

New Evidence
Submitted by Appellants On
December 8, 2023
Regarding the
Fair Hearing Allegations
Subject to City Council's
Determination of
Admissibility

Evidence is sourced from Zoom Recording of P & Z Hearing on 11/16/2023

Below is evidence for box: (C) The Board, Commission, or other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading.

Main Argument:

- Polestar used persuasive language during the hearing and presented misleading information as well as non-confirmable statements.
- Hearing attendees and council members also did not get to hear all the details of the proposal.

Supporting Evidence to Argument:

1. *Polestar leaned on traffic data that was collected to argue that the traffic increase would be lower than the threshold set by the city.*

What was not shared was that the research they conducted via a traffic meter was only collected for 24 hours for most tests and did not include all impacted streets but rather streets they had selected.

Steve (05:52:06): “So within the land use code, there are definitions of all the street types it's in, I believe it's Article five, local streets, connector streets, collector streets. It outlines what those kind of anticipated volumes are. Those aren't hard and fast thresholds. I mean there's nothing that says this specific volume's going to change the classification of a street.”

- During the hearing it was stated that our residential streets can handle up to 2,500 cars as a result the traffic concerns from residents is not a valid issue. However, since these are not "hard and fast thresholds," as stated above, there's nothing that says this increase in volume will *not* change the classification of the affected streets either.

Ted (05:54:11): “If I was driving there, I wouldn't want to go, let's say from the east side, I wouldn't want to go down by campus because it's congested. So I'd probably take Mulberry down and then turn down Louise. So I think Louise is going to take the brunt of that.”

- The traffic report does not take into account actual traffic patterns which will likely lead to a larger increase of traffic on these affected streets than estimated which misled council to believe the increase in traffic wouldn't be as severe as it potentially will be considering there is no direct access to their community via an arterial roadway, ie Elizabeth.

Ted (06:01:25): “Could I ask Steve on the ADTs, did you have any data for Orchard and Plum?”

Steve(06:01:40): “No, we didn't require that.” ... “We just didn't collect data on Orchard and Plum.”

- Data was not gathered on all impacted streets in the Rogers Park neighborhood. This would be valuable evidence as Orchard and Plum are going to be main feeder streets to the development. Additionally, Orchard is a higher-traffic street in the neighborhood and

there is no information on if the increased traffic would be deemed safe or not. This is misleading because they chose the streets they would monitor to support the development vs understanding the full safety impacts to the neighborhood.

- Orchard is mentioned ~45 times throughout the hearing and Plum, mentioned 12 times. Both are direct entryways to their development.

Ted (06:06:23): “But I'm also persuaded by our traffic engineer, Mr. Gilcrest, where we have data points. We have average daily trip counts that we have to rely on, and I know there's going to be a big change”

- The traffic study misled council members when, in fact, it was not conducted in a thorough manner.
2. *Polestar claimed throughout their presentation that they have been working closely with the Rogers Park community in planning their development.*

Ken (04:16:43): “We obviously had our neighborhood meeting. We also had a separate meeting with some of the affected property owners as it relates to transportation and added traffic volume generated by this development.”

- This is a misleading statement to the council that Polestar did community outreach, however, not all residents were made aware of or invited to this meeting
 - After spending 6 hours canvassing the neighborhood inquiring if residents were aware of Polestar, an alarming number of Rogers Park neighbors were unaware of the development and/or had been provided misinformation of what the development entails.
 - Most neighbors were not made aware of the information session held last year by Polestar
3. *Polestar presented itself to the board as a warm, welcoming “intentional community” that aims to seamlessly integrate with the existing Rogers Park community.*

This is misleading as on their website they also position themselves as an investment opportunity which was not mentioned once during their pitch at the hearing. (see attached)

Ken: “we created this sort of semi-public walkway that sort of circumnavigates the perimeter of the project” and “semi-private that connect all the various clusters of housing and allow residents to move through their housing cluster to the neighborhood activity center.” ... “And they too, have two car garages that access off of the private drives.” and other phrases that include “private.”

- The above statements indicate that their community will not be accessible to the existing Rogers Park community but in fact will have off-limit areas.
- When neighbors have asked Polestar if their park space would be part of the Rogers Park community, they have made it clear it will be for Polestar residence only given they are an HOA community
- In many of the conversations Polestar had with Rogers Park residents, they shared that there would be direct access to Elizabeth & Overland which is not accurate

Ken (05:40:09): “so many of these neighborhood activity center facilities are really geared towards the residents of the community”

- Here they are using "community" in an ambiguous way that creates a misleading perception on who Polestar considers “community” to be.
- Polestar has shared that Rogers Park does not have the same access to their facilities as the Polestar residents, besides their retail spaces & farmers market.

4. *Key details around the development were missed or quickly passed over which resulted in grossly misleading the council and attendees on what the development will entail.*

Ken: “And then I'll just click through the architecture, which I think has been well designed to fit into the vernacular of the existing residential neighborhood.”

- Details on the height and esthetics of the buildings were not disclosed during the hearing. Polestar repeatedly claims that the building will match the aesthetic of Rogers Park, however, the details of the buildings were not provided.
 - This is crucial evidence to confirm and ensure that Polestar is in fact keeping to land codes on buildings’ height and their claim around likeness to the existing neighborhood.

Ken (04:29:09): “That community building will have six b and B bed and breakfast units on the second floor.” Then at (04:39:20): “On the second floor of the community building are eight B and B units”

- Detailed confirmation on the number of bed and breakfast units has remained unclear which misleads whether or not they will meet zoning permissions.

The developer was given 30 minutes to share his proposal, which started at 10:20pm. As a result, he was not able to complete the presentation:

Katz (04:37:59): “Hang on, Ken, we're, I'll let you get through that. We're probably 38 minutes into it now.”

Ken (04:38:07): “Okay. Give me just two minutes to wrap up. Okay.”

Katz (04:38:11): “Is this your last slide?”

Ken (04:38:12): “No, it's not. But we'll make it our last slide.”

Katz (04:38:15): “Let's make it our last slide. I'm seeing the whole room kind of swamped down and you're kind of droning me to sleep.”

- He started late due to experiencing technical issues.
- Though he did run over the allotted 30 minutes, he still did not finish the presentation and skipped slides *he* deemed unnecessary.
 - Those slides contained pertinent information for Rogers Park and the Council to consider.

Details on additional amenities and their level of accessibility to Rogers Park were not fully disclosed. While details of a pickleball court, community garden, small commercial space, and a park with a lake for water runoff were shared during the presentation to the council, details were not disclosed around the following amenities that are listed within the Polestar website: Volleyball courts, multi-generational playgrounds, and hiking and biking trails.

- Example from Polestarvillage.com FAQ page: “Our play areas include a multi-generational playground, volleyball and pickleball courts, hiking and biking trails, open space, and more.”

5. During the hearing a big sticking point for the council and residents was extending Orchard Place to Overland Trail

Ken (04:01:37): “We are going to extend, we have access from Orchard Road, which ends at approximately our eastern boundary line. We’re going to extend it to our Western boundary line. There is right of way that already exists partially, eventually it’ll go all the way to Overland Trail.”

However, when a council member followed up about the extension of Orchard Place:

Clark (04:47:13): “No. No. Yeah, I think you heard the applicant say that someday that’ll extend to Overland Trail. Well maybe so. Maybe it will, maybe it won’t. It depends on development of those properties but certainly if those develop it would be included. Yeah.”

The convolutedness of this comment is misleading the council to believe they will extend to Overland via Orchard when in fact they’re not sure. Clark is saying both, yes and no, but the fact is that extension is not guaranteed in the existing plans. This is important because Polestar is claiming extending Orchard to Overland will help in lessening the impact of traffic Rogers Park will experience.

- Through conversations between the Clerk and Rogers Park Residents, concern has been continuously expressed for the construction traffic that will occur on Louis Lane to a point where an easement is being sought out to temporarily connect Overland to the construction site.
 - Which is strong evidence that a connection to a major street is needed.

6. Fatigue due to the timing of the hearing

Fatigue contributes to impaired attention spans, memory impairment, reduced cognitive flexibility, impaired decision-making, increased susceptibility to cognitive biases, communication breakdowns, and more.

- The Council Members expressed feeling fatigue several times and therefore did not thoroughly request additional details that could be pertinent to the proposal

- Katz (04:38:15): “Let's make it our last slide...you're kind of droning me to sleep.”
- Various Council Members (05:56:46): “Wait a second. Sorry, Emma. Nope. We need to take a roll call even slow. I am. I need more candy. Way Past bedtime.”
- Katz (06:18:02): “Alright, anybody else? Okay with that at 1248, the November 16th, now 17th 2023 Fort Collins Planning and Zoning Commission hearing is adjourned. Goodnight. Good morning. Thank you”
 - The hearing leaked into the following morning it was so late
- Other indicators of fatigue by council (and attendees for that matter) were expressed visibly throughout the proposal and were not captured in dialogue.

7. It was misleading to create the illusion of support for this development in the Rogers Park neighborhood when those expressing support do not reside in said neighborhood

The Polestar development will impact a neighborhood that consists of working families. Not all residents were able to attend given the Polestar discussion did not begin until 10:20 pm and did not conclude until 12:48 am.

Ted (05:41:38): “what did surprise me is the overwhelming support of this project”

Actual Source of Support

	Rogers Park Residents	Non-Residents of Rogers Park
Supporters	4 (including Founder & Developer ; another who is not impacted by the residential traffic concerns, Rogers Park’s primary concern)	15
Appellants	7	0

The truth is, the support is not coming from Rogers Park but instead is coming from Polestar and other non-residents of Rogers Park. There would have been more support against it if Rogers Park was *properly notified in a timely manner* and *if the hearing was held at a reasonable hour* for a working class, family-oriented neighborhood to attend. (see attached)

(E). The Board, Commission, or other Decision Maker was biased against the appellant by reason of conflict of interest or other close business, personal or social relationship that interfered with the Decision Maker's independence of judgment.

Two board members shared they had conflict of interest.

- One member (Ted Shepard) remained seemingly unbiased and considered the concerns of the Rogers Park residents.
- One member (York) remained openly biased to the Polestar development. They did not show empathy to the concerns Rogers Park's residents were sharing and his comments likely had some influence on the other board members.

Examples

York (03:51:26): "I'd like to disclose that I know the previous owners and I know several of the neighbors around this proposal. I have not discussed this proposal with any of them and it will not impact my decision."

Council Member: "Thank you, York. Ted?"

Ted (03:51:26): "Also, I'm in the same position as you York. I'm acquainted with the former owners having worked on a project on the south side of Elizabeth Street and they were actively involved in that project, but I have not discussed this with them and I don't think it'll impact my impartiality in this matter."

The underlined part of the comment gives us pause as there is some doubt in this statement that he will not let his bias influence his decision on the matter especially while feeling fatigued.

York (05:47:33): "I understand everybody's concerns about it and like you said, we hear about safety concerns on traffic all the time, but I haven't heard anybody say that they're willing to give up driving themselves if they can have a street with no traffic on it."

Above was in response to concerns from the local community around the doubling and tripling of traffic on Roger Park's residential streets. It was rude and definitely a biased comment made by a non-neutral board member.

York(05:54:31): "It's a straighter shot to actually take Ponderosa and then take Orchard."

- This disregards the fact that Ponderosa has stop signs and speed bumps making it a more resistant path than Louise Lane and further proves that we should have traffic studies done on Orchard.

Another example of the same biased board member mitigating Rogers Park traffic concerns for Louise Lane

Polestar Village Appeal – Unfair Hearing Statements

Re: Polestar Village development » Inbox x

Katharyn Benessa [REDACTED]

Dec 7, 2023, 6:42 PM (21 hours ago)

to me ▾

To Whom it May Concern,

I did not know about the Polestar Village development hearing. I am concerned about several issues that I believe would adversely affect my neighborhood.

Sincerely,

-Kate Benessa

[REDACTED] Rocky Road

Statement » Inbox x

Melissa Markarian [REDACTED]

Dec 7, 2023, 5:54 PM (21 hours ago)

to me ▾

Due to the hour in which the Polestar hearing was held, I had to leave given I had work in the morning and could not be out until 12:30am. Had this been held at a reasonable hour, I would have voiced my concern with this development alongside my neighbors.

Melissa Markarian
[REDACTED] Louise Lane
Sent from my iPhone

Polestar village development » Inbox x

Kristina Simon [REDACTED]

Dec 7, 2023, 7:29 PM (19 hours ago)

to me ▾

We were unaware of any hearing regarding the approval of the polestar village development.

Polestar Village-Unfair Hearing » Inbox x



Andrea Coy

12:07 PM (3 hours ago)

to me ▾

Dear Council:

I am a homeowner and resident of Rogers Park Neighborhood. I have been monitoring the progress of the Polestar Village development from the outset and have been actively following the City's (and Polestar's) website for information and updates throughout this process. I have also had several conversations about the development with the city planner and the developers themselves.

Despite my active engagement throughout this process, I feel absolutely blindsided by the Planning and Zoning Commission's approval of this development. The meeting time and, specifically, the timing of the discussion pertaining to Polestar was unreasonable and resulted in a lack of representation and active participation from Rogers Park residents.

We have more than 60 appellants—yet only a handful of individuals were able to attend the meeting. That alone speaks to how much of a barrier the timing caused. Had the meeting and discussion took place at a reasonable hour, I would have attended to express my concerns. Now, in addition to the concerns I had already regarding the development itself, I have concerns regarding the commissioners' biases and their lack of consideration of all the evidence, calling into question the integrity of the commission and the validity of this decision. I hope you will consider this in regards to the appeal.

Sincerely,
Andrea Coy
[REDACTED] Louise Ln,
Fort Collins, CO 80521
[REDACTED]

Polestar Village Appeal – Unfair Hearing Statements

Polestar 



 Carolyn Gillis 

12:06 PM (3 hours ago)



To Whom It May Concern,

I am writing in connection to my concerns about the lack of transparency regarding the Polestar development. I am a resident of 601 Louise Lane and while I saw the day of the meeting, I work as a teacher full time and was unable to make the meeting due to the late hour that our concerns were scheduled. I trusted that the city would not make such an important final decision so late in the night. That was my mistake in trusting. Because of the late notice of the meeting, my husband was unable to attend as he was on a trip he had already planned.

Thank you for your consideration regarding this matter.

Carolyn C Gillis

Pertaining to the Polestar Hearing on November 16, 2023 



Charles Thompson

1:19 PM (2 hours ago)



to me

To whom it may concern,

I am a resident of Louise Lane and our household did not receive contact from Polestar or notice of any kind for this matter until 5 days before the hearing.

This is not my idea of properly notifying neighbors of a hearing that greatly impacts their/our neighborhood.

In the future, I would like to see all my neighbors in Rogers Park be made aware of any hearing that entails a development in our neighborhood.

It was alarming to me when speaking with neighbors about it after the fact, that they didn't know the hearing transpired, or had no idea about the development in the first place.

Thank you for reading this.

Best regards,
Charles Thompson II

From Sharon Buchanan 

Date: Fri, Dec 8, 2023 at 10:56 AM

Subject: November 17, 2023 P&Z Hearing for Polestar


I attended the Planning & Zoning meeting of November 17, 2023 with the intention of being there for the Polestar Development proposal. However after finding out that the Polestar proposal was last on the agenda and it was already getting late, I had to leave before it was presented.

Today (December 10, 2023) I received a phone call from Rick Rizzotto. He and his wife, Lynn, are currently back in Massachusetts for a family funeral, but he iterated that they did not receive a notice of the P&Z hearing concerning Polestar. The Rizzotto's live on Kimball directly east of the proposed development.

with [Proton Mail](#) secure email.

Polestar Village Appeal – Unfair Hearing Statements

To Whom It May Concern,

My name is Matt Benson and I am writing as a concerned resident of the Rogers Park neighborhood regarding the City of Fort Collins' recent planning and zoning approval meeting for the Polestar Development that took place on Thursday, November 16, 2023.

I understand the importance of public participation in decisions that impact our community, and I would like to express my concern about the inconvenience of the timing of this meeting. Holding this event on a weeknight at an incredibly late hour made it very challenging for many residents, especially those with young children, to participate and voice their opinions on matters that directly impact our neighborhood.

Furthermore, I am particularly concerned about the approval of the development project Polestar development. It has significant implications for myself and our community, and I believe it is crucial for all residents to have the opportunity to provide additional feedback and community comments.

Given the negative impact this decision will have on our neighborhood, I kindly request that the local government consider organizing a follow-up meeting during a more accessible time. This will allow residents who were unable to attend the previous meeting to voice their concerns.

I believe that facilitating a more inclusive and accessible platform for community input will result in a more comprehensive understanding of the diverse perspectives within our neighborhood. This, in turn, will contribute to better-informed decision-making and help ensure that the concerns of all residents are taken into account.

Sincerely,

Matt Benson
[REDACTED] Locust Grove Dr.
[REDACTED]

Polestar Council Meeting Inbox X



Christopher Blaney [REDACTED]
[REDACTED]

Dec 7, 2023, 4:36 PM (22 hours ago) ☆ ↩ ⋮

To Whom It May Concern:

I live in Rogers Park and was unable to make the Polestar council meeting on Thursday November 16 because I had not heard about it until after the meeting took place. Also based on when it occurred (10pm) there is no way I would have been able to make it anyway.

-Chris Blaney

Polestar Village Appeal – Unfair Hearing Statements

Polestar Village Appeal > Inbox x



Leal Klengenmith [REDACTED]

Dec 7, 2023, 4:51 PM (22 hours ago)



Hello and thank you for bringing this to my attention!

I was not aware of the development hearing regarding Polestar Village on November 16th, and having learned of the time of the hearing after the fact, I would not have been able to attend anyway due to the lateness of the hour.

I have a lot to say on the topic but will try to keep my thoughts brief. As a member of the Rogers Park neighborhood and community I have strong apprehensions about the addition of Polestar Village to our community.

If the land involved is ever to be developed, it should absolutely have direct access to Elizabeth Street or Overland Trail. I understand the need for new housing and increased density within Fort Collins, but it should not be done at the expense of existing neighborhoods and to the detriment of our existing quality of life. Our neighborhood is a safe place for children to play and for families to go outside and use the streets. A dramatic increase in traffic would be devastating to the feel, function, and safety of our neighborhood. Direct access to Elizabeth or Overland is a simple way to solve this issue and it should be a non-negotiable condition of developing this space.

If the land in question is going to be developed, it should be done so for the benefit of Fort Collins and those who already live here. Fort Collins needs more affordable housing options for its own citizens. By "affordable housing" I don't mean low income housing that the city organizes. I simply mean reasonable homes for less than half a million dollars that normal families can actually afford. And while I have no ideological opposition to Polestar Village or its members, they are not an existing part of the community and using this land for their exclusive commune is not the best use of this space. Development opportunities in Fort Collins are limited and need to be used wisely and to the benefit of the tax paying citizens of the city. This is not the way.

Thank you for your time.

-Leal Klengenmith

Polestar Council Meeting > Inbox x



Caroline Marshall [REDACTED]

Dec 7, 2023, 3:21 PM (23 hours ago)



To Whom It May Concern:

I live in Rogers Park and was unable to make the Polestar council meeting on Thursday November 16 because I had not heard about it until after the meeting took place.

Caroline Marshall
[REDACTED]

From: Mary Davidson Isaac <[REDACTED]>
Date: Fri, Dec 8, 2023 at 10:59 AM
Subject: Planning and Zoning Comm Mtg on Nov. 16, 2023
[REDACTED]

I went with my neighbor to hear about the Polestar proposal for our neighborhood, but other proposals went on so long that we were unable to stay for the presentation we had come to hear. It was very frustrating!

Mary Davidson Isaac
[REDACTED] Louise Lane
Fort Collins
80521

Polestar Village Appeal – Unfair Hearing Statements

Additional Rogers Park residents who indicated they could not attend.

Dan Bennett

Kimball Rd.

Wanted to attend but works Thursday evenings.

Susi Bennett

Kimball Rd.

Wanted to attend but since her husband works Thursday evenings she had to stay home with the kids.



Development Review Center
281 North College Avenue
PO Box 580
Fort Collins, CO 80522-0580
970-221-6689
fcgov.com/DevelopmentReview

BUCHANAN SHARON A
CARNEGIE W SCOTT
504 LOUISE LN
FORT COLLINS, CO 80521
100.803100.549110

NOTICE OF HYBRID PUBLIC HEARING

November 1, 2023

Dear Property Owner or Resident:

This letter is to inform you the Planning and Zoning Commission will conduct a public hearing on **Thursday, November 16th** to consider a development proposal near your property. **The hearing will be held on-site in Council Chambers, City Hall as well as virtually through Zoom.** Basic information about this development proposal is to the right and on the back of this letter. A decision regarding the approval or denial of the proposal will be made at the hearing.

For remote participation, a Zoom link is provided. You can participate over the phone, on the internet, or through the Zoom app on a smartphone, tablet, or computer. At least 48 hours before the meeting **virtual participation information will be available at fcgov.com/developmentreview/proposals**. If you do not have access to the internet or need help accessing documents, call our Development Review Neighborhood Services Liaison, Em Myler, at 970-224-6076.

You received this notice because records from the Larimer County Assessor's Office indicate you own property near the proposed development site. Because of the lag time in recordkeeping, or because of rental situations, **some neighbors may be missed**. Please feel free to notify your neighbors of the public hearing so they can attend. If you own or manage an apartment building, please post this notice in a common area so your residents can participate.

We welcome your participation in the development review process. More information can be found by visiting fcgov.com/ResidentReview. If you have any questions, please contact me, or Em Myler, at 970-224-6076 or devreviewcomments@fcgov.com. Em is available to assist residents who have questions about the review process and how to participate.

Sincerely,

Clark Mapes City Planner
970.221-6225 cmapes@fcgov.com

HEARING TIME AND LOCATION

Thursday, November 16, 2023, 6:00 P.M.

Virtual & In-Person Meeting Options

Council Chambers, City Hall,
300 Laporte Avenue

Virtual meeting information will be posted 48 hours prior to the meeting at fcgov.com/developmentreview/proposals.

PROPOSAL NAME AND LOCATION

Polestar Village, #PDP220010, located approximately .25 miles east of S Overland Trail, and located in between W Elizabeth St and Orchard Pl. (Location map on the back of this letter). Sign #701, Parcel #s 9716200037; 9716200023; 9716200031.

PROPOSAL INFORMATION

- Mixed neighborhood with 144 dwelling units of different types, a community center and place of assembly, a group home for elder care, community gardens, and a campus-like walkway system.
- Access is via Plum St. and extension of Orchard Place. A related letter of intent is included for a potential future walkway easement to West Elizabeth Street on the south, across an intervening property.
- The site is in the Low Density Residential (RL) and Low Density Mixed-Use Neighborhood (LMN) zone districts and requires review and a public hearing by the Planning & Zoning Commission (P&Z).

HELPFUL RESOURCES

- Plans and Staff Report: fcgov.com/cityclerk/planning-zoning
- This letter is also available at: fcgov.com/developmentreview/proposals
- Information about the review process: fcgov.com/ResidentReview

Investment Opportunity

▶ How much money are you trying to raise?

▲ How can I invest in Polestar and what is the minimum investment?

You can invest in Polestar initially, by making a loan to the non-profit. Once we have completed the city approval process, this loan can be converted to an ownership investment in a lot or building product. To hold a space in the queue for choosing a lot or building product, \$20,000 is the minimum investment. (Contact us for more specific information.)

▲ What type of return can I expect?

Initial loans to Polestar are a 4 year loan at 4% interest. If you decide to 'convert' your loan to a lot or building product when they become available, your investment will be computed at 6% (retroactively) against the cost of your purchase.

▶ Do I need a lawyer for the contract?

▲ Do I have to live in the community if I invest?

We have many members and supporters who have invested without plans to live at Polestar Village. Investing in Polestar provides the opportunity to support our shared values and participate in community-building even if your circumstances limit your personal involvement.