

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING**

FINDINGS AND DECISION

HEARING DATE: February 4, 2021

PROJECT NAME: Kechter Townhomes

CASE NUMBER: PDP # 200010

APPLICANT: Ryan Kelly, TWG, LLC
Carrie McCool, McCool Development Solutions
383 Tennyson Street
Denver, CO 80212

OWNER: City of Fort Collins
222 Laporte Avenue
Fort Collins, CO 80204

HEARING OFFICER: Marcus A. McAskin

PROJECT DESCRIPTION: The Kechter Townhomes project (PDP # 200010) involves a request for approval of a Project Development Plan (PDP) associated with a 54-unit affordable housing infill project. The Applicant seeks approval of the PDP in order to be eligible to submit a Final Development Plan (FDP) to the City for review.

The subject property is located between Jupiter Drive and Lady Moon Drive, north of Kechter Road, and consists of approximately 4.66 acres, more or less (the “Subject Property”). The Subject Property is located in the southeast quarter of Section 4, Township 6 North, Range 68 West of the 6th P.M., in the City of Fort Collins.

The Subject Property is currently owned by the City of Fort Collins Land Bank¹.

¹ As set forth on page 26 of the City’s *Affordable Housing Strategic Plan* (2015-2019) (“AHSP”), the City of Fort Collins owns five parcels totaling about 50 acres of land for future development. The [land bank] program is designed to encourage the City to purchase land with development impediments and hold the land for between 5 and 15 years in the expectation that at least some of these impediments will be removed by market rate development. When the time is right, land will be sold or otherwise provided to a developer for the production of rental and/or for sale affordable housing. Any revenue generated from the sale of a land bank asset will be used to purchase more land bank properties. A copy of the AHSP is available at the following link:
<https://www.fcgov.com/sustainability/pdf/AHSPFinal.pdf>

The PDP proposes a total of 54 townhome units in 11 buildings, with all units to constitute “for sale” permanently affordable housing units².

Existing trees will remain, as detailed in the landscape plan, landscape notes and tree mitigation plan (Sheet # L3.0, L3.1, L3.2, and L4.0 of the PDP).

The Subject Property is located in the Low Density Mixed-Use Neighborhood (L-M-N) Zone District. The PDP includes a request for two Modification of Standards:

- (1) Modification of Standard to LUC subsection 3.2.2(K)(1)(a) – Required Number of Parking Spaces – to allow 99 parking spaces instead of the 107 that the standard requires; and
- (2) Modification of Standard to LUC Section 3.8.30(F)(2) – Variation Among Buildings – to allow two buildings with the same plan to be located next to each other in one location.

The PDP also includes two Alternative Compliance requests:

- (1) *Tree plantings around buildings.* The PDP does not provide tree plantings around building as required in LUC subsection 3.2.1(D). The Applicant has submitted an Alternative Compliance request as permitted by LUC subsection 3.2.1(N); and
- (2) *Street Pattern and Connectivity.* The PDP does not connect and extend streets that are stubbed to the boundary of the Subject Property by previous development as required in LUC subsection 3.6.3(F). The Applicant has submitted an Alternative Compliance request as permitted by LUC subsection 3.6.3(H).

BACKGROUND: The Subject Property is located in the Fossil Creek Reservoir Area Plan area, which was included in an expanded City Growth Management Area (GMA) in 1997 as part of an overhaul of the City’s comprehensive plan known as City Plan. As set forth in the Planning Department Staff Report prepared for this application, the GMA expansion and the adopted plans represented agreement between Larimer County and the City for land use and development to be managed by the City going forward.

² Based on testimony provided at the February 4th hearing and a review of materials in the record, the units will be sold to qualified households earning less than 80% of the area median income (AMI).

The surrounding zoning and land use to each side of the Subject Property are as follows:

	North	South	East	West
Zoning	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)
Land Use	Observatory Village Single family subdivision	Radiant Park, Zach Elementary School, and single family subdivisions across Kechter Road	Observatory Village Single family subdivision	City park space and Fossil Ridge Elementary School

SUMMARY OF DECISION: Approved, with conditions.

ZONE DISTRICT: Low Density Mixed-Use Neighborhood District (L-M-N)

HEARING: The Hearing Officer opened the virtual hearing on Thursday, February 4, 2021 at approximately 5:30 P.M. and reviewed the Order of Proceedings and Rules of Conduct for Administrative Hearings with the Applicant and members of the public present.

EVIDENCE: Prior to or at the hearing, the Hearing Officer accepted the following documents as part of the record of this proceeding:

1. Planning Department Staff Report prepared for the February 4th hearing. A copy of the Staff Report is attached to this decision as **ATTACHMENT A** and is incorporated herein by reference.
2. Applicant’s Narrative.
3. Applicant’s Request for Modification of Standard – Number of Parking Spaces.
4. Applicant’s Request for Modification of Standard – Building Variation in One Instance.
5. Applicant’s Request for Alternative Compliance – Tree Planting in Rear Perimeter Areas.
6. Applicant’s Request for Alternative Compliance – Street Connectivity at Eclipse Lane.
7. Site and Landscape Plans.
8. Whole Layout Diagram.
9. Architectural Plans.

10. Utility Plans.
11. Plat.
12. Neighborhood Meeting notes.
13. Ecological Characterization Study.
14. Raptor Survey and Mitigation Measures.
15. Traffic Impact Study.
16. Proof of publication of Notice of Hearing in the *Fort Collins Coloradan* on January 27, 2021.
17. Posted Notice of Public Hearing dated May 19, 2020, Sign #560 (as confirmed on page four of the Staff Report).
18. Written Hearing Notice: January 21, 2021, 270 addresses mailed (as confirmed on page four of the Staff Report).
19. The PowerPoint presentation prepared by City staff for the February 4, 2021 hearing.
20. The PowerPoint presentation prepared by the Applicant for the February 4, 2021 hearing.
21. The City's Comprehensive Plan, Land Use Code ("LUC"), and the formally promulgated polices of the City are all considered part of the record considered by the Hearing Officer.
22. The following emails were also accepted as part of the record:
 - a. Email from Hyunwood Lee dated February 4, 2021 (12:24 p.m.), addressed to Clark Mapes (City Planner) and devreviewcomments@fcgov.com

TESTIMONY: The following persons testified or participated during the virtual hearing:

From the City: Clark Mapes, City Planner
 Scott Benton, City Environmental Planner
 Nicole Hahn, Interim City Traffic Engineer
 Dave Betley, Civil Engineering Manager
 Alyssa Stephens, Public Engagement Specialist
 Leslie Spencer, Community Development Support

From the Applicant: Russ Lee, Ripley Design
Aldo Sebben, Studio Architecture
Andrew Reese, Northern Engineering
Ryan Kelly, TWG, LLC
Carrie McCool, McCool Development Solutions

From the Public*: Jessica Radtke, 5503 Jupiter Dr., Fort Collins, CO 80528
Richard Dunker, 5321 Cinquefoil Lane, Fort Collins, CO 80528
Richard Hahn, 3627 Voyager Lane, Fort Collins, CO 80528

* indicates those members of the public that provided their full name and address to City staff prior to (or during) the virtual hearing. Other members of the public participated in the virtual hearing but did not provide their contact information to City staff.

The public comment portion of the hearing was closed at approximately 7:03 p.m.

The virtual hearing was closed at approximately 8:00 p.m.

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the virtual public hearing was properly posted, mailed and published.
2. As required by City Council Ordinance 079, Series 2020 (the “**City Ordinance**”), the Hearing Officer, in consultation with City staff, determined that it was desirable to conduct the hearing by remote technology so as to provide reasonably available participation by parties-in-interest and by the public, consistent with the requirements of the City Ordinance, because meeting in person would not be prudent for some or all persons due to the continuing public health emergency.
3. Based on testimony provided at the public hearing and a review of the materials in the record of this case, the Hearing Officer concludes as follows:
 - A. The Application complies with the applicable procedural and administrative requirements of Article 2 of LUC.
 - B. The Application complies with the applicable General Development Standards contained in Article 3 of the LUC (“General Development Standards”) with two Modification of Standards requested and two Alternative Compliance requests, as more specifically set forth below.

i. Modification of Standards.

1. *Modification of Standard to LUC subsection 3.2.2(K)(1)(a) – Required Number of Parking Spaces to allow 99 parking spaces instead of the 107 that the standard requires.* The Hearing Officer finds that the requested Modification would not be detrimental to the public good and the request satisfies criterion (2) set forth in subsection 2.8.2(H) of the LUC because the granting of the Modification would, without impairing the intent and purpose of the LUC, substantially alleviate an existing, defined and described problem of city-wide concern or would result in a substantial benefit to the city by reason of the fact that the proposed project would substantially address an important community need specifically and expressly defined and described in the City’s Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council, and the strict application of the standard would render the project infeasible.

Specifically, the Hearing Officer finds that the reduction in the required number of parking spaces enables the development of 54 “for sale” permanently affordable housing units, which will substantially address an important community need specifically and expressly defined and described in the City’s Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council³.

³ City Plan is the City’s comprehensive plan that guides how the Fort Collins community will grow and travel in the next 10-20 years. A copy of City Plan is available at the following link: <https://www.fcgov.com/cityplan/>

Policy guidance set forth in City Plan regarding the importance of affordable housing includes, but is not limited to, the following:

- Only 4.8% of housing units in Fort Collins are deed or income restricted (i.e., affordable to households earning less than 80% of the area median income). *City Plan* at pg. 28.
- *City Plan* promotes strategies, new programs and incentives to encourage the construction of workforce and affordable housing throughout the community. *City Plan* at page 29.
- **Increasing the Availability of Affordable Housing.** The City and its housing partners are pursuing a range of strategies to expand affordable and workforce housing options, and are active participants in ongoing discussions with other communities in the region. Overall, the City is striving for 6% of all housing units to be affordable (deed/income restricted units) to households earning less than 80% of the area median income by 2020 and for 10% of units to be affordable by 2040. In addition, the City emphasizes assistance priority to the lowest wage earners, those earning less than 30% of the area median income. Still, the production of affordable housing is lagging. Principles and policies support ongoing efforts and set the stage for exploring additional strategies to confront our housing challenges. *City Plan* at 36.

In addition, the Hearing Officer finds, based on testimony provided at the hearing, that strict application of the parking standard would render the project infeasible given site constraints discussed at the hearing and documented in the record. The Hearing Officer also agrees with Staff's analysis that any impacts from the lower number of parking spaces provided are mitigated by the opportunity for parking in driveways in front of garages (consisting of an additional 44 off-street parking spaces) which are not included as part of the 99 parking spaces provided.

2. *Modification of Standard to LUC Section 3.8.30(F)(2) – Variation Among Buildings, to allow two buildings with the same plan to be located next to each other in one location.* The Hearing Officer finds that the requested Modification would not be detrimental to the public good and the request satisfies criterion (4) set forth in subsection 2.8.2(H) of the LUC because the plan as submitted will not diverge from the LUC standards except in a nominal, inconsequential way when considered from the perspective of the entire development plan, and will continue to advance the purposes of the LUC as contained in Section 1.2.2.

Specifically, the Hearing Officer finds that because 10 of the 11 buildings in the plan comply with the applicable standard, and given that the modulated building design and color schemes proposed provide sufficient visual interest that will adequately offset any impact associated with having two buildings with the same plan to be located next to one another, the PDP meets the requirements and criteria of Section 2.8.2(H)(4) of the LUC. In

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- Policy LIV 5.4 - LAND SUPPLY FOR AFFORDABLE HOUSING Continue to grow and utilize the Affordable Housing Land Bank Program and other programs to create permanently affordable housing units.
 - Policy LIV 5.5 - INTEGRATE AND DISTRIBUTE AFFORDABLE HOUSING Integrate the distribution of affordable housing as part of individual neighborhoods and the larger community
 - Policy LIV 6.4 - PERMANENT SUPPLY OF AFFORDABLE HOUSING Create and maintain an up-to-date inventory of affordable housing in the community. Pursue policy and regulatory changes that will encourage the rehabilitation and retention of affordable housing in perpetuity.
 - Policy LIV 6.6 - AFFORDABLE HOUSING PROGRAMS Support the development and provision of affordable housing in the community by maintaining and expanding dedicated sources of funding for affordable housing services and programs, including management of a competitive process for federal and local funding, development incentives, homebuyer assistance and the Land Bank Program.

In addition to policy goals set forth in City Plan, the City has articulated policy goals related to affordable housing in the City's *Affordable Housing Strategic Plan* (2015-2019) ("AHSP").

making this finding, the Hearing Officer finds that the plan, as submitted, will continue to advance the purposes of the LUC as specifically set forth in Section 1.2.2(A) and Section 1.2.2(L) thereof. The nominal or inconsequential deviation from the LUC standard set forth in Section 3.8.30(F)(2) will enable the development of 54 “for sale” affordable housing units, which is consistent with growth and development supported by City Plan and the ASHP⁴. In addition, the plan as submitted will minimize the adverse environmental impacts of development through preservation of existing trees on the Subject Property, as detailed in the landscape plan, landscape notes and tree mitigation plan (Sheet # L3.0, L3.1, L3.2, and L4.0 of the PDP).

ii. Alternative Compliance requests.

1. *Tree plantings around buildings.* The PDP does not provide tree plantings around buildings as required in LUC subsection 3.2.1(D) which requires that all developments establish trees in landscape areas within 50 feet of buildings. The Applicant has submitted an Alternative Compliance request as permitted by LUC subsection 3.2.1(N). The Hearing Officer finds that the Applicant’s Alternative Compliance request complies with the submittal requirements of LUC subsection 3.2.1(N)(1) and further finds that the Alternative Compliance request will accomplish the purposes of subsection 3.2.1(D) equally well or better than would a plan which complies with said subsection, conditioned on the following: that the Applicant continue current discussions with the four (4) immediately adjacent homeowners and the Observatory Village Master Association, Inc. (or applicable sub-association) (the “HOA”) regarding the planting of up to six (6) additional trees in the bufferyards immediately adjacent to the north and east of the Subject Property, being Tracts W and X, Willow Brook, Larimer County, State of Colorado. If agreed to by the Applicant and the HOA, the Applicant shall plant up to six (6) additional trees in the abutting bufferyards and complete necessary adjustments to the HOA irrigation system to irrigate the new trees. Costs of the additional trees and irrigation system adjustments shall be paid by the Applicant, unless otherwise set forth in the written HOA-Applicant agreement.
2. *Street Pattern and Connectivity.* The PDP does not connect and extend streets that are stubbed to the boundary of the Subject

⁴ Reference footnote 3.

Property by previous development as required in LUC subsection 3.6.3(F). The Applicant has submitted an Alternative Compliance request as permitted by LUC subsection 3.6.3(H), which requests a walkway-only connection to Eclipse Lane (to the east), in lieu of a standard street connection. The Alternative Compliance request is the result of: (a) incorporating space to retain large existing cottonwood trees into the project, and (b) introducing new street access to and from Kechter Road. The Hearing Officer finds that the Applicant's Alternative Compliance request complies with the submittal requirements of LUC subsection 3.6.3(H)(1) and further finds that the Alternative Compliance request will accomplish the purposes of subsection 3.6.3(F) equally well or better than would a plan and design which complies with said subsection, and that any reduction in access and circulation for vehicles maintains facilities for bicycles, pedestrian and transit, to the maximum extent practicable.

- C. The Application complies with Section 3.4.1 of the LUC (Natural Habitats), with the condition of approval set forth below. An Ecological Characterization Study was completed which determined one of the listed types of habitats and features as "raptor habitat features, including nest sites, communal roost sites and key concentration areas", and the information about bald eagles prompted a special ECS process to assess eagle use of the existing cottonwood trees as habitat. A draft ECS was submitted in December 2020, and a survey of eagle roosting remains ongoing through March of 2021. The ECS sets forth that at least one tree on site is utilized by bald eagles to some degree. The ongoing survey is conducted twice monthly to determine which trees are being used and whether they are being used in a way that would classify as a winter night roost or communal roost. The Hearing Officer recommends the following condition of approval (consistent with the recommendation of City staff) in order to find that the project meets application LUC Section 3.4.1 standards: the Applicant shall complete the eagle roosting survey (through March 2021) and if a winter night roost and/or communal roost is determined to exist, then Applicant shall implement the temporal buffering and all other mitigation measures detailed in the Bald Eagle Roost Mitigation Measures document dated January 28, 2021, a copy of which is attached to this decision as **ATTACHMENT B** and is incorporated herein by reference.
 - D. The Application complies with standards located in Article 4, Division 4.5 of the LUC (Low Density Mixed-Use Neighborhood District standards).
4. The Application's satisfaction of the applicable Article 2, 3, and 4 requirements of the LUC is sufficiently detailed in the Staff Report, a copy of which is attached as **ATTACHMENT A** and is incorporated herein by reference.

DECISION

Based on the findings set forth above, the Hearing Officer hereby enters the following ruling:

- A. The Kechter Town Homes Project Development Plan (PDP # 200010) is approved for the Subject Property as submitted, subject to the conditions set forth in (B) and (C) below.
- B. The Applicant shall continue discussions with the four (4) immediately adjacent homeowners and the Observatory Village Master Association, Inc. (or applicable sub-association) (the “HOA”) regarding the planting of up to six (6) additional trees in the bufferyards immediately adjacent to the north and east of the Subject Property, being Tracts W and X, Willow Brook, Larimer County, State of Colorado. If agreed to by the Applicant and the HOA, the Applicant shall plant up to six (6) additional trees in the abutting bufferyards and complete necessary adjustments to the HOA irrigation system to irrigate the new trees. Costs of the additional trees and irrigation system adjustments shall be paid by the Applicant, unless otherwise set forth in the written HOA-Applicant agreement.
- C. The Applicant shall complete the eagle roosting survey (through March 2021) and if a winter night roost and/or communal roost is determined to exist, then Applicant shall implement the temporal buffering and all other mitigation measures detailed in the Bald Eagle Roost Mitigation Measures document dated January 28, 2021, a copy of which is attached to this decision as **ATTACHMENT B** and is incorporated herein by reference.

DATED this 17th day of February, 2021.



Marcus A. McAskin
Hearing Officer

ATTACHMENT A

Staff Report
Kechter Townhomes
(PDP #200021)

Development Review Staff Report

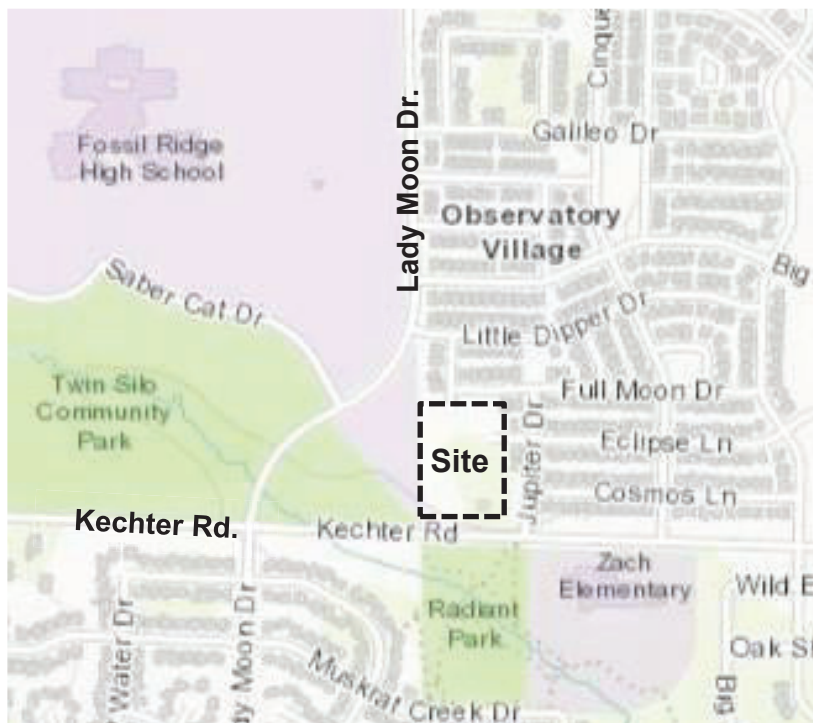
Administrative Hearing: February 4, 2021

Kechter Townhomes

Summary of Request

This is a proposed Project Development Plan (PDP), #PDP200010. The plan would develop a 5-acre City of Fort Collins Land Bank property with 54 affordable for-sale townhome units in 11 buildings comprising 4-, 5-, and 6-plexes.

Location Map – All LMN Zoning



Next Steps

If approved, the applicant will be eligible to submit a Final Development Plan to finalize engineering and other details and record all plan documents; the applicant could then apply for construction and building permits.

Site Location

3620 Kechter Rd., just east of Lady Moon Dr.
Sign #560, Parcel #8604000924.

Zoning

Low Density Mixed Use Neighborhood (LMN)

Property Owner

City of Fort Collins
222 Laporte Avenue, Fort Collins, CO 80204

Applicant/Representative

Ryan Kelly, TWG, LLC
Carrie McCool, McCool Development Solutions
383 Tennyson St., Denver, CO 80212

Staff

Clark Mapes, City Planner

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Staff Recommendation

Staff recommends approval of two Modifications of Standards and the Project Development Plan including alternative compliance for two standards, with two conditions of approval.

1. Project Introduction

A. PROJECT DESCRIPTION

Notable aspects of the PDP include:

- 54 affordable, for-sale townhomes in 11 buildings comprising 4-, 5-, and 6-plexes.
- Large mature cottonwood trees on the site are retained.
- Buildings are placed along new streets, one of which has full movement access onto Kechter Road on the south, and another which connects to Quasar Way and is stubbed to the property line on the north.
- A walkway connects to Eclipse Lane, which is stubbed to the property line on the east, in lieu of a full street connection.
- The plan includes an Alternative Compliance request for the lack of a vehicular connection to Eclipse Lane.
- The plan includes Alternative Compliance for the lack of tree plantings around the east and north perimeter, where a buffer yard tract on abutting property contains trees that provide the functional equivalent of standard tree planting requirements.
- The plan includes a Modification of a standard to allow two of the same building design to be placed next to each other along the east edge of the site.
- A condition of approval is recommended regarding an ongoing survey of bald eagle usage of the large cottonwood trees.
- A condition of approval is recommended regarding ongoing discussions with nearby homeowners and the Observatory Village HOA about planting a few trees on abutting HOA property.
- The City of Fort Collins Land Bank Program is the owner of the property. The Land Bank proposes to sell the site to a partnership among a nonprofit Community Land Trust, Elevations CLT; the Colorado Department of Housing; affordable housing developer TWG Development; and Housing Catalyst, the City of Fort Collins' Housing Authority.

B. DEVELOPMENT STATUS/BACKGROUND

1. Annexation and Planning

The property is in the Fossil Creek Reservoir Area Plan area, which was brought into an expanded City Growth Management Area in 1997 as part of a sweeping overhaul of the City's comprehensive plan known as City Plan. That GMA expansion and the adopted plans represented agreement between Larimer County and the City for land use and development to be managed by the City going forward.

In 1999, the Willow Brook Annexations #1 and #2, wrapped around the subject property on the north and east sides. In 2000, the Willow Brook Overall Development Plan was approved for that land, followed in 2001 by the Willow Brook Project Development Plan. Willow Brook is now developed and is known as Observatory Village.

Willow Brook plans designed the street and block network with Quasar Way and Eclipse Lane connections stubbed to the subject property on its north and east sides for future connection, consistent with goals and development requirements intended to knit developments together into interconnected neighborhoods with mixes of different housing types (single-family homes, townhomes, etc.)

The subject property was purchased by the City's Land Bank Program in 2002 and annexed in 2003 as Willow Brook Annexation #3. In 2017, the program determined that the time was right to issue a Request for Proposals for development of affordable housing in home ownership form.

2. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)
Land Use	Observatory Village Single family subdivision	Radiant Park, Zach Elementary School, and single family subdivisions across Kechter Road	Observatory Village Single family subdivision	City park space and Fossil Ridge Elementary School

C. OVERVIEW OF MAIN CONSIDERATIONS

The plan has gone through multiple iterations to explore the following issues:

- First and foremost, the process resulted in saving all of the large cottonwood trees, which were all shown to be removed in the initial plan as submitted.
- The trees were a driving factor in subsequent alternatives for street layout and stormwater facilities, with implications for the number of units. During review of the project, the total number of units decreased from 60, to 56, to 54 as proposed today.
- In addition to the time spent on plan iterations to retain the trees, the applicants and staff learned early in the process that bald eagles had been using the trees. This led to a several-month process to understand the implications of local, state, and federal protections and to formulate the approach to an Ecological Characterization Study (ECS). The ECS is still ongoing at the time of this writing to accurately understand usage of the large trees by eagles and recommend any potential mitigation measures depending on results.
- Street access on Kechter Road was another fundamental issue that was resolved through the plan iterations. The initial submittal had no connection; the proposed plan now includes a full movement street connection.
- The Kechter access was key to staff support for not connecting a street to Eclipse Lane, which is stubbed to the site on the east as would typically be required.

2. Comprehensive Plan

A. CITY PLAN (2019) AND RELATED POLICY GUIDANCE

The City’s comprehensive plan (2019 City Plan) was developed with the participation of thousands of community members and embodies the vision and values of the community for the future.

Affordable housing is a pervasive theme throughout the plan, mentioned in the Vision and Values for Livability, Community, Sustainability; in a number of Principles and Policies; and in the City Structure Plan Mixed Neighborhoods description. All of these address needs for attainable and affordable housing options for residents at all income levels to be able to live and work in Fort Collins. Integrating and distributing affordable housing as part of neighborhoods and the community, rather than creating larger concentrations of affordable units in isolated areas, is a longstanding aspect. Compatible design is another key aspect.

Fort Collins City Plan is easily found online, and pertinent policy guidance is found on pp. 17, 20, 25, 27, 28-29, 36, **42-43**, 98, and **114**.

City Plan’s general overall direction is reinforced by related plans and programs including the Affordable Housing Strategic Plan, the City’s Affordable Housing Program, and City Council Strategic Plans. Affordable, for-sale single-family homes (townhomes in this case) are an extraordinarily difficult need to meet in new housing development. This proposal provides 100% affordable, for-sale townhomes.

The 2015-2019 Affordable Housing Plan (AHSP) is being updated at the time of this writing, with the new plan in draft form. It expands the plan to address all housing but still retains the focus set in the AHSP for homes that house low income residents. The new plan specifically calls out a need for housing options other than single family detached houses, such as townhomes. It incorporates the objectives of the AHSP, which built upon guidance from an earlier 2010 edition. Key objectives are:

- Incentivize the production of affordable housing
- Support opportunities to obtain and sustain affordable homeownership
- Refine development incentives and expand funding sources and partnerships

The Land Bank Program is one of the City's affordable housing incentives. In 2017, a City Council Priority directed staff to sell one of the Land Bank parcels for permanently affordable home ownership development. The City issued two requests for proposals before choosing the development team for this project. This project partners with Elevation Community Land Trust, who will purchase the finished units and resell them to qualified low income buyers. The land trust will retain the land by lease and will be a long term steward to assure permanent affordability. The Colorado Division of Housing among others also brings funding to the partnership. A complex package of funding sources is needed as subsidy to provide permanent affordability.

Finally, Fort Collins residents have identified housing affordability as one of the top two concerns in the last 5 years of citywide Community Surveys.

3. Public Outreach

A. NEIGHBORHOOD MEETING

A neighborhood meeting was held on July 27, 2020 with approximately 90 people in attendance and 16 emails related to the meeting. Main topics were concerns about existing traffic speeding and danger to children; existing traffic volumes related to Zach Elementary school; the value of existing mature cottonwoods on the property for bald eagles, hawks, and owls; and general concerns about affordable townhomes impacting people in the adjacent Observatory Village (the adjacent single-family detached housing development).

4. Land Use Code Article 2

A. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR200004

A conceptual review meeting was held on June 5, 2020.

2. Neighborhood Meeting

Pursuant to *LUC Section 2.2.2 – Step 2: Neighborhood Meetings*, a neighborhood meeting was not required for this project which requires an Administrative Hearing as a 'Type 1' project. However, the applicant team recognized the need, and an online neighborhood meeting was held on July 27, 2020. 270 letters were mailed to owners within the notice area.

3. First Submittal - PDP200010

The PDP was submitted on July 24, 2020.

4. Notice (Posted, Written and Published)

Posted Notice: May 19, 2020, Sign #560.

Written Hearing Notice: January 21, 2021, 270 addresses mailed.

Published Hearing Notice: Scheduled for January 28, 2021.

B. DIVISION 2.8 – MODIFICATION OF STANDARDS

The Land Use Code is adopted with the recognition that there will be instances where circumstances in a given development plan may warrant a design solution that does not comply with all standards as written.

Accordingly, code standards include the provision for ‘Modification of Standards’ under certain criteria.

In this case, the plan requires two modifications, one for two buildings with the same building design located next to each other, and the other for the number of parking spaces.

The modification criteria in Land Use Code Division 2.8.2(H) provide for evaluation of modification requests, as follows.

Land Use Code Modification Criteria:

“The decision maker may grant a modification of standards only if it finds that the granting of the modification would not be detrimental to the public good, and that:

(1) the plan as submitted will promote the general purpose of the standard for which the modification is requested equally well or better than would a plan which complies with the standard for which a modification is requested; or

(2) the granting of a modification from the strict application of any standard would, without impairing the intent and purpose of this Land Use Code, substantially alleviate an existing, defined and described problem of city-wide concern or would result in a substantial benefit to the city by reason of the fact that the proposed project would substantially address an important community need specifically and expressly defined and described in the city's Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council, and the strict application of such a standard would render the project practically infeasible; or

(3) by reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness or topography, or physical conditions which hinder the owner's ability to install a solar energy system, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional or undue hardship upon the owner of such property, provided that such difficulties or hardship are not caused by the act or omission of the applicant; or

(4) the plan as submitted will not diverge from the standards of the Land Use Code that are authorized by this Division to be modified except in a nominal, inconsequential way when considered from the perspective of the entire development plan, and will continue to advance the purposes of the Land Use Code as contained in Section 1.2.2.

Any finding made under subparagraph (1), (2), (3) or (4) above shall be supported by specific findings showing how the plan, as submitted, meets the requirements and criteria of said subparagraph (1), (2), (3) or (4).

1. Modification of a building variation standard – Section 3.8.30(F) requiring no two of the same building plan to be placed next to each other

Overview

This standard calls for “no two similar buildings next to each other”. This modification request is to allow two buildings with the same design to be placed next to each other in one location along the east side of Street B, at the east edge of the plan. The color scheme is reversed on these two buildings.

Summary of applicant justification:

The applicant's modification request is attached. The request is based on lack of detriment to the public good, and on subparagraphs (2) and (4) above -- "defined community need" for affordable housing, and "nominal and inconsequential" when considered from the perspective of the whole plan.

The applicants note that the plan results from a series of iterations that explored issues with staff and community members. The iterations focused on three interrelated issues that were more fundamental than the issue of the side-by-side 5-plexes: 1) preservation of large, mature cottonwood trees that staff and neighbors felt were crucial to retain as a highly notable feature of the property; 2) street connections to Kechter, Quasar, and Eclipse; and 3) the viable number of units in the plan needed to cover costs while keeping the units affordable.

The placement of the two 5-plexes was a secondary consideration driven by those bigger issues. The applicants acknowledge how important it is to avoid a monotonous, impersonal visual and pedestrian environment. They contend that the building design and color schemes provide pedestrian-friendly visual interest that adequately offsets the lack of additional variation that would result from eliminating a unit to replace a 5-plex with a 4-plex. For these reasons, the request contends that this is a nominal and inconsequential aspect of the whole plan that does not create a detriment to the public good.

Staff Findings:

Staff finds that the granting of the modification would not be detrimental to the public good and that the plan satisfies criteria in subparagraphs (2) and (4) under Section 2.8.2(H) governing modification requests.

Detriment to the public good. Staff finds that modulated building massing, architectural detailing, and color variation provide adequate pedestrian and visual interest, given that this is a lone instance of the same building plan side by side. The residential character and variation throughout the development offset the effect of the two buildings such that their placement is not detrimental to the public good.

Criterion (2), "defined community need". Staff's finding reflects clear needs for various types of affordable housing, which are described in the City's comprehensive plan (City Plan), Affordable Housing Strategic Plan, City Council Strategic Plans, and the City's Affordable Housing Program, and other public forums. Affordable, for-sale single-family homes (townhomes in this case) are a particularly difficult need to meet in new housing development, and the plan provides 100% affordable townhomes for sale.

Staff is convinced that maintaining 54 units is crucial to the development program and reflects a necessary balancing of tradeoffs, including the placement of the two 5-plexes.

Criterion (4), "nominal and inconsequential" when considered from the perspective of the entire development plan. 10 of the 11 buildings in the plan comply with the standard, and the entire development plan reflects a balance of tradeoffs as explained above. Given this perspective of the entire plan, staff finds that building design and color schemes provide pedestrian-friendly visual interest that adequately offsets the lack of additional variation that would result from switching one of the 5-plexes to a 4-plex to strictly comply with the standard, thus making the issue nominal and inconsequential under the criterion.

2. Modification of a standard for a minimum required number of parking spaces – subsection 3.2.2(K)(1)(a)

Overview

Subsection 3.2.2.(K)(1)(a) requires a total number of parking spaces for the attached dwelling units as shown below. Relatedly, subsection 3.2.2.(K)(1)(b) allows parking on internal streets in attached and multi-family housing developments to be counted to meet the requirement. 107 parking spaces are required, and the plan provides 99 spaces.

<i>Number of Bedrooms/ Dwelling Unit</i>	<i>Kechter Townhomes Units</i>	<i>Parking spaces per dwelling unit-required</i>	<i>Total required</i>	<i>Provided Off- Street</i>	<i>Provided On Streets</i>
Two	5	1.75	9	54	45
Three	49	2.0	98		
Total spaces required			107		
Total spaces provided				99	

Late in the review process, the applicant team realized that 8 of the street parking spaces in the last plan iteration were not viable upon more detailed measurement of clearances from stop signs and sidewalk ramps, and recognized that some short street segments where continuous parking on both sides would restrict passage of vehicles would not be allowed. The result is that the parking count is short of minimum requirements by 8 spaces.

The applicant team and staff scrutinized every possibility for additional spaces on the plan, or, for reducing the number of dwelling units to lower the requirement and possibly open up space for a few angled or head-in parking spaces, which would be the only way to increase the number provided. This latter approach would require a variance to local street design standards, which would likely not be workable from an operational standpoint.

The applicant team determined that eliminating a unit(s) and the time delay required for another design iteration are not feasible. The only way to continue toward a hearing is to request a Modification of the standard. The request is attached.

Summary of applicant justification:

The applicant’s modification request is attached. The request is based on lack of detriment to the public good, and on subparagraph (2) above -- “defined community need” for affordable housing.

Criterion (2), “defined community need”. The extensive design and review process to retain the large trees had implications for the street layout and reduced the number of units in the plan from the original 60, to 56, to 54 in the proposed plan.

The proposed plan is at a point where the only solution would be to eliminate more of the dwelling units. With the saving of the existing trees and the street parking clearance requirements, there is not sufficient room on the property to provide 107 code-required parking spaces.

The request articulates why, without the proposed modification, the project is financially and logistically infeasible.

The request articulates the need for the affordable housing as defined in City policy documents and discussions. Also, it notes that in 2019 the City’s Internal Housing Task Force presented recommendations to the City Council which included, among others, decreasing development costs by **(i) increasing opportunities for density bonuses; (ii) relaxing parking standards; and (iii) relaxing certain design standards.** Staff’s follow up memorandum outlining the City Council’s direction noted general support for the ideas about flexible development standards that also protect quality of life, safety, and neighborhood character.

The request notes that this modification directly relates to those City Council discussions.

The request notes that the standard does not count parking in driveways toward the requirement when the driveways are in front of garages. However, in reality those driveways will be used as parking for residents and visitors, and those spaces provide a 'cushion' of 44 spaces more than the requirement.

The request contends that to deny the introduction of 54 affordable for sale units because of the delinquency of 8 parking spaces per code, which are offset by the ability to park in the driveways, would be contrary to the community's planning for affordable housing.

Detriment to the public good. The request contends that for the reasons above, there is no detriment to the public good.

Staff Findings:

Staff finds that the granting of the modification would not be detrimental to the public good and that the plan satisfies criteria in subparagraphs (2) and (4) under Section 2.8.2(H) governing modification requests.


Detriment to the public good. Staff finds that the effect of any parking shortage would be largely managed by the residents of the homes and would be contained primarily within the development. To the extent that there could be any spillover parking onto City streets beyond the development's boundaries, that is part of the purposes and function of the City's street network. Although not a determining factor, staff notes that adjacent portions of streets closest to the site include stretches with no facing buildings.

Criterion (2), "defined community need". Staff's finding reflects needs for various types of housing that is affordable to residents with various incomes, which are described in multiple documents and other public forums as noted in other parts of this report.

As evaluated under Criteria 2.8.2(H)(2), staff finds that the project **would alleviate the well-defined and described need for affordable housing**; and the modification reflects a necessary balancing of tradeoffs, and is necessary to enable the project to proceed.

5. Land Use Code Article 3

A. DIVISION 3.2 - SITE PLANNING AND DESIGN STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p>3.2.1 – Landscaping and Tree Protection</p>	<p>The standards of this Section require a development plan to demonstrate a whole approach to landscaping that enhances the appearance and function of the neighborhood, buildings, and pedestrian environment. This includes incorporation of valuable existing trees to the extent reasonably feasible, and that was the greatest issue in the evolution of the whole plan for this proposal.</p> <p>A grove of mature cottonwoods in the southeast corner of the site along Kechter Road, and an even larger cottonwood in the northwest corner, were shown to be removed in the original plan submittal. Subsequent iterations resulted in retaining all of these trees as a driving factor in the plan as proposed. Neighbors and the local newspaper pointed out common observations of bald eagles, hawks, and owls using these trees.</p> <div style="text-align: center;">  <p style="font-size: small; margin-top: 5px;">Google Earth</p> </div> <p>The plan provides: Street trees as required. Irrigated turf where appropriate, and mulched planting beds around building foundations. Appropriate seed mixes in and around the stormwater detention ponds and rain gardens.</p> <p>Tree plantings around buildings: Alternative Compliance</p> <p>The plan does not provide tree plantings around buildings as required in subsection 3.2.1(D) which requires that all developments establish trees in landscape areas within 50 feet of buildings. The rear yards around the perimeter of the plan are 8 feet per the minimum required setback, and the east perimeter behind buildings has a storm drain pipe that prevents trees in the narrow space. That pipe system extends partway around the north perimeter as well, with the same effect.</p> <p>Section 3.2.1 allows for Alternative Compliance as described in subsection (N). The applicant team submitted a request under that subsection, attached. The premise is that abutting property to the east and north is a buffer yard owned by the adjoining HOA which contains trees adequate to meet the requirements, thus accomplishing the purposes of the standard. The buffer yard varies from 30 to 40 feet in depth.</p> <p>The applicant team is also pursuing conversations with owners of the four closest houses with backs or sides that will face the back sides of proposed buildings across the buffer yard. The applicants are willing to plant additional trees in the buffer yard if desired and agreed by the owners and the HOA.</p>	<p>Complies via Alternative Compliance for Tree Stocking; and one potential condition to confirm at the hearing.</p>

	<p>Staff recommends a condition of approval that up to six additional trees be planted in the abutting buffer yard if consistent with a desire and agreement by the HOA.</p> <p>Condition of approval:</p> <p>Staff recommends the following condition of approval to in order to find that the project meets LUC 3.4.1(E) standards:</p> <p>Complete the eagle roosting survey (March 2021) prior to FDP approval and if a winter night roost and/or communal roost is determined to exist, then implement the temporal buffering and three other mitigation measures explained in the Bald Eagle Roost Mitigation Measures document dated January 28, 2021.</p> <p>Note that the code provision for Alternative Compliance is very similar to the provisions for Modifications of Standards, and in this case the applicants could request either. They have chosen to request the former, but the request articulates how the plan meets the defined community need for affordable housing, which is a criterion for approval of the latter. Affordability of the townhomes is a factor in the limited space for tree plantings around the buildings.</p>	
<p>3.2.1(F) – Tree Mitigation</p>	<p>This Section requires that developments retain significant existing trees to the extent reasonably feasible. The plan retains the few existing trees on the site.</p>	<p>Complies</p>
<p>3.2.2 – Access, Circulation and Parking – General Standard</p>	<p>This Section requires that development projects accommodate the movement of vehicles, bicycles, and pedestrians safely and conveniently, both within the development and to and from surrounding areas.</p> <p>The street and sidewalk network provides for most of the needs of the development. In addition the plan provides:</p> <p>A walkway connection to the east in lieu of a street connection to Eclipse Lane which is stubbed to the east edge of the plan.</p> <p>A walkway connection to park space on the west.</p>	<p>Complies, with a modification for number of parking spaces</p>
<p>3.2.2(K)(1)(a) and (b) – Required Number of Off-Street Parking Spaces</p>	<p>This subsection requires a minimum number of parking spaces for attached dwellings. A Modification of Standard is requested as explained previously in this report.</p>	<p>Modification Requested</p>
<p>3.2.4 – Site Lighting</p>	<p>The only lighting will be provided by porch light fixtures attached to the building using fully shielded, down-directional, color temperature 3,000 Kelvin or less fixtures as required; along with any standard street lighting.</p>	<p>Complies</p>

B. DIVISION 3.4 – NATURAL RESOURCES STANDARDS

The purpose of this Section is to ensure that when property is developed consistent with its zoning designation, the way in which the proposed physical elements of the development plan are designed and arranged on the site will protect the natural habitats and features both on the site and in the vicinity of the site.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p>3.4.1 – Natural Habitats</p>	<p>This Section applies if any portion of the development site contains natural habitats or features that have significant ecological value, including those that are discovered during site evaluation and reconnaissance associated with the development review process. The Section lists the types of natural habitats and features considered to have significant ecological value.</p> <p>When a development site contains any of the listed types of habitats or features, then the developer must provide an Ecological Characterization Study (ECS) prepared by a professional qualified in the areas of ecology, wildlife biology or other relevant discipline.</p> <p>In this case, the property has a grove of large cottonwood trees in the southeast corner along Kechter Rd., and a single large cottonwood tree in the northwest corner. These trees are to be retained in the plan. Early in the review process, neighbors and others shared observations and photos of bald eagles using the trees, particularly the one in the northwest corner which overlooks a pond on abutting Parks property on the west. The Coloradoan newspaper had run a story on the eagles in February 2019. Neighbors also noted hawks and owls using the trees.</p> <p>One of the listed types of habitats and features is “raptor habitat features, including nest sites, communal roost sites and key concentration areas”, and the information about eagles prompted a special ECS process to assess eagle use of the trees as habitat.</p> <p>An ECS describes any wildlife use of the area, the times or seasons that the area is used by those species and the "value" (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species. An ECS then recommends any protections to be incorporated into a plan.</p> <p>In this case, a several-month exploration of local, state and federal protections for bald eagle was undertaken, and a specially tailored ECS process was formulated. This involved discussions with the Colorado Division of Parks and Wildlife, the US Fish and Wildlife Service, the applicant team, and the professional firm hired to conduct the ECS.</p> <p>A draft ECS was submitted in December 2020, and a survey of eagle roosting is still ongoing through March 21. At least one tree on site is utilized by bald eagles to some degree. The ongoing survey is conducted twice monthly to determine which trees are being used and whether or not they are being used in a way that would classify as a winter night roost or communal roost.</p> <p>Significance of roosts. LUC Section 3.4.1(E) requires buffer zones surrounding natural habitats and features to protect the ecological character from the impacts of the ongoing activity associated with the development. Standards for these buffers include performance standards both numerical distance setbacks from specified natural features.</p> <p>Numerical buffer distances in the Land Use Code range from 1/8 to 1/4 to 1/2 mile depending on the specific type of roost usage.</p> <p>Staff does not recall these bald eagle buffers ever having been applied to a development plan. The different types of roosts are not defined, and the City would typically rely on Colorado Parks and Wildlife guidance on such matters. CPW has been consulted frequently during the review of this project.</p> <p>No spatial buffer zone. The ongoing survey will determine if bald eagle use of the trees on site qualifies as a ‘winter night roost’ or ‘communal roost’. However, discussions with CPW have resulted in a finding that no spatial buffer will be applied regardless of the survey findings. To date, these roosts have not been observed.</p>	<p>Condition of Approval</p>

Part of the reasoning is that the eagles have demonstrated a tolerance to non-construction activities such as those already existing in the immediate vicinity.

CPW is familiar with the area surrounding the site and notes that it likely qualifies as a 'Highly Developed Area' under their guidelines and as such they would typically recommend a ¼ mile buffer.

A ¼ mile buffer would cover the entire site as well as surrounding neighborhoods, part of Twin Silo Park, and most of Zach Elementary School. Within all of the listed spatial buffer distances, numerous types of disturbance (noise, vehicular and pedestrian traffic, lighting, etc.) currently exist that the eagles have already acclimated to.

Another determining factor is that there are numerous bald eagle resources along the Poudre River Corridor and Fossil Creek Reservoir less than a mile away, including current CPW-recognized roost sites, communal roosts, winter concentration areas, nests, and winter and summer forage areas.

Temporal buffering. Instead of a spatial buffer, if usage is found to qualify as a roost, a temporal buffer per CPW's recommendations is recommended as a condition of approval. Outdoor construction activity during roosting season (Nov. 15 to Mar. 15) would only be permitted from 10:00 to 2:00 pm.

With bald eagles observed utilizing the trees on site exhibiting a level of tolerance of existing disturbance and abundant resources nearby, it is likely that construction activities, with an elevated level of noise, activity, and disturbance right on site, is what would warrant mitigation.

Additional mitigation. Furthermore, if usage is found to qualify as a roost, then three additional mitigation measures have been agreed upon by applicants and staff in the extensive review process as part of recommending approval.

These are explained in a Raptor Roost Mitigation Measures document, attached. They are:

- Designation of the northwestern cottonwood tree's 'Critical Root Zone' as a 'Natural Habitat Buffer Zone' (defined terms) which would add protection for that tree, which shows signs of decline due to aging.
- Shadow planting of young cottonwoods near the northwestern cottonwood tree.
- Selective pruning of the northwest tree as appropriate to extend its life.

Condition of approval:

Staff recommends the following condition of approval to in order to find that the project meets LUC 3.4.1(E) standards:

1. Complete the eagle roosting survey (March 2021) prior to FDP approval and if a winter night roost and/or communal roost is determined to exist, then implement the temporal buffering and three other mitigation measures explained in the Bald Eagle Roost Mitigation Measures document dated January 28, 2021.

C. DIVISION 3.5 - BUILDING STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.5.2(D) Building Placement in Relation to Streets	This standard requires buildings to be placed along streets such that walkways lead to entrances without crossing any vehicular use area. The dwellings are simply placed directly fronting onto street sidewalks, which is ideal.	Complies
3.5.2(F) Garage Doors	This standard is to prevent residential streetscapes from being dominated by protruding garage doors, and to allow the active, visually interesting features of homes to dominate the streetscape. Garage doors must be recessed from the face of the home or a porch, and must not comprise more than 50% of the frontage of a dwelling. The garages are recessed from both porches and the front walls of the homes, and the doors comprise 40% of the building frontage.	Complies

D. DIVISION 3.6 - TRANSPORTATION AND CIRCULATION

This Section is intended to ensure that the transportation system is in conformance with adopted transportation plans and policies established by the City.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.6.2 – Streets, Streetscapes, Alleys and Easements	<p>This Section requires transportation network improvements for public health, safety and welfare, with requirements in accordance with the <i>Larimer County Urban Area Street Standards</i>, and requires necessary easements for utilities and access.</p> <p>The plan provides new internal streets in conformance with standards, including Alternative Compliance regarding connecting a new street to existing Eclipse Lane which is stubbed to the property line.</p> <p>The plan also includes restriping of Kechter Road abutting the property on the south, related to new street access to and from Kechter.</p>	Complies
3.6.3(F) and (H) – Street Pattern and Connectivity	<p>Subsections 3.6.3(F) requires development plans to connect and extend streets that are stubbed to the boundary of the plan by previous development, while subsection 3.6.3(H) allows for Alternative Compliance <i>not</i> extend and connect a street stub in a given instance.</p> <p>Quasar Way is stubbed to the north side of the development plan, and Eclipse Lane likewise on the east.</p> <p>Through a series of iterations in the review process, the plan has ended up providing:</p> <ul style="list-style-type: none"> • Extension and connection to Quasar Way on the north; • Walkway-only connection to the Eclipse Lane sidewalk on the east; • Full street access to and from Kechter Road on the south. <p>A request for Alternative Compliance is attached for the walkway-only connection to Eclipse, in lieu of a standard street connection.</p> <p>Alternative Compliance Review Criteria</p> <p>To approve an alternative plan, the decision maker must find that the alternative plan accomplishes the purposes of Division 3.6, Transportation and Circulation, equally well or better than would a plan which complies with the pertinent standards, and that any</p>	Complies, with Alternative Compliance for Eclipse Lane Connectivity

	<p>reduction in access and circulation for vehicles maintains facilities for bicycle, pedestrian and transit, to the maximum extent feasible.</p> <p>In reviewing the proposed alternative plan, the decision maker must take into account whether the alternative design minimizes impacts on natural features, fosters nonvehicular access, provides for distribution of the development's traffic without exceeding level of service standards, enhances neighborhood continuity and connectivity and provides direct, sub-arterial street access to any parks, schools, neighborhood centers, commercial uses, employment uses and Neighborhood Commercial Districts within or adjacent to the development from existing or future adjacent development within the same section mile.</p> <p>Applicants Request</p> <p>The applicants provided a request for Alternative Compliance, attached. It explains that the proposed alternative plan provides affordable housing that furthers the goals of adopted City plans; meets Level of Service requirements; minimizes impacts on natural features; provides for strong bike and pedestrian connections while addressing neighborhood connectivity objections; and makes it feasible to deliver 54 rare for-sale affordable housing units while providing high-quality design.</p> <p>Staff Findings</p> <p>The alternative plan without the Eclipse street connection is a result of:</p> <ul style="list-style-type: none"> • Incorporating space to retain large existing cottonwood trees into the project, to minimize impacts on natural features; and • Introducing new street access to and from Kechter Road, which serves the main function that Eclipse would have provided. <p>The plan fosters nonvehicular access with a conveniently located walkway connection to Eclipse, in lieu of a street. The overall plan provides a convenient system of streets and sidewalks, and a walkway to park and school space on the west.</p> <p>The applicant team and staff explored iterations of all alternatives with and without connections to Quasar, Eclipse, and partial or full access on Kechter.</p> <p>The vehicular connection provided at Quasar is important as a vehicular street connection to and from the north without significant circuitous routes, while a vehicular connection at Eclipse was found less important once agreement was reached on full access to Kechter, because the main vehicular function of Eclipse would have been to access Kechter via Jupiter Drive on the east.</p> <p>The plan balances tradeoffs with important trees, the number of dwelling units needed for financial viability of the plan, and implications of access on Kechter.</p>	
<p>3.6.4 – Transportation Level of Service Requirements</p>	<p>This Section contains requirements for the transportation needs of proposed development to be safely accommodated by the existing transportation system, or that appropriate mitigation of impacts will be provided by the development in order to meet adopted Level of Service (LOS) standards. A Transportation Impact Study (TIS) was required under this Section to evaluate the traffic generation and distribution added by the development.</p> <p>The most significant change to the existing transportation system is a new full movement access on Kechter Road, which requires restriping for an eastbound left turn lane. In order to accommodate the new turn lane, parking along the south side of Kechter will need to be removed, which is consistent with arterial roadway standards.</p> <p>Staff finds that the plan complies with Level of Service (LOS) requirements for vehicular traffic, pedestrians and bikes.</p>	<p>Complies</p>

3.6.6 – Emergency Access	<p>This Section requires adequate access for emergency vehicles and persons rendering fire protection and emergency services.</p> <p>Poudre Fire Authority staff participated in plan review and finds that the straightforward arrangement of dwellings along streets provides the needed access.</p>	Complies
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E. DIVISION 3.8.30 – DESIGN STANDARDS FOR SINGLE FAMILY ATTACHED DWELLINGS

This Section is intended to promote variety in building form and product, visual interest, access to parks, pedestrian-oriented streets and compatibility with surrounding neighborhoods.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.8.30(C) – Access to a Park, Central Feature or Gathering Place	This standard requires useable outdoor space within the development or within ¼ mile of at least 90% of the dwelling units. The location complies with Radiant Park across Kechter Road, Twin Silo Park and Fossil Ridge High School across Lady Moon Drive, and also abuts park space along the west.	Complies
3.8.30(D) – Block Requirements	This subsection requires a framework of blocks with a maximum block size of 7 acres. The plan provides blocks defined by new streets within the 5-acre property.	Complies
3.8.30(F)(1)	Buffer yards shall be provided along the property line of abutting existing single- and two-family dwellings. Where single family houses abut the plan on the north and west, a buffer yard exists as part Willow Brook plans (Tracts W and Z, labeled as 'Bufferyard'). This space varies from 30-40 feet in its narrowest portions.	Complies via existing abutting buffer yard
3.8.30(F)(2) – Design Standards for Multi-Family Dwellings	<p>This subsection requires building variation in townhome and apartment developments with more than three buildings. In this case, with 11 buildings, at least three distinctly different building designs are required, with no similar buildings placed next to each other.</p> <p>Staff finds that the plan meets the standards with one exception, for which a modification of a standard is requested as discussed previously in this report. The modification is to allow two buildings with the same design to be placed next to each other along the east side of Street B, at the east edge of the plan. The color scheme is reversed on these two buildings.</p> <p>Different building designs must vary significantly in footprint size and shape, unique entrance features and architectural elevations, roof forms, massing proportions and other characteristics, within a coordinated overall theme. Such variation must not consist solely of different combinations of the same building features.</p> <ul style="list-style-type: none"> • The plan provides four main building plans: 4-plexes, 4-plexes with accessible units, 5-plexes, and 6-plexes. Each of these building plans comes with two different color schemes. • Building designs incorporate differing arrangements of two-story and single-story massing modulation, pitched roof forms, porch roofs at entrances, window patterns, and lap and board-and-batten siding. The single-car garages are recessed and comprise less than 50% of building frontage. 	Complies with a requested Modification of a standard

6. Land Use Code Article 4

A. DIVISION 4.5 – LOW DENSITY MIXED-USE NEIGHBORHOOD DISTRICT (LMN)

The LMN zone district was created in 1997 as part of a sweeping update of the City’s comprehensive plan that resulted in the original *City Plan* document and the Land Use Code.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
4.5(A) - Purpose	<p>This Section states:</p> <p><i>“Purpose. The Low Density Mixed-Use Neighborhood District is intended to be a setting for a predominance of low density housing combined with complementary and supporting land uses that serve a neighborhood and are developed and operated in harmony with the residential characteristics of a neighborhood. The main purpose of the District is to meet a wide range of needs of everyday living in neighborhoods that include a variety of housing choices, that invite walking to gathering places, services and conveniences, and that are fully integrated into the larger community by the pattern of streets, blocks, and other linkages. A neighborhood center provides a focal point, and attractive walking and biking paths invite residents to enjoy the center as well as the small neighborhood parks. Any new development in this District shall be arranged to form part of an individual neighborhood.”</i></p> <p>The project adds a housing choice and is designed with characteristics that are in harmony with the neighborhood.</p>	Complies
4.5(B) - Permitted Uses	The proposed Single Family Attached residential use is permitted.	Complies
4.5(D)(1) – Residential Density	Density standards limit development plans to a maximum of 12 dwelling units per acre for affordable housing. The plan proposes 10.4 units per acre.	Complies
4.5(D)(3) – Residential Density	LMN zone district standards include requirements for access to ‘Neighborhood Centers’ for development plans over 40 acres.	N.A.
4.5(E)(1) – Street System Block Size	LMN zone district standards include a standard that requires the local street system to limit block size to 12 acres maximum. A similar standard for attached and multi-family residential development, in Section 3.8.30, limits block size as noted previously in this report. The plan provides blocks defined by new streets within the 5-acre property.	Complies
4.5(E)(2) – Street System Block Size	This standard requires a mid-block pedestrian connection along any block face longer than 700 feet. The entire property is 624 feet in its longest dimension.	N.A.

Findings of Fact/Conclusion

In evaluating the request for the Kechter Townhomes PDP#200010, staff makes the following findings of fact and conclusions:

The Project Development Plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.

The Project Development Plan complies with pertinent standards located in Article 3 – General Development Standards with two modifications of standards.

Staff supports the request for Modification of Standards to subsection 3.2.2(K)(1)(a) – Required Number of Parking Spaces to allow 99 parking spaces instead of the 107 that the standard requires.

The modification would not be detrimental to the public good and the request satisfies criterion (2) in subsection 2.8.2(H) because the parking as designed is a critical component the plan that enables the development of affordable housing in the form of homes for sale, which is a clearly defined and described problem of community-wide concern; and any impacts from the lower number are mitigated by the opportunity for parking in driveways in front of garages (44 spaces) which are not included as part of the 99 parking spaces provided.

Staff supports the request for Modification of Standards to Section 3.8.30(F)(2), Variation Among Buildings, to allow two buildings with the same plan to be located next to each other in one location.

The modification would not be detrimental to the public good and the request satisfies criteria (2) and (4) in subsection 2.8.2(H). The modification is not detrimental to the public good because modulated building massing, architectural detailing, and color variation provide adequate pedestrian and visual interest, given that this is a lone instance of the same building plan side by side. The residential character and variation throughout the plan offset the effect of the two buildings such that their placement is not detrimental to the public good.

The modification satisfies criterion (2), “defined community need”, because the plan provides affordable housing in the form of homes for sale, which is a clearly need of community-wide concern, and the building program is critical for project viability, reflecting a necessary balancing of competing demands for space in the plan, with the placement of the two 5-plexes being part of the balance.

The modification satisfies Criterion (4), “nominal and inconsequential” when considered from the perspective of the entire development plan because 10 of the 11 buildings in the plan comply with the standard, and the entire development plan reflects a balance of tradeoffs as noted above; and given this perspective of the entire plan, the modulated building design and color schemes provide pedestrian-friendly visual interest that offsets the lack of additional variation that would result from switching one of the 5-plexes to a 4-plex to strictly comply with the standard.

The Project Development Plan complies with pertinent standards located in Division 4.5 Low Density Mixed-Use Neighborhood in Article 4 – Districts.

7. Recommendation

Staff recommends that the Hearing Officer approve the two Modifications of Standards to Land Use Code Sections and subsections 3.2.2(K)(1)(a) and 3.8.30(F); and approve Kechter Townhomes PDP#200010, including Alternative Compliance for subsections 3.2.1 (D) and 3.4.1(E) based on the Findings of Fact and supporting explanations found in the staff report, with two conditions to be satisfied if found necessary, pending ongoing work and conversations:

- Complete current discussions with abutting homeowners and their HOA and if desired and agreed by those parties, then the applicant shall plant up to six additional trees in the abutting bufferyard, with adjustment of the HOA irrigation system to irrigate the new trees, in collaboration with the owners and HOA.
- Complete the eagle roosting survey (March 2021) and if a winter night roost and/or communal roost is determined to exist, then implement the temporal buffering and three other mitigation measures explained in the Bald Eagle Roost Mitigation Measures document dated January 28, 2021.

8. Attachments

1. Applicants Narrative
2. Request for Modification of a Standard – Number of Parking Spaces
3. Request for Modification of a Standard – Building Variation in One Instance
4. Request for Alternative Compliance – Tree Planting in Rear Perimeter Areas
5. Request for Alternative Compliance – Street Connectivity at Eclipse Lane
6. Site and Landscape Plans
7. Whole Layout Diagram
8. Architecture
9. Utility Plans
10. Plat
11. Neighborhood Meeting Notes
12. Ecological Characterization Study
13. Raptor Survey and Mitigation Measures
14. Traffic Impact Study

ATTACHMENT B

Bald Eagle Roost Mitigation Measures dated January 28, 2021
Kechter Townhomes
(PDP #200021)



Community Development & Neighborhood Services
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Kechter Townhomes Raptor Survey and Mitigation Measures

January 28, 2021

The Ecological Characterization Study (ECS) will be conducted during the winter months (November 15 to March 15, 2020-2021) to determine if the trees on the site serve as a winter night roost and/or communal roost (roost) for bald eagles, as well as determine if other raptors nest in the trees. Winter roost surveys will follow CPW's methodology. If a roost is definitively identified, i.e. the eagles roost on the trees overnight, then intensive surveys can cease but periodic monitoring should continue to provide some precedent as to when the tree(s) are no longer utilized as a roost. Other raptors, such as great horned owl, do not start nesting in Colorado until mid-January at the earliest so surveys will be needed from January-March timeframe.

Trees to be surveyed include all trees on site and the large cottonwood immediately north of the northwest corner of the site. CPW and City staff will be notified of proposed survey dates and afforded opportunities to accompany the consultant on surveys.

If no roost is identified, the northwest tree will still be retained as an eagle loafing spot and for its inherent value as considered by Planning and Forestry, but no additional mitigation measures are required.

If the trees qualify as a roost, then the following mitigation measures are required while the tree is being utilized by the eagles:

- Tree mitigation [LUC 3.2.1(G)(7) and 3.4.1(E)(1)(a,c) and (F)(2)]
 - o According to LUC 3.2.1(G)(7) the critical root zone (CRZ) of the northwest tree is 78-feet, and typically a buffer is established for that zone. In this case 78-feet exceeds the dripline of the tree and Staff believes an alternative compliance, calling for post care treatment or similar, to reduce that distance and mitigate construction impact should be pursued. Additionally, the CRZ will also be designated as a Natural Habitat Buffer Zone in order to provide future protection. Language will be provided in the Development Agreement.
 - o Shadow plant mitigation trees in the northwest tree NHBZ. All trees planted for this purpose should be plains cottonwoods (*Populus deltoides*) and not varieties. Coordination with Forestry will be required to determine quantity, placement, etc. (LUC 3.4.1(E)(1)(a,c) and (F)(2))
 - o Prune the northwest tree prior to construction in an appropriate manner in terms of timing and extent to prolong the life of the northwest tree. (LUC 3.4.1(E)(1)(a,c) and (F)(2))
- CPW and USFWS Recommended Spatial buffers – After much deliberation with CPW officials no spatial buffers will be applied. The area surrounding the site likely qualifies as a Highly Developed Area by the CPW and as such they would recommend a ¼ mile buffer. A ¼ mile buffer covers the entirety of the site as well as surrounding neighborhoods, part of Twin Silo Park, and most of Zach Elementary School. Within all recommended spatial buffers (see Table 1 and Map 1 below) numerous types of

disturbance (noise, vehicular and pedestrian traffic, lighting, etc.) currently exist that the eagles have already acclimated to. Additionally, there are numerous bald eagle resources along the Poudre River Corridor and Fossil Creek Reservoir less than a mile away, including currently recognized roost sites, communal roosts, winter concentration areas, and winter and summer forage areas (see Map 2). With the bald eagles observed utilizing the trees on site exhibiting a level of tolerance of existing disturbance and abundant resources nearby it is likely that construction activities, with an elevated level of noise, activity, and disturbance beyond what is typical for currently existing uses, is what requires mitigation.

- Temporal buffer (CPW and LUC 3.4.1(E)(1)(a,d) and (F)(2)): Construction activity during roosting season (November 15 – March 15) outside the hours of 10:00 to 14:00. Beginning and ending dates of the roosting season can be altered based on observations of a qualified wildlife biologist approved by the City.

References

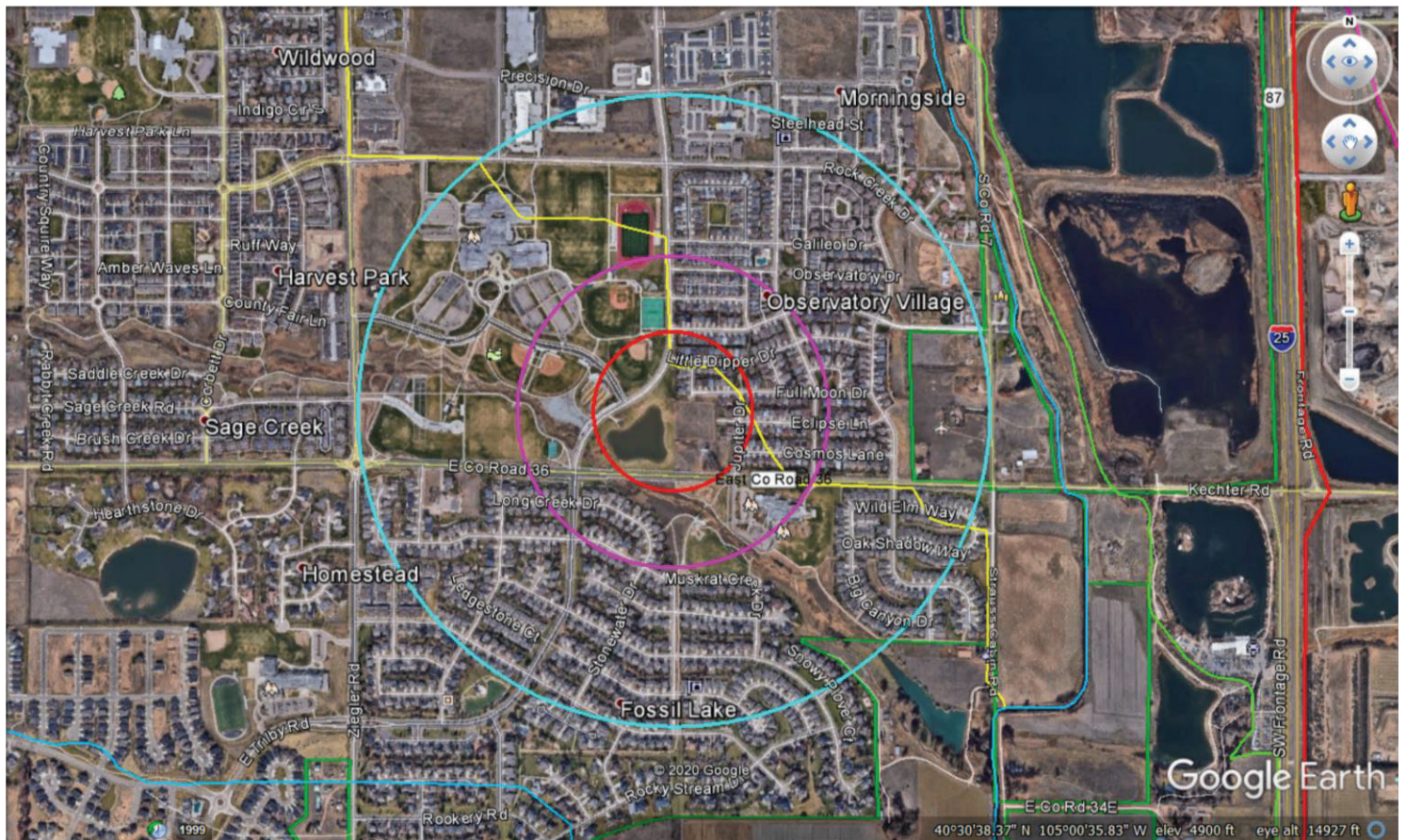
City of Fort Collins (City) Land Use Code Section 3.4.1 Natural Habitats and Features.

Colorado Parks and Wildlife (CPW). 2020. Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors.

Colorado Parks and Wildlife (CPW). 2020. Species Activity Maps.

US Fish and Wildlife Service (USFWS). 2007. National Bald Eagle Management Guidelines.

Map 1. Existing land use around 3620 Kechter Rd. (Red – 1/8 mile, Pink – 1/4 mile, Light Blue – 1/2 mile)



Map 2. Bald Eagle Resources in the Immediate Kechter Townhomes Site Vicinity. (Source: CPW Species Activity Maps)

