

David Katz, Chair
Julie Stackhouse, Vice Chair
Adam Sass
Ted Shepard
Samantha Stegner
York

Virtual Hearing
City Council Chambers
300 Laporte Avenue
Fort Collins, Colorado

Cablecast on FCTV, Channel 14 on Connexion &
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**Regular Hearing
March 21, 2024**

Chair Katz called the meeting to order at 6:00 p.m.

Roll Call: Katz, Sass, Shepard, Stegner, York

Absent: Stackhouse

Staff Present: Frickey, Sizemore, Claypool, Beals, Mapes, Yatabe, Myler, Houdeshel, Gerwel, Nelson, Meyer, Tatman-Burruss, Gilchrist, Betley, and Manno

Chair Katz provided background on the Commission's role and what the audience could expect as to the order of business. He noted that members are volunteers appointed by the City Council. The Commission members review the analysis by staff, the applicants' presentations, and input from the public and make a determination regarding whether each proposal meets the Land Use Code. He noted that this is a legal hearing and that he will moderate for civility and fairness.

Agenda Review

CDNS Director Sizemore reviewed the items on the Consent and Discussion agendas, stating that all items will be heard as originally advertised.

Public Input on Items Not on the Hearing Agenda:

None noted.

Consent Agenda:

1. Draft Minutes from January 18, 2024, P&Z Hearing

Public Input on Consent Agenda:

None noted.

Chair Katz did a final review of the items that were on consent and reiterated that those items will not have a separate presentation unless pulled from the consent agenda.

Commissioner York made a motion that the Planning and Zoning Commission approve the Consent agenda for the March 21, 2024, Planning and Zoning Commission hearing as originally advertised. Commissioner Sass seconded the motion. Vote: 5:0.

Discussion Agenda:

2. Willox Farm - Continuation

Project Description: This is a Project Development Plan (PDP) for a residential cluster development in the Urban Estate (UE) zone district. The plan is revised for the continued hearing with four lots eliminated abutting the Garden Sweet farm on the west. The revised plan includes one modification request. One other modification that was needed for the original plan is no longer needed.

Commissioner Stegner noted she was able to review the past information on this item.

Commissioner Shepard noted he is familiar with the site and has walked the property.

Recommendation: Approval

Secretary Manno reported a letter was received from Attorney Carolynne White with the applicant's team in response to the letter from the neighbor's attorney.

Staff and Applicant Presentations

Planner Mapes gave a brief overview of this project, noting it was continued from the November 2023 meeting. The project is for a residential cluster development in the Urban Estate (UE) zone with one requested modification of standards. Mapes noted the main concerns and questions from the previous hearing focused on two main topics: the owners of the abutting property to the west, an urban agriculture operation, had some concerns and Commissioners had questions about the atypical clustering approach of the plan. The plan allocates the open space around all four edges rather than having a single and large consolidated block of open space, which is what would more commonly be seen.

Chair Katz requested information as to what was suggested by the Commission at the November hearing. Mapes replied the direction was to continue talking with the neighbor to the west about their concerns and to look at a possible way to get more buffering space along the edge of the west side of the plan abutting that neighbor.

Carolynne White, land use counsel for the applicant, outlined the main issues about which the Commission wanted additional information: how to improve the buffering space between this proposed development and the property immediately adjacent to the west, how to bring the project closer to alignment with some of the Code standards, and how to resolve the concerns expressed by the adjacent neighbor related to a potential sewer easement.

White noted one of the originally requested modifications of standard related to density within a cluster development is no longer part of this application. Four of the lots along the western property line have been removed, thereby reducing density to eliminate the need for the modification as well as creating an opportunity to add additional open space buffering along the property line between this parcel and the adjacent parcel to the west. Additionally, this change moved the project closer to the Code standard for open space, making the dedicated open space 35.5%, an increase of 5.5% from the original plan, plus open space between the lots. White also noted the density of the project has decreased by 14 lots since the original plan and the buffer between this property and the

adjacent property has been enlarged. Additionally, she noted there is no longer a recommendation from City staff for a condition of approval.

In terms of the clustering of the proposed development, White stated the proposal provides a plan that is similar to the cluster development presented in a 2021 preview. Additionally, she stated the project is proposed to be a net zero energy development and will provide the city with significant benefits, particularly by upgrading the infrastructure off site in the adjacent Soft Gold Park and providing the additional trail connections between the parks to the north and the south as well as to Willox Avenue to increase connectivity.

Kristin Turner commented on the removal of the four lots in the northwest corner of the site, which increases the buffer and helps to open up views and create a visual connection to the mountains. Turner further discussed the clustering of the lots in the center of the site, noting it will create buffering along Willox, allow for detention at the south part of the site, and provide for the open space corridor and trail easement located along the eastern side of the property.

Turner noted the site's landscape and open space now accounts for just over 40% of the site and the plant palette will focus on more rural and less formal options. She also further detailed trail and park improvements that are planned as part of the project.

White discussed concerns raised by the Garden Sweet farm owner related to losing some rights related to the Willox Farm property. She stated there are two recorded documents, one being a farm development agreement, not an easement, but a promise to grant an easement in the future for the creation of a sewer connection, and one being an unsigned easement document, making it invalid. She stated the ultimate principal purpose of both documents was to ensure that the Garden Sweet farm parcel had a sewer connection, and the PDP proposal guarantees that connection. She also stated approval of this PDP will have no effect on the easement or any rights the Garden Sweet owner believes she has.

White commented on the Garden Sweet owner's concerns that new residents of the proposed development may have concerns about a farm operation on the adjacent property, thereby making it difficult to continue to operate. She stated a note has been added to the plat that clearly states the right to farm language and provides a notice to future purchasers of the lots that they cannot complain and, therefore, the use does not constitute a nuisance.

Mapes noted the significance of the trail corridor the project will provide and outlined the criteria used to evaluate a residential cluster development plan and requirement for 50% of the site to be open space. He noted staff is recommending approval of the requested modification to the open space standard as well as approval of the PDP.

Commission Questions

Commissioner York asked if the bike trail will connect to Willox or dead end at the sidewalk as shown in the drawings. Steve Gilchrist, Traffic Operations, noted the design is preliminary and the expectation is that the trail will eventually connect into the roadway on Willox in a manner to indicate vehicular traffic is not allowed.

Commissioner Sass asked if accessory dwelling units are allowed in Urban Estate zones. Mapes replied in the negative.

Commissioner Shepard noted some bollards may be necessary to keep vehicular traffic off the trail at its connection with Willox particularly as the trail is concrete and ten feet wide. He asked if the open rail fencing on the rear yard of the easterly lots will be consistent throughout the entire project. Mapes replied in the affirmative.

Commissioner Shepard asked if there will be trail lighting. Mapes replied Parks does not light its trails and this likely would not either.

Assistant City Attorney Yatabe noted the modification request is for 35.5% open space. Commissioner Shepard noted White's presentation stated the open space had increased to 40.4%, though that includes the interior.

Chair Katz asked if that interior space counts as open space per the Code. White stated the 40.4% represents how much space is functionally open space; however, only 35.5% of it would count per the City's calculations.

Public Input (3 minutes per person)

Patrick Pitt, 1522 Wood Lane, expressed concern about the open space modification request and the timing of the traffic counts on Willox. Additionally, Pitt commented on the number of trains crossing Willox increasing substantially over the past years, expressed concern about the trail coming out near the train tracks, and opposed the fact that the buffer between his property and the proposed development is only 20 feet. He asked if the utilities serving the site will be at capacity and depth for future development of adjacent sites.

Amy Kafka, 719 West Willox Lane, co-owner of Garden Sweet farm, stated no agreements have been reached regarding the easements and it is unknown whether the sewer or other utilities provided will be adequate to service a future development at Garden Sweet.

Jeff Johnson, counsel for Garden Sweet and Amy Kafka, 323 South College Avenue, stated there are two fundamental issues, one being the lack of compliance with the Land Use Code. Johnson stated Kafka is concerned about having to defend her operations to neighbors that may not appreciate the pre-existing use and its compatibility. Additionally, Johnson stated the proposal directly conflicts with the easements that are in place and expressed concern about some of the plat notes. He stated there is also a 20-foot drainage easement in addition to the recorded documents mentioned by White and stated the applicant has shown a lack of appreciation of the validity of the easements.

Staff and Applicant Response

Clay Frickey, Planning Manager, noted the utilities sizing will be finalized during the FDP stage and noted any new, future development that would require additional utilities infrastructure and the applicant would be required to fund that upsizing.

Mapes noted the plat shows the drainage easement on the south side of the property is vacated and there is a new irrigation easement dedicated in the same area.

White stated it is believed the utilities will be designed and constructed of adequate size to accommodate development on the adjacent property at a similar density to this project, but that will be verified at the FDP stage. Additionally, she commented on the drainage easement, noting it is also not signed by the grantor, stating the adjacent property will continue to have a right to drain on it through the larger public easement. Regarding traffic, White stated the traffic counts were conducted in 2022, and there is data that counts had returned to pre-COVID levels at that time.

Mapes stated staff will ensure the plat shows a public drainage easement prior to it being signed.

Assistant City Attorney Yatabe stated the City has not taken a position on the easement disagreement at this time and noted that, at the PDP level, there are no vested rights that are recorded, and the plat is not approved until the final plan level. He stated it is acceptable for the Commission to proceed and make a decision on the project development plan.

Commission Questions / Deliberation

Chair Katz suggested beginning the discussion with the requested modification of standard.

Commissioner Shepard acknowledged Mr. Pitt and his concerns and observations.

Chair Katz stated the 35.5% versus 50% open space is a significant difference; however, he expressed support for the modification for two reasons: the project creates a smooth transition from a more dense area to the open space and the public benefits from the connection to Soft Gold Park from Willox.

Commissioner Sass stated he agrees it seems like a good transition; however, he expressed concern because he believes this project is allowing more than five dwelling units per acre. Additionally, he stated there is no buffering

provided on the east or west sides and he stated this does not feel like a cluster development per the Code language.

Chair Katz stated it is worth noting the applicants originally wanted the property to be rezoned to LMN, and staff steered them in this direction since that time. He stated this project is better than LMN from a density perspective, and therefore offers a transitional compromise. He also stated the east side is buffered by the trail, buffer, and easement, and there will be a planted orchard on the west side.

Commissioner Shepard noted this parcel was once joined with the Garden Sweet parcel and they came in together as the Crawford Annexation; therefore, the Urban Estate zoning was assigned to an approximately 30-acre parcel, which is now a 19 acre parcel that may not allow for the ideal cluster plan.

Commissioner York stated that while the project does not exactly meet all of the requirements, there are significant community benefits provided from the Soft Gold Park improvements and the regional trail connection.

Chair Katz concurred the benefits are valuable and stated the buffers on the east and west sides are subjective. Additionally, he calculated the density to be 4.96 dwelling units per acre, which would make it meet Code.

Commissioner Shepard suggested the possibility of adding some landscaping on the west side between the Pitt property and the lots that front on Saint Teresa Street. He asked the Commissioners to provide input as to whether that may rise to the level of a condition of approval or if it should be made a point of emphasis moving forward for the staff. Chair Katz replied it could be a point of emphasis for the applicant and staff to look at providing some enhanced buffering.

White noted there are some significant utilities planned for that area which may limit the amount of landscaping that could be provided; however, the applicant is willing to work with staff to explore what is possible.

Commissioner Sass stated he would support the modification given the benefits provided by the trail connection; however, he is uncertain if this is the only modification needed.

Assistant City Attorney Yatabe encouraged the Commission to add a condition of approval related to additional landscape buffering should any Commissioners feel that is necessary in order to meet the requirements for the modification.

Commissioner Shepard suggested the possibility of utilizing the house yards for some of that landscaping if it is not feasible in the easement. He stated he is in support of the modification subject to a condition that the applicant provides enhanced buffering to the extent reasonably feasible between the subject site and the abutting lots.

Commissioner Shepard made a motion that the Fort Collins Planning and Zoning Commission approve the requested modification of standard to Land Use Code Section 4.2(E)(2)(b) to allow 35.5% open space instead of the required 50% open space, subject to the following condition: the applicant shall provide enhanced landscaping and buffering to the extent reasonably feasible between the subject site and the abutting lots. The Commission find that the modification, with this added condition, would not be detrimental to the public good and the following criterion is met: the plan as submitted will promote the general purpose of Section 4.2(E)(2)(b) equally well or better than would a plan which complies with the standard because the smaller dimensions of the open space areas do not diminish from the usefulness or functions of the open space. The reduced open space, consistent with the purpose of the open space requirement and City Plan place types, will serve as a transition from the mobile home park to the east and the agricultural and open land uses in the properties to the west, and as transition to a semi-rural character along West Willox Lane, and add to the open space that is part of Soft Gold Park to the south. The grouping of the open space into corridors makes the best use of such areas as landscape visual buffer areas, a trail corridor, and necessary stormwater detention. This decision is based upon the agenda materials, the information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts the information, analysis, findings of fact, and conclusions regarding this modification of standard contained in the staff report included in the agenda materials for this hearing. Commissioner York seconded the motion.

Commissioner Shepard noted this is a serious modification request, and the Commission has now seen it twice. He stated the Commission is not making this decision lightly.

Commissioner York noted there are significant public benefits provided that justify the modification.

Chair Katz concurred the connectivity and public benefit were necessary to his support of the modification.

The vote on the motion was as follows: Yeas: Stegner, York, Sass, Shepard and Katz. Nays: none.

THE MOTION CARRIED.

Commissioner Sass outlined math that shows the density is actually 5.2 dwelling units per acre and, therefore, stated he will not support the PDP unless another modification to Section 4.2(E)(2)(c) is put in place to allow that number.

Commissioner Shepard and Chair Katz stated they would support a modification if it is necessary and Chair Katz stated he would support the PDP.

Frickey stated staff approached the dwelling units per acre number by dividing 62 dwelling units by the net acreage shown of 12.38, which equals 5 with some rounding.

Chair Katz requested input from Assistant City Attorney Yatabe regarding how to appropriately procedurally address the issue. Assistant City Attorney Yatabe replied the hearing would need to be continued to allow for a modification of standard to be properly noticed to the public. He stated the Commission could alternatively impose a condition of approval to bring the density down to 5 dwelling units per acre.

Commissioner York noted the Code section states the development cannot exceed 5 dwelling units per acre and does not address whether it can be close, or 5.06 in this case.

Commissioner Shepard noted the net density number would decrease if the open space increases and suggested the design team could contemplate a way to do that.

Jim Righeimer, applicant team, stated this project has been ongoing for five years and stated staff generally has the ability to allow these types of math rounding situations.

White noted the open space is actually 35.57% and the position was taken that that should be rounded down to 35.5%, not up to 36%.

Chair Katz stated it is his view the project complies with the standard given the math and rounding.

Mapes stated staff is unsure why the density limit within the cluster exists as the denser the cluster, the more compact the development would be, thereby corresponding to more open space. He also noted an Urban Estate project could have a cluster development with townhomes in it, which could easily be 7 dwelling units per acre.

Commissioner York noted the current Code must be met; however, with the additional information on the actual sizes, the net density is just under 5.

Assistant City Attorney Yatabe noted the interpretation of the modification would be that the 35.5% open space number would be a minimum. He stated that if the Commission believes the net density is out of compliance with the Code, it should add a condition that the project must meet the net density of 5 dwelling units per acre in the final plan.

Chair Katz stated his interpretation is that the project is in compliance with the net density requirement of the Code. Commissioners Shepard, York, and Sass concurred.

Commissioner York made a motion that the Fort Collins Planning and Zoning Commission approve the Willox Farm Project Development Plan 220008, finding in consideration of the approved modification of

standard that the project development plan complies with all applicable Land Use Code requirements. This decision is based upon the agenda materials, the information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts the information, analysis, findings of fact, and conclusions regarding this project development plan contained in the staff report included in the agenda materials for this hearing. Commissioner Stegner seconded the motion.

Commissioner Shepard noted there have been two public hearings, two work sessions, and two staff reports for this project. He expressed frustration with the process that has resulted in getting to this point, stating it is incumbent upon the applicant to focus and concentrate on communication with abutting property owners. He stated these issues need to be resolved prior to the final plan stage.

The vote on the motion was as follows: Yeas: York, Sass, Shepard, Stegner, and Katz. Nays: none.

THE MOTION CARRIED.

(**Secretary's Note: The Commission took a brief recess at this point in the meeting.)

2. Land Use Code Update

Project Description: The purpose of this item is to consider foundational Improvements to the City's Land Use Code. Since the Land Use Code (LUC) Phase 1 Update was adopted and repealed last year, Council requested a new code be brought forward that both improves function of the code and maintains current density requirements in the RL, UE, NCL, NCM zone districts. Therefore, these Land Use Code Foundation Improvements provide clarity, reorganization and introduce building form standards. It also includes the rezoning, does not change the location, but only renames the NCL, NCM, and NCB zone districts to Old Town (OT) – A, B, and C. Additionally, these changes do not include density increases in specific residential zone districts and do not change the use of private covenants. The Foundational Update does implement policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future plan while laying the framework for the next phase of code update. If adopted by City Council, changes would be in effect two weeks after 2nd reading.

Recommendation: Approval

Staff Presentation

Noah Beals, Development Review Manager, discussed the history of the Land Use Code and its preceding documents in Fort Collins. He stated this update is designed to implement the adopted City Plan, Housing Strategic Plan, Fort Collins Transit Master Plan, and Our Climate Future. He outlined Council's direction to staff following the adoption and subsequent repeal of the phase one updates to the Land Use Code, specifically to remove the controversial items and bring forward the remaining items for consideration by the Planning and Zoning Commission and Council.

Beals detailed the foundational Improvements which include reorganizing content, reformatting the zone districts to include graphics, tables, and illustrations, introducing building types for residential uses, consolidating repetitive language, updating definitions, rules, and measurements for consistency, expanding and recalibrating affordable housing incentives, renaming some of the zone districts in Old Town, and regulating density through building types.

Beals discussed the nine more controversial items that were removed: removing accessory dwelling units from the RL and UE zone districts, removing duplex uses from what is now the NCL zone, maintaining minimum residential lot sizes for the NCL zone, removing additional affordable housing incentives in the NCL zone, maintaining the units per minimum lot size to four in what is now the NCM zone, maintaining the current lot size requirements in the NCM zone, removing additional affordable housing incentives in the NCM zone, and removing further restrictions that might be placed on an HOA regulation. Beals further detailed the ways in which the Foundational Improvements differ from the adopted and repealed Code.

Commissioner York made a motion that the Fort Collins Planning and Zoning Commission recommend that City Council rezone the Neighborhood Conservation Low-Density, Neighborhood Conservation Medium-Density, and Neighborhood Conservation Buffer Zone Districts to rename them as the Old Town Zone District, finding that the proposed rezoning is consistent with the City's Comprehensive Plan, better aligns the purposes of a zone district with its name under the revised Land Use Code, and facilitates public understanding and use of the revised Land Use Code. This recommendation is based on the agenda materials, staff presentation, public testimony, and Commission discussion on this item. Commissioner Sass seconded the motion. Yeas: York, Sass, Shepard, Stegner, and Katz. Nays: none.

THE MOTION CARRIED.

For more complete details on this hearing, please view our video recording located here:
<https://www.fcgov.com/fctv/video-archive.php?search=PLANNING%20ZONING>

Other Business

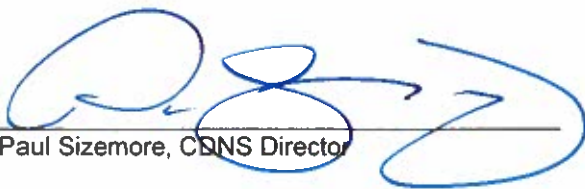
None.

Adjournment

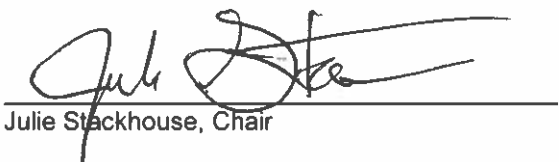
Chair Katz moved to adjourn the P&Z Commission hearing. The meeting was adjourned at 9:40 p.m.

Minutes respectfully submitted by Shar Manno.

Minutes approved by a vote of the Commission on: May 16, 2024.



Paul Sizemore, CDNS Director



Julie Stackhouse, Chair