

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

City Council Chambers  
City Hall West  
300 Laporte Avenue  
Fort Collins, Colorado

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**Regular Hearing  
December 15, 2022**

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

**Roll Call:** Hogestad, Katz, Sass, Schneider, Shepard, Stackhouse

**Absent:** Haefele

**Staff Present:** Everette, Yatabe, Sizemore, Myler, Claypool, Mounce, Kleer, Lindsey, Dinger, Stamey, and 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 following procedures:

- While the City staff provides comprehensive information about each project under consideration, citizen input is valued and appreciated.
- The Commission is here to listen to citizen comments. Each citizen may address the Commission once for each item.
- Decisions on development projects are based on judgment of compliance or non-compliance with city Land Use Code.
- Should a citizen wish to address the Commission on items other than what is on the agenda, time will be allowed for that as well.
- This is a legal hearing, and the Chair will moderate for the usual civility and fairness to ensure that everyone who wishes to speak can be heard.

#### 4. The Landings at Lemay Rezone & Structure Plan Map Amendment

**Project Description:** This is a request to amend the Structure Plan Map and rezone 17.1 acres from the Industrial (I) zone district to the Medium Density Mixed-Use Neighborhood (MMN) zone district. If approved, the rezoning is likely to facilitate a future proposal for a multifamily development project.

**Recommendation:**     **Approval with Conditions**

#### Staff and Applicant Presentations

Ryan Mounce, City Planner, provided a brief overview of the project. He stated it is a proposal to rezone approximately 17 acres east of the intersection of Lemay Avenue and Duff Drive from industrial (I) zoning to medium-density mixed-use neighborhood (MMN) zoning. He noted City Council is the ultimate decision-maker in rezonings; therefore, staff is requesting a recommendation from the Commission.

Mounce discussed the site and surrounding zoning. He noted the site is well defined with the railroad tracks to the north, the new realigned Lemay Avenue and overpass, and the future extension of Cordova Road on the east. He stated the realignment of Lemay has not impacted the floodplain mapping in the area and noted no critical facilities would be allowed on the site given it is within the 500-year floodplain.

Russ Lee, Ripley Design, stated many of the neighborhood meeting attendees were in favor of this rezoning. He outlined the Land Use Code criteria for rezoning, two of which are mandatory and three of which offer additional considerations. He stated the first mandatory criterion is that the proposed zoning is consistent with the City's Comprehensive Plan, or City Plan, and that the proposed rezoning meets several of the City Plan principles and policies, including adequate public facilities, compatibility of adjacent development, and providing a variety of housing types and densities, among others. The second mandatory criterion for rezonings is that the new zoning is warranted by changing conditions within the neighborhood. He commented on the number of changes to the area and its zoning in the past few years and noted there has been a decreased demand for industrial zoning in Fort Collins with an increased demand for housing.

Mr. Lee commented on two additional considerations: that the zoning map be compatible with existing and proposed uses surrounding the subject land and is an appropriate zone for the land, and that the zoning map amendment will result in a logical and orderly development pattern. He noted the subject property is ideally located between single-family to the west and existing industrial to the east. Additionally, it complements the existing multi-family to the south. The site is also located near several desirable amenities.

Mr. Lee stated the applicant is willing and able to accept the three conditions presented by staff. He concluded by stating the proposal meets the two mandatory zoning amendment justifications and the three additional zoning amendment considerations. Additionally, the zoning is consistent with the City's Comprehensive Plan and meets several of its principles and policies. The zoning is warranted by changed conditions within the surrounding neighborhood, including the subject property, and multi-family would be a desirable zoning designation for this property. He stated there will be no adverse impacts to the natural environment and the zoning results in a logical and orderly development pattern.

Mounce provided a detailed analysis of the proposed rezoning. He detailed the criteria for rezoning in the Land Use Code. Regarding compliance with City Plan, Mounce stated staff considered the land use guidance provided in City Plan and the East Mulberry Corridor Plan, both of which necessitate a Structure Plan Map amendment to change the place type from industrial to multi-family housing. Additionally, staff considered policy guidance from both City Plan and the East Mulberry Corridor Plan.

Mounce stated staff is recommending several conditions which are organized around the City's residential metro district policy evaluation system which asks developments to go above and beyond current code standards. He clarified this proposal is not seeking a residential metro district. The first condition being recommended as part of the rezoning is that the future residential development within its boundaries would achieve fifteen points within the energy renewables and water subcategories. The second recommended condition is that the residential development would achieve five combined points from the livability categories of the residential metro district point system. He outlined the different livability categories from which the applicant could choose.

Mounce stated staff found the most support for the rezoning given changing conditions in the area. He stated infrastructure as well as land uses and zoning have changed in the area. He commented on the property's lack of proximity to major highway corridors and stated the location is not the best suitable site for much of what is being seen now in terms of industrial development. Additionally, the site has transitioned from being in the middle of a broader industrial area to more of an edge, making it more appropriate for a broader range of uses.

Mounce discussed staff's analysis of the quality and quantity of industrial and employment land in the city. He stated the existing vacant industrial land is well suited to support the community into the future.

Mounce commented on the trade-offs between industrial and multi-family zoning, including the potential for overall more traffic with multi-family, noisier traffic with industrial, and taller building heights with multi-family. He noted there are no identified sensitive natural habitat features on the site and stated staff's finding is that the rezoning would result in a logical and orderly development pattern.

Mounce stated the Cordova Road extension would help with buffering between industrial and residential zoning; therefore, staff's third recommended condition is that the residential buildings be set back 30 feet from the Cordova right-of-way, which would achieve the full buffering standard from the Code. He stated staff finds the rezoning petition complies with the applicable standards with the three recommended conditions.

### **Commission Questions**

Vice Chair Shepard noted the parcel shape is not a square, but includes a notch that is not owned by this applicant and is not in city limits; however, that is where Cordova Road is slated to run. He questioned whether the subject parcel has the capability of dedicating the right-of-way for Cordova Road. Mounce replied that has come up during staff's review, and the feedback to the applicant team in thinking about a future development project is that the extension of Cordova Road will be necessary to meet certain standards, including emergency access. Mr. Lee replied the applicant does have a letter of intent on the notched out property and is working through the process to purchase it to build Cordova Road.

Vice Chair Shepard questioned why there is not a joint, two-ownership rezoning application. He suggested this rezoning may be premature and questioned whether the project can proceed under this uncertainty. Mr. Lee replied the applicant is confident in their ability to purchase the additional property and they would not be moving forward with this process without that confidence.

Development Review Manager Everette noted the zoning is less pertinent on the other parcel because it is not developable for anything other than a roadway.

Jessica Tuttle from the applicant team stated they were aware the parcel would need to be acquired for Cordova Road to extend and the site plan only shows the roadway on that parcel.

Vice Chair Shepard noted the parcel is 150 feet wide and the roadway will not be that wide; therefore, there will be some outparcel awkwardness that may cause issues for surveyors, appraisers, and lenders. However, he stated he can see the City is comfortable with proceeding.

Chair Katz asked if the City could involuntarily annex the parcel. Development Review Manager Everette replied it is already annexed. Mounce confirmed that information and noted it carries City zoning.

Vice Chair Shepard expressed support for the third condition and asked if it would also apply to the north property line, which also abuts industrial zoning. Mounce replied the condition is currently not set up that way as the burden of the buffering would fall on the industrial land to the north if it is developed.

Chair Katz stated it appears the applicant is willing to comply with the conditions, but questioned if they would be more appropriate at the PDP stage. Mounce replied the conditions would be recorded on the rezoning map to be part of the project development plan, and if they are not met, certificates of occupancy could be delayed.

Member Hogestad asked why the entire parcel that is currently owned by the applicant is not being sought for rezoning. Mr. Lee replied this project was originally brought before staff when the Mulberry Corridor Plan was moving toward being redone, and staff wanted to focus on the 17 acres that Thompson Thrift really needed then wait to see what the Corridor Plan was going to say for the northern parcel. He stated the owners do want to have the entire property ultimately rezoned.

### **Public Input (3 minutes per person)**

Sarah King expressed concern about the amount of traffic and taller buildings that would result from a multi-family development on the site.

### **Staff Response**

Mounce stated a change in the zoning to MMN would increase the likelihood of taller buildings, though both zoning designations have similar height limits. He noted there are buffering and compatibility standards that work to address some of those concerns and issues at the time of a project development plan.

### **Commission Questions / Deliberation**

Member Hogestad stated he is still struggling with the remaining small sliver of industrial zoning.

Member Stackhouse questioned whether it is within the purview of the Commission to have an opinion as to whether the boundaries are too limited for the rezoning request. Mr. Yatabe stated the Commission should focus on the standards for the rezoning and Structure Plan Map amendment.

Member Schneider stated the Commission has changed several properties with split zoning over the years and questioned why it should artificially create that situation which would normally not be desirable. He cited an example of a daycare parcel in Old Town that the Commission decided to change from two zone districts to one.

Mounce stated the East Mulberry Corridor Plan update was just beginning when this rezoning was proposed, and there was a desire to look holistically at the entire corridor for zoning or land use changes rather than having this particular rezoning occur in front of that process. He noted the update has been delayed, which has pushed this issue to the forefront. He noted staff may still want to look at these pieces of this property during the update and there may be some recommended changes to the land use guidance. He stated the boundary of this proposed rezoning lines up with the future extension of Link Lane; therefore, if the rezoning is approved, there is not necessarily going to be a situation wherein industrial zoning would be adjacent to residential.

Member Schneider asked for examples of other properties on which split zoning has been created by a Commission decision. Mounce replied it is not common and he is unsure of the circumstances, though he is aware of some properties with split zoning. Vice Chair Shepard stated the existing Bucking Horse property was annexed with three or four different zone districts and the Bucking Horse development therefore required eight additions of permitted use.

Vice Chair Shepard stated he appreciates staff's attempt to address the industrial sections with the third condition that speaks to how a forthcoming project development plan would have to address that incongruity. He suggested the possibility of expanding on the condition to address these issues in more detail and with Code citations. He noted detention ponds are not considered buffers in the Code. He also stated it is incumbent upon the less intense land use, residential in this case, to provide the buffering between it and the industrial zoning. He stated he has a proposed condition that would expand on staff's third condition.

Member Sass questioned whether such a condition would be burdensome to the property owner. Vice Chair Shepard stated the parcel in question could potentially be placed into MMN zoning with the Mulberry Corridor Plan update. Mounce confirmed that is a possibility and noted the rezone boundaries were already in place when he took over this item as staff.

Vice Chair Shepard expressed concern about the statement from the applicant team that the whole east side of the project could be a detention pond. He proposed to amend condition three as follows: residential buildings shall be set back a minimum of 30 feet from the Cordova Road right-of-way, *as well as along the north property line that abuts industrial zoning and the possible extension of Link Lane. These two buffer yards must exceed buffer yard C as defined in Section 3.8.26, and be enhanced with additional attributes consisting of undulating earth and berms and dense landscaping comprised of an equal mix of evergreen trees and deciduous trees along with multiple shrub beds, to establish an effective and high-performing buffer in relationship to the industrial areas to the east and north. Such buffer yards must extend for the entire length of the project property lines that face the industrial area whether developed or vacant.*

Chair Katz stated he would support that amendment based on the current conversation.

Member Schneider questioned why the development team cannot wait and come back with a proposal to rezone the entire property.

Chair Katz asked the applicant if the intent is to replat and only procure a section of the parcel in question. Ms. Tuttle replied in the affirmative and reiterated staff requested them to only seek rezoning of the parcel they are purchasing and platting, which is the area south of a Link Lane extension. She noted the seller of that outlying parcel would like it to be rezoned.

Vice Chair Shepard stated he is leaning toward approving this item, but only if there is a performance aspect that allows the Commission to be comfortable with MMN zoning on a direct edge with existing and future industrial zoning.

Chair Sass commended the idea of making the condition performance based.

Members discussed the definition of buffer yard and whether the amended condition would meet Land Use Code standards or provide an enhanced buffer situation over and above requirements.

Member Schneider expressed concern it is not yet known where Cordova Road will lie on the 150-foot-wide parcel and it is known there will be some buffer on the east side of Cordova that will not be developed; therefore, he is unsure about the amended condition.

Vice Chair Shepard stated the east side of Cordova will not include further enhancements because it is in the county and is fully developed. He expressed doubt the future sliver of property will ever be enhanced without an applicant doing a PDP with an associated landscape plan.

Member Schneider expressed concern the amended condition adds restrictions to the existing property owner even though a further buffer distance will exist. Vice Chair Shepard agreed with that thinking and suggested the applicant could do both stormwater detention and a buffer yard.

Member Schneider questioned whether this conversation would be better at a PDP level because dimensions and setbacks will be fully available at that time. He expressed concern about putting conditions on a rezone for unknown details.

Vice Chair Shepard expressed concern about creating a parcel that has the potential to be isolated. He stated the MMN parcel must perform as such or it will not work as a rezoned property.

Chair Katz asked Member Schneider if he believes even the staff proposed conditions are too extreme. Member Schneider replied that is his concern and stated the details should be sorted at the PDP level.

Vice Chair Shepard suggested the possibility that rezoning should not occur without a project development plan. Chair Katz stated that does not make sense given the amount of planning that goes into a PDP on the part of an applicant.

Chair Katz stated he is leaning with Member Schneider that the conditions should apply at a PDP level, not for this rezoning.

Member Stackhouse stated there is some appeal to having benefits shown via the metro district criteria in a rezoning. She also stated that what the Cottages project was required to do should be continued either now or later; however, she would not discount the possibility of doing more.

Member Schneider noted the Cottages project did not have to meet the residential metro district criteria. Member Stackhouse acknowledged that was true.

Member Schneider stated this action would be pushing city-wide policies and agendas down onto development projects without even knowing what the project looks like.

Chair Katz noted the metro district requirements add expense to projects which is then passed on to the renters or buyers. He stated he would prefer to see the conditions placed at the PDP level.

Vice Chair Shepard stated that while the exact site plan is unknown, there was testimony that there would be a detention pond along Cordova. He stated he will not support the rezoning to MMN in an existing industrial park that does not have performance standards such as those provided in the conditions with a more detailed third condition.

Member Stackhouse asked if there were any conditions on the Cottages rezoning. Mounce replied he was uncertain if there were any conditions on the rezoning, but noted that project has a slightly different context across Cordova because there are areas of MMN also on the east side of Cordova for part of that project and other areas where the MMN abuts industrial.

Member Sass asked Vice Chair Shepard to be more specific in terms of what he would like to see over and above the Code minimum. Vice Chair Shepard replied the Code minimum would require a 30-foot buffer because the existence of Cordova Road reduces the buffer from 80 to 30 feet; however, the definitions of buffer yard and landscaping in the Code require a separation and buffer between incompatible uses.

Chair Katz noted that would also be true at the PDP stage. Vice Chair Shepard argued that would not be so based on the testimony provided this evening.

Member Sass noted the applicants have heard the Commission, and until they have hired an engineer to develop the rezoned lot, they do not know how large the detention pond needs to be.

Vice Chair Shepard stated he would be uncomfortable allowing the rezoning to go through without the knowledge that there will be some performance aspect to the proposed land use, otherwise, this is not a good place for multi-family housing.

Chair Katz argued it is a good place for multi-family housing based on the context. Vice Chair Shepard stated only the three conditions make that so. Chair Katz again stated those would have the same effect at the PDP level.

Members Sass and Stackhouse agreed with the first two conditions and having those apply at this time.

Vice Chair Shepard stated this project cannot just meet bare minimum requirements because of its placement in the industrial zone. He stated the buffer cannot just be a detention pond and a setback but needs to be designed to a high level so it is effective and high-performing, otherwise the incompatible relationship between multi-family and industrial is not being addressed.

Chair Katz stated he believes other members agree with that sentiment; however, he is having a hard time over-restricting the project at this high level. Member Schneider concurred and noted the applicant team has stated the conditions are acceptable. He also stated he would be willing to apply the first two conditions, but stated the third pushes too far at this level of the process.

Vice Chair Shepard argued the first two conditions are philosophically similar to the third: energy conservation, water conservation, and buffering, which are all performance oriented. Member Schneider respectfully disagreed.

Chair Katz stated there are too many unknowns at this point to include the third condition.

Vice Chair Shepard stated he would like the applicant to make a statement at the podium that they will create a more enhanced, effective, and high-performing buffer than the 30 feet between Capstone Cottages and Cordova Road, which he stated was an unacceptable design.

Mr. Lee stated the purpose of Land Use Code Section 3.8.26 is to provide standards to separate residential land uses and high-occupancy building units from existing industrial uses in order to eliminate or minimize potential nuisances; therefore, the Code already requires a buffer yard at the PDP level.

Member Stackhouse suggested proceeding with motions.

Vice Chair Shepard asked the applicant to address whether it has an equal condition along Cordova and the north property line. Mr. Lee replied the project would absolutely have to apply with the applicable buffer yard section of the Land Use Code in both cases.

Member Hogestad expressed disappointment the third condition could not have gone a bit farther, as suggested by Vice Chair Shepard. Chair Katz stated that can be done at the PDP level.

**Member Stackhouse made a motion, seconded by Member Sass, that the Fort Collins Planning and Zoning Commission recommend that the City Council approve the proposed amendment to the Structure Plan Map to change the place type designation for the property to the mixed neighborhood place type, finding that the change to the Structure Plan Map is needed for the property to rezone to the medium-density mixed-use neighborhood zone district. The proposed amendment will promote the public welfare and will be consistent with the vision, goals, principles, and policies of City Plan and the elements thereof. This decision is based upon the agenda materials, information and materials presented during the work session and this hearing, and the commission discussion on this item. The Commission hereby adopts the information and analysis, findings of fact, and conclusions regarding this item contained in the staff report included in the agenda materials for this hearing.**

The vote on the motion was as follows: Yeas: Stackhouse, Hogestad, Schneider, Sass, and Katz. Nays: Shepard.

**THE MOTION CARRIED.**

**Member Stackhouse made a motion, seconded by Member Schneider, that the Fort Collins Planning and Zoning Commission recommend City Council approve the rezoning of the property to the medium-density mixed-use neighborhood zone district with two staff recommended conditions: one, residential development within the boundaries of the Landing at Lemay rezoning shall achieve fifteen combined points from the energy renewables and water subcategories of the 2021 residential metro district point system, and two, residential development within the boundaries of the Landing at Lemay rezoning shall achieve five combined points from the neighborhood livability category of the 2021 residential metro district point system. In consideration of the conditions, the rezoning is consistent with the City's Comprehensive Plan, is warranted by changed conditions within the neighborhood surrounding and including the property, the rezoning would be compatible with existing and proposed uses surrounding the property and is the appropriate zone district for the property, the rezoning would not result in significant adverse impacts on the natural environment, and the rezoning would result in a logical and orderly development pattern. This decision is based upon the agenda materials, information and materials presented during the work session and this hearing, and the commission discussion on this item. The Commission hereby adopts the information and analysis, findings of fact, and conclusions regarding this item contained in the staff report included in the agenda materials for this hearing.**

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**THE MOTION CARRIED.**