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2  
3 **MINUTES**  
4 **PLANNING AND ZONING COMMISSION**  
5 **JUNE 26, 2024**  
6

7 1. Called To Order  
8

9 Chair Michael Polan called the June 26, 2024, meeting of the Planning and Zoning Commission  
10 to order at 7:00 p.m., in City Council Chambers.  
11

12 2. Roll Call  
13

14 Recording Assistant Jane Madrid called the roll. Present on the Commission were  
15 Commissioners Judson Hite, Chris Teta, Geri Boone, Michael Polan, Janell Flaig, Selina Koler,  
16 and Matthew Popkin. Commissioner Ana Lucaci and Council Representative Aren Rodriguez  
17 were absent. In attendance also was Planning Director Grant Penland, Senior Planner Kristin  
18 Cote, Principal Planner Jennifer Hewett-Apperson and Assistant City Attorney II Tim Hole.  
19

20 3. Communications  
21

22 No communications.  
23

24 4. Public Invited to Be Heard  
25

26 Chair Polan opened the public invited to be heard.  
27

28 No one wished to speak.  
29

30 Chair Polan closed the public invited to be heard.  
31

32 5. Approval of the minutes  
33

34 April 24, 2024, Meeting Minutes  
35

36 Motion

37 **CHAIR POLAN MOVED APPROVAL OF THE APRIL 24, 2024, MEETING MINUTES**  
38 **AS SUBMITTED. COMMISSIONER TETA SECONDED THE MOTION.**  
39

40 Vote

41 **MOTION CARRIED 5-0-2, Commissioners Koler, and Popkin abstaining.**  
42

43 6. Public Hearing  
44

45 A. McDonald's at Sandstone Marketplace Conditional Use Site Plan, Senior Planner Kristin  
46 Cote

1 Staff Presentation

2  
3 Property Location/Info

- 4 • South of East Ken Pratt Blvd, west of Common Drive, and east of County Road 1  
5 • 1.19 +/- acres  
6 • Annexed in 1998 – Mayeda Annexation  
7 • Zoned MU-R (mixed-use regional center)  
8 • Envision Longmont designated as Regional Center  
9

10 Project Overview

11 The proposed development for this property entails the construction of a 4,962 +/- square-foot  
12 fast-food restaurant with a drive-through on this site.

- 13 • Key Points:  
14     ○ Size: 4,965 +/- square feet  
15     ○ Type: Fast-food restaurant  
16     ○ Benefits:  
17         ▪ Modern Design  
18         ▪ Enhances customer convenience  
19         ▪ Provides job opportunities for the community  
20 • Visuals: Included in this presentation are a site plan and architectural rendering of the  
21 proposed development  
22

23 Connectivity and Parking

24 Parking Layout

- 25 • 29 parking spaces  
26 • 2 ADA-compliant spaces  
27 • 5 mobile pick-up spots  
28 • 4 bike parking spaces, exceeding the required 5% of total parking for bike storage  
29

30 Connectivity

- 31 • Compliance with Section 15.05.060 of the Land Development Code (LDC)  
32 • Well-designed pedestrian pathways on-site  
33 • Convenient access to the existing sidewalk adjacent to Ken Pratt Blvd.  
34

35 Architectural Design

- 36 • Four-sided architectural design  
37 • Adheres to Section 15.05.1250 Mixed Use and nonresidential Design Standards  
38 • Modern design elements that enhance the 119 Gateway Corridor  
39 • Attractive and comprehensive plan  
40

41 Recommendation

42 Staff recommends approval of the McDonald's at Sandstone Marketplace Conditional Use Site  
43 Plan.  
44  
45

1 Applicant Presentation

2 No applicant presentation.

4 Public Hearing

5 Chair Polan opened the public hearing.

7 Shakeel Dalal, 219 Francis Street. Shakeel feels that the concept plan is underwhelming and  
8 while he is sure it complies with the entirety of the Municipal Code, he does not think it  
9 complies with the spirit of Envision Longmont. He does not think the typical double drive-thru is  
10 the kind of business for this location and understands that this part of town is a car centric  
11 disaster zone that is anchored by a Walmart, but it is not going to be like this forever. He  
12 reminded the commission that a member of the Launch Longmont group spoke about the  
13 Sandstone Marketplace and criticized the walkability and multimodal accessibility of the  
14 development. He believes the commission asked the developer to make changes to add more  
15 sidewalks, but the commission did not ask the developer to improve connections to the adjacent  
16 residential neighborhood or the Walmart. He feels that this a car centric design with a fig leaf  
17 towards pedestrian accessibility across a 29-space parking lot. He said we live in an era where  
18 forward thinking cities are banning drive-throughs entirely and Longmont should not allow this  
19 kind of multimodal development to continue and added that the plan does not connect to the  
20 sidewalk around the perimeter of the entire development. Shakeel would like the commission to  
21 ask the developer to do better than creating an asphalt jungle.

23 No one else wished to speak.

25 Chair Polan closed the public hearing.

27 Commission Discussion

28 Commissioner Hite asked about the shared ingress and egress. Kristin pointed to note 12 in the  
29 plat, two access points are being constructed on the property line and sharing those access points  
30 with the surrounding developments.

32 Commissioner Hite commented that the drainage easement on the site plan is mostly off this lot,  
33 and on the final plat is it mostly on this lot. Kristin explained that easement is in relation to the  
34 lot to the east of the property. Commissioner Hite also asked about Brien Avenue being 44 feet  
35 wide and on the final plat is it over 50 feet wide. Josh Sherman, Public Works, explained that  
36 there is drainage easement dedicated on the south side of the subject parcel as well as some  
37 private drainage infrastructure that serves this lot and the adjacent lots. He added that the plat  
38 which was previously approved for the commercial develop appears to have the correct  
39 dimension for the drainage easement and the right-of-way. He explained this was only a site plan  
40 and there was no replat or other instrument to change any of the plotted easements. He agrees  
41 that what has been pointed out seems to be a discrepancy in the labelling on the site plan, but the  
42 subdivision plat really controls the information. Commission Hite asked if Brien Avenue abuts  
43 this lot and Josh said yes, but the site plan would not change the public right-of-way dimension  
44 regardless of how the site plan is labelled. Commissioner Hite asked if staff is comfortable that  
45 the drainage easement is going to be taken care. Josh explained the city will own Brien Avenue

1 but the drainage easement and the infrastructure in that easement is not owned or maintained by  
2 the city and he believes the site plan layout on the lot is correct  
3

4 Commissioner Hite asked why there is a proposed property line on the south boundary. Kristin  
5 explained that McDonald's started this process while the Sandstone Marketplace project was still  
6 in the platting process, so at that time it was a proposed property line.  
7

8 Commissioner Hite is not satisfied with site plan. He understood that Lot 4 was going to be a  
9 retirement home or residential community and the request for this conditional use approval for  
10 the parking or stacking of vehicles cannot be within 250 feet of a residential lot. Kristin believes  
11 code reads a residentially zoned district, but she would like to reference code to ensure that is  
12 correct, but added the entire property is zoning mixed-use regional which allows for multifamily  
13 housing.  
14

15 Commissioner Hite asked why EV stations are in the middle of the parking lot and not along the  
16 south side of the property. Shelby Green with Kimley Horn, said that is because there are  
17 limitations about what structures can be placed in the drainage easement so they were forced to  
18 look at other options for the EV stations.  
19

20 Commissioner Popkin reminded the commission that this project is proposed in a mixed-use  
21 regional center and the primary use for that is large format retail, restaurant, and similar  
22 entertainment uses that attract visitors from around the city and the region. He asked how many  
23 McDonald's restaurants are within Longmont city limits and withing a 7–10-mile radius. Trevor  
24 Prov, McDonald's, states there are three in the city limits, and he is not sure about the 7–10-mile  
25 radius. Commissioner Popkin believes there is five.  
26

27 Commissioner Popkin asked for clarification of a conditional secondary use. Kristin explained  
28 secondary uses are certain uses that are permitted in the zoning district as being secondary to the  
29 primary use. She added that there are permitted secondary uses and conditional secondary uses  
30 which require a conditional use by the Planning and Zoning Commission to allow them to be  
31 pursued on a property. Typically, conditional uses are required to need an additional level of  
32 consideration because while being appropriate for the district, may need certain conditions to  
33 make them appropriate for the area. Commissioner Popkin understands that a restaurant is  
34 considered a primary use in a mixed-use regional in Envision Longmont and a permitted use in  
35 the Land Development Code, but a restaurant with a drive-thru is not considered a permitted use  
36 or permitted secondary use. Kristin states that is correct.  
37

38 Commissioner Popkin took the commission through the six core characteristics in Envision  
39 Longmont and pointed to item six around regional centers being largely auto-oriented today, but  
40 future development being designed to support existing/future transit and reduce surface parking.  
41 He also pointed out that there is no mention of a restaurant in secondary uses and when they are  
42 considering whether a conditional secondary use is appropriate, he does not feel a restaurant with  
43 a drive-thru fits in. He added that the types of uses listed attract visitors from around the city and  
44 region and with two other McDonald's establishments withing a 5-mile radius, he wonders what  
45 they are attracting and said while there are other drive-thru restaurants in regional centers in  
46 Longmont, they were largely built before Envision Longmont.

1 Kristin provided the language from code to address Commissioner Hite's question about  
2 residential zoning and a drive-thru. *Restaurants with drive-thru facilities located within 250 feet*  
3 *of a residential lot in a residential zoning district shall comply with residential compatibility*  
4 *standards in Section 15.05.200.* She states this property is zoned mixed-use regional.

5  
6 Commissioner Flaig asked for the location of the bicycle rack. Kristin and the applicant pointed  
7 out the bicycle rack to the west of the building, adjacent to the ADA path. Commissioner Flaig  
8 also asked about the pedestrian access on the east side. Shelby explained the north/south  
9 sidewalk and the connections from that sidewalk. The sidewalk will extend beyond the property  
10 line to meet the existing sidewalk to the north and will connect to the sidewalk to the south that  
11 is included in the master development plan and the adjacent lot to the east will develop the  
12 continuation of the sidewalk to the east. Commissioner Flaig asked if there is a developer on the  
13 lot to the east and Kristin advised there are no applications for that lot.

14  
15 Commissioner Flaig asked how many stacked cars are being provided for. Shelby said the city  
16 requires 180-feet of stacking length and the applicant is providing 202 feet of stacking beginning  
17 at the northwest corner from the pick-up window and going east and around the curve to the start  
18 of the drive-thru. Commissioner Flaig asked about encroachment on the adjacent property and  
19 Shelby advised that the entire drive and access remains on their property, there is a shared access  
20 point on the site, but the stacking spaces do not account for that area. Commissioner Flaig asked  
21 how many cars can stack and Shelby states approximately 15 cars can stack in the drive-thru  
22 based on 202 feet. Commissioner Flaig asked how many cars stack at breakfast. Trevor states  
23 that is different for every location, but the current set up is a double drive-thru lane to help with  
24 the stacking. The larger distance from the order point to the first window allows the kitchen time  
25 to make the meal and keep the traffic moving forward. He also pointed out that traffic will  
26 continue to circulate around the west side of the building while keeping connectivity with the  
27 building, allowing crew members to get out to the cars safely and quickly to get those cars off  
28 the site.

29  
30 Kristin returned to the question asked earlier and states in code section 15.04.030.D.12  
31 Restaurants with drive-thru facilities located within 250-feet of a residential lot in a residential  
32 zoning district shall comply with residential compatibility standards in section 15.05.200.

33  
34 Commissioner Flaig had a question about the curb cut on the south side of the site. Josh  
35 explained that there is on-street parallel parking on the south side of Brien Avenue right-of-way,  
36 across from the west entrance of this property.

37  
38 Commissioner Boone commented that just because a site has a possible conditional secondary  
39 use available, does not mean it is an appropriate use for the site. Her understanding of what  
40 Longmont is working with in respect intersections is to not drop below level of service D and  
41 added that intersection at Highway 119 and County Line Road is a mess with a D service level  
42 rating currently. The projected 2025 service level with this project becomes a level E, and in  
43 2045 goes down to an F. She also referenced the table for the Sandstone Marketplace that gives  
44 the different types of the businesses on the site, and the fast food with a drive-thru has 5-8 times  
45 the number of weekday trips than any of the other businesses and based on the traffic  
46 information, this does not appear to be an appropriate use for this site. Phil Greenwald,

1 Transportation Planning Manager, pointed out that the traffic study talks about individual  
2 movements, but we must look at the bigger picture of Envision Longmont that allowed for all  
3 these uses to be in this location. Envision Longmont and the traffic system that is a part of that  
4 was approved with the understanding that all those different land uses were going to be  
5 applicable in this location. Phil states the bigger picture piece is that our transportation system  
6 can handle it, there may be certain movements that fail at certain times of the day, but the city is  
7 along doing a lot with alternative mode transportation including Microtransit that is coming  
8 online this summer to help with traffic. Phil stated again that the bigger picture is that the land  
9 uses that were part of Envision Longmont were planned to be in this location, and drive-thru  
10 restaurants were included in the modeling that was approved by the Planning and Zoning  
11 Commission and City Council as part of the planning process. Kristin adds that the impacts to  
12 the level of service was previously approved by the commission with the Sandstone Marketplace  
13 preliminary plat and as part of the traffic compliance letter submitted with the application, this  
14 was originally a 6,000 square foot restaurant with a drive thru, but this is a smaller restaurant  
15 with a smaller impact and 766 fewer daily trips.

16  
17 Chair Polan asked about drive-thru restaurants not being included in the secondary uses in  
18 Envision Longmont and asked if that was an omission. Grant would not consider it a specific  
19 omission and added that with a comprehensive plan it is very difficult to include every land use  
20 that is anticipated, but at a broad level the notion of including restaurants was included as a  
21 secondary use. As you go from the guiding document of Envision Longmont to the specific land  
22 use regulations that are zoning, that is when they will get the very robust list of allowed land uses  
23 and the capacity of those uses.

24  
25 Commissioner Popkin understands that everything cannot be included in the guiding document  
26 and that is where they look to the development code. He pointed out that in chapter 15, section  
27 two of the development review procedures it points out the distinction of a restaurant being a  
28 permitted use and a restaurant with a drive-thru being a conditional secondary use and said that is  
29 when he goes back to Envision Longmont to see what the intention was of the Regional Center  
30 designation, which goes back the primary use being large format retail, restaurant, or similar  
31 entertainment that attract visitors from around the city and region. Commissioner Popkin said  
32 given the pedestrian transit and future oriented nature of what a regional center is aiming to do  
33 he will remain skeptical that a drive-thru establishment that has multiple affiliates within a 5–10-  
34 mile radius is going to attract visitors from around the city and region. Grant added that in terms  
35 of Envision Longmont being a guiding document, the secondary and primary uses are  
36 generalized, and he doesn't believe the intent is to have every single use as a regional attractor.  
37 The intent of that land use designation is to broadly be an attractor, however the anticipation is  
38 there's going to be ancillary or secondary uses that wouldn't necessarily, as a stand alone, be a  
39 regional attractor. Commissioner Popkin pointed out that only the primary uses in Envision  
40 Longmont are specifically noted to attract visitors from the city and region and the supporting  
41 uses are not specificized that they are intended to be an attraction for the city.

42  
43 Commissioner Popkin asked when they are considering a conditional secondary use, what is that  
44 conditioned upon? Kristin said it would be conditional upon any conditions that the Planning  
45 and Zoning Commission felt necessary to make it appropriate for the general area. Generally, a  
46 restaurant is appropriate in an MU district, but there are some facets of the operation that may be

1 impactful to the neighborhood without conditions. Commissioner Popkin said that unlike a  
2 restaurant without a drive-thru which is permitted in an MU-R zone, a restaurant with a drive-  
3 thru lends itself to conditions to make it appropriate for a regional center designation. He said it  
4 sounds like a conditional secondary use in code is not aiming to be more subjective in terms of  
5 whether it aligns with the comprehensive plan or not, it just allows the commission more leeway  
6 to condition items to make it integrate better with the regional center. Kristin feels like that is  
7 how she would look at conditional secondary use. Grant pointed to section 15.02.060.C.2 that  
8 speaks to imposing conditions to a proposed conditional use to ensure compatibility and ensure  
9 potential adverse impacts on surrounding uses, properties, public health, or the safety, the  
10 environment or the district, will be substantially mitigated. Commissioner Popkin ask if district  
11 is referring to the regional center and Grant responded that district would refer to the zoning  
12 district itself.

13  
14 Commissioner Popkin asked if the commission needs to factor into their decision, whether the  
15 distinction not being made around restaurants with a drive-thru in Envision Longmont is by  
16 intent or omission. Tim Hole, Assistant City Attorney, does not believe his answer would be any  
17 different than the answers provided by staff. Commissioner Popkin struggles with the distinction  
18 and looking at the intent of Envision Longmont, if this were a McDonald's restaurant without a  
19 drive-thru, the intent is clear that is it permitted and should go forward, but a restaurant with a  
20 drive-thru with multi affiliates make him skeptical of whether it is actually going to attract  
21 visitors from the city and region.

22  
23 Chair Polan commented that as a secondary use one could make that argument. Commissioner  
24 Popkin indicated it is not listed as a secondary use. Chair Polan added that one could make the  
25 argument that it is supporting the businesses in that regional center and when looking at a  
26 regional center and what's in the area, Chair Polan pointed out that at one time there was a  
27 McDonald's in the Walmart in this area, and a secondary use may not be the use that pulls the  
28 people in but could be the use that supports the people who do come to the regional center.  
29 Chair Polan envisions a parent picking up a child from daycare and stopping at the McDonald's  
30 drive-thru to pick up dinner and asked if this were a Starbucks, would they be having the same  
31 conversation. Commission Popkin states he would make the same argument for a coffee shop  
32 with a drive-thru, especially if the businesses have other locations in the corridor. Chair Polan  
33 said realistically the McDonald's to the east is two miles away and the one to the west is at Main  
34 Street, but someone going up County Line Road would not have to go over to Main Street or  
35 someone from the hospital wanting to get something fast to eat. Chair Polan is not sure as a  
36 secondary use it specially omits it or does not omit it and added if it had direct access off of  
37 Highway 119 you could make a better argument that it was to attract people to stop, and he  
38 struggles putting a condition of restaurants with no drive-thru's because he feels this area is  
39 going to need food places to support the area.

40  
41 Commissioner Flaig asked how many customers can be served in the interior space. Trevor  
42 states they have seating for 60 customers with multiple sized tables and methods of ordering.

43  
44 Commissioner Popkin asked if a no drive-thru condition is appropriate for a conditional  
45 secondary use to help make this project and future projects align with Envision Longmont and  
46 the Land Development Code. Chair Polan believes the fact that this is a conditional use leaves

1 the decision up to the commission whether a drive-thru restaurant is appropriate for this regional  
2 center. Commissioner Popkin would like legal staff's opinion because this would set precedent  
3 from this commission to say that a drive-thru would not be acceptable in any regional center.  
4 Tim directed the commission back to section 15.020.6.C regarding conditional uses and the  
5 authority to impose conditions to ensure compliance with standards and explained that is  
6 prescriptive as to the type of conditions that the commission can impose. Tim also suggested  
7 that the commission keep the conditions within the project about the type of conditions that can  
8 be imposed and does not have an opinion on whether that type of condition would be  
9 appropriate, but it seems that condition would bump it outside of a conditional secondary use to  
10 just a permitted use.

11  
12 Commissioner Flaig feels like there is a lot being crammed into a small space and is not  
13 comfortable with how it is being done. There is not in and out pedestrian access on either the  
14 east or west sides, there is a dependency on the development to the east to have a sidewalk, while  
15 code says they have enough stacking, she does not believe they do and will not be in support of  
16 the project.

17  
18 Commissioner Hite commented that the means by which the commission are to examine and  
19 develop conditions are set forth in code and they can condition uses in congruence or in  
20 relationship to the review criteria. Even though this seems to be shoehorned in, the applicant is  
21 ticking off all the necessary conditions for approval, except for the fact that the site plan is based  
22 upon the preliminary plat and not the final plat and he cannot support it.

23  
24 Commissioner Boone pointed out all the fast-food restaurants are in the regional centers across  
25 the city so one would think it would be fine to put a fast-food drive-thru on this site. The only  
26 issue she has is that this project is at this really bad intersection without good pedestrian access  
27 and questionable traffic flow.

28  
29 Motion

30 **CHAIR POLAN MOVED APPROVAL OF PZR 2024-3A, A RESOLUTION OF THE**  
31 **PLANNING AND ZONING COMMISSION APPROVING THE MCDONALDS AT**  
32 **SANDSTONE MARKETPLACE CONDITIONAL USE SITE PLAN. COMMISSIONER**  
33 **TETA SECONDED THE MOTION.**

34  
35 Vote

36 **MOTION FAILED 2-5. COMMISSIONERS HITE, BOONE, FLAIG, KOLER, AND**  
37 **POPKIN DISSENTING.**

38  
39 Motion

40 **COMMISSIONER HITE MOVED APPROVAL OF PZR 2024-3C, A RESOLUTION OF**  
41 **THE PLANNING AND ZONING COMMISSION DENYING THE MCDONALDS AT**  
42 **SANDSTONE MARKETPLACE CONDITIONAL USE SITE PLAN. COMMISSIONER**  
43 **FLAIG SECONDED THE MOTION.**



1 Discussion of the Motion

2 Commissioner Popkin understands this seems to make sense in a regional center and understands  
3 some of the concerns raised but wonders if a rejection is the appropriate action for the project. If  
4 the concerns are addressable, could this be tabled to allow time for the applicant to address the  
5 concerns since the applicant otherwise has tried to follow the procedures.

6  
7 Commissioner Hite and Commissioner Flaig do not wish to change direction on this motion.

8  
9 Commissioner Koler's concerns could not be addressed by just revisiting the plat or using the  
10 right terminology, the bigger concerns are what impacts a drive-thru and the additional traffic  
11 will have on the other parcels proposed for development, particularly if it wasn't contemplated  
12 originally to have this kind of traffic flow in this location.

13  
14 Vote

15 **MOTION PASSES 4-3. COMMISSIONERS TETA, POPKIN, AND CHAIR POLAN**  
16 **DISSENTING.**

17  
18 Chair Polan read the appeal notice into the record.

19  
20 B. ModernWest 2 Concept Plan Amendment, Principal Planner Jennifer Hewett-  
21 Apperson

22  
23 Staff Presentation

24  
25 Vicinity Info

- 26 • 27.25 acres  
27 • South of Rogers Road  
28 • East of Airport Road  
29 • Southeast of Vance Brand Airport

30  
31 Zoning

32  
33 Envision Longmont

34  
35 ModernWest 2 Project Information

- 36 • 27.25 acres  
37 • Part of larger Schlager Williams Annexation  
38 • Mix of high-density residential & commercial/industrial proposed  
39 • Primary greenway section to be built as part of development  
40 • Proposed uses consistent with MU-E zoning & Envision Longmont

41  
42 Proposed Concept Plan

- 43 • 2 residential areas  
44 • 1 commercial / industrial area  
45 • 3.61 acres greenway & open space

- 3 outlots for drainage and other common facilities

#### MU-E Permissible Uses

- Hotels
- Most vehicle & equipment uses
- Most manufacturing
- Warehouse
- Wholesale trade
- Certain group living facilities
- Certain community/cultural facilities
- Educational facilities
- Healthcare
- Most food & beverage
- Most business/professional services

#### MU-E Secondary Uses

- Residential >18 units/acre
- Restaurants
- General retail
- Libraries & conference centers
- Outdoor commercial recreation
- Vehicle sales & rental
- Storage, including self-storage and boat/RV storage

#### Regulatory History

- Schlager Williams Annexation:
  - Approved in 2000
  - 107.3-acre parcel
  - Permitted Business/Light Industrial uses
  - Includes primary greenway along Niwot Ditch
  - 100-foot-wide airport emergency landing easement on the northwest part of property
- ModernWest 1: Annexed in 2019, Amended Concept Plan approve in late 2020, Preliminary Plat approved early 2022. Site plan, final plat & PIPs now under review
- Present: Concept Plan Amendment for portion of Schlager Williams Annexation for ModernWest 2 development

#### Development Review Committee Process

- Pre-application meeting: November 22, 2024
- Neighborhood meeting: February 9, 2023
- Application submitted: March 2, 2023
- Reviewed by DRC & Referral Agencies
- Supporting technical documents: TIS, environmental studies, drainage, acoustic analysis

Airport Proximity Concerns

- Finding of No Hazard to Air Navigation (7460 Letter)
  - Submitted by applicant, dated May 22, 2023
  - FAA Southwest Regional Office
- Land Use Compatibility letter
  - Sent by FAA Denver Airport Districts Office, dated June 13, 2023
  - Objected to residential uses in proximity to the airport
  - First time City of Longmont has received such a letter
- Staff & applicant had several meetings with FAA in attempt to resolve comments
- FAA Denver Airport Districts Office provided Advisory Circular for guidance regarding land use compatibility
- Staff worked with applicant to revise the concept plan following the guidance provided

Review Criteria

Review Criteria #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.

Review Criteria #2

- 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.

Review Criteria #3

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

Review Criteria #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.

Review Criteria #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.

Review Criteria #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.

Additional Criteria for Concept Plans: 15.02.060.3.a

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

Additional Criteria for Concept Plans: 15.02.060.A.3.b

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

Additional Criteria for Concept Plans: 15.02.060.A.3.c

- Mitigation of potential adverse impacts on the environment.

#### Staff Recommendation

- Staff recommends approval to City Council.

#### Applicant Presentation

Margaret Freund, ModernWest

- Proposed mixed-use
- ModernWest 2 and ModernWest 1 are envisioned to work together with mixed used on both sites
- Part of the 1998 Schlagel Williams annexation concept plan
- Primary greenway is incorporated into the plan and will be dedicated to the City of Longmont
- 100-foot airport emergency landing easement in the southwest corner of the property that will be dedicated to the City of Longmont
- Amendment seeks to permit a full range of uses in the mixed-use district: High density residential, industrial, and commercial uses
- Concept plan amendment aims to enhance the flexibility and adaptability of the site to current market demands
- Located in an area of change
- Multi-use path along the ditch

Derek Guarascio

Michael Morgan

#### Public Hearing

Chair Polan opened the public hearing.

Dan Sorrells, 328 Grant St. Dan is familiar with this area and has long thought this area was surprisingly undeveloped even though it's located near the Vance Brand airport. Initially this area seemed to suggest that a commercial use would go in but nearly all commercial real estate right now is overbuilt and will be for some time. There has been a net outflow of industrial tenants in Longmont since 2020 causing vacancy rates to rise this is due in part to recent construction and a slowing demand of traditional office as the effects of the COVID recession continues, which brings him to the reason he supports this amendment. Dan states Longmont needs more housing that is both attainable and affordable, particularly on the lower and more affordable end of home prices. This developer's concept plan conforms with the Envision Longmont plan and understands if this plan amendment is approved the developer intends to waive the inclusionary housing fee-in-lieu. Dan understands the users of Vance Brand airport are concerned about this development and states a 2018 study on the airport influence area for the Northern Colorado regional airport found that noise from the airport had not deterred residential development in any significant way and can't imagine why it would be any different here in Longmont. Dan urges the commission to approve this amendment.

1 Drew Sorrells, 328 Grant St. Drew supports the project and feels it will support much needed  
2 affordable housing in Longmont. This project is designed to meet FAA noise standards ensuring  
3 a safe living environment and the project site lies outside of the airports noise contour making it  
4 compatible for residential use. Drew heard at a recent City Council meeting that the City of  
5 Longmont is able to decide the highest and best use for its own city and is not controlled by the  
6 FAA. This development will feature a significant number of housing units and will offer a lower  
7 density feel with more open space than required by code and it aligns with the vision for a  
8 thriving inclusive community that supports diverse age groups and abilities, allowing opportunity  
9 for aging in place. Drew said if phase two is not approved the alternative would be industrial  
10 buildings surrounding this already very residential area along Rogers Road. The proposed  
11 residential development fosters a mixed-use environment enhancing livability and community  
12 spirit and while noise complaints are a concern studies show that noise levels in this project area  
13 are below thresholds that would disrupt residential living. Additionally, most people are away  
14 from their homes during the day, minimizing exposure to potential disturbances. Drew supports  
15 this project for its potential to blend different types of people ages and abilities promoting  
16 inclusive and sustainable growth.

17  
18 Shakeel Dalal, 219 Francis St. Shakeel noted that in the middle of page three just above the  
19 section titled alignment of the Envision Longmont comprehensive plan, it says that because  
20 ModernWest 2 is in the airport influence zone, the development “further locational restrictions  
21 for residential uses” and he would chafe against any restrictions to build housing. Shakeel states  
22 for too long cities in the United States have overly restricted the construction of many different  
23 types of housing and this resulted in a nationwide housing affordability crisis and disagrees with  
24 the idea that it's appropriate to restrict the layout of this development based on the FAA's  
25 supposed concerns about compatibility. There is nothing in the circular that requires the  
26 prohibition of residential development in that area and does not find the FAA's objections  
27 credible. The FAA issued a letter of no hazard saying that nothing in this development is a  
28 hazard to the functionality or safety of the airport and states that in response to resident interest  
29 the city of Longmont has conducted multiple noise studies at the airport and repeatedly  
30 demonstrated that the airport is far below the noise threshold that would suggest residential  
31 incompatibility as a matter of principle. Shakeel believes that residential development should not  
32 be restricted and there is to no basis in law for doing so here.

33  
34 David Emerson 1152 Twin Peaks Cir, Executive Director Habitat for Humanity. David is here  
35 to express support for the concept plan amendment for ModernWest 2 and can attest to the well  
36 documented need for an affordable housing in this area. The lack of affordable housing has led to  
37 issues related to transportation and with hiring and retaining individuals that work providing  
38 services like healthcare and education. This project represents an opportunity to construct  
39 housing on one of the few significant parcels that remain on the West side of the city, a parcel  
40 that complements public transportation. David states they have had extensive conversations with  
41 the applicant and it their hope that they would be a part of this development. David also  
42 mentioned the eight homes just to the southeast of this parcel, all those homeowners have been  
43 living in their homes for the last year and they are ecstatic with the opportunity that they have to  
44 own a home. David strongly encourages the commission to support this application.

1 John Grunsfeld, 4879 Kingsridge, Boulder. John has been following the development since he  
2 started his business on the Longmont airport about four years ago and feels the project is very  
3 meritorious with its goals but strongly urges the Commission to go out and stand on the property  
4 on any given day to see how close aircraft are flying over the property. John said it has been  
5 represented here that the FAA agrees with this but that is not the way the federal government  
6 works. The FAA isn't proactive at looking at development and when the city rezoned from light  
7 industrial economic to multi-use, the Planning Commission and the City Council made a mistake  
8 with that zone. There are plenty of houses around the airport and John states it is not a noise or  
9 safety issue, the safety compliance mentioned is a very narrow regulation that looks for radio  
10 aids to navigation interference by a development and by no means would he think the FFA is  
11 comfortable with putting homes right on final approach to a runway, especially high-density  
12 housing. John states he is very concerned because a typical approach on 29 is only 100 feet  
13 above these properties and when you look at the Jefferson County Rocky Mountain regional  
14 airport issue that's going on right now, he thinks that Longmont will be engaged in litigation with  
15 the residents down the road when families have turned over and encourages the commission to  
16 think about whether we really want to put high density housing right under final approach.

17  
18 No one else wished to speak.

19  
20 Chair Polan closed the public hearing.

21  
22 Commission Discussion

23 Commissioner Flaig asked about long term maintenance of the three outlots. Jennifer states a  
24 property owners association typically maintains the outlot. Commissioner Flaig asked if that  
25 information will be included in the deeds. Jennifer explained the outlots are platted with a note  
26 indicating the property owner who is responsible for the maintenance, but Jennifer cannot speak  
27 at this time to what it would specifically look like. Commissioner Flaig wants to ensure this  
28 information is disclosed in some way. Jennifer feels that would be more appropriately addressed  
29 at the time of platting.

30  
31 Commissioner Flaig asked about the height of the buildings. Jennifer said staff does not have the  
32 exact dimensions at this time but in the MU-E zone there is a height limit of four stories.

33  
34 Commissioner Flaig asked if the builder will be required to put in any traffic mitigation on  
35 Rogers Road. Jennifer said any necessary improvements and traffic control as part of this  
36 development will be installed and those improvements would be based on the traffic studies that  
37 have been done to date and that will continue to be updated throughout the development review  
38 process. Steve Tuttle, Fox Tuttle Transportation Group, advised that the traffic study did identify  
39 improvements, the roadway structure will be built out with Mountain Brook providing additional  
40 ways to enter and exit the development as well as a traffic signal proposed at the intersection of  
41 Rogers Road and Airport Road. Steve added that their team will continue to work with city staff  
42 on any improvements that are needed and feels that the traffic signal will impact speeds in the  
43 area.

1 Commissioner Flaig asked what the warrant would be to have a light at Anderson and Rogers  
2 Road. Steve explained it is based on the manual and uniform traffic control devices and the four-  
3 and eight-hour volumes and states that the volumes projected with this project did not meet the  
4 warrant to require a signal.

5  
6 Commissioner Flaig asked what type of plane will be flying out of the Vance Brand airport in 10  
7 years. Mike Morgan states there are fewer prop plans and more corporate jet type aircraft in the  
8 fleet nationwide and the corporate jets are also getting quieter. Commissioner Flaig asked about  
9 tower control and instrument control. Mike explained that many airports even with commercial  
10 service, do not have towers, they are controlled by radio frequency and the corporate jets will be  
11 flying with instrument approach. Commissioner Flaig asked which aircraft Mike would rather be  
12 flying in over a residential area. Mike said either one, but an instrument approach would allow  
13 the pilot to keep the proper elevation all the way onto the runway, and while prop planes do not  
14 fly IFR all the time, they are equipped to do so. Mike believes if the trends hold, there will be  
15 more corporate jets flying and those jets will be quieter.

16  
17 Commissioner Flaig asked about the noise increasing as jets move further away from the airport.  
18 Mike states that is not scientifically correct, the noise should decrease the further out the plane  
19 goes with the increased elevation.

20  
21 Commissioner Popkin asked if Rocky Mountain Institute (RMI) was involved in an advisory or  
22 consulting role in ModernWest 2, given RMI's past involvement in ModernWest 1. Derek  
23 Guarascio states they were not involved ModernWest 2, and Jennifer confirmed the same  
24 information. Commissioner Popkin disclosed that he is employed by RMI and based on those  
25 answers, he does not see a reason to recuse himself from the discussion.

26  
27 Commissioner Popkin asked how this project contributes to a more sustainable and resilient city.  
28 Derek explained all residential units will be fully electric, the only natural gas will be in the  
29 amenity and commercial spaces, there is EV parking and bikes planned, the site will have shared  
30 parking between the uses, a car share program, functional turf in pocket park areas to reduce the  
31 irrigation, the water quality areas will be multi-use, and solar panels will be installed on rooftops.

32  
33 Commissioner Popkin said in addition to this being a very sustainable design he believes it is  
34 also meeting the 12 percent affordable housing criteria. Derek said that is correct.

35  
36 Commissioner Popkin asked about the connection to Lykins Gulch and who owns the small  
37 section of land from Lykins Gulch to Rogers Road. Jennifer said as part of city policy, if the  
38 property is part of a designated greenway system it will be dedicated to the city for ownership.  
39 Commissioner Popkin asked if that section of the greenway is going to be built. Derek explained  
40 north of Rogers Road is city open space, the small section Commission Popkin is speaking of  
41 will be developed by the city.

42  
43 Commissioner Popkin pointed out a line in the FAA letter dated May 22, 2023, about the  
44 structure not exceeding obstruction standards and would not be a hazard to air navigation, and  
45 asked if that is speaking broadly to air navigation. Mike states this is a determination that this  
46 proposed building at this location and elevation will not interfere with any air navigation.

1 Commission Popkin said the letter also states that based on the evaluation, marking and lighting  
2 are not necessary for aviation safety and asked if it is safe to assume that if there was a safety  
3 hazard lighting and marking would be required. Mike wouldn't think of it that way, he would  
4 say it could be a little higher and still obtain a determination of no hazard but may require  
5 lighting. It is low enough that it does not require lighting. Jennifer and Grant both state they have  
6 the same understanding of this.

7  
8 Commissioner Popkin pointed out a June 13, 2023, letter from the FAA now states the  
9 development is an incompatible land use and asked if that is overruling the previous letter. Mike  
10 said it does not overrule the previous letter; it is not dealing with the same subject. The second  
11 letter was stating the development would not be a compatible land use, but not from the point of  
12 a hazard. Mike explained that they wrote to the FAA and asked on what basis and what standard  
13 is being applied and no response was received. Staff also asked the same question and was  
14 referred to the advisory circular, but there is nothing in the advisory circular to prohibit this  
15 development. Additionally, several changes that have been made address items in the advisory  
16 circular and the changes were done on a voluntary basis.

17  
18 Commissioner Popkin asked for confirmation from staff that they are aware the applicant  
19 reached out to the FAA regarding the June 13 letter. Jennifer agreed and said the city also  
20 reached out and has spoken with them several times, but the FAA did not offer any additional  
21 clarity. Jennifer said staff asked the FAA what is incompatible, and staff was essentially told by  
22 the FAA that is not their job to determine compatibility. Generally, the FAA feedback is they  
23 want to see as little residential as possible in undefined areas around airport.

24  
25 Commissioner Hite asked if the Airport Manager has any concerns about a possible expansion of  
26 the airport bringing in bigger and quieter jets and the impact on the residential in that area. Phil  
27 said yes the airport manager is concerned with residential near the airport because he will get the  
28 noise complaints.

29  
30 Commissioner Hite asked what changes were made to concept plan based on the letter. Jennifer  
31 explained that the residential uses were moved out of the approach zone for airport.  
32 Commissioner Hite asked if there is any concern about more people in the commercial buildings  
33 during the day. Jennifer said a concern raised by the FAA was that a resident may not be on alert  
34 as much in residence and the guidance on land use compatibility was that high density residential  
35 uses probably shouldn't be in the approach zone; commercial uses were fine.

36  
37 Commissioner Hite asked if this plan was taken back to the FAA. Jennifer said no.

38  
39 Commissioner Hite commented that secondary uses are at 34 percent. Jennifer advised that this  
40 project brings it up to 34 percent. The other secondary uses are the boat/RV and self-storage  
41 uses.

42  
43 Commissioner Hite asked about the properties in unincorporated Boulder County. Jennifer said  
44 some are undeveloped or may have businesses on them that are compatible.



1 Commissioner Hite asked if staff is comfortable with allowing the first projects in to dictate uses  
2 knowing others have not annexed yet. Jennifer feels that is a larger policy discussion but  
3 currently first in is the approach the city is taking.  
4

5 Commissioner Koler said that in the determination of no hazard, the structure is defined as a  
6 commercial use building and asked if the FAA understands what is being built. Mike states there  
7 is differentiation between commercial and residential with respect to the height of the building.  
8

9 Commissioner Koler pointed out that the determination expires in November of 2024. Mike  
10 states it can be extended once for up to one to two years and then you must reapply, but there has  
11 been no proposal to change the standards and feels the standards would remain the same.  
12 Commissioner Koler asked if the applicant feels confident, they will get the same answer if they  
13 reapplied and Mike said yes, the letter is computer generated based on calculations entered.  
14 Commissioner Koler asked if this reviewed the entire development on the parcel. Mike said yes,  
15 the surveys of the corners of the buildings were submitted.  
16

17 Commissioner Koler said the letter from John Sweeney mentions termination of grant eligibility  
18 and suspending payments of grants to the airport and asked if that is considered at a city level.  
19 Mike states in 40 years, he has never seen the FAA suspend airport grant funds for this type of  
20 reason. Mike pointed out the language in Grant Assurance 21 that states “the city will take  
21 appropriate action to the extent reasonable including the adoption of zoning laws to restrict the  
22 use of land adjacent to or in the immediate vicinity of the airport to activities and purposes  
23 compatible with normal airport operations.” His opinion is the approval of this project would not  
24 hazard the city’s grant assurances. Phil added that at a staff level this was taken seriously, the  
25 airport depends on grants for normal operations and that is why it was moved on to the next level  
26 of mitigation through the control of the land use. Commissioner Koler asked why this did not go  
27 back the FAA after the revision. Jennifer states the biggest reason was staff didn’t believe there  
28 would be a different response and staff thinks the revisions represent a reasonable compromise  
29 that balances the FAA concerns and the city and applicant’s needs. Jennifer added this was also  
30 based on recommendations from the city’s legal staff.  
31

32 Commissioner Koler commented that you cannot ignore the Broomfield situation and the  
33 possibility of a lawsuit from the residents of a four-story building at the end of a runway. Phil  
34 said those were the concerns of the airport manager and that is why staff took this to legal  
35 counsel. Mike added that the two lawsuits pending, one is an inverse condemnation lawsuit  
36 brought by homeowners whose avigation easements were allowed to expire through a loophole in  
37 them and he advised the commission the city does not have the same type of avigation easement.  
38 Longmont has an avigation easement that does not expire and no conditions to it. The other  
39 lawsuit is in nuisance and was brought by the town of Superior and Boulder County, who butt up  
40 against the end of the Rocky Mountain Regional airport. Mike explained Longmont butts up  
41 against its own runway, so Longmont would be essentially suing themselves and feels those two  
42 types of lawsuits could not be brought against the city with respects to this project.  
43

44 Commissioner Koler asked Mike if he would live on the 4<sup>th</sup> floor near the airport. Mike said he  
45 would choose not to live next to an airport, but people get to make choices. Commissioner Koler  
46 was looking at it from a safety perspective and Mike said he is not the safety expert; the FAA is

1 the safety expert and they have given the no hazard to air traffic determination stating that these  
2 buildings will not interfere with air navigation. Margaret spoke about other projects and  
3 buildings near airports and the infrequent complaints received. Commissioner Koler states the  
4 Longmont airport does get a number of complaints and Phil clarified that the airport does get a  
5 number of complaints but from just a few individuals.

6  
7 Commissioner Koler thinks it is a great development but struggles with the compatibility from a  
8 safety perspective.

9  
10 Motion

11 **COMMISSIONER POPKIN MOVED APPROVAL OF PZR 2024-4A, A RESOLUTION**  
12 **OF THE PLANNING AND ZONING COMMISSION RECOMMENDING APPROVAL**  
13 **OF THE MODERNWEST 2 CONCEPT PLAN AMENDMENT. COMMISSIONER HITE**  
14 **SECONDED THE MOTION.**

15  
16 Chair Polan asked what type of multi-family residential product the applicant is looking at.  
17 Margaret said they have looked at for-sale and for rent townhomes and apartments. They are  
18 exploring a mix of affordable and attainable housing, but the FAA situation stalled the project  
19 about one year during their master planning mode with the city. They have spoken with Habitat  
20 for Humanity for both affordable and attainable housing options. Chair Polan added his  
21 preference would be to have apartments on the northern part of the property.

22  
23 Commissioner Koler asked if the applicant could change their mind and pay the fee-in-lieu.  
24 Jennifer said that decision comes later in the process. At this point the applicant can state their  
25 intent to build affordable on site, but it is a discretionary action and City Council could make it a  
26 condition of approval.

27  
28 Chair Polan is in favor of this project and feels comfortable with the letter of no hazard from the  
29 FAA.

30  
31 Commissioner Popkin feels that the applicant has made necessary adjustments on this project  
32 and has demonstrated a commitment to effective, sustainable designs that can help mitigate noise  
33 concerns and make it an attractive place to live. At the end of the day, it is a choice whether  
34 people want to live there, and he is encouraged by the fact that the applicant is putting together a  
35 high-quality proposal that aligns with many pillars of Envision Longmont.

36  
37 Commissioner Boone came into the discussion with a huge concern about the airport, not the  
38 development itself. Commissioner Boone said the letter was a concern for her, but what she  
39 didn't have clarity on was that the concept came through in a different way before the letter was  
40 written and the current proposal was never responded to by the FAA. Commissioner Boone  
41 thanked staff and the applicant for the clarity, and she will be supporting the project.

42  
43 Commissioner Flaig appreciates the endeavors that the applicant has gone to to make sure people  
44 will know about the airport.

Vote

**MOTION CARRIED 6-1, COMMISSIONER KOLER DISSENTING.**

Chair Polan read the process notice into the record.

7. Final call – public invited to be heard

Chair Polan opened the final call public invited to be heard.

No one wished to speak.

Chair Polan closed the final call public invited to be heard.

8. Items from the Commission

Commissioner Popkin would like to revisit the regional center designation when code updates are being looked at to determine what the intention is of a regional center and whether it fully aligns with the permitted and conditionally permitted secondary uses.

Commissioner Flaig would also like to review the uses within some districts and how to put certain uses in with enough square footage to make them viable.

9. Items from the Council Representative

Council Member Rodriguez was absent.

10. Items from the Planning Director

Grant advised the commission that there is one item for the July 17 meeting.

11. Adjournment

**CHAIR POLAN MOVED ADJOURNMENT OF THE MEETING. NO ONE WAS OPPOSED.**

The meeting was adjourned at 10:37p.m.

Respectfully submitted,

*Signed copy on file*

Chairman/Vice Chairman  
Planning and Zoning Commission

/Jm 06/26/24