

April 16, 2024

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

**PROCLAMATIONS AND PRESENTATIONS**

**5:00 PM**

**A) PROCLAMATIONS AND PRESENTATIONS**

- PP 1. **Declaring April 21 through 27, 2024 as National Crime Victims' Rights Week.**
- PP 2. **Declaring April 21 through 27, 2024 as National Volunteer Week.**
- PP 3. **Declaring April 2024 as National Donate Life Month.**
- PP 4. **Declaring April 2024 as Asian American, Native Hawai'ian, and Pacific Islander Heritage (AANHPI) Month.**

Mayor Jeni Arndt presented the above proclamations at 5:00 p.m.

**REGULAR MEETING**

**6:00 PM**

**B) CALL MEETING TO ORDER**

Mayor Jeni Arndt called the regular meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

**C) PLEDGE OF ALLEGIANCE**

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

**D) ROLL CALL**

**PRESENT**

Mayor Jeni Arndt  
Mayor Pro Tem Emily Francis  
Councilmember Susan Gutowsky  
Councilmember Julie Pignataro  
Councilmember Tricia Canonico  
Councilmember Melanie Potyondy  
Councilmember Kelly Ohlson

**STAFF PRESENT**

City Manager Kelly DiMartino  
City Attorney Carrie Daggett  
Interim City Clerk Heather Walls

## **E) CITY MANAGER'S AGENDA REVIEW**

City Manager Kelly DiMartino provided an overview of the agenda, including:

- All items on the consent agenda were recommended for approval with no changes.
- The items on the discussion agenda were reviewed.

## **F) COMMUNITY REPORTS**

None.

## **G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS** *(Including requests for removal of items from Consent Calendar for individual discussion.)*

Sophia Babb, Fort Collins resident, discussed the high cost of housing in Fort Collins and spoke in support of the Land Use Code revisions.

Chris Conway, teacher, and member of the Historic Preservation Commission, spoke on his own behalf regarding the impacts of the high cost of housing and expressed support for the Land Use Code revisions despite his statement that it does not go far enough to help solve housing issues.

Katie McMahon, Fort Collins resident, emphasized the critical need for affordable housing and spoke in support of the Land Use Code revisions.

Janet Bramhall, Fort Collins resident, spoke in support of the Land Use Code revisions.

Peter Erickson, Fort Collins resident, commented on the need for affordable and missing middle housing and spoke in support of the Land Use Code revisions and urged Council to pass it unamended.

Joel McGuire, Fort Collins resident, spoke in support of the Land Use Code despite the revisions.

Ann Hutchison, Fort Collins resident and President of the Fort Collins Area Chamber of Commerce, expressed support for the foundational Land Use Code revisions stating it will be part of the solution that allows us to take on the housing crisis in the city. Additionally, Hutchison thanked City Manager DiMartino and staff for bringing full service back to City buildings.

Kate Conley, YIMBY Fort Collins co-lead, Fort Collins resident, and architect specializing in designing multi-family affordable housing, spoke in support of the Land Use Code revisions.

Stefanie Berganini, Fort Collins resident and member of the Affordable Housing Board, spoke as Chair of the DSA Fort Collins Housing Justice Committee in favor of the Land Use Code foundational updates.

Vicki Rossen, Fort Collins resident, stated Fort Collins has never been an inexpensive place to live and building additional housing will not automatically change that. Rossen urged Council to set a goal to build affordable housing for essential workers who already live in Fort Collins. Rossen questioned why the large apartment complexes under development do not contain affordable units and stated Fort Collins should not become a Denver.

Paul Herman, Fort Collins resident and member of the Water Commission, spoke on his own behalf regarding countering those speaking in support of a ceasefire in Gaza.

Ronald Hanser, Fort Collins resident, requested Council be accountable to those that signed the petitions in support of repealing the Land Use Code in 2022 and 2023.

Karen Schwartz, Fort Collins resident, questioned what the resolution passed by Council related to a ceasefire in Ukraine accomplished, noting it was not in response to community input, and stated Council has no business in international affairs. Schwartz suggested Council should adopt a policy barring it from weighing in on all international matters.

Kevin Cross, Northern Colorado Alliance for a Livable Future, spoke in support of Gaza ceasefire resolution.

Anna Navarro, Fort Collins resident, spoke about the need for creative housing options in Fort Collins and expressed support for the Land Use Code revisions as an important first step.

Jeff Gantman, Fort Collins resident, suggested there are better ways to achieve growth without compromising the character of city neighborhoods and quality of life that makes Fort Collins special for everyone. Gantman suggested development be focused on areas that are already suited for higher density and redevelopment.

Charles Shobe, Fort Collins resident, spoke in support of the Land Use Code revisions.

Shimrit Yacobi, Fort Collins resident, thanked Councilmembers for their work and spoke in opposition to Council adopting a ceasefire resolution.

Steve Kuehneman, Executive Director of Care Housing, spoke in support of the Land Use Code revisions.

Mara Johnson, Habitat for Humanity Chief Development Officer, stated those opposed to the Land Use Code have falsely claimed the Land Use Code revisions do not support affordability given that every affordable housing provider in the area has provided input that the updated Land Use Code is a tool to support affordability in the community.

Rich Stave, Fort Collins resident, commented on the story of Pinocchio as an example of minority versus majority opinion.

Jared Ross, Fort Collins resident, spoke in support of the Land Use Code revisions. Ross also noted walkability and increased equity are closely linked to quality of life.

Kristin Candella, Fort Collins resident and Habitat for Humanity Executive Director, discussed the importance of everyone having the right to suitable housing.

Alex Statham-Lardner, Habitat for Humanity Communications Director, spoke in support of the Land Use Code revisions.

Kelly Evans, Neighbor to Neighbor, stated the new housing normal is not affordable and the current Land Use Code is not effective for the majority of residents today. Evans expressed support for the foundational Land Use Code revisions.

Laura Lenhart spoke in support of the Council adopting a ceasefire resolution.

Adam Hirschhorn discussed FEMA and a possible solar array. Additionally, Hirschhorn spoke in support of Council adopting a ceasefire resolution.

Bill King, Fort Collins resident, discussed the state legislature weakening Home Rule and opposed Council not making statements in opposition to the state regulations.

Shannon Blasus, Fort Collins resident, opposed the non-participation fee for the City trash contract and encouraged Council to table the Land Use Code decision.

Aaron Miripol, President of Urban Land Conservancy, spoke in support of the Land Use Code revisions as a first step. Miripol stated the goals of Our Climate Future will only be met with greater density along transit lines.

Brian Tracy, Fort Collins resident, opposed certain provisions of the Land Use Code, particularly pertaining to multi-plex rental buildings allowed in the Old Town B zone.

Charles Howes, Fort Collins resident, commented on a program for the disabled which is ending participation in Fort Collins due to the distance staff needs to travel. Howes spoke in favor of the Land Use Code revisions as a first step.

Connor Flynn, Fort Collins resident, spoke in favor of the Land Use Code revisions but expressed frustration about the small group of people who forced the repeal of the Code twice.

Jennifer Simpson, Fort Collins resident, spoke about the uniqueness of Fort Collins and stated a one size fits all approach does not benefit the city.

August-Carter Nelson, DSA Fort Collins Co-Chair, spoke in support of the Land Use Code revisions and stated it is short-sighted to claim Fort Collins is a small town. Additionally, Nelson expressed support for the striking down of the U+2 ordinance and urged Council to adopt a ceasefire resolution.

Madeleine Grigg spoke in support of a ceasefire resolution.

Patricia Babbit, Fort Collins resident, stated many residents are not being heard and many remain silent. Babbit also stated there is no good system in place to help people stop using their cars.

Jake Scarfe, Fort Collins resident, spoke in favor of a ceasefire resolution.

Sue Ballou, Fort Collins resident, spoke in support of the Land Use Code revisions.

Kimberly Connor, Fort Collins resident, spoke in support of a ceasefire resolution.

Public Comment ended at 7:22 p.m.

#### **H) PUBLIC COMMENT FOLLOW-UP**

Mayor Arndt requested an update on the solar array repair. Deputy City Manager Tyler Marr stated there was an equipment failure at the Riverside Community Solar Garden and staff is working to replace the inverter, though securing equipment has been difficult. Marr stated staff has attempted to communicate clearly with the owners of the garden.

Councilmember Potyondy thanked the speakers and requested staff follow-up with Mr. Blasus regarding the opt-out trash fee. City Attorney Daggett discussed a Supreme Court case related to development impact fees, which would not affect fees for service.

Councilmember Ohlson concurred with Mr. King's concerns about Home Rule and stated the state legislature and governor are passing bad policies related to housing.

Councilmember Pignataro stated she serves with Councilmembers Ohlson and Canonico on the Legislative Review Committee, and they had discussions about Home Rule issues. She stated she does not support Home Rule if it is going to exempt the city from trying to help with the lack of housing.

Mayor Arndt noted the Colorado Municipal League has opposed the bills at the state level and the Legislative Review Committee has taken a neutral position. Additionally, she noted there are many bills at the state level that preempt local control, such as a water saving bill.

**I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

None.

**J) CONSENT CALENDAR**

**1. Consideration and Approval of the Minutes of the March 19, 2024 Regular Meeting.**

*The purpose of this item is to approve the minutes of the March 19, 2024 regular meeting.*

***Approved.***

**2. Second Reading of Ordinance No. 049, 2024, Reappropriating Funds Previously Appropriated in 2023 but Not Expended and Not Encumbered in 2023.**

*This Ordinance, unanimously adopted on First Reading on April 2, 2024, reappropriates monies in 2024 that were previously authorized by Council for expenditures in 2023 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2023 because:*

- *There was not sufficient time to complete bidding in 2023 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies; or*
- *The project for which the dollars were originally appropriated by Council could not be completed during 2023 and reappropriation of those dollars is necessary for completion of the project in 2024.*

*Additionally, there may have been sufficient unspent dollars previously appropriated in 2023 to carry on programs, services, and facility improvements in 2024 for those specific purposes.*

*In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2023 and reflect no change in Council policies.*

*Monies reappropriated for each City fund by this Ordinance are as follows:*

<i>General Fund</i>	<i>\$2,498,249</i>
<i>Cultural Services Fund</i>	<i>55,000</i>
<i>Recreation Fund</i>	<i>251,064</i>
<i>Museum Fund</i>	<i>61,265</i>
<i>Transportation Service Fund</i>	<i>1,288,625</i>
<i>Water Fund</i>	<i>52,500</i>
<i>Date &amp; Communications Fund</i>	<i><u>390,600</u></i>

*Total \$4,597,303*

***Adopted on Second Reading.***

3. **Second Reading of Ordinance No. 050, 2024, Approving the Conveyance of a Temporary Construction Easement for the Construction of Permanent Stormwater Improvements on City Property to DHIC-Enclave, LLC.**

*This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of a Temporary Construction Easement (the "Easement") on approximately 4.36 acres (189,996 sf) of City property known as the Redwood Detention Pond and the Redwood Channel (collectively, the "City Property") to DHIC – Enclave, LLC ("Developer"), in exchange for the construction of permanent stormwater master plan improvements on the City Property.*

*Please note that this Second Reading Agenda Item Summary has been amended to address concerns brought up by Councilmember Ohlson at First Reading (see below).*

**Adopted on Second Reading.**

4. **Second Reading of Ordinance No. 051, 2024, Approving the Conveyance of a Permanent Easement for Stormwater Drainage, a Temporary Construction Easement for the Construction of Stormwater Drainage Improvements, and a Temporary Construction Easement for the Construction of Sewer Facilities on City Property to PS-Poudre River, LLC.**

*This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of one permanent drainage easement (the "Drainage Easement"), one temporary construction easement (the "Drainage TCE") for the modification of current drainage facilities, and one temporary construction easement (the "Sewer TCE") for the installation of public sewer facilities to PS-Poudre River, LLC ("PSPR"), on City Property located at 101 1st Street, which is the current location of Buckingham Park ("Buckingham Park"). Construction pursuant to the Drainage TCE will modify existing floodplain boundaries, and the Drainage Easement will allow PSPR to store additional stormwater on a portion of Buckingham Park. The Sewer TCE is for the installation of public sewer facilities required by the City so that PSPR may proceed with the development of the adjoining lands. The actual conveyance of the easements will be conditional upon PSPR, or its successors and assigns, obtaining City development approval of the contemplated work within the easements.*

*This Second Reading Agenda Item Summary has been amended to address questions raised by Councilmember Ohlson at First Reading regarding review by Boards and Commissions (see below).*

**Adopted on Second Reading.**

5. **Second Reading of Ordinance No. 052, 2024, Approving the Conveyance of One Permanent Easement and One Temporary Construction Easement for the Construction of a Portion of Phemister Trail on City Property to Colorado State University.**

*This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of one (1) permanent easement (the "Trail Easement") and one (1) temporary construction easement (the "TCE") to Colorado State University ("CSU"), for the construction, operation, and maintenance of a public multi-modal trail (the "Phemister Trail") on City Property located at 2145 Centre Street, which is the current location of The Gardens on Spring Creek (the "Gardens on Spring Creek").*

*Please note that this Second Reading Agenda Item Summary has been amended to address concerns brought up by Councilmember Ohlson at First Reading. Specifically, amendments to*

address Tree Restoration and Council/Board approvals. Kim Manajek from Cultural Resources has also been added as a staff resource.

**Adopted on Second Reading.**

6. **First Reading of Ordinance No. 053, 2024, Appropriating Prior Year Reserves in the Natural Areas Fund and the Sales and Use Tax Fund for the Purpose of Land Conservation, Visitor Amenities, Restoration and Other Related Natural Areas Stewardship Activities Not Included in the 2024 Adopted City Budget.**

*The purpose of this item is to appropriate \$7,924,969 in prior year reserves in the Natural Areas Fund and \$269,466 in prior year reserves in the Sales and Use Tax fund to be transferred to the Natural Areas Fund. These appropriations are for land conservation, resource management, planning, construction of trails and other visitor amenities, restoration of wildlife habitat, and other Natural Areas Department programs and activities to benefit the residents of the City, in accordance with the Natural Areas Master Plan.*

**Adopted on First Reading.**

7. **First Reading of Ordinance No. 054, 2024, Appropriating Philanthropic Revenue Received by City Give for FC Moves to Fund an Asphalt Art Installation.**

*The purpose of this item is to request an appropriation of \$25,000 in philanthropic revenue received by City Give for FC Moves, a department within the City's Planning Development and Transportation Service Area, for an asphalt art installation as designated by the grant award. This installation is consistent with the City's Active Modes Plan.*

*In 2019, the City of Fort Collins launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.*

**Adopted on First Reading.**

8. **Resolution 2024-059 Supporting the Grant Application for the United States Department of the Interior, Bureau of Reclamation's WaterSMART Grants: Planning and Project Design for the Poudre Flows Project and Authorizing the City Manager to Execute Agreements Regarding Such a Grant.**

*The purpose of this item is to obtain support for the City to apply for funds under the United States Department of the Interior, Bureau of Reclamation's ("Reclamation") WaterSMART Planning and Project Design ("WaterSMART") Grant Program for the Poudre Flows Project. The Reclamation requires a resolution demonstrating (1) Council's support of the City's request for funds under the WaterSMART Grant Program and, assuming the City is selected to receive funding, (2) the City's commitment to work with Reclamation in finalizing an agreement that, among other things, demonstrates the City's adherence to meet financial obligations as represented in the grant application.*

**Adopted.**

9. **Resolution 2024-060 Approving Fort Fund Program Support Disbursements.**

*The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Program Support Grant – March Deadline category, based upon the recommendations of the Cultural Resources Board.*

**Adopted.**

**10. Resolution 2024-061 Finding Substantial Compliance and Initiating Annexation Proceedings for the I-25 & Mulberry Annexation.**

*The purpose of this item is to determine substantial compliance and initiate annexation proceedings for voluntary annexation of the I-25 & Mulberry Annexation, located at the northeast corner of East Mulberry Street and Interstate 25. The Applicant has submitted a written petition requesting the annexation and proposed zoning. The I-25 & Mulberry Annexation totals 46.9216-acres in size.*

*The requested zoning for this annexation is General Commercial (C-G) and Industrial (I), which is in alignment with the City of Fort Collins Structure Plan designation for this area. No project development plan proposal was submitted in conjunction with the annexation application; however, it is anticipated that the landowner will submit an application to construct public infrastructure to prepare the site for future users and development.*

*The site is part of a county-approved metro district; however, this is not relevant to satisfying State statute but will be an important consideration during First Reading.*

*This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins City Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.*

**Adopted.**

**11. Resolution 2024-062 Approving a Purchase and Sale Agreement with Poudre School District to Acquire Land for the Southeast Community Center.**

*The purpose of this item is to approve a Purchase and Sale Agreement between the City of Fort Collins and Poudre School District ("PSD") for the acquisition of approximately 10 acres at the southeast corner of Ziegler Road and Rock Creek Drive adjacent to Fossil Ridge High School. This acquisition is for the City to construct a new Southeast Community Center in accordance with the Intergovernmental Agreement (IGA), between the City of Fort Collins and PSD, previously approved by Council by Resolution 2023-112.*

**Adopted.**

**12. Resolution 2024-063 Confirming and Approving an Appointment to the Board of Commissioners of the Fort Collins Urban Renewal Authority.**

*The purpose of this item is to accept the Mayor's appointment to the Urban Renewal Authority (URA) Board.*

**Adopted.**

**END OF CONSENT CALENDAR**

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to approve the recommended actions on items 1-12 on the consent calendar.**

**K) CONSENT CALENDAR FOLLOW-UP (This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)**



Councilmember Gutowsky commented on Item No. 7, *First Reading of Ordinance No. 054, 2024, Appropriating Philanthropic Revenue Received by City Give for FC Moves to Fund an Asphalt Art Installation*, noting the asphalt art installations work to calm traffic and enhance the quality and safety of neighborhoods. Additionally, she commented on Item No. 9, *Resolution 2024-060 Approving Fort Fund Program Support Disbursements* and Item No. 11, *Resolution 2024-062 Approving a Purchase and Sale Agreement with Poudre School District to Acquire Land for the Southeast Community Center*.

***The motion carried, 7-0.***

**(\*\*Clerk's Note: Mayor Arndt called for a fifteen-minute recess at 7:32 p.m. The meeting resumed at 7:47 p.m.)**

## **L) STAFF REPORTS**

### **Staff Report: U.S. Fish and Wildlife Service Award to Natural Areas and Utilities**

*The purpose of this item is to give Council and the community an update regarding the U.S. Fish and Wildlife Service Award presented to Utilities and Natural Areas in acknowledgement of work supporting the reintroduction of the Black-footed Ferret, an endangered species. Along with an update on Natural Areas land management and recognition of the recent presentation of the Natural Areas Conservation Award to Linda Stanley.*

Matt Parker, Ecological Stewardship Manager, introduced staff receiving the award and presenters of the award.

Tina Jackson, U.S. Fish and Wildlife Service Black-footed Ferret Species Recovery Coordinator and Kimberly Fraser, U.S. Fish and Wildlife Service Outreach Specialist, discussed the award's history and presented the award to Christina Schroeder, Director of Plant Operations, Jen Ward, Utilities Senior Supervisor, and Katie Donohue, Natural Areas Director.

Parker presented a report on landscape and habitat management and discussed necessary collaboration and partnerships.

Katie Donohue, Natural Areas Director, discussed the Natural Areas volunteer program and announced the second Kelly Ohlson Natural Areas Conservation Award went to Linda Stanley.

Councilmember Potyondy reported on a recent educational visit to District 4 Natural Areas.

## **M) COUNCILMEMBER REPORTS**

None.

## **N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

None.

## **O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

### **13. Items Related to the Adoption of a New Land Use Code.**

- A. *First Reading of Ordinance No. 055, 2024, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt a Revised Land Use Code by Reference that*

*Advances Adopted City Policy Goals and Incorporates Foundational Improvements and Separately Codify the 1997 Land Use Code as Transitional Land Use Regulations.*

- B. First Reading of Ordinance No. 056, 2024, Updating City Code References to Align with the Adoption of the Revised Land Use Code.*
- C. First Reading of Ordinance No. 057, 2024, Amending the Zoning Map of the City of Fort Collins to Rename All Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town Zone District in Conjunction with the Adoption of the Revised Land Use Code.*

*The purpose of this item is to consider adoption of changes to the City's Land Use Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Regarding Ordinance No. 055, 2024, corrections to clean up inadvertent numbering in Article 4 are recommended, and a suggested motion to do so is on page 5.*

*Additionally, this item updates City Code references to match changes to the Land Use Code including updating section references and wording.*

*Finally, because the revised Land Use Code renames the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town zone district with corresponding subdistricts A, B, and C, updates to the zoning map to reflect the name changes are proposed. This change only affects the name of the zone districts and no changes to the boundaries are proposed.*

Caryn Champine, Director of Planning, Development and Transportation introduced the item and discussed the history and evolution of land use regulations. Champine also discussed the various plans and policies that have influenced the Code revisions and commented on the two versions of the Code that were repealed.

Noah Beals, Development Review Manager, reviewed the foundational revisions to the Land Use Code noting the primary goals were to increase housing options and affordable housing and to make the Code easier to understand with improved predictability. Beals discussed the nine items of concern that were removed from this version of the Code, including removing accessory dwelling units in the RL and UE zone districts, retaining current lot sizes and removing any additional new housing types in the current NCL zone, retaining the current minimum lot sizes in the current NCM zone, and removing restrictions on private covenants or HOAs.

Beals stated the Planning and Zoning Commission unanimously recommended approval of this draft Code and suggested three revisions: to allow only an attached ADU in the RL zone district, to allow both an attached and detached ADU in the UE zone district, and to reduce the minimum lot size for an ADU to 9,500 square feet in the current NCM zone. Beals noted these recommendations are not included in the Code before Council this evening. Additionally, Beals stated a work session is scheduled for June 11 to begin scoping the second phase of Land Use Code revisions.

#### PUBLIC COMMENT

Joe Rowan, member of One Voice, spoke in favor of the Land Use Code revisions and thanked Council for its dedication to the process.

Wayne Brothers, Fort Collins HOA coalition, cautioned Council to be careful about relying on the State Legislature to dictate land use regulations and potentially overruling Home Rule.

Trudy Haines, Fort Collins HOA Coalition, urged Council to follow through on the removal of the nine items. Additionally, Haines requested Council look at changing the size of triplexes and four-plexes allowed in the new OT-B zone and asked Council to protest the loss of Home Rule.

Rich Stave, Fort Collins resident, questioned Section 4 regarding permits and stated Section 7 regarding definitions could be a backdoor for making changes without public comment.

Ross Cunniff spoke on his own behalf, not as a Land Conservation and Stewardship Board Member, requested the provisions removed not be restored or revisited. Additionally, Cunniff suggested the OT-B zone issues be revisited prior to Second Reading.

Joy Sullivan, President and CEO of United Way, commended the community engagement process and spoke in support of the Land Use Code revisions as a foundational first step.

## COUNCIL DISCUSSION

Councilmember Ohlson stated he is planning to support the Land Use Code revisions but requested additional information regarding height and square footage for triplexes and apartment buildings in the OT-B zone. Beals replied that the allotted floor area for the two building types did increase from what is existing; however, the number of units allowed per lot did not increase. Additionally, Beals stated the wall height can be 28 feet with the ability to go higher if the building needs to be raised due to floodplain issues.

Councilmember Ohlson asked about the reasons for making those specific changes. Beals replied the changes improve aesthetics and help to ensure the units can be varied in size. Champine also noted floor area constraints have made it difficult for Old Town zone district owners to implement duplexes up to four-plexes depending on lot size.

Councilmember Potyondy expressed support for the Land Use Code revisions and noted the Planning and Zoning Commission did make a recommendation which she would also like to see included related to ADUs. She stated it is critical to move forward with the changes that have been made.

Councilmember Pignataro asked why staff did not include the ADUs per the Planning and Zoning Commission recommendation. Beals replied it was not included as staff felt it was opposed to the Council direction; however, it could be included per Council direction.

Councilmember Pignataro expressed support for the revisions and stated if ADUs pass at the state level, there will be less strict regulations than what were included in the original proposed Code.

Councilmember Canonico asked how many additional lots would be opened for ADUs by reducing the lot size to 9,500 square feet in the current NCM zone. Beals replied roughly 10% of the lots allow for carriage houses today, and decreasing the minimum lot size would increase that number by another 10% for a total of about 400 lots.

Councilmember Canonico noted the Colorado Municipal League aims to protect Home Rule for municipalities and the Colorado Community for Climate Action actively lobbies to ensure policies that will protect and further the climate goals of its member municipalities and counties. She stated she will support the Land Use Code revisions as written and commended staff's work on the process.

Councilmember Gutowsky opposed doubling the size of four-plexes and stated the changes to OT-B, while not increasing the number of units, do increase capacity. Additionally, she expressed

concern about impacts on infrastructure and parking. She asked about affordable housing incentives to help make developers partners in the development of affordable housing. Champine replied this Code includes incentives for affordable housing projects based on the Area Median Income (AMI), including reducing parking requirements, and incentivizing additional density in higher-density zone districts. Additionally, she noted Council could provide guidance for staff to explore the inclusionary housing ordinance or linkage fees.

Meaghan Overton, Housing Manager, noted the incentives proposed in this Code have not changed from previous iterations, but for a development to qualify for any affordable housing incentives, it would have to provide 10-20% of the units as affordable depending on how affordable they are.

Councilmember Ohlson noted many compromises have been made by parties on all sides of the issue and stated he would prefer the nine items removed not be revisited unless required by state action. He requested less animosity moving forward.

Mayor Pro Tem Francis requested clarification on the floor area increase noting that because 80% is allowable, setbacks and other requirements must still be met. Beals replied that all setbacks and building height limitations must be met as well as the rear lot floor area ratio.

Mayor Pro Tem Francis stated she is pro-housing, and everyone has the right to a home.

Mayor Arndt expressed support for the Land Use Code revisions and discussed voter support of pro-housing Council candidates. She discussed the current state of growth in Fort Collins and thanked staff for their work.

Councilmember Gutowsky commended the renaming of the zone districts.

***Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to adopt on First Reading, Ordinance No. 055, 2024, repealing and reenacting Section 29-1 of the Code of the City of Fort Collins to adopt a revised Land Use Code by reference that advances adopted City policy goals and incorporates foundational improvements, and separately codify the 1997 Land Use Code as Transitional Land Use Regulations, with amendments to the revised Land Use Code to include the version of Article 4 that has corrected numbering as described in, and attached to, the Agenda Item Summary.***

***The motion carried, 6-1.***

***Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Pignataro, Ohlson, Potyondy, and Canonico.***

***Nays: Councilmember Gutowsky.***

***Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt on First Reading, Ordinance No. 056, 2024, updating City Code references to align with the adoption of the Revised Land Use Code.***

***The motion carried, 7-0.***

***Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Gutowsky, Ohlson, Potyondy, Canonico, and Pignataro.***

***Nays: None.***

**Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on First Reading, Ordinance No. 057, 2024, amending the Zoning Map of the City of Fort Collins to rename all Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town Zone District in Conjunction with the Adoption of the Revised Land Use Code.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**(\*\*Clerk's Note: Mayor Arndt called for a ten-minute recess at 9:10 p.m. The meeting resumed at 9:20 p.m.)**

Prior to moving into appeal, Mayor Arndt recognized Lockie Woods and his contributions as the Graduate Management Assistant over the previous year.

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

*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.*

City Attorney Daggett reviewed the appeal hearing process. She noted the appellant provided a presentation for the hearing late in the day today which did not meet the deadline for submission due to some miscommunication with City staff last week and the Mayor will need to decide whether that presentation will be allowed to be displayed during the hearing.

Clay Frickey, Planning Manager, reviewed the proposed Union Park project and associated modifications of standard and discussed the history of the project and the Overall Development Plan (ODP) for the site. Frickey noted the subject of the appeal is a roadway connection from the property to Paddington Road in English Ranch, which would not go in at this time but at such time as the intervening property redevelops if that occurs. Frickey outlined the appeal allegations related to whether the Planning and Zoning Commission conducted a fair hearing and interpretations and applications of the Land Use Code and Larimer County Urban Areas Street Standards (LCUASS).

Councilmember Pignataro stated she is familiar with the area as it is in her district.

Councilmember Gutowsky stated she attended the site visit to further understand the lay of the land.

Mayor Arndt stated she visited the site on her own also to get a lay of the land.

Jeff Janelle, Dan Bartran, Stephen Moffett, Barbara King, Jennifer Simpson, and Stephen Tenbrink identified themselves as parties-in-interest in support of the appeal.

Bob Choate, representative of Landmark Homes, the applicant, identified himself. Lacey Joyal identified herself as a party-in-interest opposed to the appeal.

Mayor Arndt outlined the time allotments for presentations and rebuttals. She asked if there is any opposition to the new evidence included in the notice of appeal. Mr. Choate replied the applicant has no opposition.

Mayor Arndt asked if there is any opposition to the appellant's slideshow presentation that was submitted after the deadline. Mr. Choate replied that the applicant has not seen the presentation and would reserve the right to object if it contains new evidence.

Matt Perkins, English Ranch resident, indicated he did not receive any notifications related to this project despite living down the street from Mr. Janelle. City Attorney Daggett indicated the notice area is set by a distance from the site to be developed and it is possible that line cuts through the English Ranch subdivision. Ryan Mounce, City Planner, confirmed that information. City Attorney Daggett noted Mr. Perkins would not be an eligible party-in-interest given he did not receive a notice or participate in a previous hearing.

**(\*\*Clerk's Note: Mayor Arndt called for a five-minute recess at 9:45 p.m. for the appellant to confer with other parties-in-interest.)**

#### **APPELLANT PRESENTATION**

Jeff Janelle stated this appeal represents concerns by most English Ranch residents, over 500 of whom signed a petition in opposition to a street connection. He discussed the history of the connection issue. He noted Paddington Road was built prior to the adoption of LUCASS and therefore does not meet most of the collector level street criteria. He showed slides of streets in English Ranch and discussed the safety issues that would arise with additional traffic. He discussed the traffic study submitted by the applicant and commented on the use of active modes in the neighborhood and discussed the previously approved alternative compliance for a bike and pedestrian only connection rather than a roadway connection.

Mayor Pro Tem Francis requested clarification on the Overall Development Plan (ODP) versus the Project Development Plan (PDP) and whether this item is appealable to Council. City Attorney Daggett explained the history of the project stating the ODP was remanded to the Planning and Zoning Commission and there was a time period during which the decision on remand could have been appealed to Council; however, that time period passed without an appeal being filed and the approved ODP remains the controlling document for any PDPs that come forward and the Land Use Code requires any PDP to comply with the ODP. She stated Council could conclude that it has not heard a case that would lead it to overturn the Planning and Zoning Commission decision and make two motions, one on the fair hearing issue, and one on the interpretation and application issue.

## **APPLICANT PRESENTATION**

Bob Choate noted this is the sixth public hearing that has been held on the project and the result has been a year-long delay. He noted this iteration of the project plan fully meets the Code without the previously approved alternative compliance. He also noted the traffic study submitted by the applicant was accepted by the City's Traffic Engineer and the Planning and Zoning Commission.

## **APPELLANT REBUTTAL**

Mr. Janelle stated there were no appeals filed after the ODP remand decision because the residents had been led to believe it was not an appealable decision. He stated it would be irresponsible to place the additional traffic on the English Ranch streets given the number of vulnerable road users. He also stated a bike and pedestrian connection could help set an example for an active modes addition to the area. He expressed concern about the notification boundary and stated the 'one size fits all' approach is not working.

## **APPLICANT REBUTTAL**

None.

## **COUNCIL QUESTIONS/DISCUSSION**

Councilmember Pignataro asked if a neighborhood meeting occurred between the September Planning and Zoning Commission remand decision and the end of the 14-day appeal window. Ryan Mounce, City Planner, replied that the neighborhood meeting for the PDP was held in November.

Councilmember Ohlson requested clarification as to whether the neighborhood had been told it could not appeal the remanded decision. Mounce replied that the question about whether the September decision could be appealed did not come until the neighborhood meeting in November which was outside the appeal period.

Councilmember Ohlson asked if the City assists neighborhoods to help with these types of issues and dates. Frickey replied planners are always available for questions and there is a Development Review Liaison who attends all meetings as a resource for neighborhoods.

Councilmember Ohlson asked about the project developer's opinion on the connection. Frickey replied the developer was comfortable with the pedestrian and bicycle connection and noted there is a Land Use Code requirement that development connects to adjacent properties, which is why Council remanded the decision back to the Planning and Zoning Commission.

Councilmember Pignataro asked if the same requirement is present in the forthcoming foundational Land Use Code. Frickey replied in the affirmative.

Councilmember Gutowsky asked if there is a protocol related to informing residents of the 14-day appeal period. Frickey replied every decision of the Planning and Zoning Commission is appealable, per the Land Use Code, and he did not provide any guidance to anyone asking about that at the Commission hearing in September.

Councilmember Pignataro noted the PDP must adhere to the ODP which was decided in the fall, and because it was not appealed at that time, Council cannot change the result. She indicated her commitment to help install speed tables in English Ranch to make it inconvenient to cut through the neighborhood if the connection occurs during her tenure on Council.

Councilmember Ohlson stated Council does not have the authority to eliminate or alter the connection in deciding this appeal as that needed to occur at the ODP level.

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, related to appeal question one, that the Planning and Zoning Commission conducted a fair hearing.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, related to the appeal question two, that the Planning and Zoning Commission properly interpreted and applied the Land Use Code in Larimer County Urban Area Street Standards.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**P) OTHER BUSINESS**

OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

None.

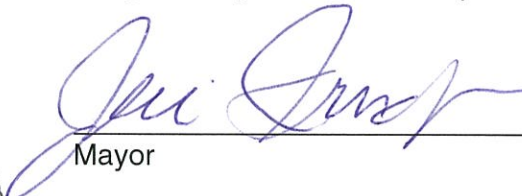
**Q) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 10:45 p.m.

ATTEST:

  
Interim City Clerk



  
Mayor