

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

FINDINGS AND DECISION

HEARING DATE: August 21, 2023
PROJECT NAME: 2702 William Neal Parkway – Extra Occupancy
CASE NUMBER: FDP #230013
APPLICANT/OWNER: Mary LaDoucer
2702 William Neal Parkway
Fort Collins, CO 80525
HEARING OFFICER: Lori Strand

PROJECT DESCRIPTION/BACKGROUND: This is a combined Project Development Plan/Final Development Plan to add Extra Occupancy as a permitted use in an existing single-family dwelling located at 2702 William Neal Parkway, Parcel Number 8729160388 (the “Subject Property”). The application requests four (4) occupants, consisting of the Owner and three (3) unrelated adult tenants (the “Application”).

The Subject Property currently is used as a single-family dwelling occupied by the Owner and two (2) unrelated adult tenants. The Subject Property is zoned Low Density Mixed-Use Neighborhood (L-M-N). The Subject Property is surrounded on all sides by other single-family dwellings that are zoned L-M-N. The house was built in 2006 within the 2004 Rigden Farm Filing 6 subdivision.

Staff recommend approval of the Application.

SUMMARY OF DECISION: Approved.

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

HEARING: The Hearing Officer opened the virtual hearing on Monday, August 21, 2023, at approximately 5:40 P.M. and reviewed the Order of Proceedings and Rules of Conduct for Administrative Hearings with the Applicant and members of the public present. The virtual hearing was closed at approximately 6:45 P.M.

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

1. Development Review Staff Report prepared for 2702 William Neal Parkway - Extra Occupancy (FDP #230013), attached hereto as **ATTACHMENT A** (the “Staff Report”). The attachments to the Staff Report are not attached to this decision but are a part of the record in this case.
3. Applicant Narrative.
4. Site Plan.
5. Parking Video.

7. Written public comments from Dee Pridgen (in support), Altay & Ezgi Ertopuz (in support), and two neighbors providing only first names (in opposition).
8. A copy of Written Notice of Virtual Public Hearing dated August 4, 2023.
9. Confirmation of Publication (Ad# 0005796730) evidencing proof of publication of Notice of Hearing in the *Fort Collins Coloradan* on August 14, 2023.
10. A copy of the Planning & Development Services PowerPoint prepared for the August 21, 2023 hearing.
11. The City’s Comprehensive Plan, the Land Use Code (the “Code”), and the formally promulgated ordinances and polices of the City are all considered part of the record considered by the Hearing Officer.
12. Rules of Conduct for Administrative Hearings.
13. Administrative (Type 1) Order of Proceedings.

TESTIMONY: The following persons testified at the hearing:

From the City: Clark Mapes, City Planner

From the Applicant: Mary La Douceur, Owner

From the Public: Tim Kettelkamp, 2703 Annelise Way – in support
 Sharyl Jordanger, 2727 William Neal Parkway – opposed
 Ethan Wiechert, 2715 William Neal Parkway – opposed
 Scott Stephens, 2739 Annelise Way – opposed
 Michael & Stacie Eckels, 2744 William Neal Parkway – opposed

Members of the public testifying in opposition to the Application expressed concerns about on-street parking, traffic, impact on the alley, and the potential change in character of the single family community. They also asked questions regarding whether the approval ran with the property or the Applicant/Owner, whether the approval was revocable, and whether the approval had to be renewed. Mr. Mapes, City Planner, explained that an approval would run with the land as a land use approval and was not subject to renewal or revocation.

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 a public health emergency.

3. The Hearing Officer finds that the Application is consistent with the 2019 City Plan insofar as it expands housing options in existing neighborhoods.
4. Section 3.8.16(E)(1) of the Code permits an increase in applicable occupancy limits for single-family and two-family dwellings, pursuant to the issuance of a certificate of occupancy for use as an extra occupancy rental house in zones allowing such use. The Low Density Mixed-Use Neighborhood (L-M-N) zone district permits extra occupancy rental houses. Specifically, Section 4.5(B)(2)(a)(8) of the Code permits extra occupancy rental houses with four (4) or more tenants in the L-M-N zone district, subject to administrative review.
5. Section 4.5(D)(9) of the Code provides that the maximum number of dwelling units defined as extra occupancy rental houses shall be depicted on an application for a project development plan and shall be limited to 25% of the total number of dwelling units of said plan. This Application is for a PDP/FDP for only *one* dwelling unit so this Section is inapplicable; of note, Mr. Mapes testified that this finding is consistent with the City's interpretation and precedent.
6. 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 the Code. The Hearing Officer notes that, per the Staff Report, the Subject Property was not posted until 48 days after the Application was submitted; the Application was submitted on April 28, 2023 and the Subject Property was posted June 15, 2023. Section 2.2.6 of the Code requires posted notice within 14 days following submittal of an application. The Hearing Officer finds that the Subject Property was posted for 67 days and provided adequate notice of the pending application and scheduled hearing, and that such posting substantially complied with the purpose of the notice requirement.
 - b. The Application complies with the applicable requirements of Article 3 of the Code. Specifically:
 - (i) Section 3.1.1 of the Code states that applications for extra occupancy rental houses on platted lots must comply *only with* the standards contained in Division 3.8 and Section 3.2.2(K)(l)(j) of the Code. However, Section 3.2.2(C)(4)(b) also specifically requires extra occupancy rental houses to provide a minimum of 1 bicycle parking space per occupant with 100% fixed bicycle racks. All applicable requirements are met.
 - (ii) The Application satisfies the bicycle parking requirements set forth in Section 3.2.2(C)(4) of the Code, in that four fixed and exterior bicycle spaces are

provided.

(iii) The Application complies with the off-street parking requirements set forth in Section 3.2.2(K)(1)(j) of the Code, in that four dedicated parking spaces are provided for the requested four (4) occupants.

(iv) The Application complies with the standards set forth in Section 3.8.28(A) of the Code for the maximum number of permissible residents and maximum percentage of parcels per block face that may be used for extra occupancy houses. The habitable floor space provided exceeds the square footage of 1,450 square feet required for the four (4) occupants and no other extra occupancy houses currently are located on the block face.

7. The Application's satisfaction of the applicable Article 2, 3 and 4 Code requirements is sufficiently evidenced by the Staff Report, the testimony at the August 21, 2023 public hearing, and materials accepted into the record.

DECISION

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

The 2702 William Neal Parkway - Extra Occupancy (FDP #230013) is approved for the Subject Property in the form submitted. The Applicant/Owner is authorized to apply for a change of use building permit (to ensure that the Subject Property complies with all applicable City building and rental housing codes).

DATED this 25th day of August, 2023.



Lori Strand
Hearing Officer

ATTACHMENT A

Staff Report
2702 William Neal Parkway - Extra Occupancy (FDP #230013)

Development Review Staff Report

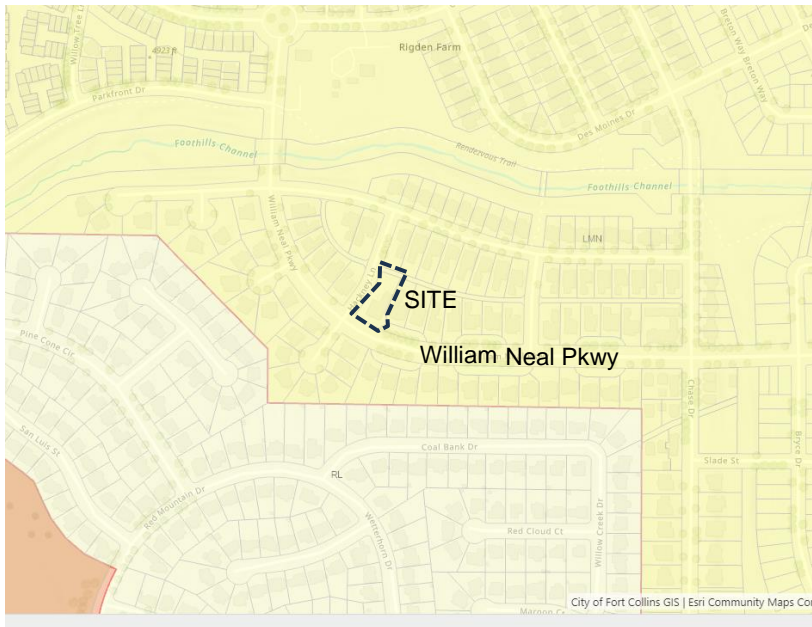
Administrative Hearing: August 21, 2023

2702 William Neal Parkway Extra Occupancy #FDP230013

Summary of Request

This is a combined Project Development Plan/Final Development Plan to add Extra Occupancy as an approved use for an existing single-family dwelling, for four occupants.

Zoning Map



Next Steps

If approved by the Hearing Officer, the applicant will be eligible to apply for a building permit to obtain a new Certificate of Occupancy.

Site Location

2702 William Neal Parkway in the Rigden Farm neighborhood. Parcel #8729160388.

Zoning

Low Density Mixed Use Neighborhood (L-M-N).

Property Owner

Mary LaDouceur
2702 William Neal Parkway
Fort Collins, CO 80525

Applicant/Representative

Same

Staff

Clark Mapes, City Planner

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Staff Recommendation

Approval.

1. Project Introduction

A. PROJECT DESCRIPTION

The development plan consists of a Site Plan that lists ‘Extra Occupancy’ as a use within the existing house and demonstrates compliance with the few Land Use Code standards that apply in this situation:

- The existing house, driveway and garage accommodate the proposed extra occupancy in terms of required floor area and parking. The only physical change in the plan is to add a fixed bike rack.
- The property is within the LMN zoning district which permits the use subject to Administrative Review and hearing by a Hearing Officer.

B. DEVELOPMENT STATUS/BACKGROUND

1. Subject Property

The house was built in 2006 within the 2004 Rigden Farm Filing 6 subdivision.

2. Surrounding Zoning and Land Use

The house is within the LMN zone district in a single-family subdivision area of the Rigden Farm development.

C. OVERVIEW OF MAIN CONSIDERATIONS

The only consideration in this case was off-street parking, as is typical of extra occupancy proposals. The applicant resolved the issue early in the review process by demonstrating how the required four spaces are accommodated on the property.

D. CITY PLAN

The City’s comprehensive plan (2019 *City Plan*) embodies the vision and values of the community for the future. It does not specifically address issues of occupancy.

A significant theme in the plan is encouraging more housing options in general. For example, Policy LIV 5.6 on p. 42 states: “EXISTING NEIGHBORHOODS: Expand housing options in existing neighborhoods (where permitted by underlying zoning) by encouraging: » Infill development on vacant and underutilized lots; » Internal ADUs such as basement or upstairs apartments; » Detached ADUs on lots of sufficient size; and » Duplexes, townhomes or other alternatives to detached single-family homes that are compatible with the scale and mass of adjacent properties.”

The plan designates this part of Rigden Farm within the “Mixed Neighborhood” land use designation, which is characterized by a variety of housing types and options.

2. Land Use Code Article 2

A. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR220037

A conceptual review meeting was held on May 11, 2022.

2. First Submittal

The PDP/FDP was submitted on April 28, 2023

3. Neighborhood Meeting

Pursuant to *LUC Section 2.2.2 – Step 2: Neighborhood Meetings*, a neighborhood meeting is not required for Administrative Hearing (Type 1) projects and no meeting was held.

4. Notice (Posted, Written and Published)

Posted Notice: June 15, 2023, Sign #801.

Written Hearing Notice: August 4, 2023, 292 addresses mailed.

Published Hearing Notice: August 14, 2023.

3. Land Use Code Article 3

Because the plan involves existing development which comports with Land Use Code standards, only a few standards specific to Extra Occupancy pertain in this case.

A. DIVISION 3.2 – SITE PLANNING AND DESIGN STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.2.2 – Access, Circulation and Parking – General Standard	This code Section requires secure, convenient, efficient parking and circulation improvements that add to the attractiveness of the development. The only applicable standards are parking requirements for vehicles and bicycles. <ul style="list-style-type: none"> The plan provides specific required parking per the subsections noted below. 	Complies
3.2.2(C)(4) – Bicycle Parking Space Requirements	This subsection requires one bicycle parking space per bed, for a total of four spaces required. <ul style="list-style-type: none"> The applicant’s narrative notes that the garage already has four existing off-floor bike parking spaces, and the plan adds a fixed outdoor rack for four more bikes on an existing concrete pad. 	Complies
3.2.2(K)(1)(j) – Required Number of Off-Street Spaces	Extra occupancy uses are required to provide 0.75 parking spaces per tenant, rounded up to the nearest whole parking space, plus one (1) additional parking space if the dwelling unit is owner-occupied. Four spaces are required in this case. <ul style="list-style-type: none"> Four spaces are provided. The applicant’s narrative notes that the existing garage can accommodate four cars, and the driveway is 61 feet long. The applicant made a video of how four cars can have access (attached). 	Complies

B. DIVISION 3.8 – SUPPLEMENTARY REGULATIONS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.8.16 – Occupancy Limits – Increasing the Number of Persons Allowed	<p>Subsection (E)(1) states <i>“with respect to single-family and two-family dwellings, the number of persons allowed under this Section may be increased by the issuance of a certificate of occupancy for use as an extra occupancy rental house in zones allowing such use.”</i></p> <p>The proposed plan is to increase the occupancy of a single-family dwelling. If approved the applicant will submit a building permit application for a new Certificate of Occupancy.</p>	<p>Complies via the proposed plan in the LMN zone</p>
3.8.28 – Extra Occupancy Regulations	<p>This Section contains requirements for extra occupancy in dwelling units. 350 square feet of habitable floor space is required for each tenant plus an additional 400 square feet if the dwelling is owner-occupied.</p> <ul style="list-style-type: none"> • 1,450 sq. ft. are required for the proposed four occupants including the owner; 3,360 sq. ft. comprise the existing dwelling. <p>No more than 25% of parcels on a block face may be approved for extra occupancy rental house use.</p> <ul style="list-style-type: none"> • No other Extra Occupancy use is approved on the block face. 	<p>Complies</p>

4. 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 implementation of the City’s comprehensive plan and has been re-established in subsequent updates.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
4.5(A) - Purpose	<p>This Section states: “Purpose. <i>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>	Complies as a part of the overall Rigden Farm development
4.5(B) - Permitted Uses	<p>Extra occupancy with four or more tenants in a dwelling unit is permitted with review and a public hearing by an administrative hearing officer.</p>	Complies

5. Findings of Fact/Conclusion

In evaluating the request for 2702 William Neal Parkway Extra Occupancy #FDP230013, staff makes the following findings of fact and conclusions:

1. The Project Development Plan/Final Development Plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
2. The plan complies with pertinent standards located in Article 3 – General Development Standards.
3. The plan complies with Division 4.5 - Low Density Mixed-Use Neighborhood in Article 4.

6. Recommendation

Staff recommends that the Hearing Officer approve 2702 William Neal Parkway Extra Occupancy #FDP230013 based on the Findings of Fact and supporting explanations found in the staff report.

7. Attachments

1. Applicant Narrative
2. Site Plan
3. Parking Video