

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

ITEM NUMBER: 13

DATE: June 6, 2006

STAFF: Ken Waido

SUBJECT

Second Reading of Ordinance No. 081, 2006, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for That Certain Property Known as the Mountain/Frey Rezoning.

RECOMMENDATION

Staff recommends approval the Ordinance on Second Reading.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on May 16, 2006, approves the rezoning of most of the Frey Subdivision (approximately 11.6 acres) from the L-M-N, Low Density Mixed Use Neighborhood, District designation to the N-C-L, Neighborhood Conservation Low Density, District designation.

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 16 A-B

DATE: May 16, 2006

STAFF: Ken Waido

SUBJECT

Items Relating to the Mountain/Frey Rezoning and Amendment to the *West Side Neighborhood Plan*.

RECOMMENDATION

Staff recommends approval the Ordinance on First Reading and the Resolution. The Planning and Zoning Board voted 6-0 to recommend approval of the plan amendment and requested rezoning.

EXECUTIVE SUMMARY

- A. Resolution 2006-052 Amending the Westside Neighborhood Plan Pertaining to the Frey Subdivision.
- B. First Reading of Ordinance No. 081, 2006, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for That Certain Property Known as the Mountain/Frey Rezoning.

APPLICANTS: Karen Wilken
143 Frey Avenue
Fort Collins, CO 80521

Sophia Linn
114 Frey Avenue
Fort Collins, CO 80521

City of Fort Collins, Advance Planning Department

OWNERS: Various Owners

This is a rezoning request for most of the Frey Subdivision (approximately 11.6 acres) to change the zoning from the L-M-N, Low Density Mixed Use Neighborhood, District designation to the N-C-L, Neighborhood Conservation Low Density, District designation and making an amendment to the *West Side Neighborhood Plan* by changing the subject area on the "Future Land Use" map of the Plan from the "Retain or Convert to Multi-Family" classification to the "Retain or Convert to Single Family" classification. The request represents a resident initiated rezoning (downzoning) that acknowledges the manner in which the subject area has developed. The Advance Planning Department is also an applicant for the rezoning because Section 2.9.3 of the Land Use Code limits rezoning requests to be "proposed by the Council, the Planning and Zoning Board, the Director or the owners of the property to be rezoned." Not all property owners within the subject area (Frey

Subdivision) have signed the rezoning petition and the Advance Planning Department determined that the rezoning request should be considered for the whole subject area and not a checkerboard pattern of parcels owned just by the signers of the rezoning petition. The portion of the Frey Subdivision not included in the rezoning request is the original Block 2 Lot 12, a 1.2 acre parcel that was redeveloped in May 1983 as the Mountain Court Planned Unit Development (PUD) for 10 townhome units and retaining the existing single-family home on the parcel.

BACKGROUND

The surrounding zoning and land uses are as follows:

- N: Outside of city limits; FA, Farming, and I, Industrial;
a small business (Friendly Fire), Forney Industries, and single-family and multi-family housing.
- E: N-C-L, Neighborhood Conservation Low Density, District;
single-family homes; and
L-M-N, Low Density Mixed Use Neighborhood ;
the Mountain Court PUD 10 multi-family townhomes and a single-family home, the only part of the Frey Subdivision not included in the rezoning request.
- S: P-O-L, Public Open Lands, District;
City Park, City Park Nine Golf Course, and the Barn for the Historic Trolley.
- W: P-O-L, Public Open Lands, District;
Grandview Cemetery.

In 1965, there was a comprehensive rezoning of the City of Fort Collins. At that time, all of the neighborhoods south of LaPorte Avenue, west of Shields Street, and north of the alley between Oak Street and Olive Street (as well as large portions of other older neighborhoods in the city) were placed in the R-M, Medium Density Residential, District.

The subject area was annexed (Frey Annexation) into the city in July 1967 and placed into the R-M District. The R-M District permitted single-family and multi-family residential uses. Multi-family uses had to meet a 1:2 floor area to lot size ratio and minimum lot sizes, e.g., 6,000 square feet for duplexes and 9,000 square feet for all other multi-family uses.

In 1978, there was a resident initiated rezoning (downzoning, the Wells, et. al. West Mountain Rezoning #29-78) which changed the zoning of 88 acres, basically all of the neighborhoods in the R-M District located east of the subject area and west of Shields Street from the R-M to the R-L, Low Density Residential, District. The subject area was retained in the R-M District. The R-L District limits residential uses to just single-family homes. The residents requested the rezoning and the City Council approved the rezoning to stop the random, haphazard conversion of single-family homes to multi-family units that were tending to undermine the stability and changing the character of the predominantly owner-occupied, single-family neighborhoods.

In 1989, the City adopted the *West Side Neighborhood Plan* as an element of the City's Comprehensive Plan. The *West Side Neighborhood Plan* in conjunction with the *East Side Neighborhood Plan* (adopted in 1986) provided the policy basis for additional rezonings of the older neighborhoods in the city. Thus, in 1990, the neighborhoods east of the subject area that were

rezoned from R-M to R-L in 1978, were rezoned again into a new zoning district, the N-C-L District, which was specifically designed to help implement the *East and West Side Neighborhood Plans*. The *East and West Side Neighborhood Plans* designated which portions of the neighborhoods should be preserved as single-family neighborhoods; which portions were appropriate for residential density intensification (i.e., permitting conversions of single-family to multi-family units); and which portions were appropriate for land use conversions (i.e., permitting conversions from residential to non-residential uses as well as permitting conversions of single-family to multi-family units). The subject area was deemed appropriate for multi-family uses and was retained in the R-M District.

In 1997, the City adopted *City Plan* as the new Comprehensive Plan. Also, in 1997, there was another comprehensive rezoning of the city. The R-M District, and several other 1965-era zoning districts, were eliminated and replaced with new districts designed to implement the policies of *City Plan*. The subject area was thus rezoned from the R-M District to the L-M-N District. The L-M-N District was applied to all former R-M District areas throughout the city.

Land Use Code

The regulations covering rezonings in the City of Fort Collins are contained in Division 2.9 of the *Land Use Code*. Section 2.9.4 (H) (2) indicates the following:

Mandatory Requirements for Quasi-Judicial Rezonings. Any amendment to the Zoning Map involving the zoning or rezoning of six hundred forty (640) acres of land or less (a quasi-judicial rezoning) shall be recommended for approval by the Planning and Zoning Board or approved by the City Council only if the proposed amendment is:

- (a) consistent with the City Comprehensive Plan; and/or
- (b) warranted by changed conditions within the neighborhood surrounding and including the subject property.

Section 2.9.4 (H) (3) of the *Land Use Code* indicates the following:

Additional Considerations for Quasi-Judicial Rezonings. In determining whether to recommend approval of any such proposed amendment, the Planning and Zoning Board and City Council may consider the following additional factors:

- (a) whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land;
- (b) whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands and natural functioning of the environment;

- (c) whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

APPLICANTS' REQUEST AND JUSTIFICATION

This is a resident-requested rezoning led by Karen Wilken and Sophia Linn, who submitted a rezoning petition signed by 40 (78%) of 51 property owners, owning 25 (80%) of 31 properties, encompassing 9.6 (83%) of the 11.6 acres in the subject area.

The following was submitted by the applicants.

“Reason for request:

This is a resident-initiated request for rezoning of Frey subdivision from its current LMN designation to NCL designation, and for a modification to the *West Side Neighborhood Plan* changing from “retain or convert to multi-family” to “retain or convert to single-family”.

Article 2, Division 2.9.4 (H)(2)(a):

The proposed amendment is compatible with the City's Comprehensive Plan as stated in the Land Use Code. The change would maintain (and possibly enhance) the existing integrity and character of the Frey subdivision, and would help to minimize any threat to the West Side Neighborhood's continuation as one of the oldest single-family residential areas in Fort Collins.

Article 2, Division 2.9.4 (H)(2)(b):

The signers of the attached petition consider the zoning amendment warranted by the changed conditions within the Frey subdivision. When the current LMN zoning for the subdivision was designated, the subdivision contained three light-industrial businesses: a small trucking company, a small greenhouse/nursery, and a small cemetery monument company. The trucking company and greenhouse/nursery have gone out of business; the monument company has relocated east of town.

The change would stabilize the residential core by curtailing further development of multi-family and commercial enterprises, and would be commensurate with, and a positive extension of, the maintenance of Mountain Avenue boulevard as a landscaped east/west neighborhood design element.

Consistent with the City's policy of encouraging in-fill development, nine (9) new custom houses have been built in the Frey subdivision in the last 14 years on land vacated, in large part, by the three no longer present businesses. Frey subdivision is now 100% residential, the positive addition to the property tax base has been considerable, and the neighborhood is developing a strong sense of integrity.

The proposed amendment is compatible with existing uses surrounding the subject land (Grandview cemetery to the west, City Park Nine to the south, NCL zoning to

the east, and light industrial on the north side of Laporte Avenue). There would be no adverse impacts on the natural environment because of this change.”

STAFF ANALYSIS

City Plan, The City's Comprehensive Plan:

As indicated above, any request to rezone less than 640 acres is considered a quasi-judicial rezoning and the first “criteria” for approving the request is consistency with *City Plan*, the City's Comprehensive Plan.

The City Structure Plan map, an element of *City Plan*, sets the basic land use framework showing how Fort Collins should grow and evolve over the next 20 years. In other words, the Structure Plan, through its land use designations, helps provide a guide to determine the appropriate zoning for properties within the city. The Structure Plan basically divides land into four broad categories: Neighborhoods, Districts, Corridors, and Edges. There are several sub-categories within the four major categories. Unfortunately, the Structure Plan shows the subject area as being contained in the “Open Lands, Parks, Stream Corridors” category. This is more of a graphic issue due to the broad brush approach used to depict “Stream Corridors” on the Structure Plan map; i.e., these corridors often contain parts of adjacent neighborhoods and areas that are not really part of a stream corridor.

It can safely be argued, however, that the subject area is part of the adjacent Low Density Mixed-Use Neighborhoods category depicted on the Structure Plan map. The City uses five zoning districts to implement the Low Density Mixed-Use Neighborhoods category on the Structure Plan including the L-M-N District, N-C-L District; the R-L District; the N-C-M, Neighborhood Conservation Medium Density, District; and the N-C-B, Neighborhood Conservation Buffer, District. So, both the existing L-M-N District and the requested N-C-L District could be justified by the Structure Plan map.

City Plan also contains several policies related to changing existing neighborhoods. For example, **Policy EXN-1.1 Changes to Existing Residential Developments**, states, in part, the following:

No significant changes to the character of existing residential developments will be initiated by City Plan. Changes, if any, will be carefully planned and will result from initiative by residents or from a specific subarea plan prepared in collaboration with residents.

A related policy, **Policy GM-2 Areas Identified by Neighborhood Subarea Plans**, states, in part, the following:

Neighborhood subarea plans will help designate appropriate areas for redevelopment and infill in historic neighborhoods.

The above policies indicate the guidance for changes to residential neighborhoods rests with neighborhood residents or subarea plans. Thus, the analysis of the requested rezoning must also look at the *West Side Neighborhood Plan*.

WEST SIDE NEIGHBORHOOD PLAN

As indicated above, in 1989, the City adopted the *West Side Neighborhood Plan* as an element of the City's Comprehensive Plan. The "Future Land Use" map in the *Plan* designates the subject area in the "Retain or Convert to Multi-Family" classification. Thus, in 1990, when the neighborhoods located east of the subject area were rezoned from R-L into the new N-C-L District, the subject area was retained in the R-M District (later to be rezoned into L-M-N in 1997).

Literally, the subject area is still designated in the *West Side Neighborhood Plan* as an area that should retain multi-family uses or convert to multi-family uses. Such uses would not be permitted in the requested N-C-L District. Therefore, the resident-initiated request to change the zoning of the subject area also contains a request to amend the *Plan's* designation from one that retains multi-family uses or convert to multi-family uses to one that retains single-family uses or converts to single-family uses. An amendment to the *West Side Neighborhood Plan* to depict the subject area as an area that retains single-family uses or converts to single-family uses would make the requested rezoning to the N-C-L District consistent with the City's Comprehensive Plan as required by Division 2.9 of the Land Use Code, Section 2.9.4 (H) (2).

The *West Side Neighborhood Plan* called the area the "City Park Edge" and stated the following:

City Park Edge

Located on the northern edge of City Park and currently zoned R-M, Medium Density Residential, this small area should redevelop into top quality multi-family units that integrate well with the park.

- Uses encouraged: same as Conservation Area (i.e., churches, schools and public/quasi-public recreational uses; accessory dwelling units such as basement apartments; group homes; single family homes; multi-family dwellings) with the primary use intended to be single family residential.
- Retain the R-M, Medium Density Residential, zone.
- Encourage high quality condominium and townhouse development in current R-M, Medium Density Residential, zone.
- Prohibit encroachment of multi-family development into single family core; build out current proposed projects.
- Establish a density limit for multi-family greater than triplex at 75 units per acre.
- New construction design standards (multi-family):
 - a. Height limit 30 feet;
 - b. Open space requirement 50%;
 - c. Same guidelines as Conservation Area to control architectural character.

In analyzing the land use change request it is critically important to review the reasons why the subject area was designated as an area appropriate for conversion into a multi-family uses in 1989. At the time of the development of the *West Side Neighborhood Plan*, the subject area contained a mix of uses, including light industrial, commercial, and a relatively recent (1983) multi-family residential infill development PUD. Thus, the subject area appeared to an area in transition. Also,

infrastructure of the area was not up to City standards. Frey Avenue was (and still is) an unpaved street. There were also storm water drainage issues. Redevelopment could help correct these infrastructure deficiencies. Since the adoption of the *West Side Neighborhood Plan* the subject area has actually gone in an opposite direction from the direction envisioned in the Plan. As the applicants have indicated, the light industrial and commercial uses have either gone out of business or relocated to other parts of the city. There have been no additional multi-family infill redevelopment projects. Rather, in their place and throughout the neighborhood, nine (9) new custom single-family houses have been built in the Frey Subdivision.

Thus, to conclude staff's analysis, the designation of the subject area in the *West Side Neighborhood Plan* as an area that should convert from single-family to multi-family residential uses has proven to be in error. The housing market and resident desires for the subject area are for the area to be one that converts to single-family uses or retains single-family uses.

FINDINGS OF FACT

In evaluating the request for an amendment to the *West Side Neighborhood Plan* and an amendment to the Zoning Map for the subject area (most of the Frey Subdivision), staff makes the following findings of fact:

- A. In 1989, the City adopted the *West Side Neighborhood Plan* as an element of the City's Comprehensive Plan and the "Future Land Use" map in the Plan designated the subject area in the "Retain or Convert to Multi-Family" classification.
- B. In 1990, when the neighborhoods located east of the subject area were rezoned from R-L into the new N-C-L District, the subject area was retained in the R-M District (later to be rezoned into L-M-N District in 1997).
- C. In order for the requested rezoning to be consistent with the City's Comprehensive Plan, and thus meet the requirement of Division 2.9 of the Land Use Code Section 2.9.4 (H) (2), that the rezoning be consistent with the City's Comprehensive Plan, the "Future Land Use" map in the *West Side Neighborhood Plan* needs to be changed for the subject area from the "Retain or Convert to Multi-Family" classification to the "Retain or Convert to Single-Family" classification. This change is warranted by changed conditions within the subject area as previous light industrial and commercial uses have either gone out of business or relocated to other parts of the city, no new multi-family residential redevelopment infill projects have occurred and, in their place, new custom single-family houses have been built. Changed conditions within the subject areas is another of the criteria within Division 2.9 of the Land Use Code Section 2.9.4 (H) (2) that can be used to justify this rezoning request.
- D. Section 2.9.4 (H) (3) of the Land Use Code indicates that the Planning and Zoning Board and City Council may consider the following additional factors in determining whether to recommend approval of any proposed zoning amendment:
 - (a) *whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land;*

In this case, the subject area is essentially totally developed and the existing uses are compatible with uses within and surrounding the subject area, and the requested zone is the appropriate zone district for the subject area.

- (b) *whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands and natural functioning of the environment;*

Again, the subject area is essentially totally developed and the zoning change would not result in any adverse impacts on the natural environment.

- (c) *whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.*

Because the subject area is essentially totally developed, the zoning change would only lock in the existing development patterns, which are mostly single-family homes.

In January 2006, a new 5-bedroom bed and breakfast establishment, located at 1734 West Mountain Avenue, (within the subject area) was approved as a permitted use under the regulations of the existing L-M-N District. The bed and breakfast establishment would become a legal non-conforming use if the zoning change from L-M-N to N-C-L is approved by Council. The bed and breakfast owners are aware of the implications of the pending zoning change.

STAFF RECOMMENDATION

- A. The "Future Land Use" map in the *West Side Neighborhood Plan* be changed for the subject area from the "Retain or Convert to Multi-Family" classification to the "Retain or Convert to Single-Family" classification. (see map attached to Resolution 2006-052.)
- B. Approval of the requested rezoning, changing the zoning of the subject area from the L-M-N, Low Density Mixed Use Neighborhood, District to the N-C-L, Neighborhood Conservation Low Density, District.

PLANNING AND ZONING BOARD RECOMMENDATION

The Planning and Zoning Board, at its regular monthly meeting on March 16, 2006, and as part of the Consent Agenda, voted 6-0 to recommend approval of the change to the *West Side Neighborhood Plan's* "Future Land Use" map and approval of the requested rezoning.

ATTACHMENTS

1. Location map of the rezoning request.
2. Map showing property ownership parcels that signed and did not sign the Rezoning Petition.
3. Future Land Use map from the *West Side Neighborhood Plan*.
4. Letters in support of rezoning.

ORDINANCE NO. 081, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE
CITY OF FORT COLLINS BY CHANGING THE ZONING
CLASSIFICATION FOR THAT CERTAIN PROPERTY KNOWN
AS THE MOUNTAIN/FREY REZONING

WHEREAS, Division 1.3 of the Fort Collins Land Use Code (the "Land Use Code") establishes the Zoning Map and Zone Districts of the City; and

WHEREAS, Division 2.9 of the Land Use Code establishes procedures and criteria for reviewing the rezoning of land; and

WHEREAS, in accordance with the foregoing, the Council has considered the rezoning of the property which is the subject of this ordinance, and has determined that the said property should be rezoned as hereafter provided; and

WHEREAS, the Council has further determined that the proposed rezoning is consistent with the City's Comprehensive Plan and/or is warranted by changed conditions within the neighborhood surrounding and including the subject property; and

WHEREAS, to the extent applicable, the Council has also analyzed the proposed rezoning against the considerations as established in Section 2.9.4(H)(3) of the Land Use Code.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the Zoning Map adopted by Division 1.3 of the Land Use Code is hereby amended by changing the zoning classification from "LMN", Low Density Mixed Use Neighborhood Zone District, to "NCL", Neighborhood Conservation, Low Density Zone District, for the following described property in the City known as the Mountain/Frey Rezoning:

A tract of land being a part of the North Half of the Southwest Quarter of Section 10, Township 7 North, Range 69 West of the 6th P.M., City of Fort Collins, County of Larimer, State of Colorado, and being more particularly described as follows, to wit:

Considering the west line of the Northeast Quarter of said Southwest Quarter as bearing North as shown on the recorded plat of Mountain Court P.U.D. and with all bearings contained herein relative thereto;

Beginning at the northwest corner of said Northeast Quarter; thence along the north line of said Northeast Quarter in an Easterly direction 520 feet, more or less, to the centerline of the Larimer County Canal No. 2; thence along the centerline of said Canal, South 32°01'50" East 280 feet, more or less, to the most northerly corner of Mountain Court P.U.D.; thence along the west line of said Mountain Court P.U.D.,

South 429.18 feet to the north right-of-way line of Mountain Avenue; thence South 00°07'20" West 70.0 feet to the centerline of Mountain Avenue; thence along the centerline of Mountain Avenue, North 89°52'40" West 705 feet, more or less, to the centerline of Grandview Avenue; thence along the centerline of Grandview Avenue in a northerly direction 736 feet, more or less, to the north line of the Northwest Quarter of the Southwest Quarter of said Section 10; thence along the north line of said Northwest Quarter in an Easterly direction 35 feet to the Point of Beginning.

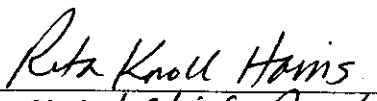
Section 2. That the Sign District Map adopted pursuant to Section 3.8.7(E) of the Land Use Code be, and the same hereby is, changed and amended by showing that the above-described property is included in the Residential Neighborhood Sign District.

Section 3. The City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 16th day of May, A.D. 2006, and to be presented for final passage on the 6th day of June, A.D. 2006.


Mayor

ATTEST:


City Clerk / Chief Deputy

Passed and adopted on final reading on the 6th day of June, A.D. 2006.

Mayor

ATTEST:

City Clerk