

October 18, 2022

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

PROCLAMATIONS & PRESENTATIONS

5:00 PM

A) PROCLAMATIONS AND PRESENTATIONS

- A. Proclamation Declaring October 18, 2022 as Canino's Day.**
- B. Proclamation Declaring October 20, 2022 as Imagine a Day Without Water Day.**
- C. Proclamation Declaring October 20, 2022 as Community Media Day.**
- D. Proclamation Declaring October 28, 2022 as Kilwin's Day.**
- E. Proclamation Declaring October 2022 as Conflict Resolution Month.**

Mayor Jeni Arndt presented the above proclamations at 5:00 p.m. in the City Council Chambers.

REGULAR MEETING

6:00 PM

B) CALL MEETING TO ORDER

Mayor Jeni Arndt called the meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

C) PLEDGE OF ALLEGIANCE

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

D) ROLL CALL

PRESENT

Mayor Jeni Arndt
Mayor Pro Tem Emily Francis
Councilmember Susan Gutowsky
Councilmember Julie Pignataro
Councilmember Tricia Canonico
Councilmember Shirley Peel
Councilmember Kelly Ohlson

STAFF PRESENT

City Manager Kelly DiMartino
City Attorney Carrie Daggett
Chief Deputy City Clerk Rita Knoll

E) CITY MANAGER'S AGENDA REVIEW

City Manager Kelly DiMartino provided an overview of the agenda, including:

- Item No. 11, *First Reading of Ordinance No. 113, 2022, Suspending Certain Provisions of the City's Land Use Code and Building Code to Permit Temporary Use of City Property at 212 West Mountain Avenue as a Homeless Shelter*, was removed from the agenda and will be considered on October 25.
- All remaining items on the consent agenda were recommended for approval.
- Item No. 15, *Resolution 2022-107 Adopting Findings of Fact Supporting the Historic Preservation Commission's Decision to Deny Proposed Window Alterations to the Landmarked Property Located at 1306 West Mountain Avenue and Denying the Appeal*, is on the Discussion Agenda due to the need for a Councilmember to declare a conflict of interest.

F) COMMUNITY REPORTS

None.

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS (Including requests for removal of items from Consent Calendar for individual discussion.)

George Romero stated he was born in the Romero House and discussed Betty Aragon's purchase of the house with the intent to donate it to the City as an historic landmark. He stated many family photos were donated and their whereabouts are unknown. He expressed concern the house is no longer being used as intended.

Trinity Wilbourn discussed an issue with Connexion installing service at a neighbor's home that created a surge into their electrical box. She stated they spent a great deal of time and have paid for all repairs, including landscaping issues, out of pocket without any reimbursement. She questioned whether there is any type of precedent for taking care of these types of issues.

Michael Wilbourn provided further detail on experiencing the smell of electrical smoke when the electrical box surged and noted they were without power for about thirteen hours on a 98 degree day. He stated he was expected to pay for the \$7,000 in repairs that day and he has been told that is going to be the only amount they will be reimbursed despite landscaping issues, days without internet service, hours of time spent trying to deal with the issue, and dogs getting out because of repair people coming into the yard unannounced.

Andy Goldman, Partnership for an Age-Friendly Community (PAFC), discussed the non-profit organization's purpose to enhance the quality of life for older adults in Larimer County. He discussed the need for more housing choices and affordability and encouraged Land Use Code amendments to help eliminate and reduce barriers to allow more housing variety.

Scott Taylor thanked Councilmembers for their work and provided recommendations on the adoption of the Land Development Code (formerly Land Use Code). He discussed the importance of neighborhood preservation and referenced comparisons between the two Codes.

Jerry Gavaldon discussed an event recognizing the murals in the Tres Colonias neighborhoods. He commended the work of City staff in supporting the formation of the murals. He announced Day of the Dead and bike-in movie events at the Museo de las Tres Colonias.

Betty Aragon discussed her advocacy on behalf of the Hispanic community and expressed concern the Romero House, housing the Museo de las Tres Colonias, has been stripped of its history and culture and stated the Museo needs a new board and leadership. She stated the City has a responsibility to intervene.

Chuck Solano thanked Councilmembers for their service. He commended the original idea of the Museo honoring sugar beet workers and stated the Museo needs to be open.

Doreen Pasen requested information about the possible increase of the minimum wage. She stated she is aware of local businesses struggling and expressed concern about that possibility.

Archie Solsky expressed concern about Ordinance No. 119, 2021 regarding water supply requirements and their impact on businesses. He suggested there should be an amendment to the ordinance in instances where no additional water is being used.

Rich Stave expressed concern City offices are creating barriers to public access. He also questioned what problem would be solved with the implementation of ranked choice voting. Additionally, he discussed Item No. 4, *Second Reading of Ordinance No. 106, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Net Metered Renewable Energy Generation System Sizing and Adopting Administrative Rules for Net Metered System Sizing*, stating it will only benefit a minority of customers and electrical costs will be pushed to customers who do not have solar.

Sally Lee urged caution in implementing measures to achieve affordable housing and requested the public input period be extended prior to the adoption of the Land Development Code.

Maria Estrada discussed the Museo and work of Betty Aragon. She requested events be brought back to the Museo.

Robert Long, CSU student body president, introduced himself.

Jaysen Lopez advocated for the local grid and discussed intelligent energy storage.

Cat Reeves, Bistro Nautile, discussed Item No. 10, *First Reading of Ordinance No. 112, 2022, Amending Chapter 23, Article III of the Code of the City of Fort Collins Regarding Obstructions and Encroachments to Allow for the Expansion of Outdoor Dining Areas onto City Property and Adopting by Reference the City of Fort Collins Outdoor Dining Design Manual*, stating the outdoor dining areas have been a huge help to small restaurants and she would like to see them become permanent. She expressed concern some items in the Outdoor Dining Design Manual are unclear and she discussed the detrimental impact of a minimum wage increase on her business.

Adrianna (no last name provided) requested the Museo be returned to Betty Aragon's control and return to providing resources for area residents. She stated the Museo building is dirty on the outside and has not been maintained. She opposed the showing of the movie Coco at the Museo.

Lauren Storeby stated now is not the time to implement an increased minimum wage as businesses are still struggling after the pandemic. She commented on rising costs for restaurants and stated they have had to raise prices as a result.

Ashley Cordova discussed the events in the Tres Colonias neighborhoods over the weekend and stated participants were denied access to the restrooms at Sugar Beet Park by Betty Aragon. She stated the movie Coco was suggested to be shown by the City.

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Ohlson discussed Mr. Solsky's comments and another business that was similarly impacted when no change in water use occurred. City Manager DiMartino replied an item will come before Council next week that addresses these concerns.

Councilmember Ohlson discussed the possibility of allowing more attractive barriers for outdoor patios than the regular concrete barriers.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

J) CONSENT CALENDAR

1. Items Pertaining to the Annual Adjustment Ordinance.

A. Second Reading of Ordinance No. 102, 2022, Making Supplemental Appropriations from Various City Funds.

B. Second Reading of Ordinance No. 103, 2022, Appropriating Prior Year Reserves in Various City Funds.

These Ordinances, unanimously adopted on First Reading on October 4, 2022, appropriate dedicated and additional revenues or prior year reserves that need to be appropriated before the end of the year to cover related expenses that were not anticipated, and therefore, not included in the 2022 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

Adopted on Second Reading.

2. Second Reading of Ordinance No. 104, 2022, Authorizing the Conveyance of a Permanent, Nonexclusive Stormwater Drainage Easement on Redtail Grove Natural Area to WWW Properties, LLC.

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes conveyance of a permanent, nonexclusive drainage easement to WWW Properties, LLC (owners of Fort Collins Nissan and Fort Collins Kia) on Redtail Grove Natural Area. The proposed easement area aligns with an existing historic drainage path for stormwater. WWW Properties, LLC will construct underground water quality and detention facilities on their property to capture stormwater, decrease peak flow rates into Fossil Creek, and decrease the amount of water overtopping the Fossil Creek Trail, as well as the time the trail is overtopped, during significant storm events.

Adopted on Second Reading.

3. Second Reading of Ordinance No. 105, 2022, Authorizing the Conditional Conveyance of Certain City-Owned Property Rights to Chris Vandemoer and Geo. A. Henderson Co.

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes the conditional conveyance of certain City-owned real property rights to Chris Vandemoer and Geo. A. Henderson, Co. (collectively "Vandemoer"). The proposed conveyance is part of a proposed settlement agreement between the City, Vandemoer, and The Nature Conservancy ("TNC") to obtain necessary property rights on the primary private access road for all three phases of the City's Halligan Water Supply Project ("Halligan Project"), in which the City intends to replace or modify a dam and enlarge Halligan Reservoir. Vandemoer owns certain real property adjacent to the reservoir that includes a private road that serves as the primary access point to the reservoir and the dam. The property is also encumbered by two conservation easements held by TNC. Since late 2018, City representatives have negotiated with Vandemoer to obtain property rights

necessary for the Halligan Project. The parties are currently in eminent domain litigation for Phase 1 of the Project and have had productive conversations regarding a global settlement for all three phases of the Halligan Project.

The conveyance of the City-owned property would only occur if: (1) the parties enter into a settlement agreement; and (2) the City completes construction of the Halligan Project. This Ordinance does not seek approval of the settlement agreement itself. The decision whether to enter into the settlement agreement would be made by the City Manager following a recommendation by City staff, in consultation with outside legal counsel and the City Attorney's Office. This Ordinance is limited only to authorizing the conditional conveyance of City-owned property. The structure of the settlement agreement is explained more fully below.

Adopted on Second Reading.

- 4. Second Reading of Ordinance No. 106, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Net Metered Renewable Energy Generation System Sizing and Adopting Administrative Rules for Net Metered System Sizing.**

This Ordinance, unanimously adopted on First Reading on October 4, 2022, amends sizing requirements in City Code that limit the generating size (i.e. production capacity) of renewable energy systems, removing reference to 120% of a customer's annual electric consumption and adopts administrative program rules to guide the Utilities' Executive Director to define allowable generation system sizing consistent with the City's 2030 energy and climate goals.

Adopted on Second Reading.

- 5. First Reading of Ordinance No. 107, 2022, Appropriating Philanthropic Revenue Received By City Give for the Bucking Horse Park Trail Spur Project as Designated by the Donor.**

The purpose of this item is to request an appropriation of \$5,000 in philanthropic revenue received by City Give for Park Planning and Development as designated by the donor.

Adopted on First Reading.

- 6. First Reading of Ordinance No. 108, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 By City Give for Various City Programs and Services as Designated by the Donors.**

The purpose of this item is to request appropriation of \$4,070 in philanthropic revenue received by City Give. These miscellaneous gifts to various City service areas support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

Adopted on First Reading.

- 7. First Reading of Ordinance No. 109, 2022, Making a Supplemental Appropriation of HOME Investment Partnership Program - American Rescue Plan Act Funding from the Federal Department of Housing and Urban Development.**

The purpose of this item is to appropriate \$2,628,410 in HOME Investment Partnership Program – American Rescue Plan funds received from the Department of Housing and Urban Development.

Adopted on First Reading.

8. First Reading of Ordinance No. 110, 2022, Amending Article IX of Chapter 23 of the Code of the City of Fort Collins Regarding Natural Areas.

The purpose of this item is to amend various provisions in Article IX of Chapter 23 of the City Code regarding natural areas to close loopholes, add new definitions, and add new regulations that better protect the natural environment and promote visitor safety. Natural Areas Department rangers researched existing Code and worked with Natural Areas Department staff and the City Attorney's Office before the proposed changes were brought to the Land Conservation and Stewardship Board in July 2022.

Adopted on First Reading.

9. First Reading of Ordinance No. 111, 2022, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins Relating to the Imposition, Collection, and Enforcement of the City's Sales and Use Taxes.

The purpose of this item is to amend Chapter 25 of City Code concerning sales and use tax. The updates include revisions to the Grocery Tax Rebate Program to increase the area median income threshold for a rebate as part of ongoing City-wide initiatives to streamline and broaden access to City income-qualified programs. Other updates include but are not limited to: (1) updating the deadlines for refund claims and petitions protesting the denial of tax-exempt organization license applications to align with other deadlines in Chapter 25; (2) amending the appeals process to align with state statute; and (3) adding exemptions from sales and use tax for the state carryout bag fee and retail delivery fee. (The Council approved Ordinance No. 053, 2022, in May 2022, which created an exemption from sales tax for the City's disposable bag fee).

Adopted on First Reading.

10. First Reading of Ordinance No. 112, 2022, Amending Chapter 23, Article III of the Code of the City of Fort Collins Regarding Obstructions and Encroachments to Allow for the Expansion of Outdoor Dining Areas onto City Property and Adopting by Reference the City of Fort Collins Outdoor Dining Design Manual.

The purpose of this item is to amend City code to allow outdoor dining areas on public property. During the COVID pandemic and declared local emergency, Emergency Orders were put in place to support hospitality businesses by allowing extended outdoor patios on public property. The extended patios have been popular and successful both economically and as a vibrant way to activate streets and sidewalks. Staff is proposing changes to the City Code obstruction and encroachment permit provisions and a framework, including the City of Fort Collins Outdoor Design Manual ("Design Manual"), to make these spaces permissible after the expiration of the Emergency Orders.

Adopted on First Reading.

11. First Reading of Ordinance No. 113, 2022, Suspending Certain Provisions of the City's Land Use Code and Building Code to Permit Temporary Use of City Property at 212 West Mountain Avenue as a Homeless Shelter.

This purpose of this item is to suspend certain provisions of the City's Land Use Code to allow the temporary use of 212 West Mountain Avenue as a men's overflow shelter site from November 2022 – April 2023.

Removed from the agenda.

12. Resolution 2022-104 Adopting the City's 2023 Legislative Policy Agenda.

The purpose of this item is to adopt the City's 2023 Legislative Policy Agenda. Each year the Legislative Review Committee develops a legislative agenda to assist in the formation, analysis, and advocacy of pending legislation and regulation. The Legislative Policy Agenda is used as a guide by Council and staff to determine positions on legislation and regulation under consideration at the state and federal levels and as a general reference for state legislators and the City's congressional delegation.

The Legislative Review Committee reviewed and made changes/updates at the August 30, 2022, meeting.

Adopted.

13. Resolution 2022-105 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Larimer County Board of Health for Purchase and Use of an Optical Gas Imaging (OGI) Camera.

The purpose of this item is to authorize the City Manager to sign an Intergovernmental Agreement (IGA) with Larimer County Board of Health, where the City will provide \$100,000 in appropriated funds toward the purchase of an OGI camera that will be owned and operated by the County, for the purpose of detecting hydrocarbon leaks at oil and gas and other sites within the City and County.

Adopted.

14. Resolution 2022-106 Making Appointments to the Youth Advisory Board.

The purpose of this item is to fill vacancies on the Youth Advisory Board.

Adopted.

END OF CONSENT CALENDAR

K) ADOPTION OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, to approve the recommended actions on items 1-14, minus item 11, on the consent calendar.

The motion carried 7-0.

L) CONSENT CALENDAR FOLLOW-UP (This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)

Councilmember Peel recognized the City Give donors.

Mayor Pro Tem Francis concurred with Councilmember Ohlson regarding the concrete barriers. Ginny Sawyer, Project Manager, replied the Design Manual and Code changes are designed to work together to allow different options for site-specific situations to ensure safety and aesthetics.

Councilmember Peel commended Sawyer and her team on the Outdoor Dining Design Manual. Councilmember Gutowsky concurred.

Councilmember Ohlson reiterated there are more aesthetically pleasing barriers than the concrete barriers that have been used. He suggested other options be provided on Second Reading.

M) STAFF REPORTS

A. Bird City Presentation by Environment for the Americas

Zoe Shark, Natural Areas Public Engagement Manager, discussed the Bird City application process and introduced Cat from Environment for the Americas.

Kat McTigue, Environment of the Americas, gave verbal recognition and congratulations to the City and presented the Bird City award to the Mayor.

N) COUNCILMEMBER REPORTS

Julie Pignataro

- Helping bird species recover is a Council priority. Educating the community that outdoor domesticated cats are the number one killer of birds is one of the first steps.

Tricia Canonico

- Attended public health update from the Larimer County Public Health Director – emphasized air quality, infant death, and fentanyl.
- Congratulated four staff members on receiving the Biz West Under 40 award.
- Announced a gun take back event on Saturday from 10-1 at the Police Services building.

Shirley Peel

- Announced a listening session at Front Range Reptiles at 10 AM Saturday.
- Reminder that small business grant applications opened October 3rd and will run through November 2nd.
- Recognized an injured police detective and praying for family.

Susan Gutowsky

- Commented on the active Senior Advisory Board and a visit to the Loveland Senior Advisory Board to share best practices.
- Attended a business appreciation event at Block One on Linden Street that showcased several thriving businesses and celebrated those that survived the pandemic.
- Reported on the DDA Board's efforts to prioritize projects as part of its 5-year plan.
- Encouraged people to visit the asphalt mural paintings in the community. She noted they have been funded by a Bloomberg grant and serve as traffic calming entities.

Jeni Arndt

- Encouraged everyone to vote and look at the City's voter guide.

O) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION

None.

P) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

15. Resolution 2022-107 Adopting Findings of Fact Supporting the Historic Preservation Commission's Decision to Deny Proposed Window Alterations to the Landmarked Property Located at 1306 West Mountain Avenue and Denying the Appeal.

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's decision to deny the proposed window treatment for the northwest bedroom at 1306 West Mountain Avenue. The appeal was heard by Council on October 4, 2022.

Clerk's Note: Mayor Arndt recused herself from this item due to a disclosed conflict of interest and Councilmember Canonico left the Chambers as she was not present at the appeal hearing.

Councilmember Pignataro moved, seconded by Councilmember Gutowsky, to adopt Resolution 2022-107.

The motion carried 5-0.

Recused: Mayor Arndt.

Absent: Councilmember Canonico.

Clerk's Note: Mayor Pro Tem Francis called for a ten-minute break at 7:43 p.m. The meeting resumed at 7:59 p.m.

16. Items Relating to the Adoption of the Land Development Code.

A. First Reading of Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as "Transitional Land Use Regulations".

B. First Reading of Ordinance No. 115, 2022, Amending the Zoning Map of the City of Fort Collins to Rename all Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town Zone District in Conjunction with the Adoption of the Land Development Code.

The purpose of this item is to consider adoption of changes to the City's Land Use Code including renaming to the Land Development Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Changes are intended to address one or more of the following Guiding Principles:

- 1. Increase overall housing capacity and calibrate market-feasible incentives for affordable housing*
- 2. Enable more affordability, especially near high frequency transit and priority growth areas*
- 3. Allow more diverse housing choices that fit in with the existing context and priority place types*
- 4. Make the LUC easier to use and understand*
- 5. Improve predictability of the development review process, especially for housing*

In conjunction with adoption of the Land Development Code, a conforming change to the zoning map to rename the Neighborhood Conservation Low Density, Neighborhood Conservation

Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town zone district is proposed by means of a rezoning.

If adopted by Council, staff recommends that the proposed LUC changes and renaming to the Old Town zone district take effect on January 1, 2023.

Caryn Champine, Director of Planning, Development, and Transportation, introduced Noah Beals, Development Review Manager, and Meaghan Overton, Housing Manager. She thanked members of the community who participated in this effort and briefly discussed the core guiding principles that have been used throughout the process.

Meaghan Overton, Housing Manager, stated the proposed updates to the City's land use regulations are a direct implementation of adopted policies and plans and more than five years of intensive community engagement. She stated the potential changes are seeking to accomplish one or more of the following guiding principles: increasing housing capacity, enabling more housing affordability, allowing for more housing choices, making the Code easier to use, and improving predictability for all users of the Code.

Overton noted the Land Use Code has been renamed the Land Development Code and has been reorganized so the most used sections fall at the beginning of the document. Additionally, more tables and graphics have been added and similar standards have been consolidated. She outlined the proposed changes related to providing more diverse housing choices, including allowing accessory dwelling units in residential and mixed-use zones, creating a new article of the document dedicated to building types and form standards, and updating the levels of review for housing development to allow more housing to be reviewed administratively through basic development review. Regarding housing capacity, proposed changes relate to areas with close proximity to current or future transit and where there is more opportunity for multi-unit development and include an increase in the maximum density of the low-density, mixed-use neighborhood zone up to 12 dwelling units per acre, reductions in parking for certain multi-unit buildings, and additional standards related to building form that regulate size through the maximum floor area of a building rather than the number of units.

In terms of housing affordability, proposed Code changes would create incentives to allow developers of deed-restricted, affordable housing to build more units, encourage private developers to contribute to the city's affordable housing needs, expand incentives to more zones, remove the density limit in the low-density, mixed-use neighborhood zone for affordable projects, include increased height bonuses in certain zones, reduce parking requirements for affordable developments, and increase the amount of time affordable units must remain deed-restricted from 20 to 50 years.

Noah Beals, Development Review Manager, provided additional detail on the public outreach process and discussed the recommendation of the Planning and Zoning Commission.

Public Comment

Rachel Pries commended the new accessory dwelling unit (ADU) proposal; however, she expressed concern that other changes have not been fully thought out and she supported moving the 2,000 square foot cap to 2,400 square feet. She noted the floor area definition for Old Town differs from the state and county definitions. She stated that while preservation is important, functionality is also important.

Ronnie Estelle expressed support for the 'you plus two' ordinance and questioned whether the ten percent affordable housing goal does enough to achieve affordability. She expressed

concern the Code name change emphasizes development rather than multiple land uses and requested Council extend the timeframe for public input.

Joe Rowan spoke on behalf of the Fort Collins Area Chamber of Commerce and expressed gratitude to Meaghan Overton and Noah Beals. He supported the process used to garner public input and stated the Chamber is generally highly supportive of the proposed Code changes, particularly the parking requirement reductions.

Conor Flanagan discussed his experience in attempting to expand his home in Old Town and stated the proposed new Code would only allow him to build less than half of the size of a home as the current Code.

Paul Patterson expressed concern the Land Development Code draft is not yet ready, specifically citing duplexes being listed in in one place and not another and solar system review being listed as two different types. He opposed the proposed use of the basic development review process for residential developments and suggested a direct mailer seeking input be sent to all households.

Chris Holmquist-Johnson opposed the renaming of the NCL zone district to OT-A, specifically because of the changes it would allow in terms of parking and development.

Jacqueline Zipser opposed the flat square footage limitation on Old Town properties. She stated the proposed changes have yet to be understood by the community and additional communication needs to occur. She also has issues with the flat square footage on property in Old Town. Proposed changes have not penetrated the community yet. The community needs more time for input.

Dave Holder opposed the proposed change to square footage in Old Town stating it restricts choice.

Michelle Haefele stated she was one of the two Planning and Zoning Commission members to oppose the proposed changes. She stated proper public engagement has not occurred and input has been primarily from members of the development industry. She suggested the City should pause to allow for additional input and should require a fixed percentage of affordable housing in new developments.

Gina Janett stated this Code is not ready for adoption and needs additional input from residents. She stated the public input process has been dominated by real estate and development industries.

John Sanderson stated the public outreach efforts have not penetrated the community and encouraged Council not to adopt the proposed new Code changes.

Kylie (indecipherable last name), United Way of Larimer County, expressed support for the Land Development Code changes to encourage affordable housing.

Adam Eggleston expressed support for the proposed Code changes and commended staff's outreach efforts and work in developing the document.

Heidi Shuff discussed her experience on Boards and Commissions as well as the Land Use Code working group. She expressed support for adoption of the new Code but expressed concern about the Old Town square footage maximum.

Amy Hahn suggested more responsibility needs to fall on the development community to develop affordable housing.

Amy Adams stated the proposed changes have not had adequate time for review and stated she would like to revisit the new kinds of development being allowed in Old Town. She suggested incentives for landlords to charge lower rent could be beneficial and she opposed the removal of the 'you plus two' ordinance.

Rich Stave stated he turned in a presentation that was supposed to be shown and he stated he does not believe he is being treated fairly.

Council Questions and Discussion

Councilmember Pignataro asked if the page count of the document decreased. Beals replied in the affirmative.

Councilmember Pignataro asked how mixed-use development fits into the discussion. Beals replied mixed-use developments are found mostly in commercial zone districts and the Code is proposing to change the level of review to a basic development review for mixed-use developments in commercial districts. He noted mixed-use and non-residential uses will be more closely examined in the next phase.

Councilmember Pignataro asked if any of the proposed changes will affect either "you plus two" regulations or the RP3 parking program. Overton replied in the negative.

Councilmember Pignataro asked if the City's measurement of floor area differs from the County and State. Beals replied they likely differ as Fort Collins has a unique way of measuring, as do most municipalities.

Councilmember Ohlson questioned when Council last passed a policy change that diminished citizen involvement in the process noting basic development review does not require a neighborhood meeting. Beals noted signs will still be posted and mailings will still go out.

Councilmember Pignataro asked if a basement apartment is considered an accessory dwelling unit (ADU). Beals replied in the affirmative and stated the Code allows the full square footage of a basement to be used as an ADU if the primary entrance is interior to the building.

Councilmember Peel asked if all types of accessory housing will now be considered ADUs. Beals replied in the affirmative and noted garages and shed are classified as detached accessory structures.

Councilmember Gutowsky asked if the existing infrastructure in neighborhoods can support increased density. Overton replied neighborhoods generally change and evolve over time and utilities infrastructure may need to be managed in an ongoing fashion. She also noted adequate public facilities are evaluated for every new development.

Councilmember Gutowsky questioned how decreasing parking requirements for multi-family units will not impact surrounding neighborhoods. Beals replied it has always been recognized that those impacts can occur and the reductions are limited to studio, one-, and two-bedroom units in multi-family buildings only or in affordable housing developments.

Councilmember Gutowsky asked about the concern that there may be a tendency for homeowners to demolish existing single-family homes to build other types of units such as

duplexes. Overton replied that is a possibility; however, changes will not occur immediately and future changes to the Code could be made to address concerns as the built environment changes.

Councilmember Gutowsky asked about the reason for changing the name to Land Development Code. Beals replied the Code contains standards for more things than just use and the Code applies when something is being developed.

Councilmember Canonico commended staff on their work. She asked if HOAs can disallow ADUs. Overton replied there is a provision in article one that states private covenants cannot supersede the City regarding housing-related issues due to the overriding public interest in implementing the City's housing policy.

Councilmember Canonico asked if the single-family housing zoning changes are occurring gradually or more quickly in other communities. Beals replied he would need to do some follow up on that issue.

Mayor Pro Tem Francis asked if affordable housing developments qualify for expedited review. Overton replied any project that meets the City's definition of affordable housing is eligible for certain incentives, including a shorter staff review time.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 114, 2022, on First Reading.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to amend the motion on the floor to change the references in the Ordinance from "Transitional Land Use Regulations" to "2022 Transitional Land Use Regulations."

The motion to amend the main motion carried 7-0.

Councilmember Peel moved, seconded by Councilmember Gutowsky, to further amend the motion on the floor to rename the Land Development Code to the Land Use and Development Code.

Councilmember Pignataro supported leaving the name Land Development Code based on staff's reasoning that the Code is only used when development occurs.

Councilmember Peel noted land use is also part of the Code. Overton noted part of the definition of 'development' involves use.

Councilmember Ohlson expressed support for the motion stating the name change was not necessary and places too much emphasis on development.

Mayor Pro Tem Francis concurred with Councilmember Pignataro.

The motion to further amend the main motion failed 3-4.

Ayes: Councilmembers Gutowsky, Peel and Ohlson.

Nays: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Canonico and Pignataro.

Mayor Pro Tem Francis asked if individuals could apply for variances if they would like to build over the current 2,000 square foot maximum. Beals replied in the affirmative and stated the Land Use Review Commission would review variance requests. To be granted, the Commission must find the variance is not detrimental to the public good and meets one of four other criteria. He noted those decisions are appealable.

Councilmember Peel asked why the square footage is not a percentage of the lot size. Beals replied the focus was on building types and incentivizing more units and housing capacity. He stated the idea was to try to preserve larger lots for more dwelling units.

Councilmember Peel asked if large lots can be subdivided. Beals replied that is possible if each new lot meets the minimum lot size for the zone district.

Councilmember Peel asked if there are landscaping requirements for single-family homes. Beals replied in the negative.

Councilmember Ohlson asked how the original 2,000 square foot recommendation came to be. Overton replied the evaluation of the built environment in Old Town neighborhoods has been a topic of discussion for many years and various pieces of data helped inform that number; however, it has also been described as limiting by many concerned residents of those neighborhoods.

Councilmember Ohlson asked about initial feedback from Old Town residents indicating new homes being built are too large. Overton replied that type of feedback has occurred.

Mayor Arndt moved, seconded by Mayor Pro Tem Francis, to further amend the motion on the floor to change the allowed floor area for the primary building in the Old Town zones OT-A and OT-B to 2,400 square feet.

The motion to further amend the main motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to further amend the motion on the floor to change the allowed floor area for the primary building in Old Town zone OT-C to 2,400 square feet.

Councilmember Peel stated she would prefer to accept the Planning and Zoning recommendation on this item and will not support the motion.

The motion to amend the main motion carried 6-1 with Peel dissenting.

Ayes: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Gutowsky, Pignataro, Canonico and Ohlson.

Nays: Councilmember Peel.

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to further amend the motion on the floor to change the setback in the HMN zone district to 15 feet.

The motion to further amend the main motion carried 7-0.

Beals explained the stepback standard was removed from the HMN in the draft Code to allow for the construction of more units; however, the Planning and Zoning Commission felt the standard should be maintained to reduce the looming impact of larger buildings. He described the stepback standard.

Councilmember Ohlson moved, seconded by Mayor Arndt, to further amend the motion on the floor to retain the existing stepback standard in the HMN zone district.

The motion to further amend the main motion carried 7-0.

Clerk's Note: Mayor Arndt called for a five-minute break at 10:03 p.m. The meeting resumed at 10:12 p.m.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to further amend the motion on the floor to clarify that that color change does not create required façade articulation.

The motion to further amend the main motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro to further amend the motion on the floor to eliminate tuck-under parking visible from the public right-of-way.

The motion to further amend the main motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to further amend the motion on the floor to clarify parking is not allowed in the court.

The motion to further amend the main motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to further amend the motion on the floor to expand the minimum driveway width to accommodate a two-car driveway.

The motion to further amend the main motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to further amend the motion on the floor to clarify ADU building types can be built with a garage.

The motion to further amend the main motion carried 7-0.

Councilmember Peel asked if the Urban Estate zone was considered when staff developed the 45% floor area requirement for an ADU. Beals replied all zone districts allowing ADUs were considered and the goal was to keep the ADU subordinate to the primary structure.

Councilmember Peel asked if the 45% limitation would still apply if a property owner wanted to convert an existing structure to an ADU. Beals replied the current proposed language provides an allowance for up to 800 square feet of an existing accessory building to be used as an ADU. Overton clarified the maximum size of an accessory dwelling unit is 1,000 square feet regardless of the size of the primary residence.

Councilmember Peel expressed concern about the limitations this change would place on properties with already existing larger accessory buildings. She stated different regulations should apply in those situations.

Councilmember Pignataro asked if variance requests could be made in those instances. Beals replied in the affirmative.

Councilmember Ohlson stated ADUs, by definition, are not supposed to be excessively large.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to further amend the motion on the floor to allow a detached ADU of up to 600 square feet for primary houses that have 1,335 square feet of floor area or less, while all others must meet the 45% floor area requirement.

The motion to further amend the main motion carried 6-1.

Ayes: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Gutowsky, Canonico, Pignataro and Ohlson.

Nays: Councilmember Peel

Councilmembers noted item number 12 in the staff report does not constitute an amendment to the Land Development Code as proposed; therefore, no action was taken on this item.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to further amend the motion on the floor to create the same list of uses in the OT-A district and the RL district.

The motion to further amend the main motion carried. 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to further amend the motion on the floor to continue to allow mixed-use dwellings in the OT-C zone district.

The motion to further amend the main motion carried 7-0.

Councilmember Ohlson requested clarification regarding proposed amendment 15. Beals outlined the current basic development review process noting it does not require a conceptual review nor a neighborhood meeting; however, mailings and sign posting do occur as do multiple rounds of review followed by notification of a pending decision. He noted any decision is appealable and staff is available throughout the process to answer questions. He discussed the Planning and Zoning Commission recommendation to allow for additional public comment in the process and outlined the possibility of an enhanced basic development review that would still require a conceptual review and neighborhood meeting for projects greater than ten acres.

Councilmember Ohlson asked for an approximate number of how many projects are larger than ten acres. Overton replied staff looked at a list of recent projects and their sizes and ten acres was just below the average.

Councilmember Ohlson stated he would prefer all projects allow for an opportunity for members of the public to provide input in a face-to-face fashion.

Overton provided additional detail on this proposed amendment and the current basic development review process.

Councilmember Pignataro questioned making the amendment because it continues to place a barrier on the importance of a comment from those that can attend public meetings.

Beals discussed the basic development review process and the included opportunities for public input. He noted there is always the opportunity for developers to voluntarily hold neighborhood meetings.

Councilmember Ohlson opposed eliminating the neighborhood meeting requirement from the basic development review process.

Mayor Pro Tem Francis, Mayor Arndt, and Councilmembers Canonico and Pignataro stated they would not support an amendment to the basic development review process as the changes aim to meet the goals of the Housing Strategic Plan by increasing housing capacity.

Councilmember Ohlson stated no issue, including affordable housing, should trump good public process.

No motions were made to make an amendment regarding item number 15.

Councilmember Canonico supported increasing affordable housing deed restrictions to 99 years but asked if it will cause any issues for affordable housing developers. Overton replied it is possible it would be an unintentional disincentive, particularly for private sector developers; however, she stated other communities are shifting to longer deed restrictions. She stated members of the Planning and Zoning Commission suggested deed restrictions in perpetuity, which legally cannot be required. She noted staff will be monitoring the situation to ensure the change does not provide a disincentive to developers.

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, to further amend the motion on the floor to increase the affordable housing deed restriction to 99 years.

Councilmember Canonico expressed concern this may cause a disincentive for affordable housing developers and stated she would prefer to leave the deed restriction at 50 years with the possibility of including a right of first refusal for the City to purchase properties after 50 years.

The motion to further amend the main motion carried 5-2.

Ayes: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Gutowsky, Pignataro and Ohlson.

Nays: Councilmembers Canonico and Peel.

Beals provided additional details regarding proposed amendment number 17.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to further amend the motion on the floor to adopt the new table discussed by staff (slide 39 in the presentation).

The motion to further amend the main motion carried 7-0.

Councilmember Pignataro supported the staff recommendation to not make an amendment per item number 18. Mayor Arndt and Mayor Pro Tem Francis concurred.

Beals noted the parking changes are geared toward zones that allow for multi-family development, most of which are near transit.

No motions were made to make an amendment regarding item number 18.

Beals discussed the proposed amendment number 19.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to further amend the motion on the floor to adjust the measurement of floor area to improve clarity and consistency with new building types.

The motion to further amend the main motion carried 7-0.

Mayor Pro Tem Francis requested follow-up prior to second reading regarding the stepback amendment to show the visual effect of a change.

Councilmember Ohlson stated he cannot support the overall motion as the changes are too radical. He suggested a better product could have resulted from including people on the technical

advisory group with differing values. He also suggested staff refrain from utilizing the word 'improvements' and instead use 'recommended changes.'

Mayor Pro Tem Francis stated she is happy to support these changes as they aim to provide additional housing options which has been a clear need in the community.

Mayor Arndt supported the changes and staff work on the new Code.

Councilmember Peel commended staff work on the new Code.

The motion as amended to approve Ordinance No. 114, 2022, on First Reading, carried 6-1.

Ayes: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Gutowsky, Pignataro, Canonico and Peel.

Nays: Councilmember Ohlson.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 115, 2022, on First Reading.

The motion carried 6-1.

Ayes: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Gutowsky, Pignataro, Canonico and Peel.

Nays: Councilmember Ohlson.

Q) OTHER BUSINESS

A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

Mayor Pro Tem Francis requested and received Council support to have staff look into Aurora's ordinance to help prevent catalytic converter theft for possible similar implementation in Fort Collins.

R) ADJOURNMENT

Consideration of a motion to adjourn this meeting to 6:00 P.M. on Tuesday, October 25, 2022:

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, that Council adjourn this meeting to 6:00 p.m. on Tuesday, October 25, 2022, to consider a Resolution related to an Interim Greenhouse Gas Reduction Goal and such other business that may come before Council.

The motion carried 6-1 with Pignataro dissenting.

Ayes: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Gutowsky, Canonico, Peel and Ohlson.

Nays: Councilmember Pignataro.

There being no further business before the Council, the meeting was adjourned at 11:20 p.m. to 6:00 p.m. on Tuesday, October 25, 2022, to consider a Resolution related to an Interim Greenhouse Gas Reduction Goal and such other business that may come before Council.

Mayor

ATTEST:

City Clerk

DRAFT