



MEETING OF THE PLANNING COMMISSION BOULDER COUNTY, COLORADO

Regular Meeting Minutes

**March 15, 2023, 1:30 p.m.
Third Floor Hearing Room
County Court House
1325 Pearl Street, Boulder**

Commissioners Present: Ann Goldfarb
Sam Libby, Chair
Gavin McMillan, Vice Chair
Mark Bloomfield, Chair
Chris Whitney

Commissioners Excused: Dave Hsu
Lieschen Gargano
Conor Canaday

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES/MISCELLANEOUS BUSINESS

3.1 Approval of meeting minutes from February 15, 2023

MOTION: Ann Goldfarb MOVED that the Boulder County Planning Commission APPROVE the meeting minutes from February 15, 2023.

SECOND: Gavin McMillan

VOTE: Motion PASSED {5:0}

4. STAFF UPDATES

None.

5. ITEMS

5.1 Docket DC-22-0004: Floodplain Land Use Code Change

Kelly Watson, Principal Floodplain Planner, presented Text Amendments to the Land Use Code related to floodplain regulations in Article 4-400 and 4-802.

PUBLIC HEARING OPENED

SPEAKERS: Kenneth Deault (Longmont) pooled time with Mary Kay Czarnowsky (Highlands Ranch), Michael Janeczko (Longmont), Suzanne Pope (Longmont) pooled time with Michael Raynak (Denver), Gary Hodges (Longmont)

PUBLIC HEARING CLOSED

MOTION: Sam Libby **MOVED** that the Planning Commission **APPROVE** and recommend to the Board of County Commissioners approval of **Docket DC-22-0004: Land Use Code Text Amendments Related to Floodplain Regulations with three additional recommendations:**

1. Recommend staff revisit and potentially revise the description and contents of the floodway definition in two sections of the code changes;
2. Suggest a more precise definition of a “low damage potential” in agricultural structures section; and
3. Suggest lengthening of the emergency work notification from 3 days to 7 days

SECOND: Ann Goldfarb

VOTE: Motion **PASSED {5:0}**

5.2 Docket SU-22-0011: REED Vacation Rental

Pete L'Orange, Planner II, presented the Special Use review for a Vacation Rental on a 2.4-acre parcel located at 18651 Peak to Peak Highway. Applicants & owners are Deborah Schoenwald & Micci S. Reed. The proposal is in the Forestry zoning district at 18651 Peak to Peak Highway (State Highway 7), located on the east side of Peak to Peak Highway, approximately 0.6 mile northwest of the intersection of State Highway 7 and State Highway 72 in Section 32, Township 3N, Range 72W.

PUBLIC HEARING OPENED

SPEAKERS: Micci Reed, applicant (Boulder), Edward Yagi, Allenspark

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-22-0011: REED Vacation Rental with the conditions listed in the staff recommendation.**

SECOND: Gavin McMillan

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 limited to a maximum occupancy of four (4) individuals, including children.
5. The approved number of sleeping rooms is two (2). The living room and the basement level are not to be used as sleeping rooms and may not have any sleep accommodations.

6. Per the requirements of Article 4-507.E3 of the Code, the applicants shall require all guests/visitors to park on-site, on the subject property.
7. Wildfire prevention and evacuation information must be displayed for guests.
8. All outdoor fires are prohibited.
9. The applicants must maintain a valid Wildfire Partners Certificate.
10. The applicants shall be subject to the terms, conditions, and commitments of record and in the file for docket SU-22-0011 Reed Vacation Rental.

VOTE: Motion PASSED {5:0}

5.3 Docket SI-22-0002: CO 119 Safety and Mobility and Bikeway Projects

Pete L'Orange, Planner II, presented the Areas and Activities of State Interest (1041) review for combined projects along Colorado Highway 119 (CO 119) related to safety and mobility improvements and construction of a bikeway from approximately 47th Street/Foothills Parkway in the City of Boulder to milepost 54.2 in the City of Longmont. The application is submitted by Colorado Department of Transportation c/o Adnana Murtic and Boulder County Community Planning & Permitting c/o Stacy Proctor, and Regional Transportation District c/o Ali Imansepahi. The proposal is in the Agricultural, Rural Residential, Commercial, Light Industrial, Niwot Rural Community Districts I and II along Colorado Highway 119 (CO 119) from approximately 47th Street/Foothills Parkway, Boulder, to milepost 54.2, Longmont, in Sections 2, 3, 9, 10, 11, 15, and 16 of T1N, R70W; Sections 25, 35, and 36 of T2N, R70W; and Sections 17, 19, 20, and 30 of T2N, R69W.

PUBLIC HEARING OPENED

SPEAKERS: Stacey Proctor, Boulder County Community Planning & Permitting (applicant) and Keith Shaffer, CDOT (applicant), Victor Pizzo (Longmont), Gary Hodges (Longmont), Bruce Warren (Niwot), Robyn Kube (Boulder), Cornelia Sawle (Niwot), Joe Stasiak (Longmont), Julia Couperthwait (Longmont), Donna Tucker (Longmont), Diane Crist (Longmont).

PUBLIC HEARING CLOSED

MOTION: Sam Libby MOVED that the Planning Commission CONDITIONALLY APPROVE and recommend to the Board of County Commissioners conditional approval of Docket SI-22-0002: CO 119 Safety and Mobility and Bikeway Project with the 37 conditions listed in the staff report.

Commissioner Goldfarb suggested a friendly amendment. She urged the Commissioners to be cognizant of the safety concerns raised here by Planning Commission and the public.

SECOND: Ann Goldfarb

1. The applicants shall submit to Community Planning and Permitting staff 90% plans for review and approval.
2. The applicants shall provide documentation of clearance from the Army Corps of Engineers to the County with materials submitted for permitting.
3. The applicants must apply for and receive the three (3) required Floodplain Development Permits (Fourmile Canyon Creek, Dry Creek No. 2, and Lefthand Creek) prior to issuance of any building or grading permits.
4. Submit to Community Planning and Permitting staff for review and approval a staging plan, indicating all areas for staging and stockpiling of materials.
5. Submit to Community Planning and Permitting staff for review and approval the Noxious Weed Plan, prior to the issuance of any building or grading permits.

6. Prior to construction, the applicant must demonstrate financial capability to develop and operate the project consistent with all requirements and conditions.
7. Plan review, inspections approval, and engineer-certified observation reports are required prior to final approval of the work covered by the building and grading permits
8. Submit to Community Planning and Permitting staff for review and approval a Revegetation Plan that includes a list of all native grass and forb species (with scientific names) to be used, as well as any container plantings, an explanation of how topsoils will be stockpiled and reused, mapped delineation of all disturbance areas (this includes construction staging areas), locations of silt fence or erosion control logs down slope of disturbed areas, and matting requirements where necessary. This must be reviewed and approved before any grading occurs. Irrigation for establishment, particularly for plantings, must be included in the Plan, as well as replacement protocols if plantings die. Plantings must be tended for three years after planting.
9. All reseeded areas which will occur within the wetlands must use a native wetland seed mix.
10. Plans submitted for permitting demonstration that the Park-n-Ride facilities include landscaped areas interior to each lot of at least 5%
11. Submit to Community Planning and Permitting staff for review and comment final plans for the Park-n-Ride structures, signage, and lighting prior to the issuance of any building or grading permits.
12. Submit to Community Planning and Permitting staff for review and approval revised plans for the Park-n-Ride facilities which show the number and location of electric vehicle supply equipment (EVSE) stations to demonstrate compliance with Article 4-513.D.4 of the Boulder County Land Use Code prior to the issuance of any building or grading permits.
13. Submit to Community Planning and Permitting staff for review and approval a full lighting plan, including photometric details, prior to the issuance of any building or grading permit.
14. Obtain a Stormwater Construction Permit, which will include a Stormwater Management Plan (SWMP) and SWMP Site Maps, and provide documentation of the approved permit to Community Planning and Permitting staff prior to the issuance of any building or grading permit.
15. Submit to Community Planning and Permitting staff for review and approval bikeway underpass plans, identifying the locations of the outfalls and indicating the groundwater flow direction(s) in each location, prior to the issuance of any building or grading permits.
16. Submit to Community Planning and Permitting staff for review and approval the Biological Assessment and Biological Opinion prior to the issuance of any building or grading permit.
17. Submit to Community Planning and Permitting staff documentation of the SB40 certification prior to the issuance of any building or grading permit.
18. The applicants must obtain the required Stormwater Quality Permit prior to any construction.
19. All required dewatering must be done in accordance with the CDOT Standard Specifications and CDPHE regulations.
20. Erosion control BMPs are required to prevent sediment migration during runoff into surface waters that are adjacent to construction.
21. A "spill kit" for emergency pollutant isolation must be onsite at all times during

construction activity.

22. Prior to transporting equipment to the site, all machinery must be cleaned to remove soil/mud and attendant weed seeds. All machinery that would come in contact with water features must be cleaned to remove aquatic nuisance species (ANS) in accordance with State of Colorado ANS regulations. This involves either steam (heat) or chemical cleaning, not just power washing. Regardless of the history of use of the equipment, any equipment that is to contact water must be cleaned in this manner

23. Biodegradable hydraulic fluids must be used in equipment and machinery used in the water.

24. The project corridor must be surveyed for raptor and other bird nests (including burrowing owls) by a qualified biologist just prior to commencement of construction, and subsequent actions/restrictions adopted as necessary.

25. Construction within ½ mile of the identified and documented Bald Eagle's nest shall be limited to daytime-only – no construction under lights.

26. The applicants shall use the Reverse Dispersal Translocation method as the preferred mitigation measure for impacts to the Black-tailed Prairie Dog colony, with the details/method to be used reviewed by Community Planning and Permitting staff, and use relocation/donation as a first alternative, and only use euthanization as a last resort if all other methods fail.

27. Any trees to be cut should be removed between September 1 and March 31, the non-nesting season for migratory birds, based on the federal Migratory Bird Treaty Act. As noted in the application, trees removed shall be replaced in a 1:1 ratio.

28. As stated in the application materials, all straw mulch or straw bales must be certified weed-free.

29. Final US Fish & Wildlife Service clearance needs to be obtained prior to initiation of construction; the USFWS letter shall be submitted to Community Planning and Permitting.

30. The applicants shall complete coordination with County staff to identify and address any potential landslide impacts. Any necessary and appropriate mitigation measures be included in final plans submitted for permitting. 31. All recommendations for cut and fill activities shall be provided to Community Planning and Permitting staff for review and comment, and that those recommendations be incorporated into final plans for permitting.

32. Final plans submitted for permitting be revised to reflect any necessary grading or alignment changes that would allow for the future development of an underpass connecting the bikeway with south side of northbound CO 119 at or near Niwot Road with minimal changes to the bikeway as reviewed through this docket.

33. A recorded copy of an easement for grading outside the public ROW near Station 1031+00 shall be provided to the County prior to the issuance of any grading permit.

34. The applicants shall provide documentation that the Section 106 consultation process has been completed, including consultation with the Boulder County Historic Preservation program, prior to submitting final plans for permitting.

35. The applicants provide to Community Planning and Permitting staff a copy of the noise impact analysis, including any necessary mitigation measures, prior to the issuance of any building or grading permits.

36. The applicants shall provide notice to any applicable fire districts and/or local fire departments of any road closures, lane restrictions, or changes in lane alignments which could impact emergency response routes.

37. The applicants shall be subject to the terms, conditions, and commitments of record in the file for Docket SI-22-0002: CO 119 Safety and Mobility and Bikeway Projects.

VOTE: Motion PASSED {5:0}

At approximately 4:52 p.m., Planning Commission took a brief break. Planning Commission reconvened at approximately 5:05 p.m.

5.4 Kanemoto Estates Conservation Easement Termination

Hannah Hippely, Long Range Planning Division Manager, presented the request to terminate a conservation easement on Outlot A of Kanemoto Estates pursuant to the terms of the conservation easement. Termination is required to allow the annexation of Kanemoto Estates into the City of Longmont for the construction of a mixed housing development. The property is located east of Airport Road approximately 0.5 miles north of the intersection of Airport Road and SH 119 at 8702 N 87th Street.

PUBLIC HEARING OPENED

SPEAKERS: Janis Whisman (Boulder County Parks & Open Space), Jack Bestall, applicant, and Sean Stewart (Longmont), Joe Stasiak (Longmont), speaker pooling time with Cheryl Stasiak (Longmont) and Seth Lytton (Longmont), Susan Barber (Longmont), pooling time with Joseph Lee (Longmont), Victor Pizzo, pooling time with Kirsty Sarris (Longmont), David Emerson (Longmont), Gwendelyn Scherer (Longmont), Gary Hodges (Longmont), Lameece Erwin (Longmont), Julia Couperthwait (Longmont), Randall Weiner (Boulder) pooling time with John Burke (Longmont), Charlene Hamlet (Longmont), Barry Shapiro (Longmont), Diane Crist (Longmont)

PUBLIC HEARING CLOSED

MOTION: Chris Whitney MOVED that the Planning Commission find that termination of the Conservation Easement on Kanemoto Estates Outlot A is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations.

SECOND: Ann Goldfarb

VOTE: Motion PASSED {5:0}

6. ADJOURNMENT