

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

FINDINGS AND DECISION

HEARING DATE: June 23, 2021

PROJECT NAME: 3003 Crusader Street – Extra Occupancy Rental House

CASE NUMBER: FDP #210004

APPLICANT/OWNER: Jonathan Dycks
3003 Crusader Street
Fort Collins, CO 80524

HEARING OFFICER: Lori Strand

PROJECT DESCRIPTION: 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 3003 Crusader Street, parcel no. 8708160001 (the “Subject Property”) for up to four (4) occupants (the “Application”). The Subject Property is located on the south side of Crusader Street (east of Dassault Street), and is legally described as:

LOT 1, BLOCK 32, EAST RIDGE SECOND FILING, CITY OF
FORT COLLINS, COUNTY OF LARIMER, STATE OF
COLORADO

BACKGROUND:

The surrounding zoning and land uses 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 Residential (RL)
Land Use	Single-family dwellings on the adjacent block face	Open space/drainage tract	Single-family dwellings on the same block face	Single-family dwellings on the same block face

Staff recommends 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 Thursday, June 3, 2021, at approximately 6:10 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. Development Review Staff Report prepared for 3003 Crusader Street Extra Occupancy (FDP #210004), attached hereto as ATTACHMENT A.
2. Zoning Map.
3. Site Plan.
4. Staff Habitable Area Calculation Review.
5. Public comments received via electronic mail (written comments received from 7 individuals, with 5 written comments opposed to the proposal).
6. A copy of Written Notice of Virtual Public Hearing dated June 9, 2021.
7. Confirmation of Publication (Ad# 0004778867) evidencing proof of publication of Notice of Hearing in the *Fort Collins Coloradan* on June 13, 2021.
8. A copy of Virtual Public Hearing Request from the Applicant dated June 4, 2021.
9. A copy of the Planning & Development Services PowerPoint prepared for the June 23, 2021 hearing.
10. East Ridge Second Filing and Development Plans.
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: Jason Holland, City Planner

From the Applicant: Jonathan Dyks

From the Public:
Ben Johnston, 221 Dassault Street
Chris Breest, 239 Dassault Street
Courtney Harrington, 2938 Crusader Street
Kevin Harrington, 2938 Crusader Street
Nick Scott, 2914 Crusader Street

The public comment portion of the hearing was opened at approximately 6:35 p.m.

The public comment portion of the hearing was closed at approximately 7:00 p.m.

The virtual hearing was closed at approximately 7:30 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 a public health emergency.
3. With respect to the standards set forth in Article 3 of the Code, 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)(1)(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.
4. 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 provision was adopted by Ordinance 019 in 2019, subsequent to the City’s approval of the Mosaic development where the Subject Property is located; as such, this requirement does not apply to the Application.
5. 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.
 - b. 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.
 - c. 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.
 - d. The Application conforms to the maximum number of permissible residents and maximum extra occupancy houses per block face set forth in the table included in Section 3.8.28(A) of the Code.
 - e. The Application satisfies the bicycle parking requirements set forth in Section 3.2.2(C)(4)(b) of the Code.
 - f. The Application complies with the off-street parking requirements set forth in Section 3.2.2(K)(1)(j) of the Code, in that three dedicated parking spaces are provided. Per

the Code, if such lot has less than sixty-five (65) feet of street frontage length on any one (1) street and does not abut an alley, then one (1) of the required parking spaces may be aligned in a manner that does not provide direct access to the abutting street.

6. 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 June 23rd 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 Application (3003 Crusader Street Extra Occupancy (FDP #210004)) 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 29th day of June, 2021.



Lori Strand
Hearing Officer

ATTACHMENT A

Staff Report
3003 Crusader Street Extra Occupancy (FDP #210004)

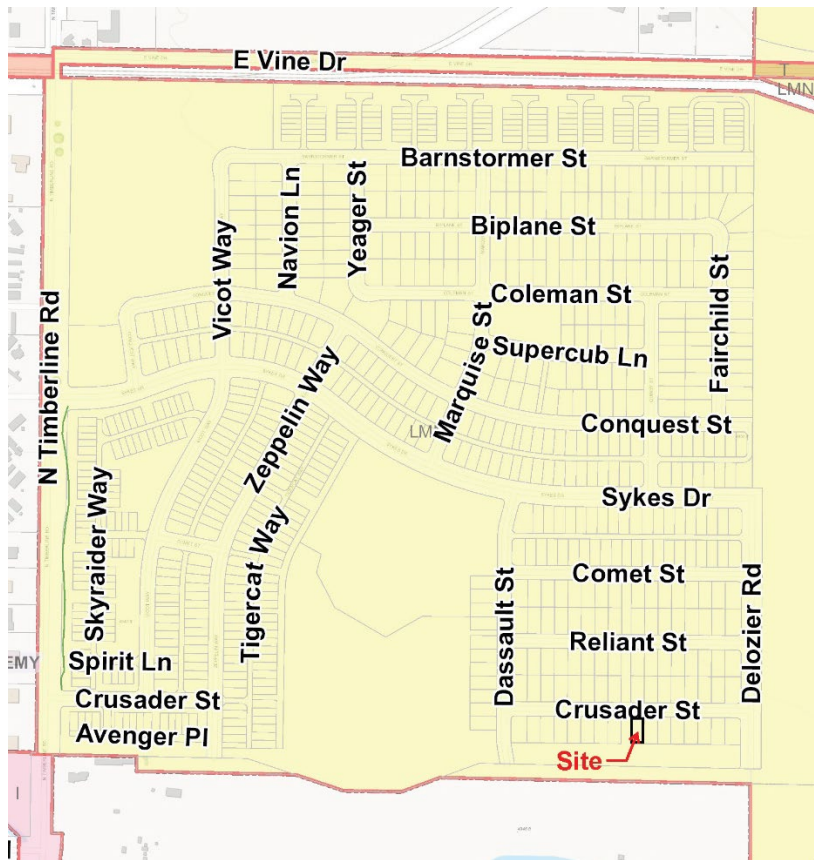
Administrative Hearing: June 23, 2021

2003 Crusader St. Extra Occupancy #FDP210004

Summary of Request

This is a combined Project Development Plan and Final Development Plan request for an extra-occupancy rental house within an existing single-family-detached dwelling at 3003 Crusader Street (parcel #8708160001) for four (4) occupants.

Zoning Map



Next Steps

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

Site Location

3003 Crusader Street in the Mosaic neighborhood (East Ridge Subdivision, Second Filing). Parcel #8708160001.

Zoning

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

Property Owner

Jonathan Dycks
3003 Crusader St
Fort Collins, CO 80524

Applicant/Representative

Same as Owner

Staff

Jason Holland, City Planner

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Staff Recommendation

Approval of FDP210004

1. Project Introduction

A. PROJECT DESCRIPTION

- The proposal is to add extra occupancy for up to four occupants as a use of the single-family detached dwelling at 3003 Crusader Street.
- The existing house, driveway and garage accommodate the proposed extra occupancy in accordance with City standards.
- The property provides the required habitable floor area for the proposed four occupants. 1,800 sq. ft. are required (350 sq. ft. per occupant in addition to a minimum of 400 sq. ft. if owner occupied); 1,980 sq. ft. is provided.
- The property is within the Low Density Mixed Use Neighborhood (LMN) zoning district, which permits the extra occupancy rental house use subject to a Type 1 Administrative Review and public hearing.

B. DEVELOPMENT STATUS/BACKGROUND

1. Subject Property

The house was built in 2018 and is within the approved Final Plan for the East Ridge Second Filing. With the East Ridge Second Filing the property was approved as a “single-family detached dwelling” – which is a designated “housing type” in the Land Use Code and defined as a dwelling “containing no more than one (1) dwelling unit” that “is not attached to any other dwelling or building by any means”.

2. Surrounding Land Uses

	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 Residential (RL)
Land Use	Single-family dwellings on the adjacent block face	Open space/drainage tract	Single-family dwellings on the same block face	Single-family dwellings on the same block face

C. OVERVIEW OF MAIN CONSIDERATIONS

The main considerations in for this project review are meeting the development standards for the proposed use, including the provision for on-site vehicle parking, on-site bicycle parking and floor area requirements.

D. CITY PLAN

The City’s comprehensive plan (2019 *City Plan*) was updated with the participation of thousands of community members and 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 Structure Plan (the future land use map component of *City Plan*) designates this part of the Mosaic neighborhood as a “Mixed Neighborhood” place type, which is characterized by a mixture of housing types. The following excerpt from p.98 in *City Plan* gives a sense of the main ideas for land uses in a Mixed Neighborhood place type:

Principal Land Use

Single-family detached homes, duplexes, triplexes, and townhomes

Supporting Land Use

ADUs, small scale multifamily buildings, small-scale retail, restaurants/cafes, community and public facilities, parks and recreational facilities, schools, places of worship

Key Characteristics/Considerations (Existing Neighborhoods)

- *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.*
- *The introduction of larger townhome or multifamily developments into existing single-family neighborhoods should generally be limited to edge or corner parcels that abut and/or are oriented toward arterial streets or an adjacent Neighborhood Mixed-Use District where transit and other services and amenities are available.*
- *Where townhomes or multifamily buildings are proposed in an existing neighborhood context, a transition in building height, massing and form should be required along the shared property line or street frontage.*
- *As existing neighborhoods change and evolve over time, rezoning of some areas may be appropriate when paired with a subarea or neighborhood planning initiative. See the Priority Place Types discussion on page 107 for more details about changes in existing neighborhoods over time.*
- *While reinvestment in existing mobile home parks is encouraged, redevelopment of existing parks is not.*

2. Land Use Code Article 2

A. BACKGROUND

This project was submitted on March 19, 2021.

B. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR200095

A conceptual review meeting was held on December 17, 2020.

2. First Submittal

The PDP was submitted on March 19, 2021.

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: April 19, 2021, Sign #619.

Written Hearing Notice: June 9, 2021, 428 addresses mailed.

Published Hearing Notice: June 13, 2021, Coloradoan Confirmation #0004778867.

3. Land Use Code Article 3

Because the plan is within an existing “housing type” referred to as a “single-family detached dwelling” and is located within the approved East Ridge development which complies with the applicable Land Use Code standards, only a few standards specific to the 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	<p>This Section requires that: <i>“The parking and circulation system within each development shall accommodate the movement of vehicles, bicycles, pedestrians and transit, throughout the proposed development and to and from surrounding areas, safely and conveniently, and shall contribute to the attractiveness of the development.”</i></p> <p>The existing subdivision development provides a parking and circulation system that is consistent with the standard. No changes to the development’s circulation system are recommended for the proposed extra occupancy rental house to meet the standard.</p> <p>The plan provides specific required parking per the subsections noted below.</p>	Complies
3.2.2(C)(4)(b) – Bicycle Parking Space Requirements	<p>This section requires a minimum of one fixed bicycle space per occupant, for a total of four bicycle spaces required.</p> <p>The FDP proposes fixed bicycle wall mounts within the existing garage that will accommodate four bicycles. Sufficient space exists within the garage to accommodate the four bicycles in fixed locations – with 2 feet of height and length 5.5 feet of length needed for each bicycle, and with five feet of maneuvering space available.</p>	Complies
3.2.2(K)(1)(j) – Required Number of Off-Street Spaces	<p>Extra occupancy rental house uses are required to provide 0.75 parking spaces per occupant, rounded up to the nearest whole parking space. This standard also allows that: <i>“If such lot has less than sixty-five (65) feet of street frontage length on any one (1) street and does not abut an alley, then one (1) of the required parking spaces may be aligned in a manner that does not provide direct access to the abutting street.”</i></p> <p>The project meets these requirements by providing three off-street parking spaces for the proposed four occupants, with two spaces provided in the garage and one space located in the driveway.</p>	Complies

B. DIVISION 3.8 – SUPPLEMENTARY REGULATIONS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p>3.8.16 – Occupancy Limits – Increasing the Number of Persons Allowed</p>	<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 detached dwelling. If approved the applicant will submit a building permit application. Upon compliance with any building code, the approval of this application, and a final inspection – a new certificate of occupancy will be issued.</p>	<p>Complies via the proposed plan in the LMN zone</p>
<p>3.8.28 – Extra Occupancy Rental House Regulations</p>	<p>This Section contains requirements for extra occupancy in single-family detached dwellings. <i>350 square feet of habitable floor space is required for each tenant plus an additional 400 square feet if the dwelling is owner-occupied.</i></p> <ul style="list-style-type: none"> • At least 1,800 sq. ft. of habitable floor area is required for the proposed use if the rental house is owner occupied for four occupants (four occupants including the owner), and 1,400 sq. ft. if the rental house contains four occupants and is not owner occupied. The applicant has indicated a total habitable area within the house of at least 1,985 square feet, which meets these requirements. Staff’s review of the house floor plans confirms that this amount exists and meets the definition of <i>“Habitable Floor Space”</i> within Article 5 of the Land Use Code. Staff has reviewed the floor plans and calculates that the floor plans contain approximately 2,039 square feet of habitable floor space, which meets the requirements for four occupants. <p><i>No more than 25% of parcels on a block face may be approved for extra occupancy rental house use.</i></p> <ul style="list-style-type: none"> • A total of 16 parcels are located on the block face, and therefore four parcels on the block face may be approved. One additional Extra Occupancy Rental House is proposed at 2914 Crusader Street on the same block face. If both projects are approved, then 12.5% of the block face would be approved for extra occupancy, thus meeting the standard. 	<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 part 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	This Section states: <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>	Complies as a part of the overall East Ridge development
4.5(B) - Permitted Uses	Extra occupancy rental houses with four or more tenants are permitted with a review and public hearing by an administrative hearing officer.	Complies

5. Findings of Fact/Conclusion

In evaluating the request 2003 Crusader St. Extra Occupancy #FDP210004, 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 the relevant 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 2003 Crusader St. Extra Occupancy #FDP210004 based on the aforementioned Findings of Fact and supporting explanations found in the staff report.

7. Attachments

1. Zoning Map
2. Site Plan
3. Hearing Notice
4. Coloradoan Published Notice

5. Public Comments – Attachments 5-A, 5-B, 5-C, 5-D, 5-E
6. Staff's floor area plan check
7. Staff Presentation
8. Notification of Remote Hearing