

Planning and Zoning Board Minutes  
June 21, 2012  
6:00 p.m.

<b>Council Liaison:</b> Mayor Weitkunat	<b>Staff Liaison:</b> Laurie Kadrich
<b>Chair:</b> Andy Smith	<b>Phone:</b> (H) 482-7994

Chair Andy Smith called the meeting to order at 6:00 p.m.

Roll Call: Campana, Carpenter, Hatfield, Kirkpatrick, Schmidt, Smith and Stockover

Staff Present: Kadrich, Eckman, Holland, Lorson, Shepard, Ex, and Sanchez-Sprague

**Agenda Review**

CDNS Director Laurie Kadrich reviewed the agenda

**Citizen participation:**

None

Andy Smith asked if there were any audience or Board members who wanted to pull items from the Consent Agenda. Member Schmidt asked that Item 3, Mountain Sage Community School Site Plan Advisory Review be pulled from the Consent Agenda.

**Consent Agenda:**

1. Minutes from the May 17, 2012 Planning and Zoning Board Hearing.
2. Poudre School District Cooper Home Site Plan Advisory Review, # SPA20003
4. Bucking Horse Project Development Plan, #PDP120001

**Member Schmidt made a motion to approve the consent agenda consisting of the minutes from the May 17, 2012 Hearing, Poudre School District Cooper Home Site Plan Advisory Review, # SPA20003, and Bucking Horse Project Development Plan, #PDP120001. Member Carpenter seconded the motion. The motion was approved 5:0:2 with Members Campana and Kirkpatrick abstaining.**

**Discussion Agenda:**

3. Mountain Sage Community School, 2170 W. Drake Rd, Site Plan Advisory Review, #SPA120004
5. Planned Development Overlay District Pilot with Related LUC Amendments
6. Elderhaus Office, 1008 Mantz Place, Addition of Permitted Use, # PDP120011
7. 220 E. Olive Modification of Standard, #MOD120005
8. Pateros Creek, 912 Wood Street, Modification of Standard, #MOD120004

Member Smith said he agrees. He thinks we have the protections in Article 3. He thinks this process will promote innovation and in having better projects than might normally occur. The fact is development has been occurring along the river corridor. It has a lot of great protections as it is. There is prime opportunity for signature projects that do nothing but enhance the river corridor and protect the resource that it is.

Member Schmidt said that if someone wanted to do a signature project we could do it under the current code because she thinks the board would support it.

**Motion was approved 5:2 with Members Hatfield and Schmidt dissenting.**

Member Stockover thinks we have adequate protections for NCM and NCB.

Member Schmidt said she doesn't see what protections NCM and NCB zones have except for compatibility. They are not like a historic district or the river which have some basic protections in Article 3. From her perspective, the public outreach was somewhat limited. That was the main concern expressed by citizens who attended the open house. She thinks she needs to support those concerns. In a pilot they would rather not see the neighborhoods included.

Chair Smith said simply because the Eastside/Westside neighborhood discussions are coming back up; he's okay with excluding these two zone districts.

Member Carpenter agreed.

Member Kirkpatrick said she thinks its also interesting if we take out the Laurel School Historic District, that takes out almost all of the NCM and NCB residential sections except for a tiny pocket north of CSU on the outskirts of the TOD (Transit Oriented Development) where you are already having development pressure regardless of whether we do PDOD or not.

Member Schmidt agrees with the pressure – concern about multi family development. She thinks we're telling people on the west side it's okay to leave them in even though the east side had been excluded.

**Member Stockover made a motion to recommend to City Council Option 5 (no NCM or NCB).  
Member Schmidt seconded the motion.**

Member Campana said he doesn't think it needs to be removed nor does he think it would be detrimental to the pilot if it was. It's a pretty small area.

**Motion was approved 7:0**

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**Project:** Elderhaus Office (1008 Mantz Place) – Addition of Permitted Use, # PDP120011

**Project Description:** This is a request to add *Office* as a permitted use to the Neighborhood Conservation Low Density (NCL) District, on a specific site, at 1008 Mantz Place. The proposal is to add an office use to an existing 1,004 square foot single-family residence on a 0.17 acre lot. The applicant has specified that the request is to *add* the use as opposed to change the use. The proposed office is planned for the

existing Elderhaus Adult Day Programs located across the street at 605 South Shields Street. Four support staff employees will work from 8 a.m. – 5 p.m., Monday through Friday at this location. The Elderhaus is a missionary program of the American Baptist Church, located directly to the west, across Shields Street, of the proposed office. The only physical changes proposed to the property are a new street tree in the front yard and an alteration to the sidewalk in order to be compliant with the American with Disabilities Act (ADA).

**Recommendation:** Approval of the Addition of Permitted Use with one condition:  
**The office use shall only be permitted so long as the existing structure at 1008 Mantz Place is not altered, expanded or demolished in any way other than what is proposed with this approval.**

#### **Hearing Testimony, Written Comments and Other Evidence**

The recorder reported emails had been received from Michele Haefele, Mike Knowles, and Linda Seals dated 6/21/12 in opposition. She noted copies of the emails were in the Board's read before packet.

City Planner Seth Lorson said the request has been reviewed and found to be in compliance with the required findings for the Addition of a Permitted Use (Sec. 1.3.4), General Development Standards (Article 3), and the NCL District (Sec. 4.7). He said the neighborhood informational meeting took place on February 23, 2012. Neighbors expressed concern about the possibility of the American Baptist Church selling the property and another owner utilizing the office use. Consistent with zoning laws, the City cannot allow or deny a use based upon the tenant. And therefore cannot create conditions that would disallow the use if the property were it to be sold. In an effort to limit the impacts of the proposed use a condition restricting the alteration of the subject property is recommended: The office use shall only be permitted so long as the existing structure at 1008 Mantz Place is not altered, expanded or demolished in any way other than what is proposed with this approval.

In reviewing the request to add *Office* as a permitted use at 1008 Mantz Place, staff makes the following findings of fact:

- A. The proposed Addition of a Permitted use is in conformance with the required findings in Section 1.3.4 of the Land Use Code.
- B. The proposed Office use at 1008 Mantz Place is in conformance with Section 4.7, Neighborhood Conservation Low Density District, of the Land Use Code.
- C. The proposed Office use at 1008 Mantz Place is in conformance with Article 3, General Development Standards, of the Land Use Code.

Staff recommends approval of the request for Addition of a Permitted Use to allow *Office* at 1008 Mantz Place, PDP120011, subject to the following condition:

The office use shall only be permitted so long as the existing structure at 1008 Mantz Place is not altered, expanded or demolished in any way other than what is proposed with this approval.

Member Hatfield asked how much opposition had been raised to the proposal. Lorson said three emails received today. Lorson said he spoke to one of the neighbors who were concerned that if the home was demolished they could build an office building. He let her know of the condition of approval –it is recommended it remain in its current state.

Member Schmidt asked if we cannot condition to a particular owner, can we condition hours of operation, etc. Lorson said yes.

### **Applicant Presentation**

Pastor Bill Prather of American Baptist Church, 300 South Shields Street said the church began the Elderhaus ministry in 1980. They are located across Shields on church owned property. He said they have a crying need for office space. The church had a previously empty home to square up the half block east of Shields and seeing Elderhaus's need, would like to propose they be allowed to rent the property to them. The proposal is to have the office staff move in for use during the work week. It would be a rather unobtrusive use of the property with no signage and no visible changes to the residence.

Member Schmidt asked if the office staff expect many visitors. Prather said the plan is to have non-client contact staff occupy the space.

Member Kirkpatrick asked for what the property had been used to date. Prather said as a single family residence.

Member Schmidt asked about the property to the west, is that the parking lot for the church. Prather said correct. He said it would be pretty easy access to parking—there are some bushes between them but there would also be driveway.

Chair Smith said one of the letters received spoke of signage. Smith asked staff if we could condition approval there would be no signage. Lorson said any sign would be limited to 4 square feet as are home occupation signs. Deputy City Attorney Eckman said they could be conditioned to allow at least as much as a home occupation. Smith said that is the default—that which would be allowed by any other residence.

Member Stockover asked if we consider this a home occupation would they not need a change in use. Lorson said Stockover is correct but the sign code is silent on this change of use in this district therefore we would defer to the code as to what's allowed in the case of home occupation.

Member Hatfield asked if the garage going to be remodeled or still be used as a garage. Prather said it will be used as a garage. Hatfield said it appears they have parking for 5 and don't need that many spots. Prather agreed.

Member Kirkpatrick said if we were to condition hours of operation between 8-5 would that be a hindrance to staff. Prather said not regularly but he would hate to have a code enforcement officer called for ½ hour on Saturday. Prather said the goal is to be there from 8-5. Lorson said there wouldn't be people there late at night which is sometimes a nuisance in a rental.

Member Schmidt asked if they were considering this a long-term arrangement or will Elderhaus be relocated to a larger facility. Prather said Elderhaus is its own separate 501(C) 3 so they need to manage their own space requirements as they have need. For now it seems like a good use of this church owned property. They hope to have that relationship work as long as possible.

Member Schmidt said should something change and Elderhaus does not need the space; what happens then. Lorson said from staff's perspective, that's why we tried to limit it to stay as a single family house to meet the pattern of the neighborhood.

### **Public Input** None

### **Board Discussion**

Member Hatfield said because they will not impact parking, they will not be having noisy parties, and they will not likely have complaints; he thinks they' will make good neighbors. He's in favor of the use.

Member Carpenter said if there was some way we could say it would stay as Elderhaus offices/church use; she'd be more comfortable with this. She has a problem philosophically changing a single family house in a single family neighborhood into an office. We don't know what comes next and then we don't have control of it. It's not something she can support.

Member Schmidt asked about requirements for home occupation. Prather said the process began with former City Planner Steve Olt. He recommended added use because the church is allowed in the NCL district but office use was not. If the church wanted to have an office there, we could. When we want to rent to another entity, that's where the added use was needed and that's why they're here tonight.

Lorson said they are not proposing office as an accessory use to a single family house as it would be in a home occupation situation. In home occupation it has to be less than ½ the square footage of the house and only one employee. Schmidt she can really understand the neighbors concerns and our lack of control. She doesn't have any problems with what the church is proposing but the fact that we don't have control after that is very worrisome to us and the neighborhood. Would the church consider church staff there and Elderhaus staff in the church. Prather said Elderhaus much prefers the use of the Mantz property because of the easier access.

Chair Smith asked if the church wanted to use this as an office they would have to go through the exact same process. Lorson said yes. Because they are on separate lots, it cannot be considered accessory to the church.

Member Campana asked if the church owned all the properties, couldn't they remove the lot line with a replat. Lorson said we'd have a similar review for the replat.

Member Stockover said in his mind the situation is on the edge of the neighborhood. He does understand that particular neighborhood has a lot going on near the 7-11 store at Mulberry and Shields. He said moving forward to a worst case scenario—getting an office use/1000 square foot neighbor can we live with that; he thinks so. Are we enabling a good use of a property; he thinks so. He thinks the highest and best use is office versus rental. He will be in support of the addition of permitted use.

Eckman referred the board to page 5 of the staff report for the findings of fact and conclusion. He does not believe B and C are required. He also referred the Board to LUC 1.3.4 Addition of Permitted Use Required Finding (appropriate, conforms to basic characteristics of zone, does not create offensive noise, vibration, dust, heat, etc., compatible with other listed permitted uses in the zone district) and subparagraph (B) finds it not detrimental to the public good and would be in compliance with the requirements and criteria contained in Section 3.5.1 -Compatibility. He'd refrain from reference of facts, findings and conclusions B but he asked that they do include not detrimental to the public good and would be in compliance with the requirements and criteria contained in Section 3.5.1.

**Member Schmidt made a motion that the Planning & Zoning Board approve the Addition of Permitted Use (APU) for 1008 Mantz Place, # PDP120011 based on the fact the APU is in conformance with the required findings in Section 1.3.4 of the LUC, it is not detrimental to the public good and it meets the standards of LUC Section 3.5.1. It also includes the condition that the office use shall only be permitted so long as the existing structure at 1008 Mantz Place is not altered, expanded or demolished in any way other than what is proposed with this approval. Any sign would need to be in conformance with those allowed for home occupations. Chair Smith seconded the motion.**

Member Schmidt said she did not want to condition hours of operation because staff may need to come in early and she did not think that it would be detrimental to the neighborhood. She said the reason she changed her mind is she thinks the house will look compatible and has the greatest protections. She thinks re-platting offers less protection to the neighborhood.

Member Carpenter said as she said before she will not be supporting it because she does not believe it is compatible in a single family residential neighborhood.

**The motion passed 6:1 with Member Carpenter dissenting.**

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**Project: 220 E. Olive Modification of Standard, #MOD120005**

**Project Description:** This is a request for a stand-alone Modification of Standard to Section 3.2.2(K) (1) (a) which establishes the minimum number of parking spaces for multi-family dwellings. The Land Use Code requires a minimum number of parking spaces to serve the proposed apartment building. Based on the mix of one and two bedroom units distributed across 42 units, 67 parking spaces would need to be provided on the site. The applicant is requesting zero parking spaces be provided on the site. As mitigation, the applicant is proposing to provide 40 parking spaces across Olive Street in the City of Fort Collins public parking lot. These 40 spaces are available and would be secured with a long term lease in accordance with the leasing procedures of the Parking Services Department of the City of Fort Collins. The pending R.D.P. would be a residential project at 220 East Olive Street at the northwest corner of East Olive Street and Mathews Street. The existing building would be demolished. The new building would include 42 apartment units. The parcel is zoned N-C-B, Neighborhood Conservation Buffer.

**Recommendation:** Approval with condition.

**Hearing Testimony, Written Comments and Other Evidence**

The recorder reported emails in opposition were received from Bob Hawes on 6/19, Bret Larimer on June 20 and Paige Lunberry on June 21. An email in support was received from Bruce Hendee on June 21.

Senior Planner Ted Shepard said 220 East Olive Street Apartment Building ("Library Lofts") is a pending residential development project. A stand-alone Request for Modification of Standard is allowed per Section 2.8.1 and, if granted, is valid for only one year by which time a Project Development Plan incorporating the Modification must be filed. The request has been evaluated by the criteria of Section 2.8.2(H) and found to be in compliance due to the provision of 40 parking spaces being located across the street and secured with a long term lease. With this arrangement, along with other mitigation measures, the pending P.D.P. would be equal to or better than a plan that would have provided 67 on-site parking spaces. A condition of approval is recommended regarding enforcement of the proposed mitigation measures.

Shepard displayed photos of the adjacent properties. He said staff recommends approval of the Request for Modification of Standard to Section 3.2.2(K)(1)(a), which would allow the pending 220 East Olive Apartment Building Project Development Plan to have zero parking on-site, subject to the following condition: