

## **LARIMER COUNTY PLANNING COMMISSION**

### **Minutes of July 10, 2019**

The Larimer County Planning Commission met in a regular session on Wednesday, July 10, 2019, at 6:30 p.m. in the Hearing Room. Commissioners Stasiewicz, True, Dougherty, Miller, Johnson and Wallace were present. Commissioner Jensen presided as Chairman. Commissioner Choate was absent. Also present were Samantha Mott, Planner II; Michael Whitely, Planner II; Katie Gray, Engineering Department; Lea Schneider, Health Department; Lesli Ellis, Community Development Director; and Denise Ruybal, Recording Secretary.

The Planning Commission visited the sites of the Kuemmerlin Amended Special Review and Appeal and the Columbine Lodge Amended Special Review.

#### **COMMENTS BY THE PUBLIC REGARDING THE COUNTY LAND USE CODE:**

None

#### **COMMENTS BY THE PUBLIC REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA:**

None.

#### **APPROVAL OF THE MINUTES FOR THE JUNE 19, 2019, MEETING:**

MOTION by

Commissioner Dougherty to approve the minutes, seconded by Commissioner Johnson. This received unanimous voice approval.

#### **CONSENT ITEMS:**

**ITEM #1 – KUEMMERLIN AMENDED SPECIAL REVIEW AND APPEAL, FILE #18-**

**ZONE2408:** Commissioner Johnson noted that although she was not involved, the firm she works for has done some work that was included in the Special Review application materials. The work done was for occupational compliance reference materials, Therefore, she would like to recuse herself from this item.

Ms. Mott provided a short presentation on this Amended Special Review to allow the expansion of the small animal pet cemetery and crematory that was originally approved in 1989. This includes an appeal to the paving requirement (Section 8.6.3.C.1 of the Land Use Code).

There are two parcels that make up the project with a combined area of 5.8-acres. In the 1989 approval, the applicant applied for and was approved for a Special Review for a small animal pet cemetery. This approval also included the use of one crematory. Since that time, the owners have added two additional cemeteries, which is the reason for the amendment this evening. In addition to the two crematories, there have been three additional employees with minimal increase in traffic. The applicants have also asked to remove note #10 from the original approval. That note limited the use to small pets, so the removal of that note will allow the burial of large animals as well.

There is also an appeal to the paving requirement. The original 1989 Special Review allowed the use of gravel instead of asphalt or concrete. The applicants are asking for an appeal to the approval to continue the use of gravel.

The Development Review Team, the Engineering Department and the Colorado Department of Transportation are all in favor of this request, with the condition that the applicants bring the access up to current standards which include paving from the edge of the road to the right-of-way line. This is proposed condition of approval.

Commissioner True asked for clarification on what is meant by large pets? Ms. Mott mentioned large animals but the materials mention large pets. Is there a difference?

Ms. Mott clarified that agriculture animals would be included and that it really depends on the person as to what they consider a pet.

Commissioner Dougherty remembers 2-feet of compacted soil in the materials and asked Ms. Schneider to address the Commission to clarify exactly what the intention is.

Ms. Schneider stated that a large animal would be, for example, someone's pet horse. She mentioned that small lot sizes may not permit the burial of a large pet animal. Her department is looking at 4-feet of groundwater separation. They can also put lime on it to help with the pathogens. The requirements are similar to those for septic regulations to protect groundwater quality. 2-feet of soil compaction to help with soil erosion if also required to help with seasonal high groundwater.

Commissioner Dougherty referred to condition #16 which is removing the limit in the original approval to only small animal pets. This is now allowing for large animals to be buried on site.

Ms. Mott did reference the applicant's project description where they did mention large pets but looking at the approval it does state the burial of small pets. It is just removing that restriction. Removing this restriction opens it up.

Commissioner Dougherty said it may be semantics, but it may not. Are they applying to be allowed to bury cattle and horses from large operations that may end up taking over this property very quickly?

Commissioner True stated that is why she initially asked the question. Cattle and large animals are not considered pets to her.

Ms. Mott did again state that in the project description, the applicants did state large pets and maybe the applicant can clarify exactly what the intent is. From a staff standpoint, people can bury livestock on their own property, so when looking at large pets, some of those agricultural type animals would be allowed.

Ms. Schneider added that in the cities of Fort Collins and Loveland, residents are now allowed to have a goat. Pet chickens and other animals you probably cannot bury in town or city limits.

Chair Jensen asked if the application had said large animals as opposed to pets, are those definitions included in the County's code?

Mrs. Ellis asked to review the Land Use Code.

Ms. Mott stated that the code does include the definitions of pet animals and livestock.

Commissioner Dougherty asked if the application is to allow large pets, does that then restrict them to not bury cattle and other agricultural animals? If that is the case, that can then be a different use out there.

Ms. Mott stated that the way it was written was to remove the condition limiting them to small pets, which as stated before, opens it up. Ms. Mott also mentioned that the applicants do have a limited amount of space for burial, so once they reach that limit, they have run out of room. The condition does not give them an open area to continue to bury once that area is full.

Commissioner Dougherty then stated that this does provide the applicants with an incentive to not allow any large animal off any agricultural facility.

Ms. Mott agreed with that statement. Although, they do have a crematory and if cremated the amount of burial space is less than if the animal were buried.

Ms. Ellis suggested that they could clarify the condition to exclude livestock. There is a definition of livestock in the code.

Chair Jensen asked Commissioner True if that was her intent?

Commissioner True stated that she just wanted to understand what a large pet was.

Commissioner Dougherty stated that Ms. Mott said the applicant was present. He doesn't have a problem not making any changes to this because he sees a disincentive for them to accept all types of livestock. But he doesn't necessarily want to add to the condition to say no livestock if that is going to harm their business model.

Commissioner Miller added that no livestock implies that goats and pygmy pigs which could be classified as pets would restrict those owners from using the facility.

Ms. Ellis read from the code that livestock does include cattle, horses, mules, burros, sheep, goats and so on. We wouldn't want to exclude that type of blanket classification but clarification from the applicants may be helpful.

Chair Jensen asked the Commissioners if they had a problem with bringing the applicant up to address this issue? There was no opposition.

Chair Jensen asked the applicant to address the Commissioners. He also added that this is a little unusual to ask the applicant to address questions on a consent item.

Amelia Tuttle and Lisa Staggs addressed the Commissioners. Ms. Staggs thought that maybe the Commissioners were looking at more of a rendering type situation for dumping and that is not what their business is about. But there are people that have cows, llamas, sheep, goats, donkeys, horses, ponies that do not think of them as livestock or a food source. These animals are their pets. She is not looking at being a rendering place, she is looking at more of a sentimental and personal burial place for their beloved pets. She is not for disposal.

Chair Jensen asked Commissioner True if she was clear on the intent.

Commissioner True stated that she was and was concerned with the rendering part of it.

Commissioner Stasiewicz mentioned that a couple of the Commissioners were out at the site earlier in the day and asked in regard to the large animals, where on the site would they be?

Ms. Staggs explained that the property is L-shaped. She then referred to the diagram of the property that was on display.

Commissioner Stasiewicz understood the location.

Commissioner Dougherty moved that the Planning Commission adopt the following

Resolution: BE IT RESOLVED that the Planning Commission recommend to the

Board of County

Commissioners approval of the Kuemmerlin Amended Special Review and Appeal, File #18- ZONE2408, subject to the 16 conditions outlined on pages 11 and 12. Please note that it had originally said file 19 on the cover sheet, but it is 18.

Commissioner Miller seconded the motion.

Commissioners Wallace, True, Stasiewicz, Miller, Dougherty and Chair Jensen all voted in favor of the motion.

MOTION PASSED 6-0.

Commissioner Johnson joined the other Commissioners for the remainder of the hearing.

ITEM #2 – COLUMBINE LODGE AMENDED SPECIAL REVIEW, FILE #18-

**ZONE2434:** Chair Jensen stated that this item was asked to be removed from the consent agenda, so the Commission will continue with this with as much of a hearing as necessary including a staff presentation, applicant presentation, public comment, applicant rebuttal and then questions from the Commission.

Mr. Whitley provided a short presentation regarding this Amended Special Review which is an amendment to the Columbine Lodge Special Review (File 09-Z1745) to relocate on-site camping space sites based upon a revision to the floodplain.



The Columbine Lodge Special Review was approved by the Board of County Commissioners on July 27, 2010. The Special Review granted approval for an existing non-conforming resort lodge, RV park a retail store to allow for the expansion of the use to include a tent campground and office/retail space for a recreational business.

In conjunction with the Special Review, appeals were granted to Sections 18.4.1.B (8-acre minimum size for a campground), 18.4.3.B (access road width), 18.4.3.D (campsite setbacks) and 18.4.4.A (comfort station requirement) of the Land Use Code.

The Columbine Lodge Special Review limited campers to 35 people in 10 designated camping sites. At the time of approval, the northern quarter (+/-) of the property was designated as being in the Cache La Poudre River's floodplain. The 10 designated camping areas were located outside of the floodplain.

In 2012, the property owners completed a Letter of Map Revision (LOMR) process to remove the property from the floodplain.

This Amended Special Review would allow seven of the 10 camping areas to be relocated to be along the northern property line adjacent to the Cache La Poudre River. Approval of the Amended Special Review would not increase the number of camping sites or the number of campers allowed on the property.

Mr. Whitley said that he would hit on a couple of the review criteria and if necessary, would address others as necessary.

The first one being the proposed use will be compatible with existing and allowed uses in the surrounding area and will be harmony with the neighborhood. Compatibility is largely determined by input from surrounding property owners. Notice was provided to property owners within 1000-feet of the property. At the time of the staff report writing, May 22, 2019, only one email from a neighbor had been received with concerns about expanding camping on the site.

Mr. Whitley did explain that this amendment was only dealing with moving the location of the campsites and that the camping was not being expanded. This neighbor raised concerns with putting more pressure on the river.

Since the staff report was written, 4 additional emails from one individual have been received and shared with the Commissioners. The concern from that neighbor is with wildlife. His property is located within Poudre Park. In terms of wildlife, there are some wildlife standards in the code which has mapped several areas as special habitat and special wildlife concerns. The Columbine Lodge property is not within any of those mapped areas. A referral was sent to the Colorado Parks and Wildlife Division with no response received. Staff did not see any conflict with wildlife in moving the campsites.

The Service Development Team does recommend approval of the amendment. Commissioner Dougherty asked how far these campsites are being moved?

Mr. Whitley said about a couple hundred feet, if that.

Commissioner Dougherty then asked if that location is part of the campground prior and campers that visited the site before would have been able to visit the site for walking around, hiking, etc.

Mr. Whitley replied yes. There was no restriction on the activity that could have taken place in that area, but no camping was allowed. There is a cabin that is located in that area already.

Commissioner Dougherty noted that the emails that were shared with the Commissioners did not include any responses from Mr. Whitley. A couple of comments referred to a new campground and Commissioner Dougherty wanted to ensure that Mr. Whitley responded to this individual stating that this is not a new campground being proposed and just a moving of the 7-sites.

Mr. Whitley stated that he had not addressed these concerns with this individual. Given that this is also going to be heard by the County Commissioners, Mr. Whitley will reach out to this individual to clarify.

Chair Jensen noticed that on the cover sheet it states that notices were sent to properties within 500-feet but in his presentation, he stated 1000-feet. Please verify.

Mr. Whitley said that he was fairly certain that notices were sent out to properties within 1000- feet.

Commissioner Dougherty asked Mr. Whitley to go back to the slide showing the area and asked if that 1000-feet included all the properties in Poudre Park?

Mr. Whitley replies that he would have to pull up a map and see a buffer that would show the area covered. Mr. Whitley noted that it is a department standard that if a notice hits a subdivision, the entire subdivision is notified.

Chair Jensen asked the applicant to address the Commissioners noting that although they share the same last name, there is no relation between them.

Michael Jensen is the managing partner of the Columbine Lodge that has been owned by them for 13-years. He runs this with his mother and other family members. They have installed outside forest service type toilets for the campers and have adhered to all the requirements of the Special Review from 2010. They try to be very good neighbors. The campers come and they want to be on the river.

Chair Jensen asked Mr. Jensen what he intended to do with the campsite area once the campsites are moved?

Mr. Jensen replied that currently the spaces are delineated by markers. There really are not delineated spaces currently. This area will then become an open space.

Chair Jensen asked if there would be any parking in that area?

Mr. Jensen stated that campers are to park in front of their spaces but that doesn't always happen.

Commissioner Wallace stated that the proposed campsites look like they are very close to the property line. She asked how far it is between the property line and the river?

Mr. Jensen answered that it depends on the season. Right now the river is very high and there is about 20-feet between the property line and the river. When the river is low, it is closer to 35- feet. The terrain of the property did not make sense that it would be flood fringe. You really can't walk to the river.

Commissioner Wallace if there was a public access between the property line and the river. Mr. Jensen responded that he was not aware of any public access.

Commissioner Wallace asked who owns the land there?

Mr. Jensen replied that he was not sure but he thought they might own to the midpoint of the river.

Chair Jensen asked the member of the audience if his questions had been answered to which he replied no.

Chair Jensen opened up the hearing for public comment.

Robert Manuel lives in the Poudre Park Subdivision. He does believe there is public access to the high-water mark. He has gone through this in regard to fishing rights. People do have the right to walk along the river. He also wanted to know if fires and fire rings would be allowed

at the campsites? Concerned if the fires get too close to the water, fire could jump the river. He also has sanitation concerns as he has had complaints of people urinating in the river.

Chair Jensen closed public comment.

Chair Jensen asked Mr. Jensen to address the Commissioners in rebuttal to the concerns mentioned by Mr. Manuel.

Mr. Jensen stated that earlier he had mentioned that sometimes the campers will build fire rings but that they are discouraged and are torn down. There is a full-time camp monitor on-site during the weekends when it is the busiest. They do have pre-built fire rings at the campsites that are cleaned out regularly. They do not drain into the river.

Chair Jensen asked if there are fire restrictions in Larimer County, how are those enforced?

Mr. Jensen responded that they hand out brochures when the campers check in and then the campers are escorted to the campsites and are put on notice regarding the fire restrictions.

The campground was impacted by both fires, so they do understand the severity of fire dangers in the area.

Chair Jensen then asked Mr. Jensen to respond to the comments made regarding sanitation and how those concerns have been addressed?

Mr. Jensen stated that in the past, they did not have two privy vaults, but they did use portable sanitation devices from Gallegos Sanitation. The two privies are unisex and are used by the campers in-site. There is also a shower house that has two showers, two toilets and two sinks. These are also unisex and for the use of the campers. There is a total of four toilets, two showers and two sinks.

Chair Jensen asked for clarification on the privies in that it is a sealed vault? Mr. Jensen responded with yes, it is a sealed vault.

Chair Jensen then asked about the other two toilets?

Mr. Jensen said he believed they were tied into the leach field. Chair Jensen asked if the vault was emptied annually?

Mr. Jensen replied yes, annually.

Commissioner Johnson asked if as the campers are checked in and fire dangers are discussed, are there also codes of conducts that are discussed?

Mr. Jensen replied that they do have rules and regulations that were part of their Special Review. These are delivered at check-in. They have also gated the drive to prevent rowdy partygoers (guests of the paid campers) from driving to the campsites. They have also implemented the use of wristbands for the campers and guests are not invited. They also have

added an at-night monitor that is around until everyone goes to bed. They enforce quiet hours after 10:00 p.m.

Commissioner Miller stated that there were no restrictions for the campers fishing in the river. Is the river a right-of-way for the public to go up and down the river?

Mr. Whitley responded that this is beyond what is usually regulated by zoning. He also stated that there is no ownership information for the river, which suggests that it is some form of public land. He shared that there are laws in regard to public rivers, but his understanding is that along rivers, the ability to fish is okay as long as the fishing is not taking place on private property.

Commissioner Miller commented that years ago, the Big Thompson River, he was told that private owners owned out to the center of the river and as long as someone didn't touch the ground, they could float on the water as it was public access.



Mr. Whitley stated that was correct. He continued that it does not appear to be the situation in terms of ownership to the center of the river, just based on the Assessor's information. It does show in some places that ownership either goes to one side of the river or the other or to the center, but not in this particular location.

Commissioner Dougherty moved that the Planning Commission adopt the following

Resolution: BE IT RESOLVED that the Planning Commission recommend to the

Board of County

Commissioners approval of the Columbine Lodge Amended Special Review, File #18-Zone2434, subject to the eight conditions on pages 121 and 122 of the file.

Commissioner Miller seconded the motion.

Commissioner Dougherty commented that the reason he would like to approve this as this is a very minor change to what is currently being used there. He does not see any adverse actions from this change.

Commissioner Wallace added that it might make some sense and shouldn't be a condition of approval, but it might make sense to pull those seven sites 20-feet back from the edge of the property line so that they are not constantly going over the property line. She was concerned with infringement issues.

Commissioner Miller agreed with Commissioner Dougherty.

Chair Jensen supports this as well and with vein of Commissioner Wallace, because fires and fire pits tend to be one of those things we freak out about, if he were building this, the fire pits would be to the front of those sites. They wouldn't be to the back where they couldn't be monitored or watched.

MOTION PASSED 7-0.

Chair Jensen asked if there were any other discussion items. There was nothing further to be discussed.

Chair Jensen asked for the staff report.

Ms. Ellis provided a brief report of some of the business that has taken place since the last meeting. There have been no cases approved by the Board of County Commissioners that were heard by the Planning Commission. Next week, there will be a joint hearing with the Board of County Commissioners regarding the Comp Plan. There will be no field trip but there will be the election of officers after the County Commissioners take action.

Commissioner Johnson asked Ms. Ellis to provide the time of those meetings.

Ms. Ellis provided a time of 6:30 p.m. for the joint hearing with the County Commissioners.

The Oil and Gas Task Force meets next week from 4:30 p.m. - 7:30 p.m., in the Hearing Room and will be televised.

Commissioner True asked for date.

Ms. Ellis stated that the task force would be meeting on the 18 th of July.

On July 29 th, there is a meeting that is being held up in Estes Park to talk about the future of Land Use Planning. This may be of interest to the Planning Commission as some of the discussion that is taking place is the County taking on the service of providing development review in the Estes Valley and what the potential roles of the Estes Valley Planning Commission and their relationship to your role in the future. That will be televised as well.

The work session will still take place on August 14th. There will be two items on the agenda. The first being the Northern Integrated Supply Project Process and Schedule and how that looks for the Planning Commission and what their role will be as well as that of the Board of County Commissioners and the opportunity for public engagement around project. It is a Memorandum of Understanding (MOU) tied to the 1041 process. There will also be an update and discussion with the consultants for the Land Use Code.

The Wireless Facilities item will be discussed at a work session with the County Commissioners and the consultant on August 21 st, from 4:30 p.m. to 6:00 p.m. Information will be posted and sent out prior to that work session. It will also be added to the webpage for members of the public to review. The hearing will follow that evening beginning at 6:30 p.m. The hearing for the Wireless Facilities will be scheduled for September 11 th.

Planning Commission applications are being accepted. The website states it is open until filled, so if anyone knows of someone that would be interested, the application can be found on the webpage at [www.larimer.org/boards/planning commission](http://www.larimer.org/boards/planning%20commission).

Chair Jensen added that the full secretion of the Planning Commissioner position is also posted on the website for anyone interested.

With there being no further business, the hearing adjourned at 7:26 p.m.

These minutes constitute the Resolution of the Larimer County Planning Commission for the recommendations contained herein which are hereby certified to the Larimer County Board of Commissioners.

Secretary

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Jeff Jensen, Chairman

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Nancy Wallace,