

**Planning and Zoning
Commission
March 23, 2022
Meeting Minutes**

David Katz, Chair
Ted Shepard, Vice Chair
Michelle Haefele
Per Hogestad
Adam Sass
Jeff Schneider
Julie Stackhouse

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

Cablecast on FCTV, Channel 14 on Connexion &
Channels 14 & 881 on Comcast

The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (TDD 224-6001) for assistance.

**Regular Hearing
March 23, 2022**

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

Roll Call: Haefele, Katz, Sass, Schneider, Shepard, Stackhouse

Absent: Hogestad

Staff Present: Everette, Sizemore, Claypool, Yatabe, Stephens, Axmacher, Kleer, Smith, Buckingham, Glasgow, Betley, Wray, Manno

Chair Katz provided background on the Commission's role and what the audience could expect as to the order of business. He described the role of the Commission, noted that members are volunteers appointed by 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 20, 2022, P&Z Hearing

Public Input on Consent Agenda:

None noted.

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

Member Shepard made a motion that the Planning and Zoning Commission approve the Consent Agenda for the March 23, 2022, Planning and Zoning Commission hearing as originally advertised. Member Stackhouse seconded the motion. Vote: 6:0.

Discussion Agenda:

2. Castle Ridge Group Home

Project Description: This is a request for a Project Development Plan to convert an existing single-family dwelling into a 16-resident group home for memory care residents. The project is located within the Low-Density Residential (RL) zone district and is subject to Planning & Zoning Board (Type 2) Review.

Recommendation: Approval

Disclosures:

Member Shepard serves as the Board of Directors President for a private non-profit foundation that serves all of Larimer County. The foundation owns three (3) host homes that are similar in character to this item. There could be a perception that there is a conflict of interest and that he may not be fair and impartial. Due to this, he recused himself from the item and left the meeting.

Secretary Manno reported that a presentation from concerned neighbors had been received, as well as 15 emails varying in either support of or opposition to the item had been added to the supplemental document packet.

Staff and Applicant Presentations

CDNS Director Sizemore and Planner Kleer gave a brief verbal/visual overview of this project.

Stephanie Hansen, Ripley Design, Inc., Eric Shenk and Xioma Diaz, Owners/developer, provided a brief verbal/visual presentation.

Public Input (3 minutes per person)

Curt Johnson, Tracy Stefanon, Jesus Martin Roman, Harmon Zuckerman (attorney representation), as representatives for larger neighborhood group - They are questioning whether the size of the group home and the location meets the requirements of the Land Use Code and if the impact is consistent with Code. They provided a brief verbal/visual presentation. They feel there are numerous Code issues, such as the size of the lot and number of patients allowed, and the zone district this type of facility is allowed to operate within. Another concern is with parking and the increased amount of traffic generated by this business. The street is narrow, and this could increase the number of emergency calls. There are questions about the number of people will be living in the house and the addition of a minibus. They question the parking solutions posed. Is this a home or just a crowded facility? They noted that an operational plan is lacking and believe many items are underestimated. They are recommending that the Commission deny the application.

Beth Williams, 5301 Highcastle Ct. – Is opposed to this item. She feels that there are two people that want to ruin their peace. Please reconsider.

Jason Green, 5820 Fossil Creek Pkwy - Nothing exists like this for a reason.

Dillion Chambersfaust – 4470 S. Lemay Ave. – Boyfriend works at this facility. Strategies such as carpooling and drop off will be used for staff members. From a personal point of view, he would rather die in a suburb, and it is not fair that we separate these people out into traditional facilities.

Sarah McBride, 721 Yarnell Ct. – She supports the memory care facility. She is a close friend to one of the patients and commented that his quality of life has improved. The neighbors have been negative and confrontational.

Lisa Faust, 7034 Mount Adams St. – This is like a David and Goliath situation. She is in support of the project. Believes the neighbors and applicant should work together and try to make this work a lot better than they are right now and not make it such a fight.

Peggy Barnett – 821 Southridge Greens Blvd. – She is opposed to the project due to parking issues, policy issues, number of staff and homeownership dreams.

Fran Richardson – Owns homes all over that are in residential neighborhoods. She is in support of this project.

Tony Doing – This is a private street in a school zone that is not plowed. This is a difficult setup. He believes there are more investors. This is not a neighborhood that is kicking people out; rather, this is a neighborhood of nice people, but putting in a business is difficult.

Angie Scholterburger, 1571 Redtail Rd. – She is in support of the project as it is much needed.

Mike Pruznick - He is in support of this project. He did submit a 50-pg. written comment for the work session.

Cory Green, 801 Hinsdale Dr. – There is a need for smaller group homes in Fort Collins, but it needs to be located in the right area. She is in opposition to this project.

Carrie Galyardt, 4304 Idledale Dr. – She is opposed to the project. There needs to be more thought put into the logistics.

Katie Teruel – 1619 Redberry Ct. – She does not feel anyone is not being compassionate, but this needs to be thoughtful for both the patients and the kids in the community. This is the wrong location, and she opposes the project.

Jamie, 4143 Knox Ct. – Opposes this project.

Staff Response

Mrs. Hansen responded to public input. She commented that if there were errors or discrepancies in the plans, then she takes full responsibility for it. The City's Final Development Plan process is forthcoming; the plans are not set in stone. The Operational Plan has had changes to get to this point because of feedback received from staff and the community. The number of occupants will remain regardless of the number of patients. There are only three (3) live-in staff; the family currently in the facility will be moving out as the number of patients increases. The applicants have agreed to pay a larger share for street maintenance. This is a long-term residence; they will not be selling anytime soon.

Michelle Pinkowski of Pinkowski Law and Policy Group, spoke to Fort Collins as being on the cutting edge and very familiar with this a project of this request. This type of project is designed to be in the community, completely integrated. As for traffic, this will not be anything near the employee levels as a large institution. This is efficient and a lower traffic impact. Parking impact will be low.

Mr. Sherk thanked the Commission and the neighbors. This project is meant to enhance the neighborhood. They want open lines of communication.

Planner Kleer responded to public input. He noted that Mr. Zuckerman stated that in the staff report, the city failed to properly analyze the use based on the Land Use Code. He noted that under article 4 of the Code, group homes are a permitted use in residential low-density zone areas. This project was analyzed as part of the Article 4 findings

and not under the Article 3 findings. Tony Doing commented about how the private street was not plowed during the winter. This may be an issue with on-street parking in some capacity. Typically, in cities, residential local streets do not get plowed unless they are some sort of priority for the bus systems or provide access to a critical facility. As a point of clarification to Mrs. Pinkowski to the parking generation manual, the 5th addition is based on 10 different facilities that averaged 103 beds per facility. The analysis was broad, and staff feels confident that it depicts accurately the potential minimums and maximums of an assisted living facility.

Traffic Operations Spencer Smith clarified the manuals used.

Commission Questions / Deliberation

Questions

Member Haefele asked what the required ratio of caregivers to patients according to regulations. Mr. Sherk responded that Colorado regulations require a 6:1 ratio.

Member Stackhouse asked if there were currently caregivers in the house, and how many, as there are two patients. Mr. Sherk responded that there are two 8-hour shifts with one caregiver each shift. Member Stackhouse also asked what experience the applicants had with respect to managing parking situations, particularly requiring, and enforcing staff to park off-site and how the applicant envisioned using best efforts to keep parking within the front of the building or in the open parking spaces. Mr. Sherk responded that as far as mitigating staff parking on-site and using off-site parking, they have done some of that already. They have had staff voluntarily do it. There have not been any complaints yet. As far as parking is concerned, he noted that Applewood Homes in Denver runs 4-16 bed, and one 12-bed memory care homes. The experience is that peak parking is about 7 vehicles around noon. In terms of being able to handle the parking load, most of the visits are short term. In terms of family visits, the issue has been raised that individuals will want to come after work. It is known that evening hours are not a good time to visit and that since this is a residential neighborhood, we must treat this differently. They are going to ask people to make an appointment so that staff knows when visitors are coming. There is no personal experience with parking management.

Member Haefele asked if the facility was already licensed given there are two patients there? Mr. Sherk responded 'no' because the State allows for two individuals to be in a residential home without needing a license.

Chair Katz commented that one of the conditions suggested by staff was Condition #3, having a 24-hour designated person. He asked whether this has been considered for context, and who it would that be? Mr. Sherk responded that every home must have an administrator, and that his wife would be the administrator (Mrs. Diaz). Once licensed, they will go to three (3) shifts, so that there will always be someone there. There will also be a house manager. The house manager or the administrator will be the point of contact.

Member Haefele asked if the house manager would be in addition to the three (3) caregivers? Mrs. Hansen responded no; this person would be one (1) of the three (3) caregivers. Member Haefele also asked whether there would be someone there cooking and cleaning? Mr. Sherk responded that the cleaning is part of the caregivers' tasks. They will complete a daily cleaning. The kitchen will be cleaned every meal. The caregivers will also be required to give a light cleaning of the patient's room every day. Member Haefele asked for clarification on the number of total staff at the house. Mr. Sherk responded that there will be three (3) staff at any given shift; three (3) morning, afternoon/evening and two (2) at night. Member Haefele asked if there would be an additional staff person that will cook meals? Mr. Sherk responded that cooking is also the responsibility of the caregivers.

Mr. Sherk commented that he is available to be the point of contact for the community at large.

Chair Katz commented that the Article 5 definition does distinguish between group homes and large group homes. Does Article 4 distinguish as well? Planner Kleer responded 'yes'. The Land Use Code does provide in Article 5 the definition of group home; the distinction between a residential and a large group home is that a residential group home is in a single-family residence, whereas a large group home is defined as a purpose-built structure. Chair Katz asked for clarification that to meet the definition of large group how, it would have to be constructed for that purpose? Planner Kleer responded affirmatively. Chair Katz asked about the approval history of the neighborhood, and whether there a POD overlay with additional standards that are not being considered. He also

asked whether there was an ODP. Planner Kleer responded that there is a PUD and that he would have to double check on the ODP. He suspects that would be a part of the larger Miramont development area. For the PUD, there are standards that are built into the PUD; however, there was a variance at the time of the building construction for the facility now proposed that was granted to provide exemption from the 10' or a varied setback from the typical 10' requirement. Curt Johnson stated this was accurate. Member Katz stated that sometimes PUDs have approved uses written on the PUD recorded documents. What would prevail if it did not have group home written on it, but Code had group home? Planner Kleer responded that the PUD was approved as single-family detached dwellings. You can change the use of an approved PUD or specific lot within an approved PUD through a city process, such as a Type II review. Since a group home is permitted in Article 4 or in this zone district, you can propose it and you can go through the city's procedural requirements to get the use approved. Planning Manager Everette clarified that the section of code that the commentor had referenced is written in relationship to our current PUD overlay, PUD Master Plan Process and Standards in the Code that were adopted in the last few years. It is not in reference to PUDs that were created under the Land Development Guidance System or previous regulatory systems prior to our current Land Use Code. There is question of applicability of that standard that was brought into question to an older PUD. The term is the same, but the code standard is different. Chair Katz commented that the PUD would not need to be amended because it is driven by the current Land Use Code. Planner Kleer responded that this is application is considered planning over an old plan. It is covered under the administrative section of the Land Use Code; this would supersede the PUD in some sense.

Member Haefele asked if the change of use would ordinarily be required with this property. In other words, did this not have to go through a change of use process? Chair Katz feels this is what the Type II hearing is. Planning Manager Everette responded that the purpose of the PDP is to request a change of use for the property.

Member Haefele asked for clarification on the street width. Mrs. Hansen responded that with the Larimer County Urban Area Street Scape Standards, if you take the 28' wide street that is currently there, subtract 7' from each side for parking, that leaves 14' in the middle. This is sufficient. Two (2) cars can get past.

Member Haefele asked if potential hospice care is an additional service that facility will provide or is it expected that it will be necessary as part of a continuum of care. Mr. Sherk responded that hospice care would be provided by a third-party and that they would not take in a hospice care patient that was not already a resident.

Member Haefele asked if they were intending to do any type of proactive enforcement under the proposed operating plan or if compliance with the standards and conditions would be entirely based on complaints. Planner Kleer responded that the City functions on a complaint basis, and that any enforcement of the conditions would have to be on a complaint basis. There would be subsequent investigation of the complaint and confirmation that it is happening and then potentially a violation.

Member Stackhouse asked, if the road becomes encumbered with snow since it is not plowed, will there still be the ability for two-way traffic on the street with parking on both sides? Traffic Engineer Smith responded that it is narrower by 2' over the local residential street section, and for that reason it would be close for two vehicles to pass depending on the vehicle. Potentially you would need one vehicle to move through at a time.

Member Sass asked if it was correct that the city classifies the streets as priority 1-4 on snow removal. Traffic Engineer Smith responded that he was not familiar with streets classification on the snow removal. Planner Kleer responded that High Castle is a public street, and that this street has attached sidewalks so there may be a tendency that cars park further away from the sidewalk. It is likely that this would be a one-way street.

Member Stackhouse noted that the street was privately maintained and asked what this includes. Engineer Betley responded that since it is privately maintained, the city does not perform any public maintenance on the street. Rather, the HOA completes the maintenance. This includes snow removal and surface seal and any other kind of maintenance that would be required for the asphalt surface. High Castle would get city maintenance if it were public.

Member Schneider asked how the applicant could guarantee that only one nurse would come in to take care of all the patients, given different insurance providers and other factors. Mr. Sherk responded that there is a contract with a service that has a nurse practitioner that will come in and see the patients. It is possible for the patient to maintain his/her private physician, but most clients would be serviced by a single nurse practitioner. This person will

come in and do a 15-minute visit once a month. Member Schneider asked if they would require that the clients use the same service? Mr. Shenk responded that the visits fall under Medicare. Member Schneider asked about other services like hairdressers, etc., how this would be enforced or maintained? Mrs. Diaz responded that a service will be hired to come in and take care of residence all at once while they are there. This helps reduce the anxiety and confusion with the residents. She noted that families receive information beforehand and understand how the facility operates; however, a common service provider cannot be guaranteed.

Chair Katz had some concern over characteristic, compliance, compatibility and 3.5.1 (called out the word use not being compatible) and asked for staff's response. Planner Kleer restated that the use, residential group home, is a permitted use within the low-density residential zone district. In some sense, that permissibility provided by Article IV subject to the Planning and Zoning Commission makes the use compatible; however, Article III provides the operational compatibility requirements for the particular uses that are permitted within the Article IV district. Article III is essentially a giant book of mitigating factors for the uses that are listed in Article IV. When evaluating the use, the operation is typically on a site-by-site basis. All the elements are looked at and mitigated through the Article III portion. Chair Katz asked whether staff was confident that these mitigation factors in Article III addressed the context portion of the stated code? Planner Kleer responded that the context is predominately large lot, single-family detached homes. Group homes are defined as single-family detached homes. This definition is in Article V. It is contextually compatible. Member Schneider asked further about the Article V definition of group homes, and what in the definition separates a group home from a large group home? Planner Kleer responded that under Article V, the group home definition does not provide any numerical quantities to what classifies it as residential or large group home facility. The distinction between the two are that a large group home facility is a purpose-built structure for a group home and the residential group home is simply just the integration of a group home into a single-family residence. Member Schneider asked a hypothetical question: If he came to the Commission with a 4-resident group home as the intent, would that be considered a large group care facility? Planner Kleer responded that if you were going to build it for the purpose of 4 residents, under 3.8.6 provides context for large group homes, it does assign a maximum number depending on the zone district. Planning Manager Everette clarified the difference in these two definitions or types of group homes, noting that the purpose-built facility is something that would not be built as single-family residence and would not be built in a way that could be converted back to a single-family residence in the same way. It would likely be designed with individual bathrooms for each unit or each room. It would not be an easy conversion back and forth to a single-family dwelling versus a building that is built as a home. There is not a clear threshold for number of people. Planner Kleer also stated that there is no minimum number of residents for large group home facility.

Deliberation

Member Haefele pointed out that in the justification for the project, pgs. 398 and 399 of the agenda, the number of patients proposed is necessary for both the financial viability of the prospective business and to improve the therapeutic care. She noted that if there were eight (8) residents because you cannot split staff, you would have a patient-to-care-giver ratio of 4:1. With 16 patients and 3 staff, you are going to have 5.3 patients to one care giver. This implies a lower level of therapeutic care. Member Haefele is supportive of this type of arrangement in general; however, she cannot imagine putting her mom in with 16 people. She questioned whether the proposal to try to limit visitation, while noting that it would not be enforceable, could violate State laws that protect patient rights. Everything about the operation plan seems to be based on unrealistic assumptions about the amount of parking and traffic. To suggest that the physical or mental limitations of the patients will result in fewer family visits again implies that the care is going to be subpar because family visits are better than no family visits. She also is not convinced that there are enough hours in the day for 16 patients to be served by one care giver. She also believes that a visiting nurse once a month does not support the therapeutic benefits argued by this proposal. This cannot meet the Land Use Code requirements being operationally and physically compatibility.

Member Stackhouse stated that she believes the applicants are well intended and she is sensitive to the comments toward small facilities and the attractiveness to many. She has a concern, however, with the parking in this situation and what it does to the character of the neighborhood. Staff commented that 9.28 spaces would be appropriate. She is not convinced that that parking can be managed. With snow removal, there could be some dangerous situations. Staff that will be doing the cooking, cleaning, and caring will have very little time to manage parking.

Member Schneider agrees that the staff is not going to want to park far away to go to work. Parking is a concern of his as well. Chair Katz also agreed that if they are carrying supplies, it could be difficult. The question is whether it

complies or not. Member Schneider commented that realistically you could get 5 parking spaces in the driveway. Member Sass asked if this would be defined as a group home, or a large group home. Member Katz responded that the Commission is looking at this as a group home, not a large group home. Member Haeefele responded that per staff analysis, it proposes three (3) employees and group homes require two (2) parking spaces for every three (3) employees. The problem is that there will be three (3) employees that will live there 100% of the time who will require parking plus as parking for those that are asked to come, like hairdressers, physical therapists, etc. While not defined as full-time staff, but they are necessary. There will be more than three (3) staff people at any given time.

Chair Katz feels this is unlikely as they there will be three shifts of 3, 3, and 2. Chair Katz asked for clarification on off-street parking. Planner Kleer responded that the requirement would be for providing off-street parking spaces, typically when parking requirements are listed in 3.2.2, they are always for off-street parking spaces. There is an exception for on-street for multi-family dwellings if the road is specifically built to serve that multi-family development. If that situation, you can count your on-street parking towards that parking minimums. Group homes require two (2) parking spaces for every three (3) employees, long-term care facilities require .33 off-street parking spaces per bed, plus one (1) space for every two (2) employees.

Member Schneider questioned how it could be guaranteed that this could not potentially become a long-term care facility as well? Planner Kleer responded that it can be a combination of different things; senior living, assisted living, and nursing, etc. Chair Katz questioned the number of cars that could fit in the driveway Member Stackhouse noted that 3.5.1(J) might be the relevant provision to discuss. Staff has indicated that conditions be applied, keeping third-party services between 8 am and 6 pm Monday through Saturday to the extent feasible, deliveries and short-term visits limited to available space within the driveway and street frontage to the extent possible, and that the group home staff that cannot be accommodated by designated off-street parking within the driveway shall park off-site at certain designated locations and someone to be designated on-call 24-hours per day. She does not feel these can be reasonably achieved given the location of the facility and the likely level of traffic. Member Sass cannot reasonably say he can't send a therapist to see his mom, etc. not on Sunday. This seems unreasonable. Member Haeefele agrees. Chair Katz has concerns as well. If asked for clarification that if condition 2 was not adopted/considered, we would interpret this provision as being non-compliant. Planner Kleer responded that would be accurate. Chair Katz is comfortable with everything except for this part of the conditions. There is no reasonable way to enforce this. Member Schneider commented that this will also limit visitation hours.

Member Sass referenced 3.8.6(A). the lot area is an additional 1,500 s.f. per resident. What is this lot size? Is there enough lot size to have 16 residents? Planner Kleer responded that it is just shy of the required minimum lot size. This would be trumped by the reasonable accommodations.

Member Stackhouse made a motion that the Fort Collins Planning and Zoning Commission deny the Castle Ridge Group Home Project Plan PDP210012., finding that the proposal does not comply with Section 3.5.1(J) of the Land Use Code and operational elements related to parking cannot be adequality addressed through conditions. The Commission further finds that other than the stated reasons by the project development plan does not comply with the Land Use Code and in consideration of the approve reasonable accommodation, the project development plan complies with all other applicable Land Use Code requirements and the Commission adopts the findings and conclusions in the staff report regarding compliance with these other requirements. This decision is based upon agenda materials, the information and materials presented during the work session and this hearing and the Commission discussion on this item. Member Haeefele seconded. Member Schneider understands the need and desire. However, he unfortunately agrees that 16 is too large of a facility for this location. He does see the need and the demand. Member Sass feels very strongly that the need is there. Member Stackhouse agrees there is a need, but the parking situation needs to be addressed. Member Haeefele also agrees and that asking the neighborhood to enforce conditions or monitor and report on a complaint basis adds to the burden. The number of residents should be less. Chair Katz feels there is a need for this type of setting. **Vote: 5:0.**

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 8:25pm.

Minutes respectfully submitted by Shar Manno.

Minutes approved by a vote of the Commission on: May 19, 2022.



Paul Sizemore, CDNS Director



David Katz, Chair