



MEETING OF THE PLANNING COMMISSION BOULDER COUNTY, COLORADO

Regular Meeting Minutes

August 17, 2022, 1:30 p.m.
Virtual PC Meeting

Commissioners Present: Sam Fitch
Gavin McMillan, Vice Chair
Mark Bloomfield, Chair
Chris Whitney
Conor Canaday

Commissioners Excused: Ann Goldfarb
Sam Libby
Dave Hsu
Lieschen Gargano

1. CALL TO ORDER

The meeting was called to order at approximately 1:32 p.m. by Chair Mark Bloomfield.

2. ROLL CALL

3. APPROVAL OF MINUTES/MISCELLANEOUS BUSINESS

3.1 Approval of meeting minutes from July 20, 2022

MOTION: Chris Whitney MOVED that the Boulder County Planning Commission
APPROVE the meeting minutes from July 20, 2022.

SECOND: Conor Canaday

VOTE: Motion PASSED {5:0}

4. STAFF UPDATES

None.

5. **ITEMS**

5.1 **Docket SU-22-0005: Drogsvold Vacation Rental**

Ian Brighton, Planner II, presented docket SU-22-0005: Drogsvold Vacation Rental for Bruce & Susanna Drogsvold (Applicants/Owners), Special Review request for a Vacation Rental of 244 days for up to 4 guests with a minimum stay of 2 nights on a 2.83-acre parcel. The subject property is in the Forestry zoning district at 46877 Peak to Peak Highway, located approximately 1,820 feet north of the intersection of County Road 103 and State Highway 72 on Section 29, Township 2N, Range 72W.

PUBLIC HEARING OPENED

SPEAKERS: Edward Yagi – 1515 Big Owl Road.

PUBLIC HEARING CLOSED

MOTION: Gavin McMillan **MOVED** that the Planning Commission **CONDITIONALLY APPROVE** and recommend to the Board of County Commissioners conditional approval of **Docket SU-22-0005: Drogsvold Vacation Rental** with the 14 conditions of approval in the staff recommendation.

SECOND: Sam Fitch

CONDITIONS OF APPROVAL:

1. The applicants shall provide a Development Agreement, for review and approval by County staff, prior to the issuance of a license or permits by the Boulder County Community Planning & Permitting Department and prior to the recordation of said agreement within one year of approval.
2. The applicants must maintain a valid Boulder County Vacation Rental License while the short-term rental is in operation.
3. The subject property may not be marketed or used for weddings, receptions, or similar private or public events.
4. The Vacation Rental is approved to be rented for up to 244 nights per year.
5. The Vacation Rental must be rented for a minimum of 2 nights per rental period.
6. The Vacation Rental is limited to a maximum occupancy of four individuals, including children.
7. The approved number of sleeping rooms is two. All additional rooms are not to be used as a sleeping room.
8. All guests must park on-site.
9. Wildfire prevention and evacuation information must be displayed for guests.
10. All outdoor fires are prohibited.
11. The applicants must maintain a valid Wildfire Partners Certificate.
12. Prior to issuance of the rental license, Access & Engineering staff will inspect the access for the required improvements described in section (7).
13. Prior to issuance of the Vacation rental license, the applicant must submit a copy of a CDOT Access Permit for the existing point of access to the Peak-to-Peak Highway.
14. The applicants shall be subject to the terms, conditions, and commitments of record and in the file for docket SU-22-0005 Drogsvold Vacation Rental.

VOTE: Motion PASSED {5:0}

5.2 **Docket V-22-0001: Maedke Vacation**

Pete L'Orange, Planner II, presented docket V-22-0001: Maedke Vacation for Christine Maedke (applicant/owner), request to vacate an undeveloped alley right-of-way in the

Gold Hill Historic District. The subject property is in the Historic zoning district, at the alley between 410 Boulder Street (Parcel no. 145912010001) to the south and 412 Boulder Street Parcel no. 145912002007) and 0 Main Street (Parcel no. 145912002003) to the north, approximately 3.8 miles west of the intersection of Four Mile Canyon Drive and Gold Run Road, in Section 12, T1N, R72W.

PUBLIC HEARING OPENED

SPEAKERS: Christine and Dan Maedke, applicants.

PUBLIC HEARING CLOSED

MOTION: Conor Canaday MOVED that the Planning Commission CONDITIONALLY APPROVE and recommend to the Board of County Commissioners conditional approval of Docket V-22-0001: Maedke Vacation with the conditions of approval outlined by county staff.

SECOND: Chris Whitney

CONDITIONS OF APPROVAL:

1. In the event the subdivision exemption is granted by the Board of County Commissioners, the applicant shall comply with all post-approval conditions for the subdivision exemption.
2. In the event the subdivision exemption is not granted by the Board of County Commissioners, the vacated alley shall be divided down the centerline and added to the respective adjacent properties and the applicant will provide a new deed and associated legal description to Community Planning & Permitting Staff for review, approval, and recordation.
3. The applicant shall meet all the post approval requirements within one year after the date of the Board of County Commissioners' Resolution approving this vacation. This Resolution and associated documents shall also be recorded by Community Planning & Permitting Staff with the County Clerk and Recorder's Office within this one-year timeframe. This vacation approval shall not be considered final or effective until this recordation. Finally, this vacation approval shall expire if recordation does not occur within the required one (unless an extension is granted).
4. A copy of the recorded Access Easement for the shared driveway over 470 Boulder Street must be submitted to Community Planning & Permitting prior to recordation of the deeds for the new parcel configuration that is approved.
5. An Access Improvement and Maintenance Agreement (AIMA), which is an agreement for future maintenance responsibility, will be issued for shared driveway leading to 412 Boulder Street during building permit review. The AIMA will be prepared by the Access & Engineering staff, signed by the property owner and notarized, and approved as part of the process.
6. The applicant shall be subject to the terms, conditions, and commitments of record and in the file for Docket V-22-0001: Maedke Vacation.

VOTE: Motion PASSED {5:0}

5.3 Docket SU-22-0004: Pivot Energy Solar Facility

Sam Walker, Planner II, presented docket SU-22-0004: Pivot Energy Solar Facility for Kyle Sundman, Pivot Energy (applicant) and Charles Rodgers (property owner), Special Use Review to construct a 5 megawatt 24-acre solar energy facility on a 36-acre parcel. The subject property is in the Agricultural zoning district at 5980 N. 79th Street, approximately .25 miles south of the intersection of N. 79th Street and State Highway 52, in Section 6, Township 1N, Range 69W.

Commissioner Goldfarb entered the hearing at approximately 2:56 p.m. Commissioner Canaday departed the hearing at approximately 2:58 p.m.

PUBLIC HEARING OPENED

SPEAKERS: Kyle Sundman and Julia Friedman, Pivot Energy (Applicants), William Fox - 5974 N. 79th Street (Pooled with Karen Fox - 5974 N. 79th Street and Michelle L Williams - 5850 N 79th St, Longmont); Kimberly Shields - 303 E 17th Ave Suite 405; Robert Woodruff - 6082 N 79th Street; Mary Jo Cito - 7815 Country Creek Dr.; Charles Rodgers – 5980 N. 79th Street; Kevin Schneider - 5801 N. 79th St.; Hunter Lovins - 5150 Saint Vrain Road; Edward Kean – P.O. Box 1016.

Commissioner Canaday rejoined the hearing at approximately 3:55 p.m.

PUBLIC HEARING CLOSED

MOTION: Chris Whitney **MOVED** that the Planning Commission **CONDITIONALLY APPROVE** and recommend to the Board of County Commissioners conditional approval of Docket SU-22-0004: Pivot Energy Solar Facility with the 18 conditions listed in the staff recommendation with the edits outlined in staff's presentation and changing amendment 9 to read 40 years and adding an amendment that the location as proposed by the applicant may change if the Boulder Comprehensive Plan map is updated.

SECOND: Sam Fitch

1. Prior to the issuance of any permits by the Boulder County Community Planning & Permitting Department and within one-year of the signing of the Resolution, the applicants shall provide a Development Agreement for review and approval by County staff. Once approved by County staff, the Development Agreement shall be signed and notarized by the applicant, and will be recorded by County staff.
2. The maximum height of any given panel in the system is not to exceed 8 12 feet above existing grade. The height of the proposed fence is ~~also~~ limited to 8 feet above existing grade.
3. The maximum allowed area of disturbance for the system (including panels and associated roads, fencing, trenching, structures, etc.) is not to exceed 7 acres within areas designated as Significant Agricultural Lands. The boundaries of the Significant Agricultural Lands and the area of disturbance within them must be shown on the plans submitted for permitting.
4. At permitting, a revised site plan is required for submittal. The plan must show individual array locations, the extent of fencing and other areas of disturbance, setbacks, and the location of the nearest fire hydrant.
5. The development must meet all requirements outlined in the Building Safety and Inspection Services Team referral response and the Building Code, including but not limited to:
 - a. Building Permits;
 - b. Design Wind and Snow Loads;
 - c. Ignition-Resistant Construction, and;
 - d. Plan Review
6. Prior to issuance of building or grading permits, details regarding the placement and construction of silt fencing or other appropriate erosion control measures must be

submitted to, and approved by, the Community Planning & Permitting Department. The silt fence must be installed before construction commences and remain in place until vegetation is sufficiently established on the disturbed soil.

Prior to any grading or site disturbance, the silt barrier location and materials must be installed as required per the approved plans.

At the time of the footing foundation inspection and all subsequent inspections, the Community Planning & Permitting Department must confirm the silt barrier location and materials have been installed as required per the approved plans. Any other areas on site are subject to installation of silt fences, if needed.

7. At building or grading permit submittal, a Revegetation Plan must be submitted for approval. This plan should include grass species to be used, an explanation of how topsoils will be stockpiled and reused, mapped delineation of all disturbance areas (this includes construction staging areas, access road, and utility lines), and locations of silt fences or erosion control measures downslope of disturbed areas.

The Revegetation Plan must also include provisions for vegetative screening along the western boundary of the disturbed area, including the location and species of all screening plants.

Prior to any grading or site disturbance, the silt barrier location and materials must be installed as required per the approved plans.

Prior to issuance of a final inspection, the full installation of the approved Revegetation Plan must be inspected and approved by the Community Planning & Permitting Department. If weather is not conducive to seeding or if adequate revegetation efforts have not occurred and vegetation is not adequately established at the time of final inspection request, an irrevocable letter of credit or monies deposited into a County Treasurer account will be required to assure the success of revegetation. You should consider the following well in advance of your revegetation inspection:

- a. Whether you are applying for a Certificate of Occupancy, final inspection, or the return of funds held in escrow for completion of revegetation, some level of germination and growth of grass seed is required.
- b. Keep in mind that the steeper the slopes and dryer the soil, the greater the attention needed to establish a level of germination adequate to obtain revegetation approval.
- c. Areas of disturbance found at inspection not included on the revegetation plan are still subject to reseeding and matting.

8. Prior to the issuance of any building or grading permits, the applicant must submit a Decommissioning and Rehabilitation Plan for staff approval. The plan must include detail regarding decommissioning of the array and associated structures as well as detail regarding the proposed method of site remediation to restore agricultural production.

9. The system and its associated structures must be decommissioned and the site remediated within ~~35 years~~ 40 years of the final inspection or at the end of the useful lifespan (as determined by the applicants), whichever is sooner.

10. To limit impacts on Burrowing Owl habitat to the south, no encroachment or construction may take place on the subject property between March 15 and August 31.

11. The applicant must construct a fence and prairie dog barrier along the joint boundary of the subject parcel and the BCPOS Cito property to the north. The location of the fence and barrier must be shown on the plans submitted for permitting.

At the final inspection, the full installation of the approved fencing and prairie dog barrier must be verified by the Community Planning & Permitting Department.

12. Construction must not occur under moist or wet soil conditions, or during rain.
13. Areas of the subject parcel outside of those approved for disturbance as part of the revised site plan are not to be disturbed. Staging areas must be kept within the approved area of disturbance.
14. Only the northern access point to N. 79th Street shall be used to access the project site during construction.
15. At permitting, a revised construction schedule and daily vehicle trip generation/distribution estimates must be submitted.
16. At the time of building permit application, a Traffic Control Plan (TCP) must be submitted that addresses flaggers and the locations and types of warning signs to be used during the material and equipment delivery and the installation phases of the project. Signage warning of heavy truck traffic on N. 79th Street must be included in the TCP and the TCP must be prepared by a certified Traffic Control Supervisor.
17. A Boulder County Hauler License is required for hauling of material off site, regardless of where the material is deposited. This applies to the prime contractor as well as any subcontractors that collect, transport or dispose of any materials (dirt, gravel, garbage, recyclables, or compostables, construction and demolition waste, or landscaping materials) anywhere except within the project site, including locations outside unincorporated Boulder County.
18. The array location can be approved as originally proposed by the applicant if the Boulder County Comprehensive Plan Significant Agricultural Lands Map is amended.
19. The applicants shall be subject to the terms, conditions, and commitments of record and in the file for docket SU-22-0004 Pivot Energy Solar Facility.

VOTE: Motion PASSED {5:0} Abstained: Conor Canaday

At approximately 4:52 p.m. Planning Commission took a break. They returned at approximately 5:02 p.m.

5.4 Docket SU-22-0003: CEMEX Dowe Flats Mining and Reclamation Extension

Pete L'Orange, Planner II, presented docket SU-22-0003: CEMEX Dowe Flats Mining and Reclamation Extension for John Heffernan, CEMEX, Inc. (applicant/property owner), Special Use/Site Specific Development Plan review to amend an existing Special Use approval (SU-93-14) for limestone/shale open mining/quarrying located at the Dowe Flats Quarry, extending approved mining activities for an additional 15 years; the original permit area of 1,911 acres to be reduced to 709 acres; the concluding of cement plant operations at the facility located south of Highway 66 within the same 15-year timeframe; with concurrent reclamation of wildlife habitat. The subject property is in the Agricultural zoning district at 13301 55th Street, Parcel #120316000050, located approximately 0.5 mile north of the intersection of N. 53rd Street and state Highway 66, in Sections 9, 10, 15, and 16, Township 3N, Range 70W.

PUBLIC HEARING OPENED

SPEAKERS: Mark Davies and John Heffernan, Cemex Inc. (Applicants); Hollie Rogin, 432 5th Avenue; Kathleen Sands, 1960 Colard Lane; Bart Lorang, 12800 N Foothills Hwy; Rene Doubleday, 4651 Ute Highway; Paul Tamburello, 4652 Ute Highway; Stephen Bross, 3240 Folsom Street; Amber Revoir, 645 3rd Avenue; Stephen Dalton, 645 3rd Avenue; Wylie Hobbs, 11683 Pointe View Drive pooling with Alberta Shulman, 11683 Pointe View Dr., Longmont; Chad Welch, 11730 Pointe View Drive; Selwyn Goldstein, 649 Wade Road; Jack Debell, PO Box 1724, Lyons; Elizabeth Dominick, 11443 Crane

Hollow Road; Jocelyn Farrell, 140 Stone Canyon Drive; Molly Hardman, 11676 Pointe View Dr., Longmont; Cecilia Girz, 4669 Ingram Ct., Boulder; Edward Kean, PO Box 1016, Lyons; Julie Boyle, PO Box 481, Lyons; Taylor Muglia, 1164 Apple Valley Rd, Lyons; Hunter Lovins, 5150 St Vrain Rd, Longmont; James Silvestro, 717 15th St, Suite 2800, Denver pooling with Richard & Barbara Cargill, 5976 Hygiene Rd, Longmont; Sarah Lorang, 12800 Foothills Hwy, Longmont; Amanda Dumenigo, 5625 St Vrain Rd, Longmont, pooling with Lily Trienens and Adam Dolezal-1336 Steamboat Valley Road; Alexandra Rodriguez, 11399 Vermillion Rd, Longmont; Trudie Webster, 6604 McCall Dr, Longmont; Jane Shellenberger, 11158 N 66th St, Longmont; Mikel Goicoechea, 291 Canon View Rd, Boulder; Michael Schnatzmeyer, 69 Hover St, Longmont; Kathleen Cassidy, 6650 Ute Hwy., Longmont; Alberta Shulman, 11683 Pointe View Dr., Longmont; Michael Robson, 6152 Hygiene Rd, Longmont; Gil Sparks, 2169 Apple Valley Rd., Lyons; Tess McDonald, 376 J J Kelly Rd., Lyons; Adam Dolezal, 1336 Steamboat Valley Rd., Lyons; Tom Knorr, 11678 N 59th St., Longmont; Elaine Paul, 11678 N 59th Street, Longmont.

PUBLIC HEARING CLOSED

Commissioner Canaday departed the hearing at approximately 6:32 p.m.

At approximately 7:56 p.m. Planning Commission took a break. They returned at approximately 8:06 p.m.

MOTION: Mark Bloomfield MOVED that the Planning Commission enter Executive Session.

SECOND: Chris Whitney

VOTE: Motion PASSED {5:0}

Planning Commission departed the meeting to enter Executive Session at approximately 8:15 p.m. They reconvened at approximately 9:25 p.m.

MOTION: Sam Fitch MOVED that the Planning Commission TABLE Docket SU-22-0003: CEMEX Dowe Flats Mining and Reclamation Extension to a date certain of September 1, 2022 at 1:30 p.m. for purpose of additional research and analysis as stipulated in the last hour discussion.

Commissioner McMillan provided a list of items requested from applicant: cumulative public health effects of 15 more years, how to mitigate effects, CO2 emissions and some data on that, air quality effects, and separation of the two, and finally why are 15 more years necessary to complete the work there and back and forth between staff and applicant on that determination.

SECOND: Gavin McMillan

VOTE: Motion PASSED {5:0}

6. ADJOURNMENT

Chair Bloomfield adjourned the meeting at approximately 10:08 p.m.