

AGENDA
LARIMER COUNTY BOARD OF COMMISSIONERS
Monday, July 18, 2016/3:00 p.m./Hearing Room

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. PUBLIC HEARING CONSENT ITEMS: *Will not be discussed unless requested by
Commissioners or members of the audience.

*1. CEDAR PARK 4TH FILING LOTS 45 & 46 LOT CONSOLIDATION **PAGE 1**
AND EASEMENT VACATION, FILE # 16-LAND3501

Staff Contacts: Rebecca Smith, Planning; Doug Ryan, Health; Clint Jones, Engineering

*2. CHENOWETH SPECIAL REVIEW & SPECIAL EXCEPTION **PAGE 14**
FILE #16-S3390

Staff Contacts: Michael Whitley, Planning; Doug Ryan, Health; Clint Jones, Engineering

D. ADJOURN

*2. TITLE: Chenoweth Special Review & Special Exception

REQUEST: A) Special Review to allow a Resort Lodge/Resort Cottage in the O – Open zoning district;
B) Special Exception Approval for a Bar and Restaurant in the O – Open zoning district;
C) Appeal to Section 8.6.3.C.1 of the Land Use Code Regarding Paving of the Parking and Access

LOCATION: Section 32, Township 06, Range 71; 13964 County Road 43, Drake; Located south of County Road 43 approximately one mile west of the intersection of County Road 43 and Storm Mountain Drive

PROPERTY OWNER/APPLICANT: Annemarie Chenoweth
Opal Land and Cattle LLC
P.O. Box 411
Drake, CO 80515

STAFF CONTACTS: Michael Whitley, Planning
Clint Jones, Engineering
Doug Ryan, Health Department

FILE #: #16-Z1999

NOTICE GIVEN: Newspaper Publication
First Class Mailing to surrounding property owners within 500 feet

LCPC HEARING DATE: June 15, 2016

LCPC RECOMMENDATION: Approval of the Special Review, motion passed 7-0;
Approval of the Special Exception, motion passed 7-0;
Approval of the appeal to Section 8.6.3.C.1 of the Land Use Code, motion passed 7-0;

DISCUSSION:

This item was on the discussion agenda for the June 15, 2016 Planning Commission public hearing at 6:30 pm.

At the hearing Staff presented the Development Services Team report recommending approval of the Special Review and offering no recommendations for the Special Exception or the appeal to Section 8.6.3.C.1 of the Land Use Code.

No members of the public spoke at the hearing.

The Planning Commission deliberated briefly and voted to recommend approval of the Special Review, voted to recommend approval of the Special Exception and voted to recommend approval of the Appeal to Section 8.6.3.C.1 of the Land Use Code. Each motion passed on a 7 to 0 vote.

The Development Services Team continues to recommend approval of the Special Review. Given Planning Commission's recommendation, the Development Services Team also recommends approval of the Special Exception and recommends approval of the appeal to the Board of County Commissioners.

PLANNING COMMISSION AND DEVELOPMENT SERVICES TEAM
RECOMMENDATIONS:

- A) The Larimer County Planning Commission and Development Services Team recommends approval of the Chenoweth Special Review, File 16-Z1999 to allow a Resort Lodge/Cottage subject to the following conditions:
1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
 2. The Site shall be developed consistent with the approved plan and with the information contained in the Chenoweth Special Review, File 16-Z1999 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Chenoweth Special Review.
 3. Failure to comply with any conditions of the Special Review approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners
 4. This application is approved without the requirement for a Development Agreement.
 5. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
 6. County may conduct periodic inspections to the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.
 7. The Findings and Resolution shall be a servitude running with the Property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.

- B) The Larimer County Planning Commission and Development Services Team recommends approval of the Chenoweth Special Exception, File 16-Z1999 to allow a Bar and Restaurant in the O – Open zoning district subject to the following conditions:
1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
 2. The Site shall be developed consistent with the approved plan and with the information contained in the Chenoweth Special Review, File 16-Z1999 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Chenoweth Special Review.
 3. Failure to comply with any conditions of the Special Exception approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
 4. This application is approved without the requirement for a Development Agreement.
 5. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
 6. County may conduct periodic inspections to the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.
 7. The Findings and Resolution shall be a servitude running with the Property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.
- C) The Larimer County Planning Commission and Development Services Team recommends approval of the appeal to Section 8.6.3.C.1 of the Land Use Code.

SUGGESTED MOTIONS FOR BOARD OF COUNTY COMMISSIONERS:

- A) I move that the Board of County Commissioners approve the Chenoweth Special Review, File 16-Z1999 subject to the conditions as outlined above.
- B) I move that the Board of County Commissioners approve the Chenoweth Special Exception, File 16-Z1999 subject to the conditions as outlined above.
- C) I move that the Board of County Commissioners approve the appeal to Section 8.6.3.C.1 of the Land Use Code.

**PLANNING COMMISSION
MINUTES
FROM
June 15, 2016**

LARIMER COUNTY PLANNING COMMISSION
Minutes of June 15, 2016

The Larimer County Planning Commission met in a regular session on Wednesday, June 15, 2016, at 6:30 p.m. in the Hearing Room. Commissioners' Christman, Couch, Dougherty, Glick, Miller and Wallace were present. Commissioners' Cox and Gerrard were absent. Commissioner Jensen presided as Chairman. Also present were Matt Lafferty, Principal Planner, Michael Whitley, Planner II, Clint Jones, Engineering Department, Doug Ryan, Health Department and Jill Wilson, Recording Secretary.

CHENOWETH SPECIAL REVIEW/SPECIAL EXCEPTION #16-Z1999: Mr. Whitley provided background information on the request for a Special Review to allow a Resort Lodge/Resort Cottage in the O – Open zoning district located at 13964 County Road 43, Drake; located south of County Road 43 approximately one mile west of the intersection of County Road 43 and Storm Mountain Drive. The applicants were also requesting a Special Exception approval for a Bar and Restaurant in the O – Open zoning district along with an appeal to Section 8.6.3.C.1 of the Land Use Code Regarding Paving of the Parking and Access. Mr. Whitley explained that the Resort Lodge/Cottage was proposed to be located in the existing home. If approved, the home could be rented by the night. The proposal for the Bar and Restaurant included the renovation of the existing 800 square-foot barn and silo, the addition of a 580 square-foot deck and 600 square-foot atrium to the barn and a new kitchen facility either within an existing building or within a new building. The request included the ability to provide live and non-live amplified music both indoors and outdoors and accessory retail sales of art, antiques, books, maps, bottled water, snacks and similar items. He stated that year round operations were proposed with hours of operation limited to between the hours of 7 am and 10 pm, seven days a week.

Annemarie Chenoweth, applicant, provided background of the property. She stated that 800 acres of 1300 acres were put into a conservation easement. She explained that the progress of the proposal would go slowly and stated that she applied for all the foreseeable opportunities that might occur for the business so she did not have to come back for approval again. She reiterated that not all proposed might occur. She felt that having a small commercial operation might help the area and help the historic buildings. She explained that she did not want to pave the parking area and access because she did not feel it fit within the environment, aesthetically and for her idea for the bistro. She was not in favor of impermeable surfaces and stated keeping the natural character was important for the property.

Commissioner Miller asked if the business would be seasonal.

Ms. Chenoweth replied yes, for the time being but did want the permission to be able to have it operational at a level that was feasible, economical and environmental.

PUBLIC TESTIMONY:

None

DISCUSSION:

Commissioner Wallace stated that the proposal and idea of a small business was nice. She felt that it would be compatible with the surrounding area if the paving was not required.

Commissioner Dougherty agreed. He did not think that paving should be required. He stated that he did not feel that the commission should recommend on the financial viability of the business. He was in favor of the proposal.

Commissioner Jensen supported the proposal.

Commissioner Wallace reviewed the review criteria for the proposal.

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

BE IT RESOLVED that the Planning Commission recommend to the Board of County Commissioners approval Chenoweth Special Review, file #16-Z1999, for the property described on "Exhibit A" to the minutes, subject to the following conditions:

1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
2. The Site shall be developed consistent with the approved plan and with the information contained in the Chenoweth Special Review, File 16-Z1999 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Chenoweth Special Review.
3. Failure to comply with any conditions of the Special Review approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners
4. This application is approved without the requirement for a Development Agreement.
5. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
6. County may conduct periodic inspections to the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.
7. The Findings and Resolution shall be a servitude running with the Property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.

Commissioner Dougherty seconded the Motion.

Commissioners' Christman, Couch, Dougherty, Glick, Miller, Wallace and Chairman Jensen voted in favor of the Motion.

MOTION PASSED: 7-0

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

BE IT RESOLVED that the Planning Commission recommend to the Board of County Commissioners approval Chenoweth Special Exception, file #16-Z1999, for the property described on "Exhibit A" to the minutes, subject to the following conditions:

1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.

2. The Site shall be developed consistent with the approved plan and with the information contained in the Chenoweth Special Review, File 16-Z1999 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Chenoweth Special Review.
3. Failure to comply with any conditions of the Special Exception approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
4. This application is approved without the requirement for a Development Agreement.
5. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
6. County may conduct periodic inspections to the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.
7. The Findings and Resolution shall be a servitude running with the Property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.

Commissioner Dougherty seconded the Motion.

Commissioners' Christman, Couch, Dougherty, Glick, Miller, Wallace and Chairman Jensen voted in favor of the Motion.

MOTION PASSED: 7-0

Commissioner Glick 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 appeal to Section 8.6.3.C.1 of the Land Use Code regarding paving of the parking and access, file #16-Z1999, for the property described on "Exhibit A" to the minutes.

Commissioner Dougherty seconded the Motion.

Commissioners' Christman, Couch, Dougherty, Glick, Miller, Wallace and Chairman Jensen voted in favor of the Motion.

MOTION PASSED: 7-0

**PLANNING COMMISSION
STAFF REPORT
FROM
June 15, 2016**

TITLE: Chenoweth Special Review & Special Exception

REQUEST: A) Special Review to allow a Resort Lodge/Resort Cottage in the O – Open zoning district;
B) Special Exception Approval for a Bar and Restaurant in the O – Open zoning district;
C) Appeal to Section 8.6.3.C.1 of the Land Use Code Regarding Paving of the Parking and Access

LOCATION: Section 32, Township 06, Range 71; 13964 County Road 43, Drake; Located south of County Road 43 approximately one mile west of the intersection of County Road 43 and Storm Mountain Drive

PROPERTY OWNER/APPLICANT: Annemarie Chenoweth
Opal Land and Cattle LLC
P.O. Box 411
Drake, CO 80515

STAFF CONTACTS: Michael Whitley, Planning
Clint Jones, Engineering
Doug Ryan, Health Department

FILE #: #16-Z1999

NOTICE GIVEN: Posting in the officially designated area of the Larimer County Courthouse Offices no less than twenty-four hours in advance of the hearing.

SITE DATA:

Parcel Numbers: 16324-00-021

Total Development Area: 35.5 acres

Existing Land Use: Single-family home & accessory buildings

Proposed Land Use: Resort Lodge/Cottage, Bar & Restaurant

Existing Zoning: O - Open

Adjacent Zoning: O - Open

Adjacent Land Uses: National Forest, Single-family home, Cattle grazing

Services:

 Access: County Road 43

 Water: Well

 Sewer: On-lot Septic

 Fire Protection: Loveland Rural Fire Protection District

No. Trips Generated by Use: To be determined through the Site Plan Review process

PROJECT DESCRIPTION/BACKGROUND:

The subject property is located 13964 County Road 43, Drake, CO, which is on the south side of County Road 43 approximately one mile west of the intersection of County Road 43 and Storm Mountain Drive.

The applicant proposes to operate a Resort Lodge/Cottage, Bar and Restaurant on a 35.5 acre parcel that is zoned O – Open. The parcel is currently developed with a single-family home and a number of accessory buildings.

The Resort Lodge/Cottage is proposed to be located in the existing home. If approved, the home could be rented by the night. Occupancy would be limited to one living unit. A living unit is defined in the Land Use Code as, “One family, plus up to two additional individuals whose place of residence is with the family in the dwelling unit.” A family is defined as, “An individual or group of people living together who are related by blood, marriage or adoption.”

The proposal for the Bar and Restaurant includes the renovation of the existing 800 square-foot barn and silo, the addition of a 580 square-foot deck and 600 square-foot atrium to the barn and a new kitchen facility either within an existing building or within a new building.

The Land Use Code defines a Resort Lodge/Cottage as, “A building or group of buildings, under single management and ownership, containing rooms and/or units available for temporary rental to transient guests, and where the primary attraction is generally recreational features or activities.”

Resort lodge/cottages require Special Review approval in the Open zoning district.

The Land Use Code defines a Restaurant as, “An establishment where the principal business is the sale of food and beverages in a ready-to-consume state. Fermented malt beverages, malt, special malt and vinous and spirituous liquors may be produced on the premises as an accessory use.”

The Land Use Code defines a Bar or Tavern as, “An establishment where the primary business is providing or dispensing by the drink for on-site consumption of fermented malt beverages and/or malt, special malt, vinous or spirituous liquors, in which the sale of food products such as sandwiches and light snacks is secondary, and where music, live entertainment and/or dancing may be provided.”

Although the term bistro is used in the application materials, a bistro would be classified as a restaurant for the purpose of zoning regulations. Restaurants and Bars are not allowed in the Open zoning district.

The Special Exception process can be used to seek approval to allow a use that is otherwise not allowed in the zoning district.

County Road 43 is being reconstructed after being heavily damaged by the 2013 flood and will be a paved road. The standard for non-residential development that takes access from a paved road is for the access, drive aisles and parking spaces be paved with concrete or asphalt. The applicant has appealed this standard.

There are two parking lots identified on the site plan. The primary parking lot on the east end of the property could accommodate twelve vehicles. The future parking lot on the west end of the property is slightly smaller and does not identify a specific number of parking spaces.

The request includes the ability to provide live and non-live amplified music both indoors and outdoors and accessory retail sales of art, antiques, books, maps, bottled water, snacks and similar items. Retail sales would only be allowed as an accessory use to a Bar and/or Restaurant. Retail sales as a principal use would not be permitted.

Year round operations are proposed with hours of operation limited to between the hours of 7 am and 10 pm, seven days a week.

If the Special Review and/or Special Exception is approved by the Board of County Commissioners, Site Plan Review will be required prior to operation to fully evaluate compliance with infrastructure, site development and construction standards.

REVIEW CRITERIA AND ANALYSIS:

The Special Review and Special Exception review criteria are very similar and are evaluated below. To approve a Special Review and/or Exception application, the County Commissioners must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

Special Review and Special Exception criterion A

The proposed use will be compatible with existing and allowed land uses in the surrounding area and will be in harmony with the neighborhood;

The applicant owns approximately 1,200 acres in the vicinity and the US Forest Service owns several thousand more acres in the area. The nearest privately held properties not owned by the applicant are almost a mile to the east and west of the subject property.

Input from surrounding property owners is a significant factor when evaluating compatibility. Planning staff provided notice to property owners within a one mile radius of the property. No neighbors have provided written comments on the application. One neighbor who wished to remain anonymous expressed concern about alcohol being served on the premises because of the possibility of impaired drivers traveling on the winding roads in the vicinity after leaving the property.

Given the lack of neighbors, the Development Services Team's evaluation is that the proposed uses would be compatible with existing and allowed land uses and will be in harmony with the neighborhood.

Special Review criterion B and Special Exception criterion G

Outside a GMA district, the proposed use is consistent with the County Master Plan. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the County Master Plan or County adopted Sub-Area Plan;

The property is not in a Growth Management Area and is not within a County-adopted Sub-Area Plan.

The O – Open zoning district would allow the proposed Resort Lodge/Cottage through the Special Review process. Because it is allowed through the Special Review process, it would be consistent with the County Master Plan as long as it meets the Special Review criteria.

Regarding the Bar and Restaurant uses, Policy LU-4 of the Larimer County Master Plan states, “In rural areas, allowed uses and residential densities shall be based on the current zoning of the property.” Policy LU-4s4 states, “Requests for commercial and industrial zoning and Special Reviews which have specific requirements preventing location within Growth Management Areas may be approved in rural areas, if the uses are consistent with principals of the Master Plan. Examples of uses that may be appropriate outside of Growth Management Areas are tourist-related businesses adjacent to major highways or tourist routes, agribusiness, utilities and mining operations.”

Businesses in the Drake and Glen Haven have struggled since 2013 floods and the Development Services Team is concerned that the business may not be economically viable given the small scale of the operation and the costs of required infrastructure and site improvements.

Recognizing that this is intended as a tourist-related business, if the approved use is not successful, there is a concern that current or future property owners would not revert the buildings back to their prior use but propose other commercial ventures that are not necessarily tourist-related to recoup development costs and utilize the commercial improvements invested in the property. This would require a different Special Exception approval.

There is not a sub-area plan for this vicinity. Larimer County will likely initiate a Master Plan update in 2017 which will look at economic development challenges and opportunities in the mountain areas and which may result in a revision to our policies regarding non-residential zoning and development. Those policies may or may not strengthen the case for this proposal.

The Development Services Team defers to the judgment of the Planning Commission and Board of County Commissioners regarding compliance with his criterion.

Special Review criterion C and Special Exception criterion D

The applicant has demonstrated that this project can and will comply with all applicable requirements of this Code;

The applicable Section 8 standards are considered below.

Section 8 Standards for All Development

Section 8.1 Adequate Public Facilities

Sub-Section 8.1.1 Sewage Disposal Level of Service Standards:

Sewer service in this area is by individual on-site wastewater treatment systems. There is an existing septic system that serves the home on the property, and the project description notes that a separate system if planned for the new uses. The system will need to be designed by a registered Professional Engineer and sized for the anticipated flows. Systems with a design capacity of less than 2,000 gallons per day are permitted and regulated by the Larimer County Department of Health and Environment. Please refer to the attached comments from that department for additional details.

Sub-Section 8.1.2 Domestic Water Level of Service Standards:

Water is proposed to be supply by a well. If the Special Exception is approved, the applicant will need to obtain a commercial well permit from the Colorado Division of Water Resources.

The attached comments from the Division of Water Resources notes that the well may withdraw up to 1/3 of an acre-foot (108,600 gallons) of water per year. This averages an allowance of 297 gallons per day for the site.

This will become a limiting factor on the size of the operation.

Water quality is an important issue to consider regarding food service establishments. Under Colorado Primary Drinking Water Regulations, water systems that serve 25 or more people for 60 or more days per year are classified as a public non-community water supply. These systems require treatment, such as filtration and disinfection, and regular monitoring.

Sub-Section 8.1.3 Drainage Level of Service Standards:

The evaluation of site drainage will be influenced by whether or not the proposed paving appeal is approved. If the proposed uses are approved, drainage will be evaluated during a Site Plan Review process.

Sub-Section 8.1.4 Fire Protection & Emergency Medical Level of Service Standards:

The subject property is in the Loveland Rural Fire Protection District. Comments from the district note standards regarding hydrant placement, fire sprinkler systems, water supply and private roadway/parking lot standards for pavement surface and turning radius. Please refer to the attached comments for details.

Sub-Section 8.1.5 Road Capacity and Level of Service Standards:

The standards in this section help to ensure that a development will have safe and adequate access to public roads and transportation-related services and that the development does not create a demand for additional public improvements or services that cannot be met with existing public resources.

The subject property gains access from County Road 43 which is classified as a major collector. The Road and Bridge Department requests that No Parking signs be installed along the road.

Section 8.3 Hazard Areas:

A referral was sent to the Emergency Services office for wildfire comments but no response has been received.

The property is not in a mapped geological hazard area.

Section 8.4 Wildlife:

There do not appear to be significant wildlife concerns with the proposed development. A referral was sent to the Colorado Parks & Wildlife office but they did not provide written comments on the project.

At a minimum, wildlife resistant containers or enclosures should be used for all waste.

Section 8.5 Landscaping:

Larimer County landscaping requirements include screening and buffering, streetscape landscaping, parking lot landscaping, and building perimeters (other than single-family homes). The applicant has provided a landscape narrative describing existing and proposed landscape improvements.

Section 8.6 Private Local Access Road and Parking Standards:

There are two parking lots identified on the Sketch Plan. The primary parking lot on the east end of the property could accommodate twelve vehicles. The future parking lot on the west end of the property is slightly smaller and does not identify a specific number of parking spaces.

The parking requirement for a bar or tavern is one parking space for every 50 feet of gross floor area. The requirement for a restaurant is one parking space per 100 square feet of gross floor area and one space per 200 square feet of gross area of accessory patio.

The exact parking requirements will depend on the number of square feet devoted to each use. The ability to provide parking for the proposed uses will be a limiting factor on the size of the operation.

The standard will be for the access, drive aisles and parking spaces to be paved with concrete or asphalt. The property owner has requested an appeal to this standard.

Section 8.13 Commercial Mineral Deposits:

There are no known commercial mineral deposits underlying the property.

Section 8.15 Site Lighting:

No freestanding light poles are proposed. Exterior wall lighting must be downcast and shielded.

Special Review criterion D and Special Exception criterion C

The proposed use will not result in a substantial adverse impact on other property in the vicinity of the subject property;

Other than the anonymous concern about impaired drivers, there has been no feedback regarding adverse impacts on other properties in the vicinity.

Special Review criterion E and Special Exception criterion B

The recommendations from referral agencies have been considered;

The application was referred to a variety of agencies. The responses received are attached to this report.

Special Review criterion F (no equivalent Special Exception criterion)

The applicant has demonstrated that this project can meet applicable additional criteria listed in the section 4.3 use descriptions.

Section 4.3 of the Land Use Code contains the use descriptions and specific development standards for a variety of uses organized by land use categories (agricultural, residential, commercial, institutional, etc.). There are no standards found in Section 4.3 that specifically apply to the proposed Resort Lodge/Cabin.

Special Exception criterion E (no equivalent Special Review criterion)

There is reasonable justification for the use being at the proposed location rather than in a municipality or where zoning would allow the use by right or by Special Review;

The application materials indicate that the Bar and Restaurant would cater to the needs of tourists and local outdoor enthusiasts who frequent the area for bicycling and hiking.

The Development Services Team has a number of concerns with the proposed location. The zoning on the property and in the vicinity does not allow commercial uses. That's because the Master Plan policies state that commercial uses are intended to be located in Growth Management Areas or where a sub area plan (such as the LaPorte Area Plan or the Red Feather Lakes Area Plan) supports non-residential uses.

Related to the locational concerns is the viability of the business given the significant costs associated with infrastructure improvements (parking, building improvements, fire protection, water treatment, etc.), operation costs and the limited nature of the business given the size of the existing buildings and the availability of parking.

Experience tells us that if a property is improved to accommodate a non-residential use and that use fails, it's not common for the property to revert to a strictly residential or agricultural use.

After significant initial expenses, the current or future property owner will try to recover the site and building costs by proposing some other business which may have different zoning or infrastructure requirements and may require a different Special Exception process. These alternative proposals may or may not be successful.

The Development Services Team defers to the judgment of the Planning Commission and Board of County Commissioners regarding compliance with his criterion.

Special Exception criterion F (no equivalent Special Review criterion)

A. The nature of the proposed use and its operations are such that there are significant benefits to the public to be located where proposed; and

The applicant's position is that the proposed Bar and Restaurant will provide a significant public benefit by providing services to tourists and others in the area for recreation. As with the previous criterion, the Development Services Team defers to the judgment of the Planning Commission and Board of County Commissioners regarding compliance with his criterion.

PAVING APPEAL:

Two parking lots are proposed to accommodate the requested uses. Because County Road 43 is a paved road, Section 8.6.3.C.1 of the Land Use Code (full text below) requires that the access drive and parking lot be paved with asphalt or concrete. The applicant has appealed this standard and requests that the parking lot be allowed to be recycled asphalt and/or gravel.

Section 8.6.3.C.1 of the Land Use Code reads:

Parking area and private local access road surface requirements. Multiple-family and nonresidential parking areas and associated private local access roads must be paved with asphalt or concrete, with the exception of the following situations where a gravel, all-weather surface is acceptable:

- a. Parking areas and private local access roads that take access off of unpaved roads.
- b. Seasonal or temporary private local access roads and parking areas.
- c. Loading and storage areas.

d. Parking areas and associated private local access roads for agricultural uses listed in LCLUC Section 4.3.1, except the following uses that are considered more commercial in character and therefore require an asphalt or concrete surface meeting the requirements of LCLUC 8.6.3.C.1.

1. Garden supply center.
2. Pet animal facility.
3. Pet animal veterinary clinic/hospital.

The applicants' project description includes a number of reasons for the appeal request including the rural character of the site and area, drainage considerations and anticipated low traffic volumes.

When considering whether to approve an appeal to deviate from standards or requirements of this Code, other than minimum lot size requirements, the County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following factors. The County Commissioners will consider each of the following factors and make findings pertaining to each one which, in their discretion, applies to the appeal:

A. Approval of the appeal will not subvert the purpose of the standard or requirement.

The purpose of the paving thresholds is to provide paving when appropriate for the level of intensity and frequency of use for non-residential facilities.

The developed portion of this property is north of and shaded by a mountain. This will slow snow melt and will make snow removal from an unpaved surface more difficult than it would be from a paved surface.

Since the proposed uses are commercial, take access from a paved road and is not seasonal, approval of the appeal would subvert the purpose of the standard or requirement.

B. Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood.

Although one of the benefits of paved parking lots and accesses is reduced generation of dust, approval of the appeal would likely not be detrimental to the public health, safety or property values in the area.

C. Approval of the appeal is the minimum action necessary.

Approval of the appeal is the minimum action necessary to achieve the applicants' goals of not paving the parking lot with asphalt or concrete.

C. Approval of the appeal will not result in increased costs to the general public.

Approval of the appeal would not result in increased costs to the general public.

E. Approval of the appeal is consistent with the intent and purpose of the Code.

The intent and purpose of these provisions of the Code are to provide parking and access surfaces that are appropriate for the level of intensity and frequency of use for those facilities and also to provide for consist requirements for projects based on those factors. Approval of the appeal would not be consistent with the intent and purpose of the Code.

OTHER REVIEW AGENCY COMMENTS:

Comments from review agencies have been incorporated into this report. The agency comments are attached.

MAJOR ISSUES AND CONCERNS:

Other than those described in the body of this report, there are no major issues or concerns with the proposed Special Review or Special Exception.

DEVELOPMENT SERVICES TEAM FINDINGS:

For the Special Review:

- A. The proposed use would be compatible with existing and allowed uses in the surrounding area and would be in harmony with the neighborhood.
- B. The proposed use is consistent with the County Master Plan.
- C. The applicant has demonstrated that this project can and will comply with all applicable requirements of the Land Use Code.
- D. The proposed use will not result in a substantial adverse impact on other property in the vicinity.
- E. The recommendations of referral agencies have been considered.
- F. There are no specific standards found in Section 4.3 Use Descriptions that apply to the Special Review.

For the Special Exception:

- A. The proposed Bar and Restaurant will be compatible with existing and allowed land uses in the surrounding area and will be in harmony with the neighborhood.
- B. The recommendations from referral agencies have been considered.
- C. The proposed Bar and Restaurant will not result in a substantial adverse impact on other property in the vicinity of the subject property.
- D. The project can and will comply with all applicable requirements of the Land Use Code through the application of conditions of approval.
- E. The Development Services Team defers to the judgment of the Planning Commission and Board of County Commissioners regarding whether or not the applicant has provided reasonable justification for the Bar and Restaurant at the proposed location rather than in a municipality or where zoning would allow the use by right or by Special Review.
- F. The Development Services Team defers to the judgment of the Planning Commission and Board of County Commissioners regarding whether or not the proposed Bar and Restaurant provides significant benefits to the public.
- G. The Development Services Team defers to the judgment of the Planning Commission and Board of County Commissioners regarding whether the proposal is consistent with the County Master Plan.

For the Appeal:

- A. Approval of the appeal will subvert the purpose of the standard or requirement.
- B. Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood.
- C. Approval of the appeal is the minimum action necessary.
- D. Approval of the appeal will not result in increased costs to the general public.
- E. Approval of the appeal is not consistent with the intent and purpose of the Code.

DEVELOPMENT SERVICES TEAM RECOMMENDATIONS:

A. For the Special Review

The Development Services Team recommends the Larimer County Planning Commission recommend to the Board of County Commissioners approval of the Chenoweth Special Review, File 16-Z1999, to allow a Resort Lodge/Cottage subject to the following conditions:

1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
2. The Site shall be developed consistent with the approved plan and with the information contained in the Chenoweth Special Review, File 16-Z1999 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Chenoweth Special Review.
3. Failure to comply with any conditions of the Special Review approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners
4. Failure to comply with any conditions of the Special Exception approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
5. This application is approved without the requirement for a Development Agreement.
6. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
7. County may conduct periodic inspections to the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.

8. The Findings and Resolution shall be a servitude running with the Property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.

B. For the Special Exception

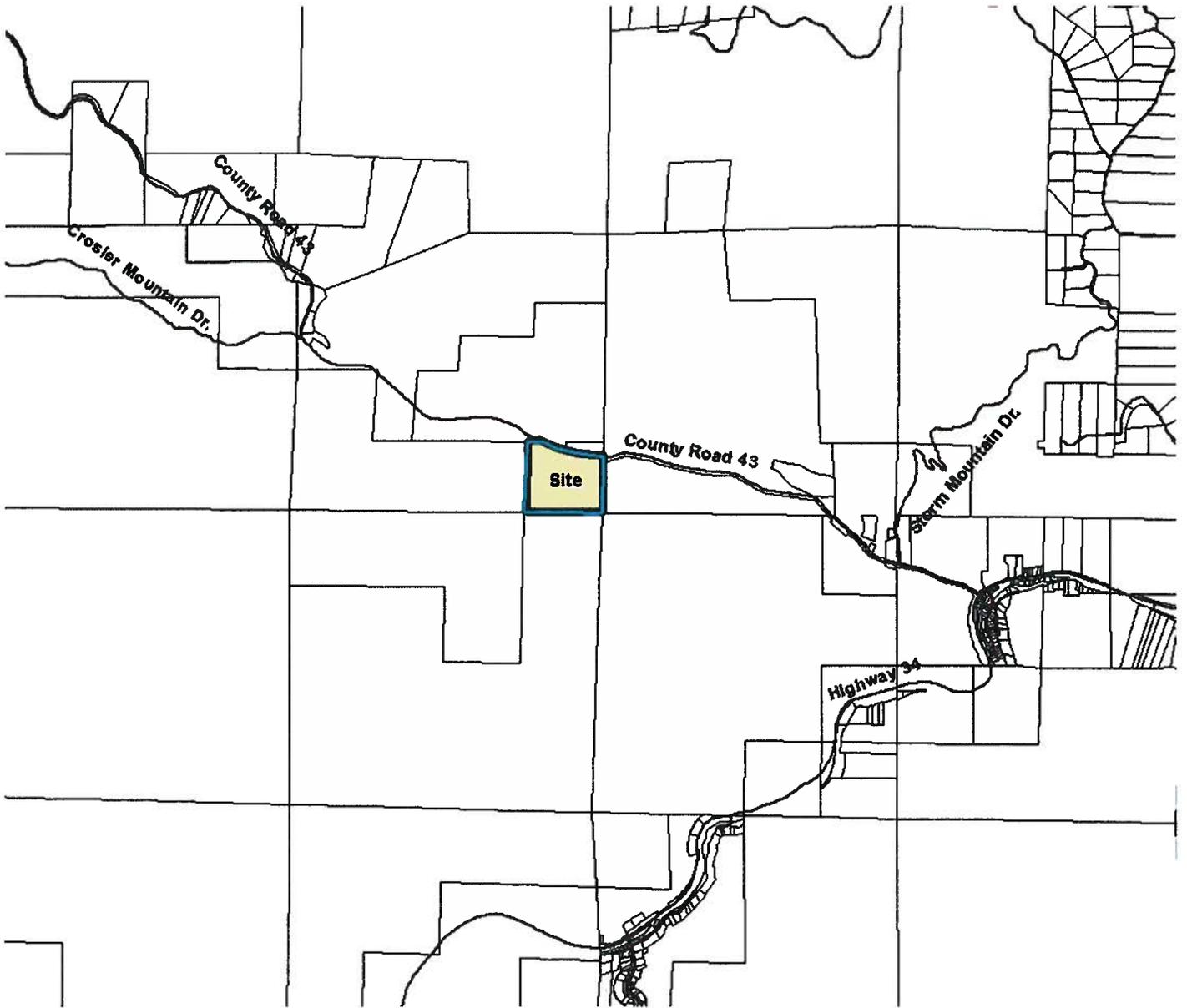
The Development Services Team offers no recommendation regarding the Chenoweth Special Exception, File #16-Z1999 to allow a Bar and Restaurant in the O – Open zoning district.

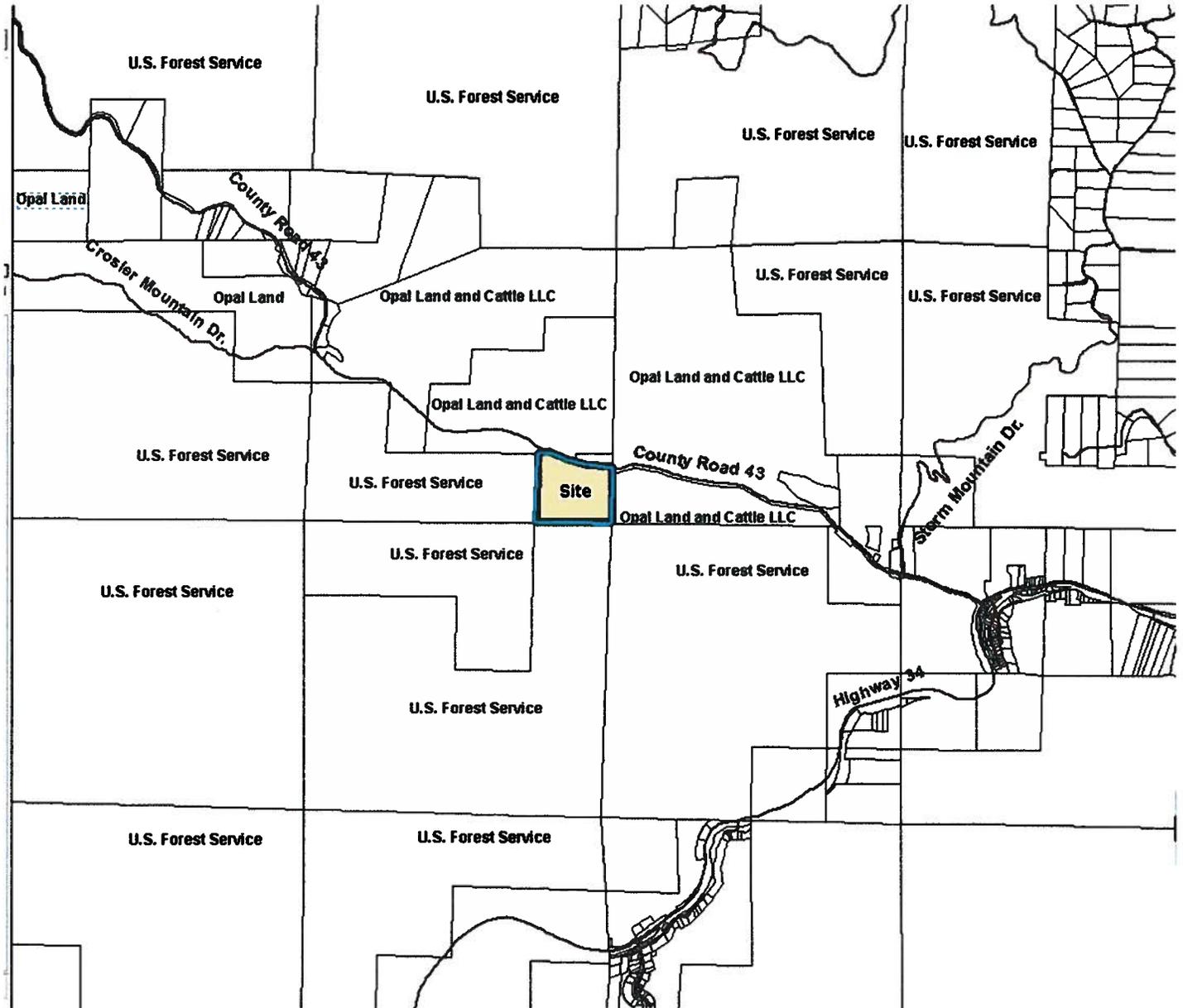
If the Planning Commission recommends approval of the proposal, the Development Services Team recommends the following conditions:

1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
2. The Site shall be developed consistent with the approved plan and with the information contained in the Chenoweth Special Review, File 16-Z1999 except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Chenoweth Special Review.
3. Failure to comply with any conditions of the Special Exception approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
4. This application is approved without the requirement for a Development Agreement.
5. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to County, County may withhold building permits, issue a written notice to applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by County including, but not limited to, reasonable attorney's fees.
6. County may conduct periodic inspections to the property and reviews of the status of the Special Review as appropriate to monitor and enforce the terms of the Special Review approval.
7. The Findings and Resolution shall be a servitude running with the Property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.

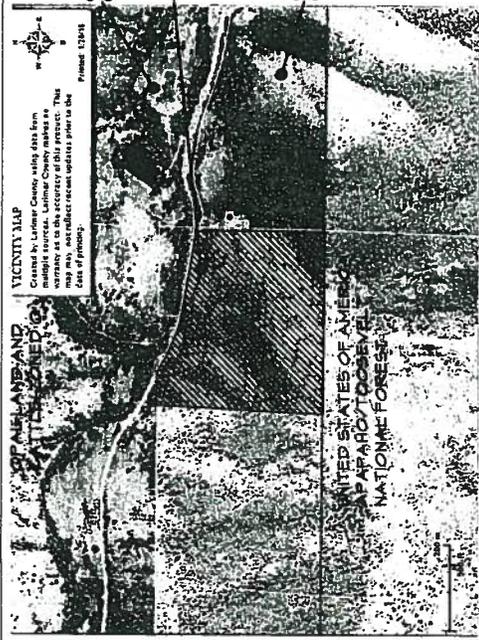
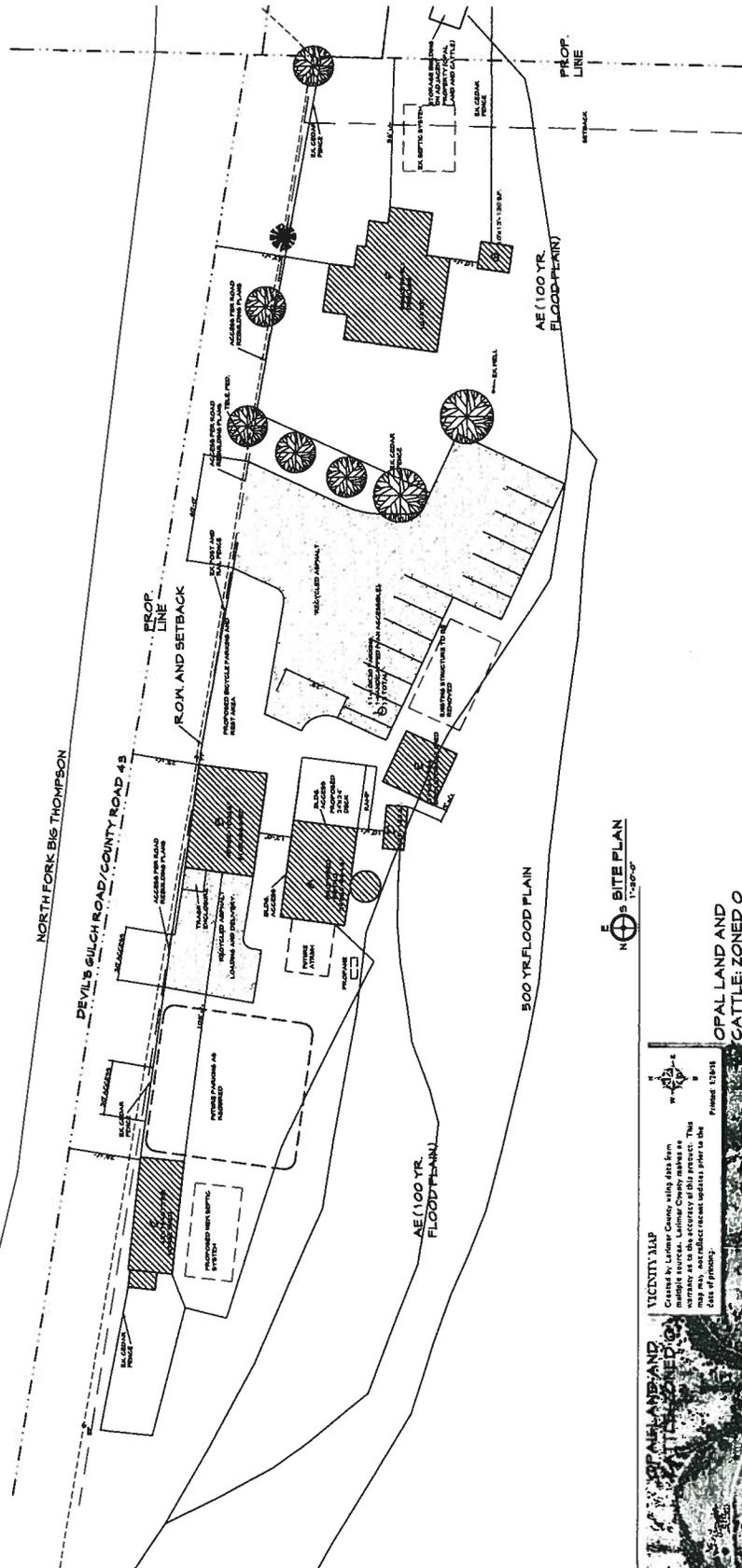
C. For the Appeal to Section 8.6.3.C.1 of the Land Use Code.

The Development Services Team offers no recommendation regarding the paving appeal, File #16-Z1999.





SITE PLAN-SMALL BISTRO/BAR
13964 COUNTRY ROAD 43, DRAKE, CO



SITE DATA SUMMARY

LOCAL PRESENTATION: PART OF THE SE 1/4 OF SEC 23, TOWNSHIP 6 N, RANGE 101 E, COUNTY OF LARIMER, COLORADO (SPLIT FROM 18924-00-020 AND 18920-00-011)
 ADDRESS: 13964 COUNTRY ROAD 43, DRAKE, CO
 OWNER/APPLICANT: OPAL LAND AND CATTLE CO, BOX 111, DRAKE, CO
 ANNUAL GROSS REVENUE: \$10,000-24,999
 ZONING: O
 LOT SQUARE FOOTAGE: 553 1/2 ACRES, 1,546,930 SQ. FT.
 TOTAL BUILDING AREA: 2,886 SQ. FT. BARN 800 SQ. FT.
 NEW TOTAL: 816 SQ. FT.
 PROPOSED USE: CONVERT BUILDING A, AND TO A BISTRO
 NUMBER OF PARKING SPACES REQUIRED: BUILDING - 4 SPACES
 NUMBER OF NEW PARKING SPACES: DECK- 916 / 200 - 8 SPACES
 TOTAL PARKING: 13 SPACES

PROPOSED PARKING AND ACCESS: 9/13/16

13964 COUNTRY ROAD 43
 DRAKE, CO
 ANNUAL GROSS REVENUE: \$10,000-24,999
 ZONING: O
 LOT SQUARE FOOTAGE: 553 1/2 ACRES, 1,546,930 SQ. FT.
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 NUMBER OF NEW PARKING SPACES: DECK- 916 / 200 - 8 SPACES
 TOTAL PARKING: 13 SPACES

SKETCH PLAN-SMALL BISTRO/BAR
 DATE: 7/27/16
 SCALE: 1"=10'
 DRAWN BY: ANNA KHE CHENOWETH
 CHECKED BY: ANNA KHE CHENOWETH
 SHEET NO. SP 1.0



PROJECT DESCRIPTION

Summary

My name is Annemarie Chenoweth, I'm the sole owner of Opal Land and Cattle, LLC, which owns approximately 1200 acres west of Drake, CO, zoned open, on both the north and south side of County Rd. 43 toward Glen Haven, stretching approximately 2 miles along the road and along the North Fork of the Big Thompson.

The ranch has been and will continue to be used for raising cattle. It has been my personal life goal to preserve this beautiful stretch for future generations forever. Close to 800 acres on the north side of the road, along the North Fork, have already been put under conservation easement with Estes Vally Land trust, foregoing potential high profit development.

The ranch has been severely impacted by the 2013 flood and additional sources of income were therefore investigated. Our family has decided that the operation described below fits most closely with our internal goals of income generation with limited environmental impact and suitability to the specific geographic area.

On the south side of County Rd 43, close to the middle of our 2 mile stretch, we have a log structure Barn, approx. 800 sq feet which for the last several years has been used for farm equipment and tack storage. We propose to convert the Barn into a "Small Bistro/Bar" operation in a multi-step process as described further below.

We believe the European type "Small Bistro/Bar" concept will appeal mainly to two types of customer groups:

- a) Local outdoor enthusiasts who frequent the area for bicycling and hiking purposes
- b) Tourists who will enjoy the spectacular setting of the newly renovated County Rd. 43 along the North Fork of the Big Thompson river.

In fact, individuals from both groups have mentioned to us that they miss this type of establishment along County Rd. 43.

The Barn structure and its setting on our ranch is a familiar landmark for many locals and our proposed renovation, combining it with contemporary and outdoor elements, will continue to make it an establishment which honors the rich history and beautiful geographic environment of the area.

The "Small Bistro/Bar" will carry the name of "Isabella Bird", the amazing courageous woman who came through Fort Collins in 1873, found her way to Estes Park and spent incredible times, mostly on horseback, exploring the Rockies and other parts of Colorado. Her description of her travels in Colorado, "A Lady's Life in the Rocky Mountains" is one of the most fascinating historic accounts of that time in our area. It will be exciting to honor her memory and the contribution she made to Colorado history and folklore by preserving her name .

Review Criteria

As described above the proposed "Small Bistro/Bar" will be compatible with existing and allowed land uses in the surrounding area and will be in harmony with the neighborhood.

The Big Thompson Canyon, as well as our road along the North Fork, are extremely picturesque and therefore a major tourism attraction in close vicinity to Estes Park and Rocky Mountain National Park. However, commercial establishments are and have been in existence on certain stretches of these roads.

From County Road 29 west of Loveland to Drake is a 9 mile total distance. Immediately west of County Road 29, before the striking Narrows area are several commercial establishments, two retail outlets, including the Dam Store, as well as the Sylvandale Ranch, a well known dude ranch, which also offers overnight accommodations and special events.

Immediately after the Narrows is another retail establishment, the Cherry Store.

7 miles from County Road 29 used to be another landmark retail store, the Indian Village, which unfortunately was totally destroyed in the 2013 flood. In Drake itself was a small general store, which closed after the flood. At the junction of US 34 and County Road 43 is the historic Forks Bed and Breakfast and Bar. All the way up the Big Thompson Canyon to Drake are a number of lodging facilities, cabin rentals and campgrounds.

The 12 mile stretch from Drake to Estes Park on County Road 43 has had at least 6 commercial establishments: The Sawmill approximately one-half mile from US 34, the Glen Haven General Store, another 3 retail specialty stores, including "Pony Tracks" and "Leahs", all destroyed by the flood, and the historic Glen Haven Inn, damaged by the flood and not re-opened.

Our proposed "Small Bistro/Bar" is approximately 1.5 miles west of Drake and 7 miles east of Glen Haven. As mentioned above, our Barn has been a landmark for almost 100 years. The Barn, together with the other historic outbuildings in the Barn Yard, is unique in that other structures along CR 43 are either cabins or homes most of which are newer and do not convey the pioneer ranching history of this area.

Our location is very close to two of the popular Crosier Mountain trail heads which attract many locals and vacationers.

Not only is our proposed use of the Barn in keeping with its historic appeal, it also provides the financial opportunity to maintain the Barn structure. If the Barn would have to be eventually torn down due to maintenance/cost issues, many, many locals would miss it and tourists would not have the opportunity to see another part of Colorado's history on their way to the Park.

Our conservation minded family would also make provisions to assure that any potential different commercial uses in the more distant future would be in keeping with the historic character.

The "Small Bistro/Bar" will not result in any adverse impact on other property in our vicinity. There are no neighbors for approximately 1 mile on either side. There are no municipalities,

county approved management areas or other areas where zoning would allow a "Small Bistro/Bar" for several miles from our location.

The "Small Bistro/Bar" will definitely be a benefit to the public in our proposed location. Tourists as well as outdoor enthusiasts enjoy an opportunity to stop for refreshments in a picturesque setting with historical ambiance.

In summary, our proposal is a good fit because it complements the existing setting and fulfills a need for this kind of establishment, especially with several other businesses closed after the flood.

Existing conditions

The Barn and the other existing outbuildings in the immediate vicinity as per plan, are currently used for equipment storage.

The adjacent caretaker house has been used as a part time guest and family residence.

Operation

Phase 1

Coffee/Esspresso and similar non-alcoholic beverages plus pastries served outdoors from a cart or patio setting starting as soon as possible, depending on obtaining permits. Contemplated hours of operation 7AM to 6PM, 7 days. More limited hours and days in the later season.

Phase 2

In addition to phase 1 operation, after obtaining Tavern license, serve locally brewed beers and a limited offering of other alcoholic drinks. Add light snack offerings as well as outdoor grill type foods in accordance with health dept. permits. Contemplated hours of operation 7AM to 10PM, 7 days a week.

Phase 3

After completion of small kitchen facility, add offering of hors d'oeuvres and other limited menu items.

Phase 4

After completion of full restaurant kitchen facility, add full restaurant menu.

Only phase 1-3 is contemplated for 2016/2017. Phase 4 may be added in a number of following years, depending on business volume and other business considerations.

The Barn may also be made available to small private parties potentially with catered food service. The size of these groups would be in accordance with occupancy permits for the structures.

Non-live amplified music indoors and outdoors would be at a low-moderate level which would facilitate conversation at all times. Likewise, occasional live entertainment would be in keeping with the ambiance of the facility and should not reach our residence on the north side of the road. Of course, as mentioned above, there are no neighbors to be affected within a 1 mile radius.

An additional sideline of business, definitely secondary to the Bistro/Bar activity, would be the sale of items, including but not limited to the following: Art work and antiques on display in the Barn, mugs, T-shirts, books, maps, bottled water and snacks. This would be arranged in such a fashion as not to detract from the overall intended ambiance of the facility.

The operation will be overseen by me personally with 1-3 employees. I hold degrees from CSU as well as CU Boulder and have past business experience as CEO of a manufacturing company. I also served as Chair of the Colorado Association of Commerce and Industry in the mid-90s.

Our business plan envisions this proposed enterprise as a long term investment and commitment to our overall ranch activities in keeping with our environmentally oriented philosophy. Scale and expansion of operation will be tailored according to overall economic viability.

Proposed Changes and Improvements

Phase 1

Addition of a maximum 580 sq feet deck structure on the east side of the Barn for outdoor guest seating.

Installation of outdoor grilling facilities in accordance with health department regulations.

Phase 2

Renovation of the inside of the Barn at ground level to accommodate guest seating.

Installation of a small kitchen facility meeting health department requirements for limited food preparation, such as snacks, hors d'oeuvres, etc. in the basement of the adjoining residence.

Phase 3

Renovation of a partial loft area in the Barn for additional guest seating and stairway to loft.

Phase 4

Addition of an atrium of maximum 600 sq feet on the west side of the Barn and renovation of the existing silo structure on the south side of the Barn to accommodate additional guest seating.

Phase 5

Conversion of storage structure adjacent to Barn or new construction of a small restaurant full kitchen facility.

Only phase 1-2 is contemplated for 2016/2017. Additional phases may be added in a number of following years, depending on business volume and other business considerations.

Infrastructure

Electric service already in Barn and surrounding area. Additional service, if needed, is being investigated.

There is an existing septic system, but due to its location on east side of caretaker house, a new system dedicated specifically to this operation is being planned west of the Barn. Since final new floodplain limits are still to be determined by Larimer County and in view of the impact of the new CR 43 construction, additional details and any necessary soils reports for a new septic system will be submitted in conjunction with the application for a permit once the exception has been granted.

Existing well for caretaker house has sufficient capacity to be approved for small capacity well used for drinking and sanitary facilities in small commercial business. In process of seeking approval for its use. In the past this well has also been used for livestock watering when horses, cattle and/or sheep were located in the facilities west of the Barn. No livestock would be housed there any more when the "Small Bistro/Bar" is established and this use for well water would no longer exist. The addition of 1 or 2 water storage cisterns is also being investigated. There is a water hydrant within 20 feet of the Barn.

We have been advised that due to the size of our landholdings, approval for an additional well, if needed, would be feasible.

Traffic and Access

Our location is immediately adjacent to County Road 43 which is still undergoing major renovation by CFL, to include significant widening and other large infrastructure improvements. Access from CR 43 to our Barn property is provided by 3 driveways. The surface of the access will be either gravel or recycled asphalt.

In addition to our Special Exception Request for the "Small Bistro/Bar" in the Barn, we also request a Special Review Approval to use the adjacent caretaker house as a resort lodge/cottage.

As mentioned in the section on existing conditions above, the caretaker house has been used as a part time guest and family residence. In fact we have no immediate plans to rent it on a short time basis, i.e. as a vacation rental, but would like to have the opportunity to do so if we decide on that type of use in the future.

The vacation type rental would be mostly for the tourist season, i.e. May - September, and be on a weekly or 5 day minimum basis, with maybe some exceptions for 3 day holiday weekends. Occupancy would be for a one living unit.

As also described above, since neighbors in either direction are at approximately a one mile distance, any such rental would not have any impact on neighbors. Parking for the rental patrons would be in the driveway on the south side of the caretaker house which allows for at least 3 cars to be parked; this would not impact the parking for the Barn.

We would like to appeal the requirement that the parking area be paved or concrete for the following reasons: We believe recycled asphalt would be a much better fit for our rural area. Pavement or concrete would not complement the historic Barn structure and other surrounding outbuildings. Also, from a drainage viewpoint we would prefer not adding impervious surfaces. Since we are using recycled asphalt or gravel on our other driveways and some parking areas for our residence on the north side of the street, we are accustomed to that type of surface requiring different treatment for snow removal purposes.

We anticipate that our "Small Bistro/Bar" will add only nominally to traffic on CR 43, i.e. suppliers and employees. Our business patrons will be predominantly individuals who would use the road at any rate for other ultimate destinations, such as the Crosier Mountain trailheads, Glen Haven and Estes Park.

LANDSCAPE PLAN

On the south side and west of the Barn and proposed open area and parking is a naturally grown hillside. The north side, toward the street, will have some wood fencing appropriate for the area. There are already trees and landscaped areas around the caretaker house to the east.

To enhance the scenic setting immediately east of the barn and around the proposed deck, we plan to add additional landscaping, to include some evergreen trees, flowering shrubs and other plantings suitable for the location and the ambiance we wish to create. We have experience with landscaping in this environment, since we added literally hundreds of plantings and trees around our residence across the road.

TRAFFIC IMPACT STUDY

As mentioned in the project description, we believe that our proposed facility will add only nominally to traffic, i.e. suppliers and employees. Even that impact is mitigated by the fact that we will not have any more livestock at that location and therefore no traffic associated with that activity. We believe that close to 100% of our patrons would be using CR 43 irrespective of our facility.

Again, Larimer County and CFL surely did extensive research on traffic volume and impact on CR 43 in preparation for its reconstruction.

FIRE PROTECTION PLAN

Loveland Fire Authority has determined that access requirement is met and that first floor exterior is within 150 feet of public roadway.

Parking lot will meet requirements for turning radii, surface and weight and will be maintained.

The requirements of the Fire Code and Building Code with respect to fire issues will be met as each improvement phase is implemented.

Currently there are 3 hydrants within 400 feet of the Barn.

Water supply requirements will be met by minimum flow and addition of cisterns if necessary.

DRAINAGE AND EROSION CONTROL

Larimer County, together with CFL, has researched the drainage and erosion issues along our proposed property in great detail in connection with the reconstruction of CR 43. We are not proposing any grading or other changes which would impact these issues. In fact, the area where we propose parking, has been used for parking ranch vehicles and equipment for a number of years. During the enormous flood of 2013, this area was not flooded and all vehicles parked there were safe. Likewise, the Barn and surrounding outbuildings did not experience any flooding or water damage during that flood. Hay stored in one of the open dirt floor buildings stayed completely dry during the flood. We were informed that Larimer County and CWCB are still working on remapping the exact flood zone areas and we will monitor these developments.



ENGINEERING DEPARTMENT

Post Office Box 1190
Fort Collins, Colorado 80522-1190

(970) 498-5700
FAX (970) 498-7986

MEMORANDUM

TO: Michael Whitley, Larimer County Planning Department

FROM: Clint Jones, Larimer County Engineering Department *CS*

DATE: March 25, 2016

SUBJECT: Chenoweth- Special Exception

Project Description/Background:

This is a Special Exception to allow an 800 square foot Bistro/Bar in an existing Barn. The application includes an appeal to allow an all-weather surfaced parking area where pavement is required. The site is located at 13964 CR 43, west of Drake.

Review Criteria:

Larimer County Engineering Department staff has reviewed the materials that were submitted to our office under these guidelines and per the criteria found in the Larimer County Land Use Code (LCLUC), Larimer County Rural Area Road Standards (LCRARS), Larimer County Stormwater Design Standards (LCSDS) and pertinent Intergovernmental Agreements.

Transportation/Access Issues:

1. The applicant is appealing Section 8.6.3.C, which requires all off-road, multi-family and non residential parking areas, must be paved with asphalt or concrete. The use does not meet the criteria that would allow an all weather surface parking area.
2. If the appeal to section 8.6.3.C is granted, a hard surfaced ADA parking space will still be required.
3. It appears that the applicant has maximized the number of parking spaces on the site; however we have concerns that there is not enough parking for the proposed use. The applicant should provide more justification for the proposed layout. In addition No Parking signs maybe required along CR 43.
4. The applicant should contact the Loveland Rural Fire protection to ensure that the building and internal street layout is adequate for their purposes.

Fees and Permits:

1. The Fees and permits outlined in my previous memo still apply.

General Comments:

It should be noted that if the use is approved by the County Commissioners Engineering will still require final plans that show all details for the parking lot, access points, and site circulation access roads. Plans need to include dimensions for the parking lot such as lengths and widths of the drive isles, islands, access radii, parking stalls, drive widths, etc. Existing and proposed grading information shall also be

included such as existing contours and proposed spot elevations and percent slopes. Typical sections for the parking area and access roads shall be shown along with information on the depth and type of material that will be placed. A detail for any new access points or access work within the County Right-of-way shall also be added such as new or existing culvert information. The plan shall call out that the handicap spaces need to be a hard surface and also need signage that meets ADA requirements.

Staff Recommendation:

The Engineering Department would recommend as a condition of approval that vehicles not be allowed to park within the right-of-way. The applicant should also coordinate with the road and bridge department to install no parking signs along the frontage of the property.

Please feel free to contact me at (970) 498-5727 or e-mail me at cdjones@larimer.org if you have any questions. Thank you.

cc: Opal Land and Cattle LLC, PO Box 411, Drake CO 80515
file



Michael Whitley <whitlemd@co.larimer.co.us>

Chenoweth Special Exception (Case # 16-Z1999)

1 message

Jim Frick <frickj@co.larimer.co.us>

Wed, Feb 3, 2016 at 12:35 PM

To: Michael Whitley <mwhitley@larimer.org>

Michael,

Road & Bridge has a couple requests for this proposal after reviewing it. They are as follows:

- 1) We request a 4 ft wide asphalt bumper on the edge of CR 43, Hot mix asphalt at all locations of access onto CR 43.
- 2) Culverts at all access points that are installed to County standards.
- 3) We would like No Parking Signs installed along CR 43. We do not want cars parked on CR 43 if or when the parking lot is full.

If all of these requests are made we are OK with this proposal.

Thanks,
Jim

—
Jim Frick
Non-Paved Roads Group Manager
Road and Bridge Department
2643 Midpoint Drive, Suite C
P.O. Box 1190
Fort Collins, CO 80522-1190
970-498-5663
970-498-5678 Fax



Loveland Fire Rescue Authority
 Community Safety Division
 410 East 5th Street
 Loveland, Colorado 80537
 Phone (970) 962-2537

TO: Michael Whitley, Planner II, Larimer County Community Development Division

FROM: Carie Dann, Deputy Fire Marshal, Loveland Fire Rescue Authority, phone 970.962.2518, email Carie.Dann@LFRA.org

RE: Chenoweth Special Exception (16-Z1999), 13964 LCR 43, Drake, Colorado

CC: Annemarie Chenoweth, Opal Land and Cattle LLC, Drake, Colo.

DATE: April 7, 2016

These comments pertain to a Special Exception to allow a restaurant in the O-Open Zoning District.

The owners are proposing to open a bar/bistro operation in an existing 800-SF barn. They would like to add a 580-SF deck for outdoor seating; renovate the barn for indoor seating; renovate the barn loft for guest seating and stairway to loft; add an atrium (maximum 600 SF) to the barn and renovate the existing silo for additional guest seating; and convert an existing storage building or construct a new building for a small restaurant kitchen facility.

Phase 1 would be coffee, espresso and pastries served outdoors from a cart. Phase 2 would be obtaining a liquor license to serve alcohol and outdoor grill-type foods indoors. Phase 3 would be the addition of kitchen facilities.

Loveland Fire Rescue Authority has no comments or concerns related to the Special Exception to allow a restaurant in the O-Open Zoning District. The applicant submitted a Sketch Plan for review in February 2016; these current comments pertain to the Special Exception submittal. Because the Sketch Plan was not substantially modified in this current submittal and most fire comments were not addressed, I am including the Sketch Plan comments below and providing updates from April 7.

GENERAL

1. The requirements of the Fire Code, Building Code (with regard to fire and life safety issues) and NFPA standards adopted at the time of planning approval and building construction must be met.

EMERGENCY VEHICLE ACCESS REQUIREMENTS

2. A minimum of two approved, sustained access roadways must be provided to the site.
This requirement has been met with emergency vehicle access utilizing County Road 43.
3. All points of the first-floor exterior of any structure are required to be within 150 feet of a public roadway or approved fire lane.
This requirement appears to have been met.
4. Private roadways must be of an approved width, able to accommodate fire-apparatus turning radii, an all-weather surface, capable of supporting 40 tons and maintained in an approved condition by the owner, and maintained unobstructed at all times.
It cannot be determined if the proposed parking lot meets these requirements.
April 7, 2016: It still cannot be determined if this requirement has been met.

FIREFIGHTING WATER SUPPLY

5. Hydrant placement shall meet the following criteria with distances measured by vehicular travel path: Commercial/Multifamily – 400 feet to all parts of a structure with 350-foot spacing. Number of hydrants shall be as specified in the adopted International Fire Code.
It cannot be determined from the submitted sketch plan if these requirements can be met. If an approved water supply cannot be provided, an automatic fire-sprinkler system designed and installed in accordance with NFPA 13 shall be required.
April 7, 2016: Applicant states there are three hydrants near the property but did not show location on the Site Plan. It appears the hydrants may be on well water. The applicant stated that cistern(s) will be installed to meet requirements but this may not be an option. More information needs to be provided for review.
6. The minimum fire flow and flow duration for buildings other than one- and two-family dwellings shall be as specified in the adopted International Fire Code. A reduction in required fire flow of up to 75% is allowed when the building is provided with an approved automatic sprinkler system. However, the resulting fire flow shall not be less than 1,500 GPM.
Compliance with this requirement cannot be determined based on the information provided to LFRA. If an approved water supply cannot be provided, an automatic fire-sprinkler system designed and installed in accordance with NFPA 13 shall be required.
April 7, 2016: Applicant states there are three hydrants near the property but did not show location on the Site Plan. It appears the hydrants may be on well water. The applicant stated that cistern(s) will be installed to meet requirements but this may not be an option. More information needs to be provided for review.
7. Hydrants shall be set back a minimum of 3 feet from curb face and shall be at least three feet from vegetation at full maturity (with the exception of grass and ground cover), as well as fences, bushes, trees, walls or any other fixed or moveable object.
Compliance with this requirement cannot be determined based on the information provided to LFRA.

BUILDING PERMIT PROCESS

8. After approval through the Planning process, LFRA requires submittal of building plans designed and stamped by a licensed Colorado Design Professional, in compliance with State law, for review and issuance of a building permit. LFRA will issue a building permit(s) for all proposed structural modifications or additions (including the outdoor patio), as well as new any new occupied structure. These permits are separate submittals and issuances from the Larimer County Building Department.

FIRE-PROTECTION SYSTEM REQUIRMENTS

9. If a Type I kitchen hood system is required to be installed and cooking produces greasy vapors, a UL 300 compliant kitchen hood extinguishing system is required.
10. Requirements for fire sprinklers and fire alarms cannot be determined until additional information is provided during future reviews (Planning and Building Permit processes).

COLORADO GEOLOGICAL SURVEY

1801 19th Street
Golden, Colorado 80401



Karen Berry
State Geologist

April 8, 2016

Michael Whitley
Community Development Division
Larimer County
P.O. Box 1190
Fort Collins, CO 80522

Location:
NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32,
T6N, R71W of the 6th P.M.
40.4388, -105.366

Subject: Chenoweth Special Exception
File Number 16-Z1999; Larimer County, CO; CGS Unique No. LM-16-0012

Dear Michael:

Colorado Geological Survey has reviewed the Chenoweth Special Exception referral. I understand the applicant proposes a restaurant in an existing building located at 13964 County Road 43. With this referral, I received a request for CGS review and a Site Data Sheet (March 17, 2016), a Project Description (undated), and a Site Plan (Bruce Meyer Architects, January 22, 2016).

The property is located at the base of a steep, 60% to 70% slope on the south side of County Road 43, across from the North Fork of the Big Thompson River. The applicant plans to add recycled asphalt parking lots, a new septic system, and a deck and an atrium to the existing building. The site does not appear to be exposed to a significant debris flow, landslide, or rockfall hazard under current slope and vegetation conditions. **CGS therefore has no objection to the proposed use.**

The applicant(s) should be made aware that large precipitation events may trigger future landslides and debris/mud flows that could inundate the site with dangerous amounts of water and sediment. Debris flow and mud flow hazards increase after wildfire; almost universally, risk of debris flows becomes much higher in and below a burn area when the vegetation has been removed and the soil mantle loosened.

Thank you for the opportunity to review and comment on this project. If you have questions or require further review, please call me at (303) 384-2643, or e-mail carlson@mines.edu.

Sincerely,

Jill Carlson, C.E.G.
Engineering Geologist



DEPARTMENT OF HEALTH AND ENVIRONMENT

1525 Blue Spruce Drive
 Fort Collins, Colorado 80524-2004
 General Health (970) 498-6700
 Environmental Health (970) 498-6775
 Fax (970) 498-6772

To: Michael Whitley
 Larimer County Planning Department

From: Doug Ryan *Doug Ryan*

Date: March 30, 2016

Subject: Chenoweth Special Exception – Public Hearing Submittal

The Chenoweth special exception is a proposal to authorize a restaurant in the O-Open zone district. The property is located on County Road 43 west of Drake. The project description notes that the improvements are planned in a series of phases, beginning with a coffee/expresso shop and ultimately including a bistro/bar. The main review items for our Department relate to water, sewer, food service standards, and noise from outdoor music.

I provided comments at the earlier sketch plan review, and outlined the timing for addressing each of these issues. We understand that the special exception is designed to evaluate the question of compatibility of the proposed use at this location, and that most of the technical issues described below will be considered at the administrative site plan review or building permit stages.

Water. Water is to be supplied by a well. The project description notes that the applicant is aware of the need to obtain a commercial well permit that will allow an adequate water supply for the level of use proposed. Those permits are administered through the Colorado Division of Water Resources. If the special exception is authorized, the commercial use well permit would need to be issued prior to issuance of building permits.

Water quality is an important issue to consider regarding food service establishments. In most cases, a well serving a restaurant will be classified as a small public water system. Under the Colorado Primary Drinking Water Regulations, systems that serve 25 or more people for 60 or more days per year are classified as a public non-community water supply. These small systems require treatment, such as filtration and disinfection, and regular monitoring. Information about the regulations and required plan review is available on the Colorado Department of Public Health and Environment website at <https://www.colorado.gov/pacific/cdphe/water-quality-control-commission-regulations>. The necessary steps to obtain a new water system approval include registration as a public supply, technical plan review for the treatment & distribution system, installation and approval of the treatment system, and ongoing routine monitoring. Navigating the state's process can be complicated. Our Department is available

to help coordinate the plan review process for these water systems with the state health department. A contact in our office for the water system plan review process is Chris Manley at (970) 498-6784.

Wastewater. Sewer service in this area is by on-site wastewater treatment systems. The project description notes that a separate system is planned for the new uses. That system will need to be sized for the anticipated flows. Systems with a design capacity of less than 2,000 gallons per day are permitted and regulated at the county level. The sewer system will need to be designed by a Registered Professional Engineer. The standards we administer are available on our website at <http://larimer.org/health/ehs/isds.asp>. They include technical requirements for soils, groundwater depth, horizontal separation from wells or streams and system capacity. New systems are not allowed in a mapped floodway, but may be authorized within a 100 year flood fringe under certain conditions. According to the current published map, and as shown on the application sketch plan, the location of the bistro building and its proposed septic system are within the North Fork floodway. I understand that there may be an opportunity to remap this reach following the changes to the river channel made after the 2013 flood. A contact in our office for the septic system design and permitting process is Chris Manley at (970) 498-6784.

Retail Food Service. Our Department will need to review and approve plans for each phase of the food service operations prior to issuance of building permits. That review pertains to compliance with Colorado Retail Food Service Regulations. Information about the plan review process and specific submittal requirements are available on our website at <http://www.larimer.org/health/ehs/food.asp>. Note that each phase, as envisioned by the applicant, will involve food licensing considerations based on the menu items to be served. In general, improvements such as water, sewer, and a licensed kitchen facility would be needed at the beginning of the process and do not lend themselves to phasing at a later date. A contact in our office for the plan review process is Lea Schneider at (970) 498-6833. The plan review process will incorporate the building and interior areas as well as the water and wastewater systems.

Noise. The project description notes that both recorded and live music may be provided outdoors at the facility. It has been our experience that noise is the most significant concern raised by neighbors at public hearings regarding outdoor uses such as restaurant patios or event facilities. The County does have a noise ordinance, which is available on the website at: <http://larimer.org/policies/noise.htm>. It provides maximum sound levels at residential properties, and prohibits the creation of a noise disturbance.

In this case the project description notes that the intent is to limit amplified music outdoors to a low-moderate level which would facilitate conversation for the patrons. The large distance to other residences is also noted as a mitigating factor. Based on our experience with noise complaints, I would concur that the concept of background level music outdoors in this remote location is a reasonable way to address noise compatibility and compliance with the ordinance.

Summary. The review items for our Department related to water, wastewater and food service standards will require formal plan review and approval prior to construction or issuance of building permits. In our experience it is very helpful to retain the assistance of an experienced design professional and to begin the process early in order to avoid delays at the building permit phase. We are available to consult with the applicant and her consultants on each of these issues.

Thank you for the opportunity to comment on this proposal. I can be reached at 498-6777 if there are questions about any of these issues.

cc: Opal Land and Cattle, LLC



COLORADO
 Division of Water Resources
 Department of Natural Resources

1313 Sherman Street, Room 821
 Denver, CO 80203

April 4, 2016

Michael Whitley
 Larimer County Community Development Division
 Transmission via email: mwhitley@larimer.org

Re: Chenoweth Special Exception
 Case No. 16-Z1999
 SE¼ Section 32, T6N, R71W, 6th P.M.
 Water Division 1, Water District 4

Dear Mr. Whitley:

We have reviewed the above referenced proposal for a Special Exception to allow a restaurant in the O-Open zoning district. The submitted material does not appear to qualify as a "subdivision" as defined in §30-28-101(10)(a), C.R.S. Therefore, pursuant to the State Engineer's March 4, 2005 and March 11, 2011 memorandums to county planning directors, this office will only perform a cursory review of the referral information and provide comments. The comments will not address the adequacy of the water supply plan for this property or the ability of the water supply plan to satisfy any County regulations or requirements.

The proposal seeks to convert an existing barn located on an approximately 1200-acre cattle ranch into a small bistro/bar. The barn is currently used for equipment storage. It is located near an existing caretaker house that is served by an existing well, permit no. 206638-A. In the past, this well has also been used for livestock watering, but this use will be discontinued upon establishment of the small bistro/bar.

For the period of 2016-2017, the barn is proposed to be renovated to include a deck with outdoor guest seating and grilling facilities, and indoor guest seating and a small kitchen facility. Future renovations may include additional guest seating and conversion of an adjacent storage structure or new construction of a small restaurant full kitchen facility. The small bistro/bar is anticipated to be operated by the applicant with 1-3 employees.

Water demands for the small bistro/bar were estimated at 200 gallons per day, or 0.20 acre-feet per year. The proposed water supply is the existing well, constructed under permit no. 206638-A. Well permit no. 206638-A currently limits the use of the well to fire protection, ordinary household purposes inside one single-family dwelling, the watering of poultry, domestic animals and livestock on a farms or ranch, and the irrigation of not more than 2,000 square feet of home gardens and lawns.

The applicant has indicated that they intend to re-permit this well for commercial exempt purposes. A well of this type may withdraw up to 1/3 of an acre-foot (108,600 gallons) of water per year for use in drinking and sanitary facilities in an individual commercial



business. The commercial business operator may also use this type of well for household drinking and sanitary purposes inside the caretaker house, so long as the total amount of water used for the commercial and household use does not exceed $\frac{1}{3}$ acre-foot. Water from this type of well may not be used for lawn or landscape irrigation, or for any other outside purpose. The ability of the owner to obtain a well permit will be determined at the time a well permit application is submitted to this office.

This office has no objection to the proposed Special Exception, contingent upon the applicant re-permitting the existing well for commercial exempt purposes. Should you or the applicant have any questions regarding this matter, please contact Sarah Brucker of this office.

Sincerely,



Tracy L. Kosloff, P.E.
Water Resource Engineer

Cc: Applicant (drakehaven@live.com)
Well permit file no. 206638-A





Michael Whitley <whitlemd@co.larimer.co.us>

Re: Chenoweth Special Exception - Response to Well Permit Issues

1 message

Doug Ryan <ryandl@co.larimer.co.us>

Thu, Apr 14, 2016 at 2:43 PM

To: "Kosloff - DNR, Tracy" <tracy.kosloff@state.co.us>

Cc: Annemarie Chenoweth <drakehaven@live.com>, "Whitley, Michael" <whitlemd@co.larimer.co.us>, "Manley, Chris" <manleycj@co.larimer.co.us>

Tracy,

Thanks for both the estimates and the worksheet. I concur that the two different ways to calculate use based on a per customer or per seat basis could be equivalent depending on the turnover in seats. I'd be interested in taking some time to think about these and compare them with our table.

Doug Ryan
Larimer County Department of Health and Environment
1525 Blue Spruce Drive
Fort Collins CO 80524

(970) 498-6777
ryandl@co.larimer.co.us

On Wed, Apr 13, 2016 at 8:56 AM, Kosloff - DNR, Tracy <tracy.kosloff@state.co.us> wrote:

Dear Doug:

When we are evaluating an exempt commercial well permit application, we ask for completion of the attached worksheet. The "general guideline" listed for restaurants is 10 gal/patron/day. The origin of that seems to be several older reference books (this copy doesn't have the names of the books unfortunately), but, a few of our references are consistent on this figure. You'll also notice that there are similar figures in these books to what CDPHE/Larimer County use on a per seat basis. In the end, the per seat & per patron numbers could end up the same, depending on how many times per day a seat gets filled I guess.

In any case, for consistency sake, DWR could consider at least adding some of these "per seat" guidelines for restaurants.

Please let me know if you have any other feedback or suggestions. Thanks.

Regards,
Tracy

On Tue, Apr 12, 2016 at 8:26 AM, Doug Ryan <ryandl@co.larimer.co.us> wrote:

Hi Tracy,

Thanks for your message. Its helpful to compare notes.

The figures we use to estimate wastewater loading are from the *Larimer County Department of Health and Environment On-Site Wastewater Treatment Systems Regulation*. That regulation is available on our website at http://larimer.org/health/ehs/owts_rules_2015.pdf. The estimated flows are on Table 5-2 on Page 47.

Our County regulation is a local standard adopted by our Board of Health, but it very closely follows a state of Colorado regulation - which is the minimum standard required for local jurisdictions. That state regulation was developed by the Colorado Department of Public Health and Environment in concert with impacted parties including counties, installers, designing engineers etc. I believe the state's table (Table 6-2 on page 37) is exactly the same as the one we use. Its available at <https://www.colorado.gov/pacific/sites/default/files/Regulation-43.pdf>.

BCC 07/18/16

CHENOWETH SR & SE

The flow figures represent consensus views of the parties involved in drafting the state regulation. They also incorporated some EPA figures from guidance they have published. Because the estimates are used to design treatment systems, its probably fair to say that the emphasis was to avoid under estimating the flows. We are not familiar with the Division of Water Resources sanitation worksheet, and would be interested in that.

Doug Ryan
Larimer County Department of Health and Environment
1525 Blue Spruce Drive
Fort Collins CO 80524

(970) 498-6777
ryandl@co.larimer.co.us

On Mon, Apr 11, 2016 at 2:02 PM, Kosloff - DNR, Tracy <tracy.kosloff@state.co.us> wrote:

Thank you all. I also noticed that the County's estimates of wastewater generated per patron are also quite a bit more than what we have in our drinking and sanitation worksheet. Do you mind providing me with a copy of the County's table? Also, do you know what the source of the information is? I don't know what the source of our information is, but, I'm curious to see more of your numbers. Thank you.

Regards,
Tracy

On Thu, Apr 7, 2016 at 11:40 AM, Doug Ryan <ryandl@co.larimer.co.us> wrote:

Thanks for your reply Annemarie,

Your point is well-taken that water needs and wastewater flows depend on several factors, including issues like menu items and hours of operations. As we've discussed, our office is available to consult on all the issues. Your are being proactive in identifying the options for the proposed operations. We don't want you to go through the land use permitting process only to run into a Catch-22 situation later where the well permit or some other issue limits the operation. My point in responding to Michael Whitley's inquiry is to indicate that a Commercial Exempt well permit contains significant constraints in terms of the amount of water available.

Doug Ryan
Larimer County Department of Health and Environment
1525 Blue Spruce Drive
Fort Collins CO 80524

(970) 498-6777
ryandl@co.larimer.co.us

On Thu, Apr 7, 2016 at 10:47 AM, Annemarie Chenoweth <drakehaven@live.com> wrote:

Dear Mr. Ryan,

In response to your memo on the water usage I would like to make a few comments to give the proper context:

My application for the special exception was drawn up with the most expansive uses contemplated to avoid ever having to go back through the process again.

For all practical purposes there may never be a full restaurant facility established, or at least not in the next few years. Our internal business plan envisions the Small Bistro/Bar to serve coffee/espresso with some pastries added as we go along. Once we obtain the liquor license, we envision serving mainly some of the micro-brews from 2 small new Estes Park breweries, some wine and mimosas maybe on weekends. Snacks would start with pretzel/chip type and go to hors d'oeuvres only, eventually, once we have a small kitchen established for that purpose only in the basement of the caretaker house.

Secondly, in giving hours and days of operation we also applied for the maximum, again to avoid ever

having to go through the process again.

For all practical purposes we will have limited hours during the peak season May-Sept. and we will very likely be closed over some of the winter months.

Therefore our estimates for water usage were based on what we envision to happen over the next few years. If later expansions would require more water usage than allowed by the commercial exempt, we would certainly at that time plan our water supply accordingly.

We plan to work closely with your department on all of these matters.

Thank you for your consideration of my clarification on these issues.

Sincerely, Annemarie Chenoweth
Sent from my iPad

On Apr 7, 2016, at 9:06 AM, Doug Ryan <ryandl@co.larimer.co.us> wrote:

Micheal,

Thanks for sending the referral comments from the Colorado Division of Water Resources on the Chenoweth Special Exception. Their letter, dated April 4, 2016, indicates that the Division would be willing to re-permit the existing domestic well to allow commercial exempt purposes under certain conditions.

Those conditions would authorize the withdraw of up to 1/3 acre foot (108,600 gallons) per year for drinking and sanitary facilities inside an individual commercial business and the existing caretaker house. No outside uses such as landscaping or animal watering would be allowed. The Special Exception indicates that the facility will be open 7 days a week. The use of 108,600 gallons/year per year calculates to just under 300 gallons/day.

You asked me to provide some context about the adequacy of this supply for the planned bistro/bar facilities.

As you know, our Department performs plan reviews for food service establishments, and issues permits for the on-site septic systems that provide wastewater treatment. We use a table of estimated wastewater flows contained in the county's on-site system regulations for determining the design flows. For restaurants, the flow is 25 gallons per seat per day for establishments with paper service, and 50 gallons per seat per day with washable plates and glassware. These figures are based on serving 1 or 2 meals/seat.

Based on the allowable water use, and the wastewater flows, my calculations for the maximum number of seats are as follows:

300 gallons per day / 25 gallons per seat = 12 seats for a restaurant with paper service

or

300 gallons per day / 50 gallons per seat = 6 seats for a restaurant with regular plates & glassware.

If the caretaker house was occupied, the amount of water available for restaurant use would be reduced by 50 gallons/resident in that structure.

The Chenoweth Special Exception application indicates that the bistro/bar operation is intended to be small with a more intimate feel, but does not list the planned seating capacity.

Clearly the allowable use under the State's exempt commercial well permits constrains the number of seats that can be served. If the applicant wants to establish more seating

than the well permit would support, the way to address this constraint would be to apply for a regular commercial well permit (as opposed to the limited exempt class). This typically involves a water plan of augmentation and the associated time and expense. Information on the that process is available on the Water Resources website at <http://water.state.co.us/groundwater/choice.asp>.

I will copy this to Annemarie Chenoweth and Tracy Kosloff so that we all have the same information.

Doug Ryan
Larimer County Department of Health and Environment
1525 Blue Spruce Drive
Fort Collins CO 80524

(970) 498-6777
ryandl@co.larimer.co.us

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Tracy Kosloff
Water Resources Engineer



P 303-866-3581 x8211 | F 303-866-2223
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Tracy Kosloff
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