECIAL REVIEW, FILE NO. 24-ZONE3625: Laura Culleton, Planner II presented this Special Review to the Board. This is a request by the applicant for Special Review approval for a four-bedroom and one additional sleeping area, for a nine-guest short term rental in an existing single-unit residence.

On April 3, 2023, the Board of County Commissioners adopted revised regulations for approving and operating short-term rentals in the unincorporated portions of Larimer County, including the Estes Valley. These new regulations went into effect on June 1, 2023.

This application is the first Special Review Short-Term Rental application under the current regulations being brought to the Planning Commission and Larimer County Board of County Commissioners for review.

Ms. Culleton explained that the subject property is located on the north side of Pinewood Lake, approximately 0.60 miles north of the intersection of West County Road 18E and Skinner Gulch Road in Loveland, Colorado. It is approximately 40-acres in size, and it is currently zoned O - Open. The property currently contains one single-unit residence, which was constructed in 1996 with four bedrooms. The property is served by a well and on-lot septic, with access off Skinner Gulch Road. This application, File No. 24-ZONE3625, is the first Special Review Short-term Rental application being brought to the Planning Commission and Board of County Commissioners for review.

Ms. Culleton went over the required planning process and stated the definition of a Short-term Rental (STR):

“A principal dwelling rented to transient guests who are part of one party for short-term lodging (30 days or less) when not occupied by the owner/operator.” A STR use is classified as Commercial Lodging Facilities use and is permitted in the O Open zone district following Special Review approval.

REVIEW CRITERIA

To approve a Special Review application, the Board of County Commissioners must consider the following review criteria and find that each criterion has been met or determined to be inapplicable (Article 6.4.2.D.), in addition to the General Review Criteria found in Article 6.3.8.D.:

1. The proposed use has minimal impacts on existing and future development of 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.
3. The recommendations of referral agencies have been considered and 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.
5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.

DEVELOPMENT SERVICES TEAM RECOMMENDATIONS

The Development Services Team recommends approval of the Heller Short-Term Rental, File #24-ZONE3625, subject to the conditions of approval in the staff report:

1. This Special Review 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 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 consistently with the approved plan and with the information contained in the Heller Short-Term Rental Special Review, File No. 24-ZONE3625, 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 Heller Short-Term Rental 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 is approved with 4 bedrooms, and one additional sleeping area, for a maximum occupancy of 9 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. A passing wildfire safety inspection with the Larimer County Sheriff's Office is required prior to the Short-term Rental License being issued.
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 7pm and 7am.
11. Upon issuance of the Change of Occupancy Permit, the applicant shall include the approved File Number, 24-ZONE3625, on all advertising websites.
12. The identified property manager must be located within the required distance of the Short-term Rental, per Section 3.3.5.B.2.P of the Larimer County Land Use Code.
13. Prior to operation as a Short-Term Rental, the applicant shall post the property manager contact information outside the front door.
14. 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.

Ms. Culleton informed the Board that during the sketch plan phase 13 property owners within 500 feet were notified via postcard and 19 of those community members provided comments in opposition and 8 community members provided comments in support of this application.

The Board had questions on recertification as well as possibly proposing more than the 500-foot radius for surrounding property owners since this is a 40-acre property as well as forest mitigation.

The Board invited the applicant to approach the Board.

Chris Heller, applicant/owner, expressed that someone in the community sent an email to over 50 property owners' miles from his home and he responded to each of those emails that were in opposition. He feels he has addressed their concerns. Their concerns were mostly due to road usage, potential for fires and decrease in property values. Mr. Heller spoke about forest mitigation as well as road usage. He will only be renting his property during warm weather so there will be no concern in the winters.

The Board had questions on private road access and asked Mr. Heller to elaborate. Mr. Heller stated that there is not a homeowner's association and Skinner Hill Road is a dirt road and is a right-of-way. The Board also asked about emergency response access. Mr. Heller stated that there is enough width for emergency vehicles to turn around as well as access his driveway if an emergency should present itself. Mr. Heller informed the Board that the Rangers are always nearby, and he has witnessed the fire authority and the Sheriff's department can arrive within 10 minutes. Mr. Heller's intention is to rent an apartment in Fort Collins to be within the one hour required distance from the short-term rental as the property manager.

Chair Stephens opened the hearing for public comment.

Kyle Rangel, who lives next door to Mr. Heller, addressed the Board in opposition. Mr. Rangel stated there are no speed limit signs, and this is a high-risk fire danger area and has little to no cell phone service and is accessed by driving over other properties. He is asking the Board to deny this application. Mr. Rangel also spoke about the road covenants that mention that these are private roads to only be used by homeowners and their guests.

There are also several emails in opposition received stating concerns about traffic, wildlife, trespassing, and having tourists in the area who are unfamiliar with the roads and the community itself is dangerous.

Chair Stephens closed public comment.

The applicant addressed some of Mr. Rangel's concerns.

The Board had questions on potential trespassing and fire mitigation. Mr. Heller stated that there will be no solid fuel burning of any kind allowed. As part of his ongoing forest fire mitigation work, he

practices controlled burns with a permit and there is fencing on three sides of his property separating the property lines.

The Commissioners did let the applicant know that the Rangers are not expected to respond to complaints and emergencies for short-term rentals. They are stretched very thin and are there for the safety of the reservoir and public safety.

Commissioner Shadduck-McNally stated she is not in support of this application due to fire dangers in the area. Both Commissioner Kefalas and Chair Stephens announced that they are in support of this application due to the mitigations that the applicant has put into place.

Motion

Commissioner Kefalas moved to approve the Heller Short-term Rental, File No. 24-ZONE3625 subject to conditions in the staff report with the amendment to condition number 14- change 500-foot radius to 100-foot radius.

Motion carried 2-1, Commissioner Shadduck-McNally dissenting.

4. **BENNETT SHORT-TERM RENTAL, FILE NO. 23-ZONE3427:** Kassidee Fior presented this Short-term Rental to the Board. This is a request for an Administrative Special Review approval for a two bedroom with one additional sleeping area, Short Term Rental in an existing single-unit residence. The rental unit would hold up to 6 guests.

Ms. Fior informed the Board that this application was submitted on January 20, 2023. This application is therefore being considered under the previous short-term rental regulations.

The subject property is located at 5001 Foothills Drive, Fort Collins, CO 80526. The property currently contains an existing single-family residence and is zoned O – Open. The applicant requests Administrative Special Review approval for a small Short-term Rental (STR) located in the existing 2-bedroom single-family residence plus 1 additional sleeping area with a maximum occupancy of six total guests, two guests per bedroom/sleeping area.

Administrative Special Review for an STR requires both Planning Division and Building Division approval. For this case, the initial Life Safety Inspection through the Building Division was conducted first, followed by Planning Division review. 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. Community notice and community comment review.
4. The scheduling of a public hearing, if applicable, or an administrative review and decision by the Community Development Director.

Following a review of the application, including reviewing community member and referral agency comments, 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.

Staff find the application and supporting materials may not have adequately met the following Administrative Special Review General Review criteria in Section 6.4.3.D of the Land Use Code, as described under the Review Criteria section below:

Criteria 1: The proposed use has minimal impacts on existing and future development of the area. Community comments indicate the short-term rental could have increased impacts on both the existing and future development of the area. Specific impacts associated with criterion 2 also impact on the future and existing development of the area.

More specifically, comments indicate that community members are concerned that the approval of the short-term rental will negatively impact the existing residential, and school focused community, and traffic and noise will increase because of the short-term rental.

Based on this information, the staff does not have a conclusive determination as to whether Criteria 1 has been met.

Criteria 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 traffic.
- proximity to other existing short-term rentals.
- incompatibility of a commercial short-term rental in residential neighborhood.
- transient guests not obeying laws.
- roadway conditions.
- increased noise.
- lack of parking availability

Based on this information, staff does not have a conclusive determination on Criteria one and two of section 6.4.3.D.

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 existing and future development of 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.
3. The recommendations of referral agencies have been considered and 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.
5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, Use Regulations.

DEVELOPMENT SERVICES TEAM RECOMMENDATION

The Development Services Team is not making a specific recommendation on the Bennett Short term Rental, File #23-ZONE3427, and has presented all the information by which the Board of County Commissioners may base their deliberation and decision.

The Board did ask about the proximity of other homes in the neighborhood. Ms. Fior showed the aerial photo of the neighborhood.

The Board invited the applicant/owner to present his permit application.

Jason Bennett, owner, stated that he is a fireman and hoping to rent to primarily other fireman who need a place to stay during training academy and who have trouble finding lodging. Mr. Bennett stated that he has spent \$10,000 to meet requirements for mitigation including new windows that meet fire escape standards. Mr. Bennett stated that he will be the primary contact as well as his son.

Mr. Bennet explained that this property has been his home for the past seven years. During that time there have been other short-term rentals operating on the street with no known issues. Mr. Bennett appreciates the concerns some have shown with an increase in rentals in the area. However, he hopes some of those concerns can be alleviated considering his intentions. Mr. Bennett only intends to rent to people looking for peace and quiet while enjoying the natural surroundings. The house is not large and there is limited parking, it is really only suitable for couples or small families looking to enjoy the reservoir and park area.

The Board opened the hearing for public comment.

Brian Pardo, who lives next door to Mr. Bennett, announced that he is here to ask the Board respectfully to deny another short-term rental in his neighborhood. This applicant's house is 20 feet from Mr. Pardo's residence. He is concerned with road maintenance, traffic, parking, property damage, littering, lack of lighting, parties and noise issues, aggressive guests, and enforcement. Mr. Pardo does not feel that short-term rentals are a proper or a responsible fit for the area. Foothills Drive has no streetlights, steep and crooked driveways, and limited to no parking. People get lost at night. Mr. Pardo purchased his home with the understanding that this was a single-family residence zone area and commercial type used would not be allowed in mass.

Chair Stephens closed public comment

Mr. Bennett addressed the comments of Mr. Pardo.

The Board had questions on road maintenance.

Commissioner Kefalas thanked the applicant and Mr. Pardo for coming forward with his concerns. Commissioner Kefalas does not believe that criteria one and two have been met especially due to road conditions and believes this is problematic.

Commissioner Shadduck-McNally stated that she is also not in support of this application with the amount of photo evidence on the conditions on the road as well as the concerns she has on someone being able to respond within an hour and does not believe that is possible.

Chair Stephens stated that she is concerned about the conditions of the road and some of the drainage issues make that situation even worse. Chair Stephens will not be in support of this application.

MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners deny the Bennett Short-Term Rental, File #23-ZONE3427.

Motion carried 3-0.

TUESDAY, APRIL 15, 2025

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with County Manager Lorenda Volker. Chair Stephens presided. Commissioner Kefalas and Commissioner Shadduck-McNally joined via telephone bridge. Also present were Sarah Martin and Tom Clayton, Commissioners' Office, and Deirdre O'Neill, Deputy Clerk.

Chair Stephens opened the meeting with the Pledge of Allegiance.

1. PUBLIC COMMENT : Cindy Buckardt, President of the 4-H Foundation, commented on the email she received from Conor McGrath, Director of the Ranch, on the statement of ongoing non-compliance of the Larimer County 4-H Foundation. The email stated that the Ranch has had a long-standing policy that all event food must be commercially prepackaged and sourced from licensed distributors. Ms. Buckardt stated that 4-H had been having a bake sale for decades and that having prepackaged food has never been a requirement in the past. The 4-H foundation has reached out multiple times asking for documentation regarding violations and have yet to receive a response. Paul Gessler is seeking information on whom to contact to serve as an observer/ resource for PTSD (Veteran Court) for justice for Veterans.

Chair Stephens closed public comment.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF APRIL 7, 2025:

M O T I O N:

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the week of April 7, 2025.

Motion carried 3-0.

3. REVIEW OF THE SCHEDULE FOR THE WEEK OF APRIL 21, 2025: Ms. Martin reviewed the upcoming schedule with the Board. The Board made several additions to the upcoming schedule.

5. CONSENT AGENDA:

ABATEMENTS

- 1. PETITION FOR ABATEMENT OR REFUND OF TAXES: VALUES ARE THE SAME FOR EACH ACCOUNT, THE REFUNDS ARE ACCUMULATIVE AND EXCEED THE ALLOTTED REFUND AMOUNT OF \$10,000: KITCHEL LAKE F3 DEVELOPMENT CORP:**

R1678713, R1678714, R1678715, R1678716, R1678717, R1678718, R1678719, R1678931, R1678732, R1678733, R1678734, R1678735, R1678736, R1678737, R1678738, R1678739, R1678740, R1678741, R1678742, R1678743, R1678744, R1678745, R1678746, R1678747, R1678748, R1678750, R1678751, R1678752, R1678753, R1678754, R1678754, R1678755, R1678756, R1678757, R1678758, R1678763, R1678764, R1678765, R1678766, R1678767, R1678768, R1678769

AGREEMENTS

- 1. PROFESSIONAL SERVICES AGREEMENT (B25-03, AS NEEDED MISCELLANEOUS PAVED STREET MAINTENANCE SERVICES PID'S)**
- 2. LARIMER COUNTY AND COLORADO STATE UNIVERSITY (CSU) PROJECT AGREEMENT AMENDMENT #1-THE PHEMISTER SAFE ACCESS BRIDGE AND TRIAL PROJECT**
- 3. DEVELOPMENT AGREEMENT FOR COLBERT CONSERVATION DEVELOPMENT, FILE NO. 22-LAND4289**

LIQUOR LICENSES

- 1. LIQUOR LICENSE RENEWAL- HORSETOOTH TAVERN LLC DBA HORSETOOTH TAVERN LLC - HOTEL & RESTAURANT WITH OPTIONAL PREMISE - FORT COLLINS, COLORADO**

RESOLUTIONS

1. **RESOLUTION ADOPTING THE RULES OF INTERPRETATION AND DEFINITIONS OF NATURAL MEDICINE OF THE LARIMER COUNTY LAND USE CODE**

MISCELLANEOUS

1. **LARIMER COUNTY LEGISLATIVE POSITIONS**

MOTION

Commissioner Kefalas moved that the Board of County Commissioners approve the Consent Agenda for April 15, 2025.

Motion carried 3-0.

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

6. DISCUSSION ITEMS: None Requested.

7. COUNTY MANAGER UPDATE: County Manager Volker briefly detailed the events of the previous week.

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

9. LEGAL MATTERS: None requested

With there being no further business, the Board adjourned at 9:30 a.m.



KRISTEN STEPHENS, CHAIR
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS
CLERK & RECORDER

ATTEST:



Deirdre O'Neill, Deputy Clerk

