

July 10, 2012

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Adjourned Meeting - 6:00 p.m.**

An adjourned meeting of the Council of the City of Fort Collins was held on Tuesday, July 10, 2012, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Councilmembers: Kottwitz, Manvel, Ohlson, Tröxell and Weikunat.

Councilmembers Absent: Horak and Poppaw.

Staff Members Present: Atteberry, Harris, Roy.

**Ordinance No. 061, 2012,  
Authorizing the Conveyance of a Non-Exclusive Drainage  
and Landscaping Easement and an Access Easement on City  
Property to Cornerstone Associates, LLC, Adopted on First Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY”***

*Cornerstone Associates, LLC (the “Developer”) is planning a 1.97 acre affordable housing project called the Legacy Senior Residences PDP (the “Development”) located at 360 Linden Street. The Development requires off-site drainage and landscaping improvements and access improvements on adjacent City-owned property which is maintained as the Old Fort Collins Heritage Park, adjacent to the Northside Aztlan Community Center. In order to facilitate the installation of the planned improvements, the Developer has requested a 11,198 square foot non-exclusive drainage and landscaping easement and 321 square foot non-exclusive access easement from the City on the City property.*

***BACKGROUND / DISCUSSION***

*Legacy Senior Residences PDP is a proposed development located at 360 Linden Street, just north of Willow Street. An Administrative Hearing for the project was held on June 11, 2012. The Development will occupy 1.97 acres on Linden Street and include 72 one and two-bedroom affordable apartments for seniors. The plans for the Development require a 20-foot wide off-site drainage easement on adjacent property owned by the City in order to provide storm drainage for the development. The drainage improvements to be installed consist of a drainage swale and an outfall to the Poudre River, in accordance with the City of Fort Collins Old Town Stormwater Master Plan. The outfall location is within an existing run-down to the Poudre River and will not impact any existing trees or vegetation. In addition, the outfall is designed so that all activities will*

July 10, 2012

occur outside of the Poudre River floodway. The outfall will be installed using open cut trenching and will be designed and constructed to the City standards and in coordination with City Parks, Stormwater, and Planning staff. After installation of the outfall is complete, the City property will be restored and reseeded with a native seed mix approved by the City's Environmental Planner.

In addition, the City Planning Department has requested the installation of landscaping improvements consisting of native grasses, shrubs and trees within the drainage easement area for the purposes of serving as a transition and buffer zone improvement between the River and the Development. As such, the Developer has requested a drainage and landscaping easement from the City. City staff is continuing to work with the Developer to finalize the boundary of the requested drainage easement area.

The Developer has also requested an access easement on the City Property in order to install a pedestrian connection to the Poudre Trail.

Parks staff has reviewed the easement requests and believes that conveyance of the requested easements will not interfere with the City's intended use of the City property as a park.

An alternative drainage design option for the Development would require a large amount of on-site detention, modifications to the existing stormwater pipes under the newly constructed right of way of Linden Street, and may conflict with existing utility lines in Linden Street. The Developer would still be required to obtain a Landscaping Easement for the landscaping improvements noted above and the Access Easement as required by the City's Land Use Code.

### **FINANCIAL / ECONOMIC IMPACTS**

Real Estate Services reviewed comparable sales and the Larimer County Assessor's data to prepare a value estimate for the requested easements. The consideration for the drainage and landscaping easement, access easement, and the easement processing fee for Real Estate Services is \$6,200.

### **ENVIRONMENTAL IMPACTS**

The outfall and drainage area improvements are required in accordance with the City's Old Town Stormwater Master Plan and comply with the City's Stormwater Design Criteria Manual. In addition, the landscape improvements associated with the development are required in order to comply with Section 3.4.1 of the Land Use Code, including the Poudre River buffer standards.

The existing vegetation cover on the site is dominated by smooth brome, a non-native grass species, which contributes little to the site's habitat diversity. All disturbed areas will be restored with a native seed mix and native shrubs and trees. As proposed, the project will provide an additional 13 native shade trees and 44 native shrubs to the area requested by this easement.

The off-site drainage and landscape easement is located within the boundaries of the area affected by the 2004 Administrative Order on Consent between the EPA, Public Service Company, Schrader

July 10, 2012

*Oil Company and the City, and related requirements will apply to the proposed easement and work. Easement terms and conditions will be used to incorporate these requirements.*

*The off-site drainage and landscape easement is also located within the boundaries of a former municipal landfill which is subject to a Colorado Department of Health and Environment (CDPHE) approved Soil Characterization and Management Plan (SCMP). The requirements of the SCMP must be taken into account and complied with in connection with any activities within the boundaries of the former landfill, and will be included as conditions of the easement.*

## **PUBLIC OUTREACH**

*On June 11, 2012, a Type 1 Hearing for the Project Development Plan for Legacy Senior Residences was held. City staff received comments from Save the Poudre noting concerns with the proposed development and off-site easements. The concerns noted that related to the requested easements included:*

- *“The project may propose to drain stormwater directly into the Poudre River which may impact river flows, water quality, and aquatic wildlife.”*
- *“The project will be built in and abutting the Poudre River's “Natural Habitat Buffer Zone.”*
- *“The project increases human and vehicle traffic abutting the Poudre River's sensitive ecological corridor.”*

Lindsay Kuntz, Real Estate Services, provided a brief staff presentation and discussed the location of the proposed senior affordable housing project, as well as the proposed easements.

Councilmember Manvel asked about the timing of Council consideration of the easement, since an appeal has been filed against this project. Lindsay Ex, Environmental Planner, replied the development plan was reviewed by an Administrative Hearing Officer as it was a Type I review. The project has been appealed, and will therefore be coming before Council for that hearing. Approval of the easement will enable the project to move forward more quickly, depending on the outcome of the appeal. The easement would not be recorded until final plans are in place and approved.

Councilmember Manvel asked if it is a common practice for Council to receive an easement request with such little detail of the actual project. Ex replied Real Estate Services is typically contacted by a developer as soon as it becomes obvious off-site easements on City property will need to be obtained. The easement process typically lasts about three months, which could be a detriment to the schedule of this project. Easement requests are not typically tied to the process of appearing before the Planning and Zoning Board; however, it generally, the developments have already been approved prior to easements being brought forth.

Mayor Weitkumat noted the granting of the easement would not take effect until the project has been approved and is in final plan stage. Adoption of this Ordinance would initiate the process of negotiating the terms of the easement.

July 10, 2012

Councilmember Manvel asked about the location of Poudre Street with respect to the easements. Kuntz replied the diagram is mislabeled, and clarified that Poudre Street is on the other side of the parcel.

Councilmember Troxell made a motion, seconded by Councilmember Kottwitz, to adopt Ordinance No. 061, 2012, on First Reading.

Mayor Pro Tem Ohlson expressed concern regarding the timing of the easement request.

Mayor Weitkunat agreed that the timing of the easement process will need to be more carefully considered in the future.

The vote on the motion was as follows: Yeas: Troxell, Ohlson, Weitkunat, Manvel and Kottwitz.  
Nays: none.

THE MOTION CARRIED.

**Adjournment**

The meeting adjourned at 6:15 p.m.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Interim City Clerk

