

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

FINDINGS AND DECISION

HEARING DATE: July 27, 2021

PROJECT NAME: Hill Single-Family – Single-Family Residence

CASE NUMBER: FDP #210005

APPLICANT/OWNER: Chris Hill
4112 Lakefront Drive
Fort Collins, CO 80537

HEARING OFFICER: Lori B. Strand

PROJECT DESCRIPTION/BACKGROUND:

This is a request for a combined Project Development Plan/Final Development Plan (“FDP”) to construct a single-family detached dwelling and to establish urban agriculture, farm animals, and a barn as accessory/miscellaneous uses (collectively, the “Project”) at Lot 2, Blehm Subdivision 2nd Filing (the “Subject Property” or “Lot 2”). The Subject Property currently is vacant.

The Applicant also is seeking a modification of standard to the lot line setback requirement in Section 3.2.2(J) of the City of Fort Collins Land Use Code (“LUC”). Specifically, the Applicant seeks to construct an access drive from Kechter Road north along the western boundary of Lot 1, Blehm Subdivision 2nd Filing (“Lot 1”), through the Sage Creek Road right-of-way, and north along the eastern boundary of the Subject Property. Where the access drive runs along the western boundary of Lot 1, the Applicant seeks to reduce the lot line setback from five feet (5’) to four feet (4’); where the access drive runs along the eastern boundary of the Subject Property, the Applicant seeks to reduce the lot line setback from five feet (5’) to zero feet (0’) (together, the “Requested Modification of Standard”). Adjacent property owners to the east and west of Lot 1 and the Subject Property submitted written comments in support of the Project.

Except for the Requested Modification of Standard, the Staff Report does not identify any issues of noncompliance with the application.

The Subject Property is located in the Urban Estate (U-E) zone district.

The surrounding zoning and land uses are set forth below:

	North	South	East	West
Zoning	Low-Density Residential (RL)	Low-Density Mixed-Use Neighborhood (LMN)	Urban Estate (U-E)	Urban Estate (U-E)
Land Use	Single-family detached residence	Single-family detached residence	Single-family detached residence	Single-family detached residence

Additional project background and analysis of LUC compliance are detailed in the Development Review Staff Report prepared for the Project, a copy of which is attached to this decision as **ATTACHMENT A** (the “Staff Report”) and is incorporated herein by reference.

The Staff Report recommends approval of the application with no conditions.

SUMMARY OF DECISION: Approved with a limitation on the urban agriculture use.

ZONE DISTRICT: Urban Estate (U-E)

HEARING: The Hearing Officer opened the remote hearing at approximately 7:20 p.m. on July 27, 2021.

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

1. The Staff Report.
2. Blehm Subdivision 2nd Filing (Preliminary) (1 sheet).
3. Letter to Applicant from Noah Beals, City of Fort Collins, Development Review Manager, approving the 2400 Kechter Road Minor Subdivision, BDR 200013, dated 10/7/2020.
4. Final Development Plan for Lot 2, Blehm Subdivision 2nd Filing (3 sheets).
5. Utility Plans (11 sheets).
6. Two letters of support for Requested Modification of Standard.
7. Modification of Standard justification letter from Applicant.

- B. The Requested Modification of Standard to reduce the lot line setback from five feet (5') to four feet (4') where the access drive runs along the western boundary of Lot 1, and to reduce the lot line setback from five feet (5') to zero feet (0') where the access drive runs along the eastern boundary of the Subject Property: (i) will not be detrimental to the public good and (ii) will not diverge from Section 3.2.2(J) except in a nominal, inconsequential way when considered from the perspective of the entire development plan and will continue to advance the purposes of Section 1.2.2 of the LUC. With respect to the foregoing, the Hearing Officer specifically finds:
- i. Relocating the curb cut and driveway on Lot 1 to the western boundary of Lot 1 from its current location will improve public safety by providing better visibility to and from Kechter Road.
 - ii. Extending the existing driveway on Lot 1 northward to provide access to Lot 2 would require the removal of several existing cherry trees.
 - iii. Locating the access drives near or along the boundaries of Lot 1 and Lot 2 is consistent with the location of drives in the surrounding area.
 - iv. The property owners of the properties to the east and west of Lot 1 and Lot 2, which are the property owners most impacted by the Requested Modification of Standard, provided written support for the Project.
- C. Except for LUC Section 3.2.2(J), which is satisfied by way of the Requested Modification of Standard, the Application complies with the applicable General Development Standards contained in Article 3 of the LUC with .
- D. The Application complies with the applicable standards in Division 4.2 of the LUC; however, limited information was provided in the record regarding the nature of the requested "urban agriculture" use. Section 5.12 of the LUC defines "urban agriculture" as "gardening or farming involving any kind of lawful plant, whether for personal consumption, sale and/or donation, except that the term urban agriculture does not include the cultivation, storage and sale of crops, vegetables, plants and flowers produced on the premises in accordance with Section 3.8.1 of [the LUC]. Urban agriculture is a miscellaneous use that does not include plant nursery and greenhouse as a principal use and that is subject to licensing in accordance with Section 3.8.31 of [the LUC]." Section 3.8.31 of the LUC requires a license from the City for urban agriculture *unless* the urban agriculture land uses are approved as part of a site-specific development plan (such as an FDP). Section 3.8.31 of the LUC sets forth general standards that urban agriculture uses must meet for issuance of a license including, without limitation, standards addressing mechanized equipment, parking, chemicals and fertilizers, trash and compost, maintenance, and water

conservation and conveyance. While the LUC does not require compliance with these standards for the Hearing Officer to approve urban agriculture as part of an FDP, the nature of a proposed urban agriculture use, its anticipated impacts, and proposed mitigation of such impacts should be presented for the Hearing Officer to consider in deciding whether or not to approve urban agriculture as part of an FDP. Such information was not provided for this Project. This said, when asked about the nature of the Applicant's desired urban agriculture use, the Applicant testified that he desired to use a tractor to maintain the Subject Property.

DECISION

Based on the findings set forth above, the Hearing Officer hereby approves:

1. the Hill Single-Family – Single-Family Residence, FDP #210005, including the establishment of a single-family detached dwelling use, the accessory/miscellaneous urban agriculture and farm animals uses, and the accessory barn building; provided, however, that the urban agriculture use is approved only insofar as such approval is necessary to allow the Applicant to use a tractor to maintain the Subject Property. If the Applicant desires to expand the urban agriculture use, the Applicant must apply for a license in accordance with Section 3.8.31 of the LUC. This limitation on the urban agriculture use of the Subject Property shall not limit the cultivation, storage and sale of crops, vegetables, plants and flowers on the Subject Property as is otherwise allowed under Section 3.8.1 of the LUC.
2. the Requested Modification of Standard to 3.2.2(J) reducing the lot line setback from five feet (5') to four feet (4') where the access drive runs along the western boundary of Lot 1, and reducing the lot line setback from five feet (5') to zero feet (0') where the access drive runs along the eastern boundary of the Subject Property, as shown on FDP #210005.

DATED this 5th day of August, 2021.



Lori Strand
Hearing Officer

ATTACHMENT A

Staff Report

Hill Single-Family – Single-Family Residence, FDP #210005

Development Review Staff Report



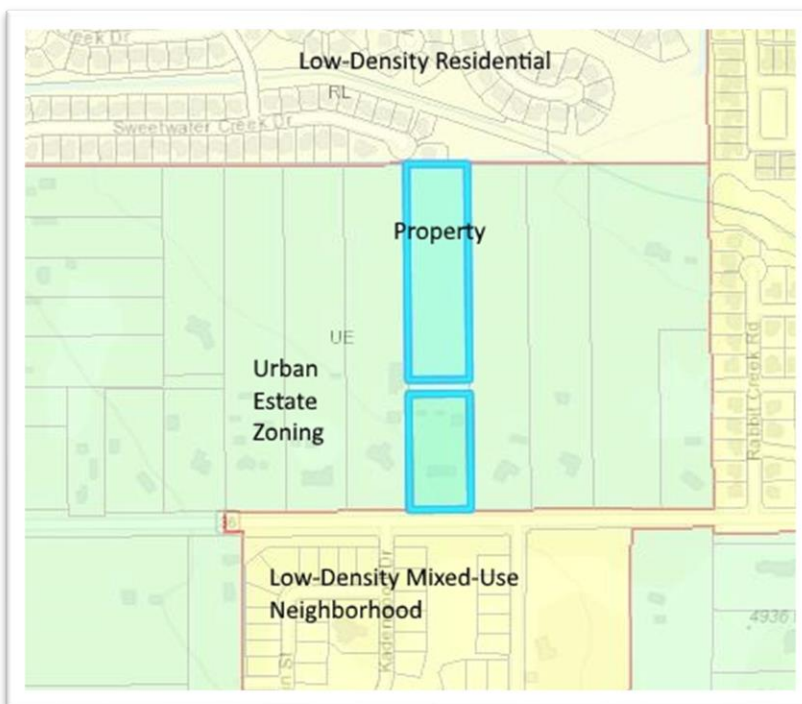
Administrative Hearing: July 27, 2021

Hill Single-Family – Single-Family Residence, FDP210005

Summary of Request

This is a request for a combined Projects Development Plan/Final Plan to construct a new single-family residence. The plan also intends to establish urban agriculture, farm animals and barn as accessory/miscellaneous uses. The applicant is also seeking a Modification of Standard to Section 3.2.2(J), which stipulates a 5-foot setback requirement for a driveway longer than 1,800 feet.

Zoning Map



Next Steps

Upon approval from the Administrative Hearing Officer, the applicant would be eligible to submit final plans for recording with Larimer County and the City and apply for a building permit.

Site Location

2400 Kechter Road, Lot 2. Located on the north side of Kechter Road approximately 1700 feet east of S Timberline Road.

Zoning

Urban Estate (U-E)

Property Owner

Chris Hill
4112 Lakefront Drive
Loveland, CO 80537

Applicant/Representative

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4112 Lakefront Drive
Loveland, CO 80537
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Staff

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Contents

1. Project Introduction	2
2. Article 2 – Applicable Standards	4
3. Article 3 - Applicable Standards.....	7
4. Article 4 – Applicable Standards:.....	9
5. Public Outreach	Error! Bookmark not defined.
6. Findings of Fact/Conclusion	10
7. Recommendation.....	10
8. Attachments	10

Staff Recommendation

Approval

1. Project Introduction

A. SUMMARY OF PROJECT & PROCESS

This is a request to construct a single-family residence and establish the accessory/miscellaneous uses of urban agriculture, farm animals and pole barn on a property located at 2400 Kechter Road. The project is located on 4.0 acres of land.

The project dedicates 51 feet of public Right-of-Way on the south side of the lot for the future east to west connection of Sage Creek Road. The property is currently zoned Urban Estate (U-E).

The request complies with the applicable requirements of the Land Use Code:

- Procedural requirements located in Division 2.1 General Procedural Requirements
- Division 2.2 Common Development Review Procedures for Development Applications
- Division 2.4 Project Development Plan located in Article 2 Administration
- Standards and requirements located in Section 3.3.1 Plat Standards in Article 3 General Development Standards
- Applicable standards located in Section 4.2(D) Land Use Standards and Section 4.2(E) Development Standards in Article 4 Districts, Division 4.2 Urban Estate District.
- A modification of standard is being sought for division 3.2.2(J) to allow a 4 foot setback for the driveway on the southern lot and no setback for the driveway on the northern portion. A justification of the modification is attached.

B. SITE CHARACTERISTICS

1. Current Conditions

Natural Features

The property is planted with a combination of 23 trees which will not be impacted by the development associated with this plan. The site generally slopes from the south to north behind the existing Kechter Road right-of-way.

Historic and Cultural Facilities

There are no historic or cultural features on the site.

Road, Pedestrian and Bike Network

The property takes access from Kechter Road through the adjoining lot. The driveway is proposed to serve the existing home on the southern lot and the proposed home on the northern lot. Sidewalks do not exist within the immediate vicinity and are expected to be installed through a capital project or larger redevelopment of the area. The improvement/construction of Kechter and Sage Creek Roads have been deferred until time of future development/redevelopment.

Utilities

The existing water and sewer service from Kechter Road will be extended to the new residence and continue to be provided by the Fort Collins Loveland Water District and the South Fort Collins Sanitation District. The new residence will be served by Fort Collins Light & Power.

2. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	Low-Density Residential (RL)	Low-Density Mixed-Use Neighborhood (LMN)	Urban Estate (U-E)	Urban Estate (U-E)
Land Use	Single-family detached residence	Single-family detached residence	Single-family detached residence	Single-family detached residence

3. History

- 2400 Kechter Road was originally part of the Blehm Subdivision 2nd Filing
- The property was subdivided and platted through a separate minor subdivision (Basic Development Review) Approved October 7, 2020.
- The property contained within 2400 Kechter Road was originally subdivided in Larimer County.
- 2400 Kechter Road was part of the Mail Creek Crossing Second Enclave Annexation in 2017.
- There is an 20' existing access, emergency access and utility easement that will remain on the southern lot. This easement is detailed on the plat.

2. Comprehensive Plan Background – Applicable Standards

A. CITY PLAN (2019)

The Structure Plan Map in *City Plan* provides a framework for the ultimate buildout of Fort Collins. It focuses on the physical form and development pattern of the community, illustrating areas where new greenfield development, infill, and redevelopment are likely to occur, as well as the types of land uses and intensities to encourage. The Structure Plan:

- Guides future growth and reinvestment and serves as the official Land Use Plan for the City;
 - Informs planning for infrastructure and services;
 - Fosters coordinated land use and transportation decisions within the city and region; and
 - Helps implement principles and policies.
- This project is within the “Mixed Neighborhood” area outlined on the Structure Plan Map for City Plan.
 - Principal Land Uses include single-family detached homes, duplexes, triplexes and townhomes.
 - The “Mixed Neighborhood” guidelines state that, “while many existing Mixed-Neighborhoods may consist predominantly of single-family detached homes today, opportunities to incorporate ADUs or other attached housing options of a compatible scale and intensity may be feasible in some locations.”
 - Subdivision of the larger existing lot and increasing the density within this area does fit with the guidance outlined within the Structure Plan.
 - Further, on p. 42 the plan states the following:
 - **Policy LIV 4.1 - NEW NEIGHBORHOODS.** *Encourage creativity in the design and construction of new neighborhoods that: Provides a unifying and interconnected framework of streets, sidewalks, walkway spines and other public spaces; Expands housing options, including higher density and mixed-use buildings; Offers opportunities to age in place; Improves access to services and amenities; and Incorporates unique site conditions.*

3. Article 2 – Applicable Standards

A. BACKGROUND

This section provides a summary of procedural action as required by Article 2. This includes background on conceptual reviews, previous approvals, neighborhood meetings, and any other significant procedural events.

B. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review (November 12, 2020)

A conceptual review meeting was held on November 12, 2020

2. Community Outreach

No neighborhood meeting was required. Notification letters were sent for the prior minor subdivision process and for the Project Development Plan hearing. No public comments have been received to-date. Any comments received prior to the hearing will be forwarded to the Hearing Officer for inclusion in the record.

3. Submittal (March 24, 2021)

The project was submitted as a combined Project Development Plan/Final Plan on March 24, 2021. The project was subsequently routed to all reviewing departments. There were three rounds of review for this project.

4. Notice (Posted, Written and Published)

Posted notice: Sign # 623

Written notice: July 13th, 2021, 800-foot notification boundary, 198 letters sent

Published Notice: Notice published July 12th, 2021, Fort Collins Coloradoan

C. DIVISION 2.8 – MODIFICATION OF STANDARDS

The applicant requests one modification of a standard to Section 3.2.2(J) - *Access, Circulation and Parking*.

The Land Use Code is adopted with the recognition that there will be instances where a project would support the implementation of City Plan, but due to unique and unforeseen circumstances would not meet a specific standard of the Land Use Code as stated. The modification process and criteria in Land Use Code Division 2.8.2(H) provide for evaluation of these instances on a case-by-case basis, 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. Applicant's Justification

The applicant's request provides justification based upon numbered criteria 3.2.2(J), along with lack of detriment to the public good. The request is attached and thoroughly explains the proposed justifications. Key points are:

- *The applicant states that allowing the driveway to be located along the property line will allow utilities to be placed next to the road and will be in keeping with the existing neighborhood character.*
- *The applicant has received two letters of support from the adjoining neighbors stating that they approve of the driveway and acknowledge that their properties may be disturbed during construction of the driveway.*

2. Staff's Analysis of Modification Request

Staff finds that the requested Modification of Standard to allow a 4-foot setback for the driveway along the western portion of the southern lot and zero setback for the driveway for the northern lot would not be detrimental to the public good and is justified by criterion 4 in Land Use Code Section 3.2.2(J).

Staff finds that the plan addresses Criterion 4, "as nominal or inconsequential" by providing the following:

- The plan is not a detriment to the public good because the driveway easement along the southern lot maximizes the use of the existing lot and does not disturb the existing single-family residence.
- The plan to build the driveway with no setback along the northern lot is not a detriment to the public good because it is in keeping with the neighborhood character, will not disturb the neighbor to the east (see attached letter of support) and allows the owner to maximize the building area of the narrow lot.
- The driveway setback is only required because the driveway is more than 1,800 square feet. Otherwise, no setback requirements would exist for single-family homes and driveways.
- The plan is consistent with other lots in the neighborhood, both to the east and west, where driveways exist along the property lines without setbacks.
- Both of the neighbors, to the east and west, have acknowledged the possible disturbance to their land during construction. Those letters are attached to this staff report.

Recommendation: Staff recommends approval of modification to 3.2.2(J) – *Access, Circulation and Parking*

4. Article 3 - Applicable Standards

A. DIVISION 3.2 - SITE PLANNING AND DESIGN

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.2.1 Landscaping and Tree Protection	Development on existing lots for single-family detached dwellings is exempt from the standards in Section 3.2.1. The applicant has met with the City Forestry Department and is proposing to preserve all existing trees on the site. The combined site and landscape plan indicate the preservation of existing trees.	Complies
3.2.2(K)(1)(c) Residential Parking Requirements	Vehicle parking requirements for single-family detached houses are a minimum of 1 off-street parking space on lots with greater than 40 feet of street frontage. There is no maximum number of parking spaces for a single-family detached house. Six (6) parking spaces are proposed on the site, which exceeds the residential parking standards as outlined in 3.2.2(K).	Complies
3.2.2(J) Residential Parking and Access - Setbacks	Any vehicular use area containing 6 or more parking spaces or 1,800 or more square feet shall be set back from the street right-of-way and the side and rear yard lot line. The minimum width of setback along a lot line is 5 feet. The applicant is requesting a modification to allow a 4-foot setback along the southern portion of the driveway and a zero-foot setback on the northern portion of the driveway. This is in keeping with the character of the neighborhood and the applicant has obtained written and signed letters of support from both the east and west adjoining neighbors.	Seeking Modification of Standard

B. DIVISION 3.3 - ENGINEERING

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.3.1 Plat Standards	The plat demonstrates proper lot size, access to a public street, dedication of rights-of-way for public streets and utility easements. The applicant has satisfactorily coordinated utility requirements with the relevant outside utility providers, including the Fort Collins-Loveland Water District, Poudre Valley Rural Electric Association. The proposed house will be served by an onsite septic system and will be required to complete necessary steps pursuant to the On-site Wastewater Treatment System Act, 25-10-101 and as described by the Larimer County Health Department.	Complies

C. DIVISION 3.5 - BUILDING

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.5.2(E)(5) Maximum Size of Detached Accessory Buildings	On lots greater than 1-acre in size, any detached accessory building that is incidental to a single-family residence can contain a maximum floor area of six (6) percent of the total lot area. As proposed, the development contains 4.0 acres of land; therefore, the maximum floor area of a detached accessory building is 10,454 feet. The proposed barn is 1,000 square feet and the proposed single-family home is 3,000 square feet, thus meeting the requirement.	Complies

D. DIVISION 3.6 - TRANSPORTATION & CIRCULATION

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.6.2(J) Streets right-of-way	The plat for the proposed development dedicates 51 feet of right away for the future alignment of Sage Creek Road on the north. Right-of-Way for Sage Creek Road has been dedicated through other projects, including the Meyer and Thorland Subdivisions to the west.	Complies
3.6.2(O) Easements	Easements for utilities, water, and emergency access have been provided as required by the City Engineer, outside utility providers, and Poudre Fire Authority.	Complies
3.6.6 Emergency Access	The proposal meets the emergency access standards of the Land Use Code and the requirements of the Poudre Fire Authority. A 20-foot emergency access easement is shown along the driveway on the southern lot (Lot 1) and a 16-foot emergency access easement is shown along the driveway to the north (Lot 2) to provide access to both existing and future residences. All other requirements have been resolved in regard to fire sprinkler, addressing and wayfinding.	Complies

5. Article 4 – Applicable Standards:

DIVISION 4.2 – URBAN ESTATE DISTRICT (U-E)

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
4.1(B)(2)(a) Permitted Uses	Single-family detached dwelling, accessory building, farm animals and urban agriculture are expressly permitted uses in the Urban Estate (U-E) zone district, all subject to Administrative (Type 1) Review. The final development plan as proposed meets this standard.	Complies
4.2(D)(1) Density/Intensity	<p>The final development plan meets the density/intensity standards of the Urban Estate District. The proposed project provides the following characteristics, in compliance with the standards:</p> <ul style="list-style-type: none"> • Standard: Overall average density cannot exceed 2 dwelling units/gross acre. Proposed: 0.25 dwelling units/gross acre. • Standard: Lot size must be one-half (1/2) acre or larger. Proposed: 4.0 acres. 	Complies
4.2(D)(2) Dimensional Standards	<p>The final development plan meets the dimensional standards of the Urban Estate District. The proposed project provides the following characteristics, in compliance with the standards:</p> <ul style="list-style-type: none"> • Minimum lot width: 100 feet, Provided: 227 feet. • Minimum front yard depth: 30 feet. Provided: 571 feet. • Minimum rear yard depth: 25 feet. Provided: 101 feet. • Minimum side yard width: 20 feet. Provided: 76 feet (west side yard) and 80 feet (east side yard). • Maximum building height: three (3) stories. Proposed: two (2) stories. 	Complies
4.2(E)(1) Street Connectivity and Design	Any development within the Urban Estate District require compliance with the standards contained in Section 3.6.3, Street Pattern and Connectivity Standards. The proposed development dedicates the necessary Right-of-Way for the future extension of Sage Creek Road. Sage Creek Road is an east-west local street that will connect South Timberline Road to the Sage Creek Subdivision.	Complies

6. Findings of Fact/Conclusion

In evaluating the request for the Hill Single-Family Final Development Plan, FDP210005, staff makes the following findings of fact:

- A. The Hill Single-Family Final Development Plan conforms to the Structure Plan place type designation and policy guidance of *City Plan* and the Structure Plan Map.
- B. The modification of standards to section 3.2.2 (J) proposed with this project development plan meets the application requirements and criteria of section 2.8.2(h)(4), and the granting of the modification would not be detrimental to the public good.
- C. The Hill Single-Family Final Development Plan complies with process located in Division 2.2 – Common Development Review Procedures for Development Applications of Article 2 – Administration.
- D. The Hill Single-Family Final Development Plan complies with relevant standards located in Article 3 – General Development Standards, provided that the Modification of Standard to section 3.2.2(J) is approved.
- E. The Hill Single-Family Final Development Plan complies with relevant standards located in Division 4.2, Urban Estate District (U-E) of Article 4.

7. Recommendation

Staff recommends approval of the Modification of Standard to Section 3.2.2(J) and approval of the Hill Single-Family Final Development Plan, FDP210005, based on the aforementioned Findings of Fact.

8. Attachments

- 1. Planning Set (site and landscape)
- 2. Subdivision Plat
- 3. BDR Manager's Decision – 2400 Kechter Rd Minor Subdivision
- 4. Utility Plans
- 5. Drainage and Erosion Control Report
- 6. Modification Justification Letter
- 7. Letters of Support from adjoining neighbors