



AGENDA ITEM SUMMARY

City Council

STAFF

Clay Frickey, Planning Manager
Ryan Mounce, City Planner

SUBJECT

Appeal of Planning and Zoning Commission Approval of the Union Park Project Development Plan.

EXECUTIVE SUMMARY

The purpose of this quasi-judicial item is to consider an appeal of the Planning and Zoning Commission's decision on February 15, 2024, approving the Union Park Project Development Plan (#PDP230005) located on the west side of Ziegler Road between Front Range Village and The English Ranch neighborhood.

A Notice of Appeal was filed on February 29, 2024, alleging the Planning and Zoning Commission failed to conduct a fair hearing when it considered evidence relevant to its findings which was substantially false or grossly misleading and failed to properly interpret and apply relevant provisions of the Land Use Code, City Code, and/or Charter.

Participation in an appeal hearing is limited to persons who qualify as parties-in-interest as defined in the City Code. Time for presentation of argument for and against the appeal is limited and the appellant will determine who may speak during the time allocated for support of the appeal. Those parties-in-interest opposing the appeal must coordinate and share the time allocated for opposing the appeal.

STAFF RECOMMENDATION

None.

BACKGROUND / DISCUSSION

Union Park Project Development Plan (PDP230005) Project Overview:

The Union Park Project Development Plan (PDP) proposes a mixed-use development on approximately 32 acres in the Harmony Corridor (HC) Zone District, based on the following characteristics:

- 603 dwelling units, in a mix of mixed-use, single-family attached, live/work, and multifamily dwellings.
- A 10,000 square foot childcare center and 34,000 square feet of office and retail space.
- Primary access to the site occurs along Ziegler Road aligned to the Hidden Pond intersection; additional access occurs from Corbett Drive to the west. The project also proposes stubbing a local street connection to its northern boundary that would be capable of connecting to Paddington Road in the English Ranch neighborhood in the future if/when an adjacent parcel is developed.

- The Project Development Plan proposes two modification of standards to Land Use Code Sections 3.2.2(K) and 3.5.2(D) related to parking and orientation to a connecting walkway, respectively.
- The PDP is a follow-up application to the Ziegler-Corbett Overall Development Plan (ODP) Major Amendment, approved in September 2023 at a remanded Planning & Zoning Commission hearing following a Council appeal heard in August 2023.

Policy & Project Timeline Related to the Union Park PDP and Ziegler-Corbett ODP:

- (1990s - 2011) – Prior versions of the Master Street Plan indicated Corbett Drive, a collector street, should connect from Harmony Road northward to Paddington Road in The English Ranch Neighborhood. Part of this collector street alignment traverses the Ziegler-Corbett ODP/Union Park PDP site.
- (Mid-2000s) – The Harmony Corridor Plan is updated to change land use designations near Harmony and Ziegler Roads to permit the construction of Front Range Village, a lifestyle/regional shopping center. During construction, Front Range Village extends Corbett Drive northward from Harmony Road to its current terminus along the western edge of the Union Park site.
- (2010-2011) – During updates to City Plan and the Master Street Plan, English Ranch neighbors request removal of the Corbett Drive connection on the Master Street Plan to Paddington Road in The English Ranch neighborhood. The request relates to concerns about cut-through traffic through the neighborhood destined for Front Range Village.

Staff conducted neighborhood meetings, surveys, and a work session with Council to evaluate the request. In 2011, the Master Street Plan is amended to remove a collector street connection to Paddington Road. Work session materials indicate a local street connection may still be required and/or changes to the location of traffic signals along Ziegler Road may be impacted as a result of the change.

- (2022) The first Ziegler-Corbett Overall Development Plan is approved outlining the mixed-use proposal described above. The original ODP excludes the ‘Young Property’ which limits the location where the project may take access from Ziegler Road. The project is also approved with alternative compliance to Land Use Code Section 3.6.3(E) & (F) to provide a bicycle/pedestrian connection to the north of the ODP instead of the local street connection this Section would otherwise require. The Planning and Zoning Commission approves the original ODP on February 17, 2022.
- (2023) The Applicant applies for a Major Amendment to the original ODP proposing to incorporate the Young Property into the ODP and shifting the project’s Ziegler Road access to align with Hidden Pond Drive and the construction of a privately funded traffic signal at the Ziegler/Hidden Pond intersection. The Major Amendment continues to rely on alternative compliance to Land Use Code Section 3.6.3(E) and (F). This section would otherwise require a local street connection from the ODP site north to the English Ranch neighborhood.

The ODP Major Amendment is appealed to Council following two Notices of Appeal. At the appeal hearing, the ODP Major Amendment is remanded back to the Planning and Zoning Commission for rehearing without deference to the previously approved alternative compliance request.

The applicant revised the Major Amendment ODP to remove alternative compliance to meet Land Use Code Section 3.6.3(E) and (F) standards by stubbing a local street connection to the site’s northern property boundary that can be continued to Paddington Road in the future when an adjacent vacant property is developed. The ODP also indicates the preferred location for a traffic signal along this stretch of Ziegler Road at the Ziegler/Paddington intersection rather than the Ziegler/Hidden Pond intersection. The Major Amendment ODP is approved by the Planning and Zoning Commission at the rehearing in September 2023.

- (2024) Following approval of the Major Amendment ODP, the applicants move forward with their Project Development Plan submittal. The PDP matches the parameters set by the ODP and provides for the

design and construction of a local street stub to the site's northern boundary. The PDP is approved by the Planning and Zoning Commission on February 15, 2024.

Notice of Appeal

On February 29, 2024, the City Clerk's Office received a Notice of Appeal filed by the appellant, Jeff Janelle. The appeal is attached.

The Notice of Appeal requests that City Council eliminate the local stub street to the site's northern boundary that would connect in the future with Paddington Road and instead reinstate the alternative compliance for the bike and pedestrian connection. The Notice of Appeal alleges the Planning and Zoning Commission failed to conduct a fair hearing because it considered evidence relevant to its findings which was substantially false or grossly misleading. The appeal also alleges a failure to properly interpret and apply the following Land Use Code, City Code or Charter provisions:

- Land Use Code Section 3.6.4(A)
- Land Use Code Division 1.2.2 (M)
- Larimer County Urban Area Street Standards Table 7-1
- Larimer County Urban Area Street Standards 4.4.2*

*Note: The Grounds for Appeal section references Larimer County Urban Area Street Standards 4.2.2 while the accompanying narrative instead refers to 4.4.2.

Relevant materials and files on record for the appeal of the February 15, 2024, Planning and Zoning Commission decision are attached and highlighted below:

February 15, 2024, Planning and Zoning Commission Hearing

- Video of hearing and verbatim transcript
- Project Development Plan Staff report and various attachments including traffic studies, site plans, utility plans, etc.
- Staff presentation
- Applicant presentation
- Supplemental documents and other items presented at the hearing

April 16, 2024, City Council Appeal Hearing

- Notices of Appeal
- Public Hearing Notice
- Agenda Item Summary
- Staff presentation

The issues for Council to consider in the appeal are:

- 1) Did the Planning and Zoning Commission consider evidence relevant to its findings which was substantially false or grossly misleading?
- 2) Did the Planning and Zoning Commission fail to properly interpret and apply Land Use Code Section 3.6.4(A) – Transportation Level of Service Requirements?

- 3) Did the Planning and Zoning Commission fail to properly interpret and apply Land Use Code Section 1.2.2(M) – Purpose?
- 4) Did the Planning and Zoning Commission fail to properly interpret and apply Larimer County Urban Area Street Standards Table 7-1 – Fort Collins (GMA & City Limits) Street Standards – General Parameters?
- 5) Did the Planning and Zoning Commission fail to properly interpret and apply Larimer County Urban Area Street Standards Section 4.4.2 – Traffic Studies Background Traffic?

First Issue on Appeal: Fair Hearing – Substantially False/Grossly Misleading Evidence

Did the Planning and Zoning Commission consider evidence relevant to its findings which was substantially false or grossly misleading?

The Notice of Appeal alleges the Commission relied on misleading staff statements regarding both the current and projected traffic levels and appropriate warrants for the signalization of the Ziegler/Paddington intersection, with and without a connection between the Union Park development site and Paddington Road. In addition, the Notice of Appeal alleges these misleading statements were made in order to redistribute traffic to north-south streets in The English Ranch neighborhood rather than to create traffic warrants for a signal at the Ziegler/Paddington intersection. The Notice of Appeal refers to comments from both the Union Park PDP hearing and prior Ziegler-Corbett ODP hearing as well as current and projected traffic counts in the Union Park PDP Traffic Impact Study.

Document	Document Page Number	Notes
Traffic Study (Staff Report Attachment)	All 34-42 43-55 56 101	The full report contains data and information relevant to the discussed allegation. Specific highlights include: Discussion and traffic counts for current operations at intersections near the site. Discussion and projected traffic counts and operation at intersections near the site following development. Discussion of projected long range traffic warrants being met for the Ziegler/Hidden Pond and Ziegler/Paddington intersections. Projected long range Peak Hour Warrant Chart for Ziegler/Paddington intersection.
Verbatim Transcript	25	Staff overview of the history of potential connection to The English Ranch neighborhood and traffic signal warrants at the Ziegler/Paddington intersection.

Second Issue on Appeal: Interpretation and Application of LUC Section 3.6.4(A)

Did the Planning and Zoning Commission fail to properly interpret and apply Land Use Code Section 3.6.4(A) Transportation Level of Service Requirements?

This Land Use Code Standard reads:

3.6.4(A) Purpose. In order to ensure that the transportation needs of a proposed development can be safely accommodated by the existing transportation system, or that appropriate mitigation of impacts will be provided by the development, the project shall demonstrate that all adopted level of service (LOS) standards will be achieved for all modes of transportation as set forth in this Section 3.6.4.

The Notice of Appeal does not address specific Level of Service (LOS) levels but addresses components of Level of Service related to the project’s increased traffic generation and trip distribution through The English Ranch neighborhood. This increased traffic generation and trip distribution would result in unsafe conditions given the narrow design and construction of the neighborhood’s streets.

Pertinent evidence in the record addressing the Appellant’s allegations include the following:

Document	Document Page Number	Notes
Traffic Study (Staff Report Attachment)	37-41 59-66	The Traffic Impact Study includes data and statements throughout regarding existing traffic conditions and projected conditions that relate to statements in the Notice of the Appeal. Pertinent information specifically related to Level of Service include: Discussion of Level of Service for existing conditions at the project site and The English Ranch neighborhood. Projected Level of Service with the proposed development for vehicles, pedestrians, bicycles, and transit.
Staff Report	25	Statements regarding Level of Service compliance to Section 3.6.4 and information on requirements for cost-sharing for a future traffic signal at the Ziegler/Paddington intersection.
Verbatim Transcript	10-11 20-24 33-34	Overview of the preceding ODP and current PDP approach to traffic access and potential signal locations. Public comments addressing connectivity and project traffic generation, parking, safety, Traffic Studies, and traffic signal locations along Ziegler Road. Commission discussion regarding the history of potential/planned connector street connectivity to the site.

Third Issue on Appeal: Interpretation and Application of LUC Section 1.2.2(M)

Did the Planning and Zoning Commission fail to properly interpret and apply Land Use Code Division 1.2.2(M) – Purpose?

The Notice of Appeal alleges that the Commission failed to properly interpret and apply Land Use Code Division 1.2.2(M). Division 1.2.2 reads:

1.2.2 - Purpose

The purpose of this Code is to improve and protect the public health, safety and welfare by:

- (A) ensuring that all growth and development which occurs is consistent with this Code, City Plan and its adopted components, including, but not limited to, the Structure Plan, Principles and Policies and associated sub-area plans.
- (B) encouraging innovations in land development and renewal.

- (C) fostering the safe, efficient and economic use of the land, the city's transportation infrastructure, and other public facilities and services.
- (D) facilitating and ensuring the provision of adequate public facilities and services such as transportation (streets, bicycle routes, sidewalks and mass transit), water, wastewater, storm drainage, fire and emergency services, police, electricity, open space, recreation, and public parks.
- (E) avoiding the inappropriate development of lands and providing for adequate drainage and reduction of flood damage.
- (F) encouraging patterns of land use which decrease trip length of automobile travel and encourage trip consolidation.
- (G) increasing public access to mass transit, sidewalks, trails, bicycle routes and other alternative modes of transportation.
- (H) reducing energy consumption and demand.
- (I) minimizing the adverse environmental impacts of development.
- (J) improving the design, quality and character of new development.
- (K) fostering a more rational pattern of relationship among residential, business and industrial uses for the mutual benefit of all.
- (L) encouraging the development of vacant properties within established areas.
- (M) ensuring that development proposals are sensitive to the character of existing neighborhoods.**
- (N) ensuring that development proposals are sensitive to natural areas and features.
- (O) encouraging a wide variety of housing opportunities at various densities that are well-served by public transportation for people of all ages and abilities.

The Notice of Appeal alleges the Commission did not properly interpret and apply subsection (M) (emphasized above) on the basis that an influx of cut-through vehicle traffic through The English Ranch neighborhood as a result of the project and a future street connection would impair the character of a neighborhood well suited towards active modes transportation such as walking and bicycling.

Pertinent evidence in the record addressing the Appellant's argument includes the following:

Document	Page Number	Notes
Staff Report	14	Staff discussion on compliance with standards related to on/off-site bicycle and pedestrian destinations.
	31-33	Staff discussion and findings related to compliance with Division 1.2.2.
Traffic Study (Staff Report Attachment)	37-41	Discussion of Level of Service for existing conditions at the project site and The English Ranch neighborhood.
	59-66	Projected Level of Service with the proposed development for vehicles, pedestrians, bicycles, and transit.
Verbatim Transcript	20-24	Public comments addressing the impact of the proposed project's traffic and vehicular connection and impacts to the character of The English Ranch neighborhood. Discussion of the varying impacts which differ between a full street connection versus a bike/ped-only connection.

Fourth Issue on Appeal: Interpretation and Application of Larimer County Urban Area Street Standards Table 7-1

Did the Planning and Zoning Commission fail to properly interpret and apply Larimer County Urban Area Street Standards Table 7-1?

The Larimer County Urban Area Street Standards (LCUASS) is referenced by both the Land Use Code and City Code and contains standards for the design and reconstruction of public streets. These standards were jointly adopted by Larimer County and the Cities of Fort Collins and Loveland in 2001 and have been updated and amended multiple times.

Table 7-1 contains the general parameters for the design of public streets in Fort Collins Street for different roadway classifications (e.g., local street, collector street, arterial street). The characteristics include required right-of-way width, street width, parking lanes, sidewalk widths, tree lawns/medians, etc.

The Notice of Appeal alleges the Planning and Zoning Commission failed to properly interpret and apply LCUASS Table 7-1 on the basis that streets within The English Ranch neighborhood do not meet the design criteria of Table 7-1, including widths for collector streets, numerous driveways intersecting the street, and the lack of parkways.

Document	Page Number	Notes
Traffic Study (Staff Report Attachment)	2	Information that streets in The English Ranch neighborhood were constructed prior to adoption of the Larimer County Urban Area Street Standards.
Verbatim Transcript	20-24	Public comments addressing safety concerns regarding increased traffic on streets in The English Ranch neighborhood, which do not meet current street standards, such as width.

Fifth Issue on Appeal: Interpretation and Application of Larimer County Urban Area Street Standards Section 4.4.2

Did the Planning and Zoning Commission fail to properly interpret and apply Larimer County Urban Area Street Standards Section 4.4.2?

The Larimer County Urban Area Street Standards (LCUASS) is referenced by both the Land Use Code and City Code and contains standards for the design and reconstruction of public streets. These standards were jointly adopted by Larimer County and the Cities of Fort Collins and Loveland in 2001 and have been updated and amended multiple times.

Section 4.4.2 relates to the collection of existing traffic and bike/pedestrian counts for a traffic study as well as calculation factors for level of service at intersections in the current and long range horizon.

The Notice of Appeal alleges the Planning and Zoning Commission failed to properly interpret and apply LCUASS Section 4.4.2 on the basis that the Traffic Impact Study ignored the collection of bicycle and pedestrian counts.

Document	Page Number	Notes
Traffic Study (Staff Report Attachment)	All	Various information and data collection on existing counts and ped/bike movements at nearby intersections and discussion of existing facilities and intersection level of service ratings.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

Two neighborhood meetings were held during the Project Development Plan review, the first on January 5, 2023, and the second on November 9, 2023. Two additional neighborhood meetings were held during the preceding Overall Development Plan review process.

ATTACHMENTS

1. Clerk Public Hearing Notices and Mailing List
2. Notice of Appeal
3. Staff Report to Planning and Zoning Commission, February 15, 2024 (with attachments)
4. Staff Presentation to Planning and Zoning Commission
5. Applicant Presentation to Planning and Zoning Commission
6. Roll Call, Attendance, Public Comment
7. Verbatim Transcript Planning and Zoning Commission
8. Link to Hearing Video
9. Staff Presentation to Council