

## Cox Subdivision (14-G0263)

### Summary:

Applicants propose to divide their existing 40-acre property located in Larimer County, CO:

Physical Address: 10257 N. County Road 17, Fort Collins, CO 80524  
Legal Description: SE ¼ of NE ¼ of Sect 22, Twp 9 N, Range 69 W of 6<sup>th</sup> P.M.  
Parcel Number: 99220-00-031

into two lots: a 5-acre lot for a new residence (Lot #1) and a 35-acre residual lot (Lot #2) containing the existing residence, barns, corrals, green-house and out-buildings, which will continue to be used for the Applicants' residence and ongoing agricultural business activities. Applicants have received approval from the Larimer County Board of Commissioners to utilize the Subdivision Process in lieu of the Conservation Development Process, and to divide off a 5-acre lot instead of a 10-acre lot as required under the current zoning regulations (see Appeals below).

### Review Criteria:

The conditions and review criteria for land division in Larimer County are set forth in Section 5 of the Larimer County Land Use Code. Current regulations for dividing a 40-acre parcel require the landowner to utilize the Conservation Development Process set forth in Section 5.3 of the Code. Such Conservation Developments may be approved by the Larimer County Board of Commissioners if each of the review criteria set forth in Section 5.3.4 of the Code has been satisfied or determined to be inapplicable. Section 5.3.2(H)(1) of the Code allows the Larimer County Board of Commissioners to grant an exception to the requirement to use the Conservation Development process and permit the land-owner to use another land division process (e.g., the Subdivision Process, set forth in Section 5.1 of the Code). The Applicants have received such approval (see Appeals below). The Applicants will use the Subdivision Process to divide their property into a 5-acre lot (see Appeals below) and a 35-acre lot. The applicable review criteria for this process are set forth in Section 5.1.3 of the Land Use Code.

### Existing Conditions:

The 40-acre property (SE quarter of NE Quarter, Section 22, Township 9 North, Range 69 West), is located at 10257 N. CR 17, Fort Collins, CO. The historical design and use of the subject property (zoned "O" Open) has been for ranching - primarily sheep and horses. Applicants breed and sell Irish Gypsy horses and Irish Dexter cattle. Although the property has

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been used for decades for breeding, boarding and training of horses, the current use of the property for horses does not include boarding and training as described in the 2010 revised Larimer County Equestrian Operation Regulations. Applicants also produce heirloom vegetables on the property that they sell at the Larimer County Farmer's Market, and dry-land grass hay for consumption by their own horses and cattle.

The house, outbuildings, barns, arena, turnouts, gardens and greenhouse used in the Applicants' business occupy an area of approximately 8-acres in the SE corner of the property. The remainder of the property is subdivided into hay meadows and pastures for Applicant's livestock. The existing buildings are comprised of the following structures, as referenced in the Larimer County Assessor's records:

- The farmhouse (Bldg-001), built in 1917 and last enlarged in 1973, is approximately 1530 SF and is Applicants' primary residence. Applicants remodeled this structure (roof, siding, electrical, flooring, etc.) after acquiring the property in 2006.
- A pole barn (Bldg-503), built prior to 1973, has 2560 SF of space and houses seven horse stalls with attached runs. This building also has storage space for farm equipment, tools, feed and horse-drawn vehicles.
- A farm utility building (Bldg-505), built prior to 1973, has 2168 SF of enclosed space, including a foaling stall, 3 horse stalls (with attached runs), an office and a utility/storage room.
- An equipment building (Bldg-514), built in 2007, has 1700 SF. This pole barn structure houses a 3-car garage, a shop and storage areas. This structure replaced an existing barn/shop/equipment shed which was built prior to 1973 and was in disrepair.
- A hay barn (Bldg-513), built in 2008, has 1500 SF. This pole barn, enclosed on 3 sides, is used for enclosed hay storage for Applicants' livestock.
- There are 7 utility/loafing sheds (<120 SF each) built prior to 1973. These structures support Applicants' equestrian business.
- A greenhouse with inflatable covering was built in 2013. This structure has approximately 1600 SF and is used to grow hydroponic vegetables that the Applicants sell at the Larimer County Farmer's Market.
- Stallion pen, approximately 40,000 SF with high-tensile wire electric fence (6ft tall) and loafing shed
- Applicants have erected approximately 3,500 feet of pipe fence for runs, paddocks and the roping/dressage arena, replacing the original post and wire fencing which was in disrepair.

### Proposed Changes and Improvements:

Applicants propose dividing their existing 40-acre parcel into two lots: a 5-acre residential lot and a 35-acre residual lot, both fronting along Larimer County Road 17. After the land division, there will be two lots, each capable of having a single-family dwelling with separate access to County Road 17. The new 5-acre residential/equestrian lot (Lot#1) will be located north of Applicants' existing farmhouse, barns and out-buildings. The proposed location of Lot #1 will provide Applicants with access to existing surface irrigation ditches without having to construct ditch easements on Lot #1 that would potentially interfere with the owners' full use of the

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property. Applicants will retain the remaining 35-acre parcel (Lot #2) and continue using it for their primary residence and agricultural businesses, as noted above.

### Infrastructure (Utilities):

The following utilities are located in the right-of-way between the property and County Road 17 and are readily accessible for the new lot:

- Electricity (Poudre Valley REA)
- Natural gas (Xcel Energy Corporation)
- Telephone (CenturyLink)
- Domestic water (No. Colo. Water Assoc. – Tap Commitment issued November 4, 2014, and extended December 1, 2015)

Fire protection is provided by the Wellington Fire Protection District – their Station #2 is located at the intersection of County Road 15 and County Road 66, approximately 1 ½ miles from the Applicants' property. Sanitary services will be provided by an on-site septic system meeting Larimer County Health Department requirements, as is consistent with other residential lots in the area. (See memo from Doug Ryan, Larimer County Department of Health and Environment, dated April 21, 2014 referring to soil types. Mr. Ryan estimated that the Stoneham loam soil in the NE corner of the property should be feasible for an onsite septic system.)

### Traffic and Access:

Existing access to Applicants' property is via a driveway located in the southeast corner of the property, which provides access to Applicants' home and agricultural operations from County Road 17. Applicants' have requested that access to the new 5-acre lot be allowed from County Road 17 as well. As noted in the letter from Clint Jones (Larimer County Engineering Dept.) dated April 29, 2014, the access request was reviewed against the applicable criteria set forth in the Land Use Code, the Larimer County Rural Area Road Standards, the Larimer County Storm-water Design Standards and other applicable Intergovernmental Agreements. The Larimer County Engineering Department did not identify any specific drainage or transportation related issues pertinent to the request. It is anticipated that the new 5-acre residential will generate less than 5 round-trips/day onto County Road 17, which is a gravel road maintained by Larimer County.

### Appeals:

Applicants have previously been granted two appeals by the Larimer County Board of Commissioners:

- May 19, 2014. At a public hearing before the Larimer County Board of Commissioners, the Applicants appealed the requirement set forth in the Land Use Code to use the Conservation Development process to subdivide their parcel. Applicants requested that they be granted an exception to the requirement to use the Conservation Development process, based on the following review criteria set forth in the Land Use Code:
  - o The size and configuration of the site and its existing facilities did not permit design consistent with the purpose of the Conservation Development requirements

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- Development of the site as a Conservation Development is not compatible with existing or allowed adjacent development
- The site does not have environmentally sensitive areas or agricultural uses, and clustered design would not contribute to the open character of the rural area
- Development of the site as a Conservation Development may impact adjacent environmentally sensitive areas or agricultural uses more so than other forms of land division allowed under the Code.
- The site is a replat of an existing subdivision or portion of an existing subdivision.

The Commissioners heard testimony from Planning Staff, the Applicants and other interested parties before reaching a decision. Acting under Section 5.3.2(H)(1) of the Code, Commissioners Johnson, Donnelly and Gaiter voted to approve the Applicants' use of the Subdivision Process under Section 5.1 of the Land Use Code in lieu of the Conservation Development process to divide their land. The approval of the Cox Subdivision Appeal was filed with the Larimer County Clerk on Aug 5, 2014.

- October 13, 2014. At a public hearing before the Larimer County Board of Commissioners, the Applicants appealed the minimum 10-acre lot size required under the current "O" open zoning regulations. Applicants requested that they be allowed to divide their 40-acre parcel into a 35-acre lot and a 5-acre lot. Applicants argued that a 5-acre lot size met the review criteria set forth in Section 22.2.4 of the Larimer County Land Use Code as follows:
  - The proposed lot size is compatible with the neighborhood
  - The proposed lot size has sufficient area for the intended residential use
  - The proposed lot size allows the Applicants to maximize the amount of residual land to support the current and potential future uses of the property for ranching and equestrian operations
  - Granting the proposed lot size is consistent with the intent and purpose of the Larimer County Land Use Code.

The Commissioners heard testimony from Planning Staff, the Applicants and other interested parties before reaching a decision regarding the lot size variance. Commissioners Johnson, Donnelly and Gaiter agreed that the variance request satisfied the criteria set forth in Section 22.2.4 of the Code and voted to allow the Applicants to proceed with the application to subdivide their 40-acre parcel into a 35-acre lot and a 5-acre lot. The approval of the Cox Lot Size Appeal was filed with the Larimer County Clerk on November 4, 2014.

### ✓ **Item #5: Written Appeal Request (Completed – See Item #4: Appeals)**

Applicants successfully appealed the requirement to use the Conservation Development process (Larimer County Board of Commissioners, May 19, 2014) and the requirement to create a new lot with a minimum lot size of 10 acres (Larimer County Board of Commissioners, October 13, 2014). As a result of these two appeals, the Applicants are proceeding with the application to divide their 40-acre property into a 35-acre parcel and a 5-acre parcel.

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### **Item #6: Site Inventory Map (22 Copies)**

The Site Inventory Map was prepared by Stewart & Associates, Fort Collins, CO, using aerial photographs available from Larimer County's website. Detailed descriptions of the improvements (primarily located in the SE corner of Applicant's property) are indicated in the improvement location surveys prepared when Applicants purchased the property in May 2006, and were previously submitted to the Planning Department along with the project sketch as part of the two Appeals (see Items #4 and #5 above).

### **Item #7: Preliminary Plat – 24" x 36" (22 Copies)**

The Preliminary Plat was prepared by Stewart and Associates, Fort Collins, CO, based on a physical survey conducted in October, 2015. New 30" x 3/4" rebar pins were driven and new aluminum caps were attached as indicated on the platting. The proposed location of the 5-acre residential lot (Lot #1) is shown relative to the residual 35-acre lot (Lot #2), subject to final approval by the Larimer County Board of Commissioners.

### ✓ **Item #8: Reduced Preliminary Plat – 8 1/2" x 11" (1 Copy)**

A reduced copy of the Preliminary Plat was prepared by Stewart and Associates, Fort Collins, CO

### ✓ **Item #9: Vicinity Map – 8 1/2" x 11" (1 Copy)**

The Vicinity Map was prepared by Stewart and Associates, Fort Collins, CO using aerial photographs available through Larimer County's website.

### ✓ **Item #10: Legal Description for each parcel (1 Copy)**

The legal description for the current 40-acre parcel is: SE 1/4 of NE 1/4 of Sect 22, Twp 9 N, Range 69 W of the 6<sup>th</sup> P.M., County of Larimer, State of Colorado, being more particularly described as follows, to wit; considering the East line of said Northwest 1/4 as bearing S00°10'14"E and with all bearings contained herein relative thereto, is contained within the boundary lines which begin at the East 1/4 corner of said Section 22, and run thence along the South line of said Northeast 1/4, S89°51'07"W 1285.66 feet to the Center-East 1/16 Corner of said Section 22; thence along the West line of the Southeast 1/4 of said Northeast 1/4, N00°17'58"W 1319.62 feet to the Northeast 1/16 Corner of said Section 22; thence along the North line of the Southeast 1/4 of said Northeast 1/4, N89°54'58"E 1332.12 feet to the North 1/16 Corner on the East line of said Section 22; thence along the East line of said Northeast 1/4, S00°10'04"E 1317.86 feet to the point of the beginning, containing 40.2827 acres, more or less.