

LARIMER COUNTY PLANNING COMMISSION

Minutes of November 18, 2020

The Larimer County Planning Commission met in a regular session on Wednesday, November 18, 2020, at 6:00 p.m. in the Hearing Room as well as virtual video. Commissioners Dougherty, Miller, and Choate physically attended. Commissioners Pontius, Green, Best-Johnson, Barnett, and Wallace attended virtually with Commissioner Choate presiding as Chairman. The Larimer County staff that attended virtually were Don Threewitt, Planning Manager; Rob Helmick, Senior Planner; Jenn Cram, Planner II; Frank Haug, Assistant County Attorney II; Connor Sheldon, Civil Engineer I; Steven Rothwell, Civil Engineer II; Samantha Mott, Senior Planner; Lea Schneider, Environmental Health Planner; and Traci Shambo, Senior Civil Engineer. The Larimer County staff that physically attended were Lesli Ellis, Community Development Director; Michael Whitley, Planner II; and Christina Scrutchins, Recording Secretary.

COMMENTS BY THE PUBLIC REGARDING THE COUNTY LAND USE CODE OR REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA OR FUTURE PROPOSALS

None.

APPROVAL OF THE AMENDED APPROVED MINUTES FOR THE SEPTEMBER 16, 2020 MEETING

MOTION by Commissioner Dougherty to approve the amended approved minutes.

Commissioner Miller seconded the motion.

This received unanimous voice approval.

Motion passed 8-0

APPROVAL OF THE MINUTES FOR THE SEPTEMBER 16, 2020 MEETINGS

MOTION by Commissioner Dougherty to approve the minutes.

Commissioner Miller seconded the motion.

This received unanimous voice approval.

Motion passed 8-0

AMMENDMENTS TO THE AGENDA

None.

CONSENT ITEMS:

ITEM #1 - ASCENT CHARTER SCHOOL LOCATION AND EXTENT, FILE #20-ZONE2780: Mr. Helmick gave a brief presentation regarding the applicants' request for a Location and Extent review for a new charter school to serve K-12 in two phases on a 14 acres site. The site is located North the intersection of CR 5 and CR 32E on the east side of CR 5, Windsor, CO The site is in the Windsor Growth Management Area and is adjacent to the city limits to the west in the Fossil Creek Subdivision. The GMA allows for the processing of the L & E, MLD and Site Plan Review an annexation agreement will be required as a result of those processes. The State of Colorado Division of Labor issues a building permit for the school buildings. The school proposed to be constructed in two phases. Phase 1 will include K-8 grades and initially have 300 elementary students adding additional student and including middle school grades up to 500 students. Phase 2 is proposed for the high school grades 9-12 is planned to open in year 3. The proposed total enrollment is 800 students. The site will include parking and play fields. A proposed site plan is a part of this application, the final site plan will be reviewed as a part of the Site Plan application. To approve a Location and Extent application, the Larimer County Planning Commission must find that the proposal is consistent with the Larimer County Comprehensive Plan, based on consideration of relevant Comprehensive Plan principles, maps and elements. If the PC members are not able to make a final approval, then the PC can recommend approval and the final decision to the Larimer County Board of County Commission. Mr. Helmick closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

PLANNING COMMISSION COMMENTS

Commissioner Dougherty asked if the annexation agreement would affect the final decision?

Mr. Helmick stated that it will not, and the town of Windsor will decide how soon they would like to request an annexation agreement from the school.

PUBLIC COMMENT

None.

ITEM #2 – NORTHERN COLORADO WATER ASSOCIATION LOCATION AND EXTENT, FILE #20-ZONE2786: Ms. Mott gave a brief presentation regarding the applicants' request for a Location and Extent Review to create a redundant 12" transmission main for an existing distribution system. This Location and Extent request is for NCWA to construct a redundant 12-inch transmission pipeline for their existing distribution system that will run approximately 11 miles in length. The location of the proposed water transmission main runs from the intersection of Larimer County Roads 78 and 15, generally northeast to the water tanks located just west of I-25. The Northern Colorado Water Association (NCWA) is located entirely in Larimer County. The NCWA provides water service to an area generally within Larimar County 94, the City of Fort Collins northern boundary, Larimer County Road 23, and the Weld County border. NCWA utilizes two storage tanks within the City of Fort Collin's Meadow Springs Ranch. These feed the NCWA distribution system through two existing water transmission pipelines that were constructed around 1962 and consist of a 6-inch line and an 8-inch line. These lines have experienced numerous breaks over the years and have required a lot of repairs. Because of these failures and the importance of the provision of adequate public facilities such as the provision of water, NCWA identified the

need to provide a redundant transmission main. NCWA is working with the landowners to obtain the required easements and any necessary permits needed for the construction and maintenance of the pipeline. Ms. Mott closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

PLANNING COMMISSION COMMENTS

Commissioner Miller asked if the new easement going to be placed over top of the current easement?

Ms. Mott asked the question is referred to the applicant.

PUBLIC COMMENT

Chairman Choate moved Item two – Northern Colorado Water Association Location and Extent, File #20-ZONE2786 as a Discussion item due to a member of the public wanting a full hearing.

ITEM #3 – SHAMBHALA AMENDED SPECIAL REVIEW, FILE #20-ZONE2629: Ms. Cram gave a brief presentation regarding the applicants' request for an Amendment to the Rocky Mountain Shambhala Center Special Review to relocate the approved square footage allocated to staff housing to a different area. The request is on property contained within two parcels totaling approximately 345-acres located at 4921 W County Road 68C, Red Feather Lakes, CO. The property is owned by the Rocky Mountain Dharma Center. Both parcels and the surrounding area are zoned O-Open. The Shambhala Mountain Center is run as a 501(c)3 non-profit educational organization. The Mountain Center hosts over 100 programs every year that focus on meditation, personal health, and well-being. The Mountain Center is usually open every day of the year and has a staff of about 50 people. The property has been used as a retreat center since 1974. The first Special Review approval that allowed the retreat center to expand to a population of 120 persons was approved in 1981. In 1984 the first master plan for the retreat center was approved. In 1994 another expansion was approved allowing a summertime population of 450 persons and a wintertime population of 150 persons. An Amendment to the Special Review in 1998 further refined the location of structures. The approved Amendment in 2001 relocated structures using bubbles for general locations or clusters within the master plan and established criteria for special events. Another Amendment is currently being requested to relocate staff housing with the same approved density to another area on the property that is more desirable. The intent is to provide better quality housing to recruit staff to the Mountain Center that allows them to enjoy the natural environment when not working away from the heavier activity areas at the Mountain Center. The new cluster for staff housing proposed would include 25 residential structures. To maintain approved densities older trailers and housing will be removed as new housing is constructed. If all goes well, construction could start as early as 2023. Ms. Cram closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

PLANNING COMMISSION COMMENTS

None.

PUBLIC COMMENT

None.

ITEM #4 – MARING REZONING, FILE #19-ZONE2569: Mr. Whitley gave a brief presentation regarding the applicants' request a Rezoning of a parcel from FA – Farming and C - Commercial (with conditions) to PD – Planned Development. The subject property is at 1022 S. Saint Louis Avenue, Loveland which is located on the east side of S. Saint Louis Avenue approximately 1,100 feet south of the intersection of S. Saint Louis Avenue and 8th Street SE. The property contains two buildings used for auto repair, a building used for commercial storage, and outdoor storage associated with the auto repair business. The parcel is 3.03 acres. The western 410 feet (+/-) of the property is zoned C – Commercial and the eastern 90 feet (+/-) of the property is zoned FA – Farming. Most of the subject property was conditionally rezoned from FA - Farming to C Commercial in 1986. The rezoning was approved with 9 conditions. Condition 6 is, "Use of the property is limited to that as hereby approved zoo, pet store, feed supply and any existing legal residential uses." The property is approximately 1,000 feet north of the Big Thompson River. The entire parcel is in the flood fringe. A small area of the property adjacent to S. Saint Louis is located in the flood way. In 2016, one of the buildings currently used for auto repair was constructed without a building permit. The building is partially located on the portion of the property zoned C – Commercial and partially located on the portion of the property zoned FA – Farming. The building also has setback and flood-related issues. The property is in the Loveland Growth Management Area. The proposed PD – Planned Development zoning would reflect most of the uses allowed in Larimer County's C – Commercial zoning. If the property is successfully rezoned, the property owner can apply for further processes and building permits to bring the building and site into compliance. Mr. Whitley closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

PLANNING COMMISSION COMMENTS

Commissioner Dougherty asked if the building in violation be able to be in compliance with the setback and maximum structure height?

Mr. Whitley stated the building in violation will be in compliance with the maximum structure height but not will need a setback variance to be completely in compliance.

Commissioner Dougherty asked if the rezoning is contingent on all issues and concerns.

Mr. Whitley stated no and that the rezoning will establish the issues and concerns and other request will need to be submitted to bring the property into compliance.

Chairman Choate asked if the property currently in enforcement action with Larimer County?

Ms. Whitley confirmed there is a Code Compliance Case on the property at this time with Larimer County.

PUBLIC COMMENT

None.

MOTION

Chairman Choate clarified wanted to note for the record the following: The Northern Colorado Water Association Location and Extent, File #20-ZONE2786 was removed from the consent items to the discussion items for a full hearing. The Planning Commission approve the Ascent Charter School Location and Extent, File #20-ZONE2780. The Planning Commission recommend to the Board of County Commissioners approval of the Shambhala Amended Special Review, File #20-ZONE2629 and the Maring Rezoning, File #19-ZONE2569.

MOTION by Commissioner Green to approve the consent agenda.

Commissioner Best-Johnson seconded the motion.

This received unanimous voice approval.

Motion passed 8-0

DISCUSSION ITEMS:

ITEM #5 – COLORADO DEPARTMENT OF LOCATION AND EXTENT, FILE #20-ZONE2784:

Mr. Whitley gave a presentation regarding the applicants' request for a Location and Extent review for the Colorado Department of Transportation (CDOT) to construct a Vehicle Storage Facility on two parcels totaling 2.14 acres. The property will be used to store CDOT plow trucks and support CDOT operations in Estes Park and surrounding areas. The facility proposes to include a storage and office building, a sand storage shed and a magnesium chloride containment structure containing two tanks. This facility will replace an existing CDOT facility that was demolished in 2019 on Elm Road. The applicant's project description indicates that the property is ideally located for CDOT maintenance operations as it is on State Highway 34 and close to the intersection of State Highway 34 and State Highway 36. The property has a flat area adjacent to the road with a relatively steep sloped area to the north of the property. Development is proposed on the south end of the property, adjacent to the highway. There would be four employees working on-site. CDOT would store four plow trucks and a one-ton truck on the property. This maintenance facility would not be open to the public and would not serve outside customers. Traffic would be limited to employees and those on-site for maintenance operations. The property is adjacent to a hotel to the east and residential areas to the north and west. Highway 34 is to the south. Because this property is within the Estes Valley Planning Area, the Estes Valley Comprehensive Plan is applicable. The Estes Valley Comprehensive Plan serves as a policy document to guide future development standards within the Estes Valley Planning Area. Although there are few policies that specifically address the maintenance of highways, traffic, mobility to and from the community, and mobility within the Estes Valley are major recurring themes throughout the Comprehensive Plan. Two mobility strategies are identified in the Comprehensive Plan. The first is to eliminate or reduce the congestion in the downtown area and on roadways leading to the downtown area and the second is to maintain access to business, residential, and recreational facilities. The proposed CDOT vehicle storage facility will contribute to maintaining access to business, residential and recreational facilities. The facility is also consistent with Policy 4.1 which reads, "Encourage a comprehensive and balanced transportation system for the Valley while maintaining a local road system that is consistent with the rural mountain resort character of the Valley." Mr. Whitley wanted to make note for the record the information in the packet regarding "If the Location and

Extent Review is approved, the applicant shall apply for Technical Review with Larimer County for review and approval prior to any construction” and will not apply to this project due to CDOT having their own planning process and they will complete internally. Mr. Whitley closed the presentation with additional comments, review criteria, the summary of the Development Review Teams Findings and Development Services Team Recommendations.

PLANNING COMMISSION COMMENTS

Chairman Choate wanted to clarify that Mr. Whitley is wanting to remove all conditions of approval and the new Development Services Team recommends approval of the Colorado Department of Transportation Location and Extent, File #20-ZONE2784 with no conditions.

Mr. Whitley confirmed that the new Development Services Team recommends approval of the Colorado Department of Transportation Location and Extent, File #20-ZONE2784 with no conditions.

Commissioner Dougherty asked if the CDOT Location & Extent will serve the intent of the Estes Valley Comprehensive Plan?

Mr. Whitley explained that he feels it is consistent with the Estes Valley Comprehensive Plan.

Commissioner Dougherty wanted to confirm that if the project is not approved by the Larimer County Planning Commission, CDOT can still move forward with the project.

Mr. Whitley confirmed that CDOT, legally, can move forward with the project but have voluntarily submitted the project through Larimer County for the Location and Extent.

Commissioner Miller wanted confirmation of where the property is located in Estes Park.

Mr. Whitley explained and showed an image of where the exact location of the property project is located.

Commissioner Wallace asked why the CDOT Location & Extent, File 2-ZONE2784 was placed under the Discussion item and not under the Consent Items on the agenda?

Mr. Whitley stated that during the October Planning Commissioner Hearing, the Planning Commission requested the Location & Extent items under the Discussion items on the agenda due to the Planning Commission being the final approval.

Commissioner Wallace asked if everyone affected is opposed to the project?

Mr. Whitley stated that a member of the public did reach out and did not object the project.

Commissioner Pontius expressed her understanding in why the location is a good choice for this project.

Erin Lucero, CDOT Lead Architect, expressed her thank you to Mr. Whitley’s presentation and Commissioner Pontius’s comment.

Commissioner Pontius asked Ms. Lucero if CDOT is concerned about the traffic on/off Mall road intersection?

Ms. Lucero explained more in detail that CDOT internally researched the traffic and did not find any major concerns but will have safe pull off when entering the site.

PUBLIC COMMENT

None.

MOTION

Commissioner Dougherty moved that the Planning Commission adopt the following Resolution:

BE IT RESOLVED that the Planning Commission approve the Colorado Department Location and Extent, File #20-ZONE2784, with no conditions.

Commissioner Miller seconded the motion.

VOTE

Commissioner Green was abstained from voting due to leaving the hearing early.

Commissioners Wallace, Dougherty, Best- Johnson, Barnett, Miller, Pontius, and Choate all voted in favor of the motion.

Motion passed 7-0.

ITEM #6 – NORTHERN COLORADO WATER ASSOCIATION LOCATION AND EXTENT, FILE #20-ZONE2786: Ms. Mott gave additional comments and an overview of the review criteria, a summary of the Development Review Teams Findings and the Development Services Team Recommendations. A member of the public did have concerns regarding the easements on the property and Ms. Mott also made note that the referral agency comments did not get received before the Planning Commissioner hearing but no concerns were mentioned.

PLANNING COMMISSION COMMENTS

Commissioner Dougherty wanted to clarify that the approval of a Location and Extent is not the approval to start building and that the applicant will still need to acquire all permits and rights to access the properties involved.

Ms. Mott stated Commissioners clarification is correct.

Commissioner Dougherty asked if the project location needs to be located in a different area, will the Northern Colorado Water Association need to present additional project information to Larimer County or will the new location be approved by the private land owner.

Ms. Mott stated that Northern Colorado Water Association will need to present additional Location and Extent process if a major change occurs with the alignment of the project.

Commissioner Dougherty asked if the Planning Commission approve the project it will not harm the property owners the pipeline is proposed to cross?

Ms. Mott stated it should not because Northern Colorado Water Association will need to obtain Easements and permits.

Commissioner Best-Johnson asked what percentage of easements have been secured for the pipeline?

Cort Nickel stated they thought all easements had been secured but as of that morning they do not have a percentage of the secured easements.

PUBLIC COMMENT

Sherman Worthington had concerns regarding the easement that has not been secured for the property of Worthington Ranch.

Commissioner Miller asked if Mr. Worthington did not know about the proposed pipeline running through the property?

Mr. Worthington stated that his mother was the property owner of the ranch and has had knowledge of the proposed pipeline but does not remember anyone discussing the project with her.

Commissioner Miller asked if Worthington Ranch is opposed to the proposed pipeline running through the Worthington Ran?

Mr. Worthington stated that Worthington Ranch would like to understand what the terms of an easement would be with the applicant before any agreements. They would also like to be given the knowledge regarding the engineering of the installation of the pipeline, its process, and if there is another location option.

Chairman Choate asked who owns Worthington Ranch?

Mr. Worthington stated that Worthington Ranch is an Limited Liability Company (LLC) with seven members. Mr. Worthington and his mother are two of the LLC members. Mr. Worthington's mother is the General Manager of the LLC. Mr. Worthington is his mother's Power of Attorney for all business dealings regarding Worthington Ranch.

Chairman Choate wanted to confirm Mr. Worthington would request the pipeline be installed at a different location.

Mr. Worthington stated that without given or having knowledge of what the easement process entails, he does not feel he can answer the question in a truthful manner.

Eldon Ackerman wanted to express they are discussing an agreement with Northern Colorado Water Association and they are not opposed to the pipeline.

Tyler Walter wanted to speak not only for himself but for other property owners that are not affecting physically by the pipeline, that they would be interested in pursuing water from the pipeline.

PLANNING COMMISSION COMMENTS

Commissioner Dougherty asked if it is traditional to get the Governmental approval agency first before the applicant secures property easements or to secure the easements before the Governmental decision to approve or deny the Location and Extent.

Ms. Mott stated that each Location and Extent process is different based on the decision of the applicant.

Mr. Threwhitt stated with his experience he has seen where applicants do not want to secure property easements until they can move forward when the project is approved. Verbal agreements are more common before any written agreements are created.

Chairman Choate asked what the Planning staff would consider a substantial change.

Mr. Mott stated that if a realignment for the pipeline is needed without new properties being involved then no but if the realignment does involve new properties then yes, a revaluation will need to take place but does not feel comfortable giving a specific distance.

Mr. Haug stated that the purpose of the Planning Commissioner is to confirm the project is consistent with the Master Plan.

Chairman Choate asked Mr. Nickel if he is willing to negotiate with Mr. Worthington on a path location regarding easement acquisition.

Mr. Nickel state they are willing to negotiate and help Worthington Ranch understand what the terms of an easement would be before any agreement.

Chairman Choate asked if there are other location options?

Mr. Nickels stated that the association apologizes for the oversight of the Worthington ranch and is willing to discuss and help Worthington Ranch understand the easement process and what it involves. Also, due to bird of prey they are not allowed to install the pipeline down a path and there are other reasons, but the association is willing to negotiate an agreement with Worthington Ranch.

Commissioner Best-Johnson wanted to express her gratitude to the applicant and how they are continuing to secure easements with the property owners.

DISCUSSION

Commissioner Wallace agreed that it is common to have applicants submit for a Location and Extent before all easements are secured.

Commissioner Barnett expressed that amending a Location and Extent is much easier than an applicant needing to back out of securing easements.

Commissioner Dougherty, Miller and Choate expressed that the project is consistent with the Master Plan and they are in favor of the project.

MOTION

Commissioner Barnett moved that the Planning Commission adopt the following Resolution:

BE IT RESOLVED that the Planning Commission approve the Northern Colorado Water Location and Extent, File #20-ZONE2786, subject to the conditions.

Commissioner Dougherty seconded the motion.

DISCUSSION

None.

VOTE

Commissioners Best-Johnson, Pontius, Miller, Dougherty, Wallace, Barnett, and Choate

Motion passed 7-0.

REPORT FROM STAFF

Ms. Ellis thanked the Planning Commission from the Board of County Commission and gave an overview of the December 2020 upcoming meetings.

ADJOURN

With there being no further business, the hearing adjourned at 7:36 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.

Bob Choate, Chairman

Nancy Wallace, Secretary