

# CITY COUNCIL COMMUNICATION



**MEETING DATE:** August 13, 2024

**ITEM NUMBER:** 12.E

**SECOND READING:** August 27, 2024

{{customfields.ResoOrdNumber}}

**TYPE OF ITEM:** Consent

**PRESENTED BY:**

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**SUBJECT/AGENDA TITLE:**

A Bill For An Ordinance Approving The Concept Plan Amendment For A Portion Of The Schlager Williams Annexation Known As The ModernWest 2 Development, Generally Located South Of Rogers Road And East Of Airport Road

**EXECUTIVE SUMMARY:**

The applicant proposes an amendment to the approved concept plan for a portion of the Schlager Williams Annexation to permit the full range of uses allowed within the Mixed Use – Employment (MU-E) zoning district, particularly residential uses. The currently approved plan only allows for uses permitted under the previous Business-Light Industrial (BLI) zoning district. The proposed concept plan for the subject 27.25 acres would provide for a mixed-use development that includes a range of residential uses, as well as commercial/light industrial uses. The Niwot Ditch bisects the property, and a greenway providing for bicycle and pedestrian connections would be built adjacent to the ditch. The subject property is located within the Airport Influence Overlay (AI-O) zone, and the site plan has been revised to ensure that residential uses are outside of the runway approach zone.

**COUNCIL OPTIONS:**

1. Approve the ModernWest 2 Concept Plan Amendment
2. Approve the ModernWest 2 Concept Plan Amendment with Conditions
3. Deny the ModernWest 2 Concept Plan Amendment

**RECOMMENDED OPTIONS:**

The Planning and Zoning Commission recommended approval of the proposed ModernWest 2 Concept Plan Amendment by a vote of 6 – 1 at a public hearing held on June 26, 2024. Minutes from this public hearing are included as Attachment 6, and the PZR is included as Attachment 5.

**FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:**

There is no fiscal impact or fund source for the proposed ModernWest 2 Concept Plan Amendment.

## **BACKGROUND AND ISSUE ANALYSIS:**

The applicant proposes an amendment to the approved concept plan for the Schlager Williams Annexation to permit the full range of uses allowed within the Mixed Use – Employment (MU-E) zoning district, particularly residential uses. The currently approved plan only allows for uses permitted under the previous Business-Light Industrial (BLI) zoning district. The proposed concept plan would be for a second phase of the previously approved ModernWest 1 development and would provide for a mixed-use development that includes a range of residential uses, as well as commercial/light industrial uses. The Niwot Ditch bisects the property, and a greenway providing for bicycle and pedestrian connections would be built adjacent to the ditch. The proposed concept plan is included as Attachment 3.

The ModernWest 2 property is part of the Schlager Williams Annexation, which was finalized in 2000, and is comprised of approximately 107.3 acres. The approved concept plan for this annexation permitted “Industrial/Economic Development” consistent with the Business/Light Industrial (BLI) zoning district in effect at the time. This zoning district did not permit residential uses. In addition to establishing permissible uses, the Schlager Williams concept plan provided for a primary greenway along the Niwot Ditch that would have required setbacks of 50 feet from the center line of the ditch, as well as a future 100-foot wide airport emergency landing easement in the northwestern part of the property. (Attachment 8)

The proposed concept plan amendment for ModernWest 2 represents the second phase of the project immediately to the south known as ModernWest 1. The ModernWest 1 property was annexed into the City of Longmont in 2019. An amended concept plan was approved for this property in late 2020. This concept plan permitted a mix of industrial, commercial and high-density residential uses over approximately 16 acres. A preliminary subdivision plan was approved for this property in early 2022. There currently are a site plan, final plat and public improvement plans under review for the first filing multifamily portion of the ModernWest 1 development.

The proposed concept plan amendment for ModernWest 2 encompasses approximately 27.25 acres of the Schlager Williams Annexation. The concept plan under consideration would include a mix of high-density residential uses and commercial/industrial uses consistent with the underlying MU-E zoning district. Approximately 15.5 acres of the site would contain high-density residential, 3.1 acres would have commercial/industrial uses, 3.6 acres would be set aside for greenway/open space uses, 3.4 acres would contain outlots for drainage and other purposes, and approximately 1.6 acres of right-of-way would be dedicated to the City of Longmont (Attachment 3). Access would be provided from Rogers Road to the north and the future extension of Mountain Brook Drive on the south. The commercial/industrial parcel of

ModernWest 2 would be located north of the commercial parcel within ModernWest 1 and separated by the future extension of Mountain Brook Drive.

ModernWest 2 is located within the Airport Influence Overlay (AI-O) Zone. A 100-foot wide airport emergency landing easement crosses the southwestern corner of the property, overlapping the future extension of Mountain Brook Drive. As with the ModernWest 1 property to the south, the concept plan for ModernWest 2 does not permit residential uses within the airport emergency landing easement or its setbacks, and ModernWest 2 has further locational restrictions for residential uses in response to concerns about airport compatibility.

### Planning and Zoning Commission

The Longmont Planning and Zoning Commission held a public hearing on the proposed concept plan amendment for ModernWest 2 on June 26, 2024, ultimately voting 6-1 in favor of recommending approval to City Council. The staff report for the Planning Zoning Commission public hearing is included as Attachment 4, the approved resolution is included as Attachment 5, and minutes from this meeting are included as Attachment 6. Five (5) members of the public spoke during the public hearing: four (4) supporting the proposed concept plan amendment and one (1) opposing. Proponents of the proposed concept plan amendment cited the need for housing in the area, noting that this site is one of the few remaining developable large parcels in the City of Longmont. David Emerson, the executive director for Habitat for Humanity of the St. Vrain Valley, stated that his organization had been in conversations with the developers of ModernWest 2 regarding possible development of on-site affordable housing. The opponent of the proposed ModernWest 2 project expressed concern about the compatibility with the proposed residential uses with airport operations, and potential legal implications.

The proximity of the property to the airport was discussed by commissioners, particularly as it related to proposed residential uses and FAA concerns. Other areas of discussion were secondary uses, ownership of the greenway and outlots, and traffic mitigation. Staff and the applicant noted that because this is a concept plan, it is a very high-level document and a lot of the specifics of the proposed development will be worked out at later stages in the development review process.

### FAA and Airport Concerns

Concerns have been raised by the FAA's Denver Airports District Office regarding compatibility of the proposed residential uses with airport operations. It should be noted that the applicant provided documentation from the FAA Southwest Regional Office dated May 22, 2023, finding that there was no hazard to air navigation because proposed structures would not exceed obstruction standards. Staff received correspondence dated June 13, 2023, from the Denver Airports District Office stating that it viewed the proposed

ModernWest 2 development as an incompatible land use with airport operations that would be contrary to FAA grant assurances with the City of Longmont. These letters are included as part of Attachment 7.

Staff had multiple discussions with the FAA, who provided Advisory Circular 150/5190-4B: Airport Land Use Compatibility Planning (Attachment 9) as guidance for determining land use compatibility near airports. This document included a number of model ordinances as part of its guidance to local governments. Staff used this advisory document to identify a sub-zone of the AI-O that includes the runway approach path where residential and assembly uses would not be permitted. A portion of this sub-zone encumbers the southwestern portion of the ModernWest 2 property. Section 2.3.1.3 of AC 150/5190-4B includes techniques that can be used to mitigate effects of residential uses near airports, including:

- Placement of residential structures so that they are not directly underneath a runway approach or departure path outside of Runway Protection Zones;
- Disclosing noise impact and discouraging residential development within the 65db DNL noise contour;
- Minimizing development of multifamily residential units;
- Requiring use of sound-insulating building materials.

Developers of ModernWest 2 have incorporated these techniques. Proposed residential portions of the site are not directly underneath a runway approach path, nor is it within the 65db DNL noise contour. Disclosures of noise and other airport impacts will be required on the entire property via aviation easements and tenant disclosures. Specific unit types and locations have not been determined at this stage, though the applicant has indicated that multifamily residential units will likely be limited to areas of the site north of the Niwot Ditch greenway farthest from the runway approach path, and lower density residential units would be sited south of the Niwot Ditch. The portion of the property underneath the runway approach path would be limited to commercial, industrial and outlot uses. Finally, the applicant team has experience developing residential projects near airports and is committed to using sound-insulating building materials. The applicant made significant revisions to the originally proposed concept plan to ensure that residential uses will not be underneath the runway approach.

Despite taking an approach that was recommended in the FAA Advisory Circular that FAA staff provided to City of Longmont staff, the Denver Airports Office still maintains that the proposed ModernWest 2 development is incompatible with airport operations, as detailed in a letter dated July 2, 2024.

It should be noted that the FAA Denver Airports Office has never commented on land use proposals in this immediate area including the January 2019 annexation, January 2021

Concept Plan Amendment, and January 2022 Preliminary Plat for the ModernWest 1 property located immediately south of the subject property, which contains a larger portion of its land area under the runway approach zone. The only communication from the FAA regarding this development proposal is a finding of no hazard to air navigation.

## Public Comment

Staff received very little public input throughout the review process, despite required notices signs being posted on the property, and written notices mailed to all property owners within a 1,000-foot radius of the ModernWest 2 property as required by code at three (3) different points in the review process. There were no public participants at the neighborhood meeting held on February 9, 2022, and no comments received from the public prior to the Planning and Zoning Commission public hearing. However, there has been significant public interest in the proposed ModernWest 2 Concept Plan Amendment since the June 26, 2024, Planning and Zoning Commission public hearing where the Commission voted 6-1 to recommend approval to the Longmont City Council. This interest has primarily come from the Airport Advisory Board, members of the pilot community, and airport hangar owners and lessees. Key concerns are safety, potential economic impacts, potential impacts on airport operations, and a possible increase in noise complaints.

Written public comments received to date are included as part of Attachment 7, along with external agency comments.

## Review Criteria Analysis

- 1. The application is consistent with the comprehensive plan and the purpose of the code and zoning district; conforms to any previously approved concept plan, preliminary plat, or PUD overall development plan; and complies with all applicable statutes, codes, ordinances and regulations.**

The ModernWest 2 site is within the Mixed-Use Employment (MU-E) comprehensive plan category. The MU-E plan category is intended to accommodate a range of employment uses, including small-scale manufacturing, processing, wholesaling, indoor and screened outdoor storage, office, flex-space, and commercial services. Supporting retail, high density residential, lodging, cultural and civic uses are permitted as secondary uses. The ModernWest 2 concept plan amendment proposes a mix of primary and secondary uses on the property, with a significant amount of the property designated for high-density residential uses. Additionally, proximity to transit and “enhanced pedestrian and bicycle networks” are a characteristic of MU-E designated areas. In the present case, the Niwot Ditch bisects the property and will include a future greenway trail. Additionally, a future Bus Rapid Transit stop is planned for the intersection of Nelson Road and Airport Road.

The subject property is located in an “Area of Change” as defined by Envision Longmont. Areas of Change include undeveloped areas planned for future development, such as the subject property.

Envision Longmont Goal 1.2 and its associated policies promote a sustainable mix of uses in the City of Longmont. The proposed ModernWest 2 concept plan amendment is consistent with this goal. In particular, policy 1.2A states that we should strive for a balanced mix of residential, employment, retail, commercial, recreational and other uses. Additionally, policy 1.2F supports higher density housing types in MU-E and other mixed-use areas. Finally, policy 1.2G encourages the integration of complementary land uses on the same site. Specifically, ModernWest 2 proposes a mix of residential, recreational, and commercial/industrial uses in the MU-E zoning district. Proposed housing will be at densities consistent with the minimum 18 units per acre required in the MU-E district. This proposed concept plan amendment would include a mix of complementary land uses on the same site, which would further complement the previously approved ModernWest 1 mixed-use development immediately to the south.

Goal 1.4 seeks to focus infill and redevelopment in centers, corridors, and other areas of change. The ModernWest 2 property is within an area of change as defined within Envision Longmont. Additionally, policy 1.4G seeks to balance development with the needs of the City’s natural resources. The proposed ModernWest 2 concept plan amendment includes a future greenway trail along the Niwot Ditch as part of the City’s primary greenway network identified within Envision Longmont.

Goal 1.8 seeks to create an integrated and quality parks, recreation, greenway, and open space system, while Policy 1.8C encourages the completion of the greenway system. Policy 3.2F encourages the continued development of a usable community trail system, while Policy 5.5B seeks to preserve and enhance the multiple functions of greenways through appropriate setbacks. The proposed ModernWest 2 development would construct a portion of a primary greenway identified in Envision Longmont along the Niwot Ditch that connects to the Lykin’s Gulch Greenway. There would be a 50-foot setback from the centerline of the ditch on either side.

Policy 6.3B addresses Mixed-Use Employment (MU-E) areas. While employment uses should be prioritized, this policy recognizes that diversification of land uses in these areas, including secondary uses such as high density residential, can enhance their economic vitality. In the present case, a mix of commercial/industrial and high density residential uses are proposed. This proposed development is a second phase of the previously approved ModernWest 1 development, which is currently undergoing site plan, public improvement plans and plat review. ModernWest 1 is also a mixed-use development with

a combination of commercial/industrial and high density residential uses. The applicant intends for these to be complimentary projects.

Policy 6.6C states that the City of Longmont should plan for compatibility between nearby land uses and the airport through coordinated land use and airport planning. This proposed development resulted in extensive discussions between City of Longmont staff and the FAA over land use compatibility concerns. This property is located within the Airport Influence Overlay (AI-O) zone that encompasses a significant portion of the west side of Longmont. This section of the Land Development Code does not explicitly define airport compatible land uses and does not differentiate between different parts of the AI-O based on factors such as proximity to the airport or runway approach zones. The subject property is near the runway approach zone, which raised objections from the FAA. Staff and the applicant have worked to apply recommended standards contained in an FAA Advisory Circular to restrict residential uses in the portion of the site nearest to the runway approach zone. Staff is of the opinion that the concept plan amendment under consideration represents a reasonable compromise that addresses concerns raised by the FAA while also ensuring that the applicant has an economically viable project, and that progress is made towards addressing Longmont's housing shortage.

2. **The application complies with applicable city standards, including for street and utility design and layout, and adequate utilities are available or will be provided for appropriate urban-level services.**

Adequate public services exist or will be provided for the proposed ModernWest 2 development. The developer will be responsible for providing the necessary infrastructure to serve this project. Given that this is a concept plan, specific street and utility design and layout is not yet known. These details will be evaluated as part of the preliminary plat (if required), site plan, final plat and public improvement plans processes.

3. **The application proposes development compatible with surrounding properties in terms of land use, site and building layout, and access.**

The surrounding properties generally share the same MU-E zoning or Envision Longmont designation as the subject property. At this time a number of these properties are undeveloped. The applicant and city staff have worked to establish a concept plan that seeks to address airport compatibility concerns.

4. **The application will not adversely affect surrounding properties, the natural environment, existing or planned city transportation, or utility services or facilities, or the adverse impacts of the use will be mitigated to the maximum feasible extent.**



The proposed ModernWest 2 development will not adversely impact surrounding properties, the natural environment, transportation or utility facilities. The proposed development will include construction of a primary greenway segment, as well as necessary road and infrastructure improvements. The surrounding area contains similarly zoned properties, and though several are currently undeveloped, others are developed with a variety of uses or have uses under development review that would be compatible with the proposed development under consideration.

5. **The application, where required, complies with the sustainability evaluation system requirements to mitigate impacts of development within the city's riparian areas, and as applicable to other projects as determined by separate agreement.**

It is not known at this stage of the development review process whether the proposed development will be required to comply with the sustainability evaluation system. The applicant intends to meet all required setbacks from the Niwot Ditch and Lykin's Gulch Greenway.

6. **The application includes an appropriate transportation plan, including multimodal transportation access, and is integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails and similar features.**

The proposed concept plan amendment includes existing and future rights-of-way and access points for roadways identified in Envision Longmont. Multimodal connections, including a primary greenway trail along the Niwot Ditch, are also shown. Access points, internal linkages and circulation will be further refined as part of future development applications for ModernWest 2.

**In addition to the criteria for all application types, concept plans and their amendments shall be meet the following standards established in Section 15.02.060.A.3:**

- a. **Appropriate land use, utility, and transportation design, including multi-modal transportation access, given the existing and planned capacities of those systems;**

The proposed concept plan amendment is a high-level plan that does not include the level of detail that would be contained within subsequent development applications such as a preliminary plat. The proposed plan includes construction of a primary greenway segment identified in Envision Longmont, bicycle and pedestrian access points, and identifies future road connections. There will be the capacity to serve this development.

- b. **Mitigation of potential adverse impacts on surrounding properties and neighborhoods;**



The FAA raised concerns regarding compatibility with the proposed land uses with Vance Brand Airport operations. In particular, the FAA is concerned about high-density residential uses within the Airport Influence Overlay zone. Staff worked with the applicant to locate residential uses away from the portion of the property closest to the runway approach path. This approach balances the FAA's concerns about the proximity of residential uses to the airport, Longmont's documented need for housing, and the economic viability of the proposed development. Specific additional measures to mitigate potential impacts on surrounding properties will be identified as part of future development review applications that will include aviation easements and tenant disclosures of airport operations, construction techniques to minimize interior noise, and location of residential uses away from the runway approach zone. The concept plan amendment includes stormwater outlots on the eastern side of the property that would provide a buffer from less intense uses to the east of the property. Mitigation measures will be required to meet the standards contained in the Land Development Code.

**c. Mitigation of potential adverse impacts on the environment.**

A Species and Habitat Conservation Plan (SHCP) was submitted and reviewed as part of this application. Recommendations of the plan will be followed throughout the development process. Additionally, a raptor nest survey will be performed prior to any construction activity, and Colorado Parks and Wildlife bird nest mitigation standards shall be followed in the event that any nests are found. Additional environmental issues and conservation measures may be identified by staff at future stages of the development review process.

**ATTACHMENTS:**

1. Ordinances
2. Vicinity Map
3. Proposed Concept Plan Amendment
4. June 26, 2024, Planning and Zoning Commission Staff Report
5. PZR-2024-4a
6. Minutes from June 26, 2024, Planning and Zoning Commission Meeting
7. Outside Agency and Public Comment
8. Schlagel Williams Annexation Agreement and Concept Plan
9. FAA Advisory Circular AC/150-5190-4B