

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  
November 17, 2022**

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

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

**Absent:** None

**Staff Present:** Everette, Yatabe, Sizemore, Myler, Schumann, Mapes, Geary, Dinger, Axmacher, Claypool, Vonkoepfing, Hahn, Mounce, Lorson, Lindsey, Kleer, Longstein, and Manno

Chair Katz provided background on the Planning and Zoning Commission's (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 (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.

**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 September 15, 2022, P&Z Hearing
2. Draft Minutes from September 28, 2022, P&Z Extra Hearing
3. 3-Mile Plan Update
4. North College MAX Plan
5. Wireless Land Development Code
6. 2023 Commission Work Plan
7. Recommendation for Proposed Remote Meeting Code Changes

**Public Input on Consent Agenda:**

None noted.

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

**Member Stackhouse made a motion that the Planning and Zoning Commission approve the Consent agenda for the November 17<sup>th</sup>, 2022, Planning and Zoning Commission hearing as originally advertised. Member Haeefele seconded the motion.**

**Vote: 7:0.**

Vice Chair Shepard noted there is a great deal of information in the Commission's packet online about the policy changes adopted in the Consent Agenda, particularly the North College MAX Plan and Wireless Telecommunication Policy.

**Discussion Agenda:**

**8. Powerhouse 2**

**Project Description:** This Project Development Plan (PDP) proposes to develop a research and office building to promote climate and energy sustainability related to the existing Powerhouse development in the historic power plant building on North College Avenue.

**Recommendation:     Approval**

**Staff and Applicant Presentations**

Clark Mapes, City Planner, addressed some issues that were discussed at the Commission's work session.

Regarding how street trees along Vine can best provide scale for such a large building, Mapes noted tree species will be selected at the time of final plan and attention will be given to the scale during that process. He stated the applicants will address the question as to whether office use parking requirements are sufficient. Regarding the proposed gated emergency-only access entry on College Avenue, Mapes noted it is set well back from the street and the access connection to the street and across the sidewalk is interlocking pavers. Additionally, he noted the gate is a simple design that should blend with the landscaping. He stated this option was proposed as opposed to right-in, right-out only access because the latter would require an access permit from CDOT which may not match standard spacing requirements.

Bryan Willson, Powerhouse 2 Innovation Leader, discussed the linkage between this project and Colorado State University and outlined the history of the existing powerhouse building. He discussed the focus of the use of the building being on energy, noting energy studies have impacts on global carbon emissions which need to be

addressed in an urgent fashion. He discussed the goals of Powerhouse to address the five areas that are forcing climate issues: electric power production, transportation, industry, agriculture, and buildings.

Mr. Willson outlined the plans for Powerhouse 2, which he referred to as the decarbonization campus, and detailed various projects that will be undertaken.

Roger Sherman, BHA Design, outlined the City plans that apply to the development area and discussed the ways in which the project meets those plans and goals. He discussed the extra bicycle parking being provided, detailed the design of the solar array which will cover 101 parking spaces, and provided information on the natural habitat buffer zones.

Bob Hosanna, Neenan Company, stated 40% of the carbon emissions in the world are from buildings and he detailed the ways in which this project will address those concerns, including the use of mass timber rather than steel. He discussed the proposed materials, which are similar to Powerhouse 1, and the massing of the building. He noted the modification request for height is being presented due to the need for bus service in the building. He noted there are no classrooms in this facility.

Mapes commented on the intent for the green edge street frontages being completely met by the plan and building placement. He noted much of the building is lab space, which does not have a designated parking requirement in the Code; therefore, the general office parking requirements were used, and a modification has been requested.

Vice Chair Shepard asked if the natural habit buffer zone on the north side will be irrigated to establish plantings. Mapes replied in the affirmative and stated that it has become standard practice.

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

Jennifer Spencer expressed support for the project and its design. She stated all of her concerns have been addressed.

Mike Freeman, Innosphere Ventures CEO, discussed Innosphere's role in this innovation district and expressed support for the project.

### **Commission Questions / Deliberation**

Vice Chair Shepard thanked staff and the applicant for looking into making the emergency access a right-in, right-out and stated he understands why CDOT may be reluctant to grant that access.

Chair Katz asked about the required 50-foot buffer which seems to be 35.5 feet. Mapes replied the buffer varies from approximately 24 to 57 feet, and the standard allows for a non-contiguous buffer zone to compensate for development near a natural feature. He stated the total of the natural habitat buffer zone along the canal plus the detention area in the southeast corner, which is also being landscaped as a buffer zone, total well over the square footage of solely a 50-foot buffer. Rebecca Everette, Planning Manager, noted the Code outlines nine performance standards for a buffer that must be met for the Commission to find Code Section 3.4.1 is met. She stated the performance standards relate to recognizing the habitat value that exists on site and adequately protecting that or replacing any habitat that is lost, and in this case, no habitat is being lost. Rather habitat is being expanded. Therefore, staff felt the standard was met with the meandering buffer.

Mapes commented on the environmental impact study which recognized the habitat improvement that is going to occur with the development.

Vice Chair Shepard stated the project meets the Downtown Plan and the spirit of the innovation district, and he commended the applicant team. He commented on the first modification related to parking lot interior landscaping which is using solar canopies instead of trees, which is equal to or better than a complying plan.

**Vice Chair Shepard made a motion that the Fort Collins Planning and Zoning Commission approve the requested modification of standard to the Land Use Code, Section 3.2.1(E)(5) regarding parking lot interior landscaping to not require canopy shade trees in the landscaped islands. The Commission finds that this modification would not be detrimental to the public good and that the plan as submitted will promote the**

general purpose of the Section 3.2.1(E)(5) for which the modification is requested equally well or better than a plan with trees because the shade structures provide more shade, add visual interest, and meet the spirit of the innovation campus. Additionally, this is done without impairing the intent and purpose of the Land Use Code, the granting of the modification would substantially address an important community need by demonstrating innovation in energy and sustainability which are prominent themes in City Plan and the Downtown Plan, and the strict application of the standard would render the project infeasible. The plan as submitted will not diverge from the Code except in a nominal and inconsequential way when considered from the perspective of the entire development plan. This decision is based on the agenda materials, information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts information, analysis, findings of fact, and conclusions regarding this modification of standard contained in the staff report included in the agenda materials for this hearing. Member Stackhouse seconded the motion. The motion was adopted 7:0.

Member Haeefe made a motion that the Fort Collins Planning and Zoning Commission approve the requested modification of standard to Land Use Code Section 3.2.2(K)(2) to allow 161 parking spaces instead of the required 172 spaces. The Commission finds that the modification would not be detrimental to the public good and the plan as submitted will promote the general purpose of Section 3.2.2(K)(2) for which the modification is requested equally well or better than would a plan which complies with said section because the parking is sufficient based upon the lab space and street parking along the frontage and without impairing the intent and purpose of the Land Use Code, the granting of the modification would substantially address an important community need by showcasing and demonstrating innovation, sustainability, and lower carbon climate economy as described in City Plan, the Downtown Plan, and the Climate Action Plan, and the strict application of Section 3.2.2(K)(2) would render the project practically infeasible. Additionally, the plan as submitted will not diverge from Section 3.2.2(K)(2) except in a nominal and inconsequential way when considered from the perspective of the entire development plan and will continue to advance the purposes of Land Use Code Section 1.2.2. This decision is based on the agenda materials, information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts information, analysis, findings of fact, and conclusions regarding this modification of standard contained in the staff report included in the agenda materials for this hearing. Member Stackhouse seconded the motion.

Member Schneider stated he would support the motion but suggested the future Code updates examine including parking requirements for this type of use. He expressed concern about a potential change of use for the building in the future. Everette replied that the phase two Code updates will examine parking standards and use categories for commercial and industrial use types.

Chair Katz noted most lab uses fall into an industrial category which has lower parking standards.

The motion was adopted 7:0.

Member Sass made a motion that the Fort Collins Planning and Zoning Commission approve the requested modification of standard to Land Use Code Section 4.16(B)(1) regarding street frontage build-to range. The Commission finds that the following modification criteria are met: by reason of exceptional physical conditions unique to the property, the strict application of 4.16(B)(1) would result in exceptional or undue hardship on the property owner, the hardship was not due to an act or omission of such owner, and the plan as submitted will promote the general purpose of 4.16(B)(1) equally well or better than a plan which complies with 4.16(B)(1). This decision is based on the agenda materials, information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts information, analysis, findings of fact, and conclusions regarding this modification of standard contained in the staff report included in the agenda materials for this hearing.

Chair Katz made a friendly amendment to the motion that the requested modification would not be detrimental to the public good. Member Sass accepted the amendment.

Vice Chair Shepard seconded the motion. The motion was adopted 7:0.

Member Stackhouse made a motion that the Fort Collins Planning and Zoning Commission approve the requested modification of standard to Land Use Code Section 4.16(C)(1) regarding the building height to allow the building to be 79 feet in height as shown in the agenda materials. The Commission finds that the modification would not be detrimental to the public good and the following modification criteria are met: the plan as submitted will promote the general purpose of Section 4.16(C)(1) for which the modification is requested equally well or better than would a plan which complies with Section 4.16(C)(1) because the additional height will not affect the perceived scale, and without impairing the intent and purpose of the Land Use Code, the granting of the modification would substantially address an important community need by showcasing technology, strategies and innovation in line with the goals set forth in City Plan, the Downtown Plan, and the Climate Action Plan, and the strict application of Section 4.16(C)(1) would render the project practically infeasible, and the plan as submitted would not diverge from Section 4.16(C)(1) except in a nominal and inconsequential way when considered from the perspective of the entire development plan and will continue to advance the purpose of the Land Use Code Section 1.2.2. This decision is based on the agenda materials, information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts information, analysis, findings of fact, and conclusions regarding this modification of standard contained in the staff report included in the agenda materials for this hearing. Member Sass seconded the motion. The motion was adopted 7:0.

Vice Chair Shepard thanked the applicant team for its detailed and informative presentation.

Member Stackhouse stated she believes this project will spur additional development on North College and stated we should be proud of the proposal as a city.

Member Hogestad stated this is a well-done, well-thought-out project and he commended the design team.

Vice Chair Shepard noted this is a difficult site to develop and commended the resolution of very complicated issues.

Chair Katz applauded the design team.

**Member Sass made a motion that the Fort Collins Planning and Zoning Commission approve the Powerhouse 2 Project Development Plan #210021. The Commission finds in consideration of the approved modifications that the Project Development Plan complies with all applicable Land Use Code requirements. This decision is based on the agenda materials, information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts information, analysis, findings of fact, and conclusions regarding this project development plan contained in the staff report included in the agenda materials for this hearing. Member Hogestad seconded the motion.**

Vice Chair Shepard commented on Fort Collins being one of six places in the United States in the National Museum of American History Lemelson Center for the Study of Innovation.

**The motion was adopted 7:0.**

## **9. The Savoy**

**Project Description:** This is a request for a Project Development Plan to construct a 243-unit multi-family development. The proposal includes nine buildings and a centrally located clubhouse with fitness center, pool, and amenity area. Primary vehicular access will be taken from Le Fever Drive to the north and Brookfield Drive to the east. This parcel (#8604127001) is in the Harmony Corridor (HC) zone district and is subject to a Type 2, Planning and Zoning Commission review.

**Recommendation: Approval**

Vice Chair Shepard disclosed that he visited the site yesterday. Member Sass disclosed he also visited the site.

Manno stated emails were received from residents expressing concern about the width of roadways and parking.

### **Staff and Applicant Presentations**

Kai Kleer, City Planner, discussed the proposed project for a 243-unit multi-family development located in the Harmony Corridor (HC) zone, noting this is the last remaining portion of secondary use area within the Harmony Technology Park. He stated one modification of standard for the seven-acre block maximum is being requested and staff is recommending two conditions of approval.

Kleer discussed the history of the Harmony Corridor Plan and stated this project complies with its standards. He provided photos of the site and discussed existing development in the area. He noted the project will be constructing the extension of Le Fever.

Adam Kantor, Kephart Planning Architecture, discussed the location of the proposed development and noted the parking requirement is completely met on site. He commented on the clubhouse amenities and pedestrian connectivity provided on the site. Regarding the proposed modification for the parcel size, which is 8.3 acres where the Code calls for a maximum of 7, he stated a street would typically be used on a larger site to meet the block standard; however, this parcel cannot accommodate that based on its size and the locations of existing streets. He stated the plan instead creates a pedestrian walkway which meets the standard equally well or better than placing a street through the site.

Mr. Kantor discussed the two conditions of approval, one describing how the buildings address the streets and one related to bicycle parking, which was a clerical error on initial plans that has now been corrected. He went on to detail the ways in which the buildings address the streets and noted the breezeways that face the parking are the primary entries into the building. He noted the entries that face streets are not primary building entries but primary unit entries, and those have been enhanced to address the street at a pedestrian level.

Mr. Kantor discussed how the building variation standards are being met. He stated great effort was taken to differentiate neighboring buildings from one another and to create an active street front. He noted concerns about the existing street section were raised at the neighborhood meeting and subsequent changes were made to the plan to not have entry points on Precision. Additionally, he noted the City suggested providing a larger right-of-way section and work was done to develop a solution for existing roadways that includes inset parking, bump-outs, and ways to provide required street trees in a slightly different fashion.

Nick Hawes, Northern Engineering, commented on the intentional efforts to increase the travel lane width given the already constructed streets, when continuously parked, provide little opportunity for cars to navigate. He discussed the mature on-site landscaping and noted the street tree requirements will still be met.

Mr. Kantor provided additional renderings of the project.

Kleer provided a detailed staff analysis of the project noting the clubhouse building meets the requirement for a multi-family central feature and gathering space. Additionally, he stated the building variation standards are met as are bike parking standards. Regarding the concerns about the existing narrow streets, Kleer noted they were built under previous Larimer County Urban Area Street Standards; however, the newly constructed streets will meet the current standards. He discussed the proposed modification of standard for the multi-family block size and noted the intent of the standard is to create compact, walkable streets for people. He noted the existing streets on the site preclude the construction of a new street to help meet the standard; therefore, the project is proposing a major walkway spine to provide the pedestrian connection. He stated staff is recommending approval of the modification request.

Kleer commented on the building materiality and noted staff has yet to fully review the updated entry features; therefore, staff will be asking the Commission to determine whether they meet the requirements. He stated staff finds the PDP complies with Article 2 and the relevant standards of Article 4 of the Land Use Code, is consistent with the Harmony Technology Park ODP, and complies with the relevant standards of Article 3 subject to two conditions of approval.

Vice Chair Shepard requested clarification on the travel width of the newly constructed roadways. Kleer replied it will be 20 feet for Le Fever and 23 feet for Brookfield and Precision.

Member Stackhouse asked about the number of street-facing entry doors. Mr. Kantor replied there are six street-facing entry doors on Precision with two side entries and four along Brookfield.

Member Stackhouse asked why so many residents are using street parking as opposed to other parking. Kleer replied staff speculates that some of the multi-family developments in the area utilize garage spaces, which sometimes cost additional rent; therefore, residents may opt for street parking instead. He stated the current Code prevents counting garage spaces toward parking minimums; however, that may not have been in place when those multi-family developments were constructed.

Ken Kiken, Milestone, stated his company built Terra Vida and The Vibe developments, and at that time, the garages were free with units. He stated he believes the existing owners are doing the same and he suggested many of the garages may be used for storage.

Member Hogestad asked about the location and function of the shed roof structures. Mr. Kantor replied they are shade structures with benches and signage. He stated they are entryway features, or portals, and there are four throughout the site that help provide texture and create a pedestrian-scale experience. He noted the structures have roofs and have amenities in some cases.

Member Hogestad asked about the connections of the pedestrian spine. Mr. Kantor replied it connects to the existing pedestrian experience on the public streets.

Vice Chair Shepard stated he believes the entry portals are effective and requested clarification as to whether there is one on Brookfield. Mr. Kantor replied there is a label on the site plan in the packet that is obscuring the symbol.

Vice Chair Shepard asked if there is any need for striping down the middle of Precision and Brookfield that have inset parking. Mr. Hawes replied that is not typically seen in a local residential setting; however, that will ultimately be up to the City. He stated the inset parking will be concrete.

Vice Chair Shepard commented on the inset parking placing passenger doors right up against the attached sidewalk and asked if any consideration has been given to widening the sidewalk from five to six feet. Mr. Hawes replied that did not come up in conversations with staff; however, that could be considered. He noted there will be a vertical curb.

Vice Chair Shepard noted the continuous parkway and consistent street tree spacing is lost with inset parking and bump-outs. He stated the compensation for that seems to be the placement of trees behind the walk and he asked if consideration has been given to moving those closer to the attached walk rather than closer to the buildings. Steve Allen, Henry Design, replied the Code requires the trees to be three to seven feet from the back of the walk and that requirement has been met. He noted there is a gas line that runs closer to the sidewalk which has limited their ability to plant trees right against the walk.

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

Peter King expressed concern about the desire to maximize the residential density in the development. He stated the situation is being exacerbated by the modification request to eliminate the roadway that would otherwise be required.

### **Staff and Applicant Response**

Kleer confirmed the gross density of the project is 25 dwelling units per acre with the net density being closer to 30. He stated he believed there were modification requests for roadways for two nearby projects. He noted the minimum parking requirements are being met and noted the future multi-family Code will reduce the parking minimums.



Mr. Kantor noted the project is aiming to meet the community objective of providing needed housing units and stated it also aims to prioritize pedestrians, bicycles, and residents by not introducing that additional public street.

Vice Chair Shepard requested clarification as to whether the on-street parking spaces count toward the development meeting its required minimum number. Kleer replied all required off-street parking spaces are provided internal to the development and all on-street parking was not counted toward meeting the minimum requirements.

Vice Chair Shepard noted comments were received from an individual expressing concern regarding the narrowness of Precision and Brookfield.

Member Sass asked if there are emergency vehicle entrances to the site and, if so, how they are identified. Kleer replied emergency access is proposed to be taken from Le Fever on the north and there is also a 26-foot emergency access easement that circulates internally to the site around the clubhouse. Additionally, the entrance off Brookfield is overlaid with an emergency access easement as well.

### **Commission Questions / Deliberation**

Member Sass stated the requested modification seems reasonable given the way the properties around the subject developed.

Chair Katz concurred and stated requiring the roadway would be detrimental to the development. He expressed support for the modification.

Member Hogestad stated the modification itself would be fine; however, the mitigation is poorly designed and does not act as a central walkway spine.

Member Haeefe concurred with Member Hogestad and noted the neighboring projects were completed by the same developer; therefore, it seems the hardship was created by that situation. She questioned the walkability of the project and stated the walkway spine should function more like an avenue than a path through the parking lot.

Chair Katz asked for suggestions on how the walkway could be enhanced to make the modification meet the 'equally well or better than' criteria. Member Haeefe suggested the walkway should be widened with additional landscaping and gathering spaces and should not simply be a path through parking lots.

Chair Katz stated a street would not be better than the walkway; however, the mitigation in the form of the walkway needs to be improved.

Vice Chair Shepard commented on the history of the standard being requested for modification. He agreed there is quite a bit of density in the project but noted it is contained by public streets. He stated the street pattern, entrances, and New Urbanism basis of the standard provides the fundamental layout of the project. He concurred the walkway could perhaps be enhanced but clarified it is not, by definition, a major walkway spine because that is not a requirement as the buildings face streets.

Member Stackhouse stated she does not have a problem with the modification request given the location and size of the parcel. She expressed concern about possibly placing a condition of approval on the modification given it is not particularly clear as to what would be sought.

Member Hogestad stated the mitigation has not been done appropriately and should be wider, more well landscaped, and with additional gathering spaces.

Vice Chair Shepard noted most gathering will occur at the clubhouse amenity area to which the walkway leads. He commented on the possibility of encouraging the design team to qualitatively improve the space without making a condition.



Mr. Allen stated the intent of the pedestrian corridor is to bring the community into the site. He commented on the design of the corridor and stated there are benches, gathering spaces, and significant landscaping, including park areas. Chair Katz stated that description helps with the mitigation of the standard.

Mr. Kantor stated the team will take the comments into consideration for final design.

Member Haefele stated the Commission can place a condition of approval on a project without consent of the applicant as long as it meets the Land Use Code. Chair Katz concurred; however, he stated the unclear, conceptual conditions are more difficult to word.

**Member Stackhouse made a motion that the Fort Collins Planning and Zoning Commission approve the requested modification of standard to Land Use Code Section 3.8.30(D)(2) regarding block size to allow the project to exceed the seven-acre maximum block size by 1.13 acres. The Commission finds that the modification would not be detrimental to the public good and that the following modification criterion is met: the plan as submitted will promote the general purpose of Section 3.8.30(D)(2) for which the modification is requested equally well or better than would a plan that complies with 3.8.30(D)(2) because of the enhanced internal network of pedestrian walkways, the pocket park between buildings 7 and 8, and dividing the block with a street would not result in a greater level of pedestrian walkability than what is proposed. This decision is based on the agenda materials, information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts information, analysis, findings of fact, and conclusions regarding this modification of standard contained in the staff report included in the agenda materials for this hearing. Member Schneider seconded the motion.**

Member Haefele stated her objection is that the walkway does not feel comfortable and seems to be more parking lot than anything.

Vice Chair Shepard stated he believes the applicant has heard the discussion and stated it is also possible a hardship was created that was not caused by an act or omission of the applicant.

**The motion carried 5:2 with Haefele and Hogestad dissenting.**

Member Stackhouse stated she has been concerned about the narrow streets and has been trying to consider how this development would make things worse. She stated efforts have been made to offset some of the issues with the narrow streets and that seems to be a fair tradeoff for the neighborhood. She commented on Colorado's escalating housing prices leading to increased density.

Member Haefele stated increased density is occurring not because of a lack of supply, but because it is lucrative to build dense housing due to the high housing prices. She stated increased density will never address affordability.

Vice Chair Shepard stated he was initially very concerned about the inset parking and bump out landscaping, but after driving the site, he has changed his mind. He commended the creativity of the design and stated the clubhouse amenities in the two existing developments bring a lot to the neighborhoods.

Member Hogestad commented on the architecture being different from other multi-family developments and commended the design.

Chair Katz also commended the design and use of materials. He stated the clubhouse far exceeds many similar projects. He stated he would have liked to have seen the project have more than one of the three-plex buildings, though the Code is technically met. He expressed concern about the over-use of faux cedar shake shingles and stated the material does not fit the area contextually.

**Vice Chair Shepard made a motion that the Fort Collins Planning and Zoning Commission approve the Project Development Plan for The Savoy #210019 finding the PDP is consistent with the staff recommendation and the following conditions: prior to final plan approval, the project shall provide 75 additional bicycle parking spaces to meet the minimum bicycle parking requirement in Section 3.2.2(C)(4), and, prior to final plan approval, the street-facing façade shall contain a minimum of one primary entryway**

similar to what is found on the opposing side of the building. This entryway shall be emphasized using landscaping, roof forms, balconies, overhangs, block wall features, and shall be a primary entrance to at least one or more units of each building in a manner acceptable to City staff. The Commission finds in consideration of the conditions and approved modification to the block size, that the Project Development Plan complies with all applicable Land Use Code requirements. This decision is based on the agenda materials, information and materials presented during the work session and this hearing, and the Commission discussion on this item. Further, this Commission hereby adopts information, analysis, findings of fact, and conclusions regarding this project development plan contained in the staff report included in the agenda materials for this hearing. Member Stackhouse seconded the motion.

Member Hogestad stated he would not support the motion as the project is flawed given the granted modification.

**The motion carried 6-1 with Hogestad dissenting.**

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

## **10. Oil and Gas Land Development Code Regulations**

**Project Description:** This is a request for a recommendation to City Council regarding proposed Land Development Code amendments to regulate the zoning, siting, and design of new oil and gas facilities. The code amendments address regulatory gaps and opportunities that were created with the adoption of Colorado Senate Bill 19-181.

**Recommendation: Approval**

### **Staff Presentation**

Kirk Longstein, Senior Environmental Planner, commented on the focus areas of oil and gas regulation work: new oil and gas facilities, operational standards, and reverse setbacks, and stated this presentation will focus on new oil and gas facilities. He discussed the state and local roles in regulation and stated this draft Code language aims at regulating surface activities as it is outside of the local purview to regulate in-hole operations.

Longstein discussed the October Council work session during which general support was provided for restricting new oil and gas wells to industrial zone districts and continuing to align with Colorado Oil and Gas Conservation Commission (COGCC) minimum setbacks of 2,000 feet from occupied buildings, trails, and natural areas. He noted the original proposed Code regulations would have added oil and gas facilities as an allowed use to industrial zone districts and add oil and gas pipelines as an allowed use to all zone districts. He commented on feedback received that pipelines should not be allowed on public lands or in residential areas; therefore, staff's current recommendation is to remove oil and gas pipelines as an allowed use within public open lands and residential zone types, including mixed-use neighborhoods. He discussed the proposed setback regulations for new oil and gas facilities, which would be 2,000 feet from residential buildings and 1,000 feet from wetlands, water, ditches, conservation easements. For new oil and gas pipelines, a 50- to 100-foot setback from buildings and a 150-foot setback from surface water features are being proposed. He also noted there are quite a few buffering requirements related to wildlife at the state level.

Longstein noted the intent of the draft language is to make new oil and gas facilities and pipelines fall under Planning and Zoning Commission review with a quicker basic development review process being used for plugging and abandoning existing wells. He noted this was based on public stakeholder feedback related to public notices and input opportunities being minimal and inadequate.

Longstein stated the draft also includes some prohibitive oil and gas facilities, including injection wells, some gas storage wells, and disposal pits. He also commented on included development standards related to landscaping, fencing, artificial lifts, and environmental protection and discussed the regulations and requirements related to plugging and abandoning wells.

Longstein commented on the ways in which the draft Code addresses financial security in the development agreement language. He also noted all existing development standards within the Land Development Code will

apply when a PDP is submitted for oil and gas facilities. He stated the staff recommendation is for support of the draft oil and gas Code regulations including updates to the table of primary uses.

Member Haefele asked if the City could add financial security requirements with bonding specifically for City resources. Longstein replied that could be a possible inclusion and it would likely be similar to the existing development agreement language.

Rebecca Everette, Planning Manager, noted financial securities are required for public infrastructure, natural habitat buffer zone restoration, and landscaping. She requested clarification as to what other financial securities would be desired.

Member Haefele asked if the state financial securities would cancel any the City would require. Everette replied the state has multiple financial securities, including some that give the state the ability to reclaim a well and plug it if an operator goes out of business and abandons a well without plugging it.

Member Haefele asked about landscaping for fire safety. Longstein replied there is a buffer distance between the facilities and where landscaping would be allowed.

Member Haefele asked if there are requirements for landscaping to mitigate the impacts of the screening. Longstein replied in the negative and stated the fencing requirement is not specific to screening or aesthetics.

Chair Katz asked if other parts of the Code would cover mitigating impacts of screening. Everette replied in the affirmative noting there are requirements related to operational compatibility.

Member Haefele asked if the City is required to add oil and gas facilities as an allowed use in the industrial zone. Assistant City Attorney Yatabe replied he would recommend an executive session to discuss those types of legal issues.

Member Schneider stated the use must be added to comply with SB181 and the ultimate effect of the regulations will be a prohibition on drilling new wells in Fort Collins, though that cannot be explicitly stated.

Member Stackhouse stated the proposed regulations do not prohibit oil and gas development, nor is the City attempting to do that; however, the conditions under which oil and gas development can occur are going to be extremely narrow.

Assistant City Attorney Yatabe stated, prior to SB181, the City's ability to regulate the surface impacts of oil and gas facilities was severely limited, and post-SB181, the City acquired much greater authority. He stated the COGCC has the ability to regulate surface impacts if the City does not adopt regulations.

Everette noted the intent in Council directing staff to develop these Code standards was to address what Council perceived as a regulatory gap and to ensure there are strong regulations that reflect the will of Council and the community to ensure that gap no longer exists.

Member Haefele asked if the recommendation as written includes allowing pipelines in all zones. Everette replied it was not feasible to make the Code draft changes related to not allowing pipelines in public open lands and residential zones; however, staff is recommending that amendment and it is possible that language could be changed in the draft that goes before Council.

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

Ed Behan, Larimer Alliance for Health, Safety, and the Environment, expressed concern about the proposed language, specifically related to proposed setbacks that apply to structures rather than property lines, notification requirements only for owners of record, and the application only of basic development review to the siting of pipelines. He requested the Commission not recommend the regulations for adoption without additional time for study by relevant stakeholders and public input.

Tim Gosar requested the Commission seriously consider the process by which these draft regulations are being rolled out and presented to the public and whether there has been meaningful opportunity for the public to read, understand, and engage on the matter. He specifically cited concerns related to setbacks and financial assurance. He requested the regulations be held in abeyance until staff can prepare a more complete and comprehensive set of regulations that truly protect public health, safety, and the environment.

Longstein stated the proposed setbacks include a variety of stipulations, including distance to property lines for parks, playgrounds, and outdoor venues. He acknowledged there was a great deal of input related to allowing additional time for consideration of the draft language; therefore, the item has been pushed to the December 20<sup>th</sup> Council meeting. He noted some of the pipeline concerns have been addressed by limiting the zones in which they would be allowed. Additionally, oil and gas development does not have eminent domain authority.

Everette noted the public engagement process for these Code updates primarily happened in 2019 and several work sessions with Council have occurred over the last two years. She also noted all Code standards that apply in a type 2 Planning and Zoning Commission process also apply in a Basic Development Review process and any requested modifications are subject to the same review criteria. Regarding notifications only going to property owners of record, Everette noted that is the standard practice within the current development review process. She stated a pilot was done a couple years ago sending mailings to tenants and it was found there is no reliable database upon which to rely and many expensive mailing errors occurred.

Longstein stated the City of Fort Collins was recently awarded an EPA grant through Environmental Services and purchased an infrared camera in partnership with Larimer County to address ongoing leak detection and reporting. He stated this draft language does not relate to ongoing operational inspections.

Member Haefele asked if there are going to be additional regulations developed by another City department for operational issues, such as requiring air quality monitoring. Longstein replied the staff recommendation is to partner with Larimer County, regional partners, and the operator for ongoing monitoring. Everette noted there would be a reliance on Larimer County's operational standards and inspectors given the low number of wells within the city limits.

Vice Chair Shepard asked if these standards generally match the County's. Longstein replied he could not speak to that specifically.

Chair Katz asked if annexation would be triggered by an oil and gas development in the GMA that is adjacent on three sides by city limits. Everette replied certain types of development applications trigger review for annexation; therefore, it would depend on how Larimer County classifies oil and gas facilities.

Member Sass noted monitoring of abandoned wells is required for five years and asked where that information goes. Longstein replied the City would collect the information and that would be a condition of the development agreement. Everette noted Environmental Planning staff would review the reports which would be prepared by an industry professional.

Member Sass asked how the City is financially protected for those five years of monitoring should an issue be detected. Everette replied the first course of action would be coordination with the COGCC and there would be mechanisms at the state level to address replugging a well.

### **Commission Questions / Deliberation**

Member Haefele stated pipelines are not utilities and should not be treated as such. She expressed concern the draft regulations are not yet adequate to fully take advantage of the control the City has been given with SB181.

Vice Chair Shepard requested input as to why oil and gas facilities would be allowed as an addition of permitted use (APU). Everette replied some of the criteria for an APU are conformity with the basic premise of the underlying zone district and ensuring more impact than a permitted use does not occur. She stated those would be high bars to meet for an oil and gas facility.

Member Haeefe stated there is no reason to open up the possibility of allowing oil and gas facilities as an APU and she recommended striking that clause all together. She also suggested changing the setbacks from building wall to property boundary for all properties.

Vice Chair Shepard asked if other Code provisions could be invoked to increase setbacks. Everette replied there are few properties that are big enough to accommodate a 2,000-foot buffer without touching a property line. She noted the property line setback is included for schools, playgrounds, and recreational fields.

Member Haeefe expressed concern that even though these situations are unlikely, it is inappropriate to be as amenable as possible with the regulations.

Member Schneider noted the Commission is not the final decision maker and Council, as elected officials, will make a decision based on input from the community.

Member Stackhouse stated she is comfortable moving forward.

**Vice Chair Shepard made a motion that the Planning and Zoning Commission recommend approval of the proposed Land Development Code changes with regard to new oil and gas facilities including the changes mentioned by staff. Member Schneider seconded the motion.**

Chair Katz noted voting against this motion is actually voting for less regulation.

Member Haeefe stated voting against the motion is voting against this specific package of regulations.

**The motion carried 6-1 with Haeefe dissenting.**

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### Other Business

Member Stackhouse commented on the need for public input processes to be better advertised.

Everette commented on various engagement techniques used by the City.

### Adjournment

Chair Katz moved to adjourn the P&Z Commission hearing. The meeting was adjourned at 10:50 pm.

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*Minutes respectfully submitted by Shar Manno.*

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Minutes approved by a vote of the Commission on: January 25, 2022.

  
Paul Sizemore, CDNS Director

  
David Katz, Chair