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After a year of deliberation, the Hughes Stadium site is back at square one. Now what?

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Nearly a year after a newly minted City Council decided to take a more pronounced role in the future of the Hughes Stadium site, Fort Collins is at an impasse over a piece of land that has ensnared the public imagination and become a symbol of competing visions for the community.

The land remains in placeholder “transition” zoning after council deadlocked on its final rezoning vote last month. Two ethics complaints related to the process are pending at the state level. There are at least four potential paths forward for the land owned by Colorado State University, but each one branches off into a thorny thicket of what-ifs.

This story takes a look at each of those four possible paths forward and what they could entail.

Quick refresher: Hughes Stadium after football

The site, formerly home to CSU's off-campus football stadium, has inspired controversy for years since CSU leaders decided to demolish the stadium and build a new on-campus stadium that opened in 2017.

A group known as PATHS (Planning Action to Transform Hughes Sustainably) has been pushing for the area to remain open space or be used for creative low-density development, citing the area's scenic beauty and its proximity to Maxwell and Pineridge natural areas and Horsetooth Reservoir. Council decided to guide the rezoning of the land so city leaders could have more control over its fate and community members could be more involved in the process.

Decision: Council deadlocks on Hughes Stadium rezoning; it's back to drawing board

After a long series of public hearings and many delays, council voted 3-3 for split zoning on the site in May. Split zoning would've allowed higher-density development on the eastern portion and lower-density development on the western portion adjacent to the foothills. An evenly split vote defaults to a "no" vote, and this one came after Mayor pro-tem Kristin Stephens recused herself in the face of a third ethics complaint challenging her involvement in the decision because she is a Colorado State University staff member.

Stephens had previously voted in favor of the split zoning, which gave it enough support for passage. She said at the meeting that she was recusing herself "so as to not aggravate this untenable situation." She declined additional comment on her decision, citing the ongoing nature of the ethics complaint.

From the archives: Fort Collins zoning board recommends lower density for Hughes Stadium site

After the split zoning failed, council member Ross Cunniff made a motion that would've sent the matter back to the city's planning and zoning board, which previously made a recommendation for all "residential foothills" (low density) zoning. It also failed 3-3.

The rezoning process is over, and it will need to begin anew before anything can be built on the land. Residential developer Lennar Homes remains under contract to purchase the 165-acre site from CSU for \$10 million. The contract feasibility period has been repeatedly extended, most recently from June 12 to Aug. 12. Colorado State University spokesman Mike Hooker declined to comment, and Lennar didn't respond to a request for comment.

Although the future of the Hughes site is unclear, whatever happens will take a lot of time and involve a lot of community input.

Council could reinstate the rezoning process and vote again. CSU could finalize its sale of the land, and the new owner (Lennar or otherwise) could put in its own rezoning request, which is the normal procedure. Fort Collins residents could gather enough signatures to put the issue on the ballot in an upcoming election. Or the issue could be resolved in court.

Here's a look at each scenario:

Council could try again

This option seems simple but really isn't.

A council member could make a motion to restart the zoning process with a new recommendation from staff. But with council already deadlocked on split zoning vs. all-low-density zoning, this seems unlikely.

“My feelings have not changed that a compromise is really the best option for us from what options we have available,” council member Julie Pignataro said in an interview. Pignataro voted for all low-density “residential foothills” zoning on the land, following the recommendation from the Fort Collins Planning and Zoning Board. “Really, I think the community just wants to keep it open space, but we don’t have that option. We don’t own the land; CSU has not offered it up as such.”

Council member Emily Gorgol said she can’t support the residential foothills zoning because it would result in multi-acre lots, meaning the homes there would likely cost upward of a million dollars each. She’s an advocate for a wider range of housing options in Fort Collins and said she heard the same wish from residents during the public engagement processes for the City Plan and City Strategic Plan.

“I can’t support more houses of that size,” she said in an interview. “I don’t think it’s equitable, and during all the city processes, people didn’t say, ‘I would really like more 5,000 square-foot houses.’ I don’t think it’s looking toward the future.”

Council member Ken Summers, who criticized council’s guidance of rezoning from the start, said the events of the last year didn’t give him any confidence in that approach.

The land’s future “is up to CSU,” Summers said. “Obviously, it doesn’t make sense for council to do what it already tried and didn’t follow through on.”

The outcome of the state-level ethics complaints could influence council’s next steps. The complaint against Stephens, along with a similar complaint lodged against Mayor Wade Troxell, is awaiting action from Colorado’s Independent Ethics Commission. The commission dismisses most complaints as frivolous.

If the commission takes up the complaints and determines that Stephens and Troxell should’ve recused themselves, council could theoretically take up the zoning issue again with a sure majority in favor of low-density zoning. If the commission dismisses both complaints as frivolous, council could reenter the zoning conversation with a majority in favor of split zoning.

However, two council members who supported the split zoning — Troxell and Summers — have consistently said council shouldn’t have initiated the rezoning in the first place.

To make matters even messier, Stephens is running for Larimer County commissioner in November. If she wins, council will need to appoint someone to replace her. That person's view on the Hughes zoning issue could become pivotal.

If council does take up the zoning again, it will trigger another series of public hearings. And the vocal group of residents opposed to redevelopment of Hughes isn't going away.

Nick Frey, who filed the ethics complaints against Stephens and Troxell at the local level and later the state level, said his motivation was two-fold: He feels their actions were unethical, and he wants to uphold the public trust. He also doesn't want to see the Hughes site become another "maximum profit, ticky-tacky boxes crammed together home development."

"They're disgusting, and they're not in keeping with the nature and the setting in that area," he said. "So my goal has been just to put a massive roadblock so we don't pave and develop every square inch of Fort Collins and lose its character and just turn it into Los Angeles. No one moved here for that reason, and we're going to kill all of the great things about the city in the name of progress, or whatever the goal is."

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Council could wait for the property owner

Council's decision to initiate the rezoning process itself for the Hughes land was unusual. The "normal" way of handling the land's zoning would start with the land owner proposing a new zoning classification for the land, possibly in conjunction with development. The city would evaluate the proposal for its alignment with the City Plan and land use code, and the Planning and Zoning Board would make a recommendation on the proposal. Council would still get final say.

As long as council members remain in disagreement on the zoning and as long as Stephens is recusing herself from the vote, this option is unlikely to be productive.

Lennar has had preliminary conversations with city planners but hasn't submitted a formal development plan to the city. Preliminary designs, which are now more than a year old, show about 700 homes with some open space and trail connections to the adjacent Maxwell Natural Area.

Lennar has declined all Coloradoan requests for comment or interviews, but its contract with CSU states the deal won't go forward if Lennar doesn't believe the city will approve zoning for at least 600 homes. City staff have estimated the split zoning would accommodate up to 550

homes on the site, although opponents of the development argue it could include closer to 1,000.

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Citizens could put Hughes to a vote

Some PATHS members are interested in a community-wide vote on the zoning. It would be within their right to do so, city attorney Carrie Daggett said.

The city charter allows Fort Collins' registered voters to "propose ordinances or resolutions to the council, and, if the council fails to adopt a measure so proposed, to adopt or reject such ordinance or resolution at the polls." Voters can also organize a voter referendum of any ordinance adopted by council.

To get a zoning proposal for the Hughes site on the ballot for the April 2021 city election, community members need to circulate a petition and get at least 3,280 signatures from registered voters in Fort Collins. That's 10% of the ballots cast in the last city election. They can also trigger a special election for the initiative if they get at least 4,920 signatures, or 15% of the ballots cast in the last election. Community members would have 60 days after the city clerk's approval of the petition to get the necessary signatures for a regular election ballot measure. They'd have 90 days to get signatures for a special election.

If community members get enough signatures, council also has the option of adopting the measure without putting it on the ballot.

The signature requirement is a hurdle, especially considering the coronavirus outbreak.

The effort would be worthwhile, Frey said.

"This is one of those issues that people want to put signs in their front yards about," he said. "This is an issue that shouldn't be decided by a few people who have been elected to represent our interests. I believe this is an important enough decision that it should be decided by the public as a whole."

Summers doesn't seem to agree with Frey on much when it comes to Hughes, but he does concur that a community-wide vote would be the only way to actually get residents' consensus on the issue.

He and other council members faced criticism for their support of split zoning. Since the vast majority of public comment supported low-density or open space zoning for Hughes, some people said Summers and the other council members were ignoring the will of the community.

Summers said he was listening — but he was also thinking about the tendency for community opposition to development of any kind in Fort Collins.

“We realize you’re a strong voice, but there are 175,000 residents in Fort Collins,” he said. “The city is charged with making decisions based on what’s best for the community as a whole. When those people (commenting on Hughes) are gone 20 years from now, what are the needs of the city going to be? What happens in the future when somebody says, ‘Man, why is Fort Collins like Boulder, where the houses cost three times more than they do in Greeley or Loveland?’ Well, it’s because 20 years ago, there were 200 people that didn’t want more houses built anywhere in Fort Collins.”

Some PATHS members have objected to that characterization of their cause, saying that they’re not “NIMBY-ers.” Frey said he supports development in other areas of the city, but he called the Hughes site “a unicorn.”

If enough community members agree, the Hughes site could end up zoned as open space, residential foothills or any other zoning classification that is supported by the majority of the community.

That fate could inspire a lawsuit from the property owner, which leads us to ...

This could get decided in court

There’s no clear path for this issue to go to court now, because council hasn’t approved anything related to the site zoning.

But if they do, or if community members approve a ballot measure, any interested party would have the right to file a lawsuit. A lawsuit has overturned a citizen ballot measure once in recent Fort Collins history, when the Colorado Oil and Gas Association sued over the city’s voter-approved fracking moratorium. The Colorado Supreme Court eventually struck down the moratorium in 2016, saying it didn’t adhere to state law at the time.

The possibility of a lawsuit is one factor that has deterred some council members from attempting to zone the land as open space, as many community members have called for. Zoning the land as open space would reduce its value to CSU at a time when the university is

experiencing deep reductions in revenue. The move could constitute a taking of property. In the worst-case-scenario for Fort Collins' coffers, the city could end up on the line for legal costs and damages at a time when it, too, is experiencing deep reductions in revenue.

“It’s like if you owned a home and you leveled it, and then your neighbor said, ‘I don’t want you to build a new home, and then City Council said, ‘You can’t build a new home. You have to build a Starbucks,’” Gorgol said. “The government can’t do that for a reason.”

Cunniff isn't so sure.

"Councils are given a lot of discretion around legislative purpose for zoning decisions," he said. "As long as the value's not taken down to zero, I don't know if there's a winnable lawsuit there. I'm not a lawyer, but that's my intuition."

Jacy Marmaduke covers government accountability for the Coloradoan. Follow her on Twitter @jacymarmaduke.