

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING
FINDINGS AND DECISION**

HEARING DATE: December 3, 2015

PROJECT NAME: Capstone Cottages

CASE NUMBER: PDP140004

APPLICANT: Ripley Design
401 West Mountain Avenue
Fort Collins, CO 80521

OWNER: Capstone Collegiate Communities, LLC
431 Office Park Drive
Birmingham, AL 35223

HEARING OFFICER: Kendra L. Carberry

PROJECT DESCRIPTION: This is a request for a Project Development Plan (PDP) for a development of a residential housing project located at the northeast corner of the intersection of East Lincoln Avenue and North Lemay Avenue, to be known as Capstone Cottages. The PDP includes 201 single-family dwelling units on 24.6 acres. The PDP includes a request for Modification of Standard to Section 4.6(D)(1)(b) of the Land Use Code (the "Code") to allow for a decrease in the minimum density from 12 units per acre to 8.17 units per acre.

SUMMARY OF DECISION: Approved with Conditions

ZONE DISTRICT: Medium Density Mixed-Use Neighborhood (M-M-N)

HEARING: The Hearing Officer opened the hearing at approximately 5:50 p.m. on December 3, 2015, in the Training Room at 625 North Lemay Avenue, Fort Collins, Colorado.

EVIDENCE: During the hearing, the Hearing Officer accepted the following evidence: (1) Planning Department Staff Report; (2) application, plans, maps and other supporting documents submitted by the applicant; (3) a copy of the public notice; and (4) summaries of each of the neighborhood meetings (2/25/14, 7/24/14, 12/10/14, 10/5/15) (the formally promulgated policies of the City are all considered part of the record considered by the Hearing Officer).

TESTIMONY: The following persons testified at the hearing:

From the City: Pete Wray, Martina Wilkinson

From the Applicant: Linda Ripley, Louis Nequette, Lucia Liley, Damon Holland

From the Public: Sue Whetton, Betty Aragon, Tim Whetten, Liz Garcia, Cindi Ellis, Jerry Gavaldon, Gilbert Olivarez

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that the hearing was properly posted, legal notices mailed and notice published.
2. The PDP complies with the applicable General Development Standards contained in Article 3 of the Code.
 - a. The PDP complies with Section 3.2.1, Landscaping and Tree Protection, because: the PDP includes canopy shade trees, evergreen trees, and ornamental trees around the perimeter of the residential buildings; the PDP includes canopy shade trees at approximately 40' intervals along each of the public street frontages; the PDP does not include more than 15% of any one tree species; the building foundation wall landscape planting along all high-use and high-visibility areas is at least 5' in width along at least 50% of such walls; the parking lots are internal; perimeter parking is limited to a single lot adjacent to the detention pond; the perimeter parking lot includes landscaping on all sides and landscape planting islands; the parking lot and perimeter trash enclosures are adequately screened; interior parking islands are provided at the ends of all parking bays; no row of parking exceeds 15 spaces; parking lots are compartmentalized and distributed so that no single lot exceeds 200 spaces; the landscape islands comply with the 6% minimum landscape requirement; and the grove of existing trees will be replaced.
 - b. The PDP complies with Section 3.2.2, Access, Circulation and Parking, because: the PDP includes 738 parking spaces, exceeding the minimum; 5 public streets provide access, circulation and parking; the PDP includes 357 fixed-bike parking and 536 covered bike parking spaces; and the PDP includes-site sidewalk and street connections for pedestrian and bicycle travel to all public streets. The PDP as submitted includes a roadway connection to the Andersonville neighborhood to the north, and several residents expressed concern that residents of the PDP neighborhood will park in the Andersonville neighborhood if parking in the PDP neighborhood becomes an issue. The Hearing Officer has addressed this concern with a condition of approval, as detailed below.
 - c. The PDP complies with Section 3.2.5, Trash and Recycling Enclosures, because: the trash enclosures are made of split-face concrete block; the PDP includes screened truck access to the trash enclosures; and the enclosures meet the 20' minimum setback from public sidewalks.
 - d. The PDP complies with Section 3.3.1, Plat Standards, because the orientation of the lots provides direct access to streets, and the plat includes proper dedication of public rights-of-way, drainage and utility easements.
 - e. The PDP complies with Section 3.4.1(A)(1)(b), (C), Natural Habitats and Features, because the wetlands will be mitigated on-site in the stormwater detention area.
 - f. The PDP complies with Section 3.5.1, Building and Project Compatibility, because: the height, mass, bulk and scale, materials, and architectural design of the buildings are residential in character, which is compatible with the residential neighborhoods to the north; the neighborhood to the east is industrial, but the PDP

proposes a buffer (parking lot and wetland) between the residential buildings and the industrial neighborhood; and the neighborhood to the south includes apartments and a commercial area, and the PDP provides a transition from these more intense land uses to the single-family residential uses to the north. Several residents of neighborhoods to the north testified that the PDP is not compatible with their neighborhoods, because the PDP is intended for student housing. However, nothing requires that the dwellings in the PDP be occupied by students, and in fact, if the request for Extra Occupancy Rental Housing is not approved, the likelihood of students residing in the PDP reduces substantially. The Hearing Officer is not able to predict the eventual occupancy of the dwelling units in the PDP. More importantly, the Hearing Officer is only permitted to consider the compatibility of the buildings and other physical elements of the PDP, not the compatibility of the eventual occupants.

g. The PDP complies with Section 3.5.2(C), Housing Model Variety, because the PDP includes distinct elements to achieve building variation among repeated buildings, including 4 different housing models.

h. The PDP complies with Section 3.5.2(D), Relationship of Dwellings to Streets and Parking, because the dwellings face public streets or street-like private drives, or have a primary entrance within 200' of a connecting walkway.

i. The PDP complies with Section 3.6.3, Street Pattern and Connectivity, because the PDP will access 5 public streets and includes a new minor arterial street. In addition, the PDP assumes the eventual realignment of Lemay Avenue. The PDP proposes a connection of Duff Drive to the existing 10th Street to the north, because at prior neighborhood meetings, this connection was requested by the residents of the Andersonville Neighborhood. However, at the December 3rd hearing, the only residents who testified requested that this connection be removed from the PDP. Both the City and the Applicant testified at the December 3rd hearing that this connection provides no benefit to the PDP, but instead, was an attempt to respond to concerns raised by the Andersonville Neighborhood.

j. The PDP complies with Section 3.6.4, Transportation Level of Service Requirements, because the Transportation Impact Study submitted with the application demonstrates that the PDP, as designed, will maintain the City's adopted Level of Service standards. More specifically, the PDP has been designed to minimize traffic impacts to the neighborhoods to the north by keeping traffic off of Lemay Avenue, at least until Lemay Avenue is realigned.

k. The PDP complies with Section 3.6.5(B), Transit Facilities, because the Applicant has requested that a bus stop be placed on Lincoln Avenue near the south entrance to the PDP and has agreed to provide a bus shelter at that location if the request is approved.

3. The PDP complies with the applicable standards contained in Article 4 of the Code for the M-M-N zone district.

a. The PDP complies with Section 4.6(B)(2)(a), Permitted Uses, because single-family detached dwellings, single-family attached dwellings and two-family dwellings are all permitted uses, subject to administrative review.

b. The PDP does not comply with Section 4.6(D)(1), Land Use Standards – Minimum Density, because the density of 8.17 dwelling units per acre is less than the minimum density required (12 units per acre). Both the Applicant and the City requested that the Hearing Officer consider the future proposed use of the dwellings in the PDP as Extra Occupancy Rental Houses, which will purportedly result in an "equivalent" density of 15 units per acre. However, the Hearing Officer has no authority to do so, because such uses have not been approved by the City and the Hearing Officer has no authority to approve such uses. However, the deviation in density is addressed in the Modification of Standard section below.

c. The PDP complies with Section 4.6(D)(3), Land Use Standards – Maximum Height, because all buildings will be either 2 or 3 stories.

4. The Modification of Standard (Section 4.6(D)(1)(b) – Minimum Density) meets the applicable requirements of Section 2.8.2(H) of the Code:

a. The Modification will not be detrimental to the public good, because the PDP provides a transition from the higher density land uses to the south of the PDP to the lower density land uses to the north of the PDP, and a density of 12 dwelling units per acre, as required by the Code, would be incompatible with the residential neighborhoods to the north of the PDP. In addition, the lower density will reduce other impacts of the PDP, including traffic impacts.

b. The density of 8.17 dwelling units per acre as proposed in the PDP 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, because the density is comparable to the density of adjacent properties and compatible with surrounding land uses. Further, as noted above, the PDP provides a transition from the higher density south of the PDP to the lower density north of the PDP.

c. As noted above, the Hearing Officer cannot find that the Modification satisfies Section 2.8.2(H)(4), because the actual proposed density of 8.17 dwelling units per acre is far less than the minimum of 12 dwelling units per acre, and as such, the effect of the Modification will not be nominal or inconsequential. Again, the Hearing Officer is unable to consider the future proposed use of Extra Occupancy Rental Houses to determine that the eventual equivalent density will be 15 dwelling units per acre.

DECISION

Based on the foregoing findings, the Hearing Officer hereby enters the following rulings:

1. The PDP and the Modification of Standard are approved with the following condition:
 - a. With the request for Final Plan review, the Applicant/Owner shall submit to the City a complete final design of the roundabout intersection.
 - b. The Applicant/Owner shall mitigate any impacts to the PDP caused by the final design of the roundabout.
 - c. The Applicant/Owner shall remove from the PDP the roadway connection between the PDP and the Andersonville neighborhood to the north of the PDP, leaving a trail connection only.

DATED this 17th day of December, 2015.



Kendra L. Carberry
Hearing Officer