

From: Wysocki, Peter
Sent: Tuesday, October 06, 2020 3:10 PM
To: Lobato, Elena
Subject: FW: CPC AP 20-00061 - Flying W appeal

PETER WYSOCKI, AICP

Director of Planning and Community Development
City of Colorado Springs, Colorado

30 South Nevada Street
PO BOX 1575, Zip Code 80901-1575
Land Line: 719.385.5347

OLYMPIC CITY USA

www.coloradosprings.gov

From: Dennis Pendleton <dpko6375@comcast.net>
Sent: Tuesday, October 6, 2020 2:59 PM
To: Wysocki, Peter <Peter.Wysocki@coloradosprings.gov>
Subject: CPC AP 20-00061

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To whom it may concern:

My wife and I are leasing a property adjacent to the Flying W Ranch entrance at Harbor Pines Point. We enjoy the beautiful views to the south. After moving in we learned that Flying W's office, which is visible from our balconies, was being called a temporary building and they had received a waver from the city to build it as such.

Though I am not a building expert the building does not look like a temporary structure. It appears to have a very permanent concrete foundation with landscaping and fencing. I'm not sure how it might be moved. We do not see anything temporary about the building. We feel the structure does not comply with the "temporary" designation for which Flying W Ranch received permission to build. With this request to extend the temporary use it is seeming more and more permanent.

The recent request for an extension is concerning for two reasons. It concerns us that Flying W will want to build on more of the property directly south of Harbor Pines Point. As this would destroy the view of the beautiful hillside where big horned sheep and deer graze it would diminish the value of the property. Even though we are not presently property owners we are actively considering purchasing a home next to us. If we learn of plans to build south of Harbor Pines Point we would have to reconsider such a purchase.

The second concern is similar to the first. If Flying W decided to sell the property to a developer who wanted to build along Flying W Road or along the south side of Harbor Pines Point the same issues present themselves to us. It seems that any further

NEIGHBORHOOD COMMENTS

construction in the sites at issue would cause the destruction of wildlife areas and make living next to them much less desirable.

Please take these concerns seriously as you consider the requests being made by Flying W Ranch. We are against the request for extension. The "temporary" structure should be moved, if possible, behind their ten foot fence.

Respectfully,

Dennis Pendleton

Barbara Porter

5750 Harbor Pines Point

405-317-4448

Herington, Meggan

From: Wysocki, Peter
Sent: Monday, October 5, 2020 8:50 AM
To: Jackie B. Carr
Cc: Herington, Meggan; Lobato, Elena
Subject: RE: File Number CPC AP20-00061. Flying W Ranch Temporary Use

Ms. Carr, thank you for your comments. Your email will be attached to the planning commission staff report as part of the record.

As you know, the temporary use permit (with the two-year extension) is set to expire in February 2021 or sooner if the appeal is granted. Flying W has the ability to apply for an application to make the use permanent, but that would require a completely separate application and review by the City, which could also be appealed by the neighbors, if it is approved, or by Flying W if it is denied. I hope that makes sense.

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From: Jackie B. Carr <jackieb.carr@gmail.com>
Sent: Saturday, October 3, 2020 10:26 AM
To: Wysocki, Peter <Peter.Wysocki@coloradosprings.gov>
Subject: File Number CPC AP20-00061. Flying W Ranch Temporary Use

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Mr. Wysocki,
My HOA has already filed an official appeal, with all the details included.
(Harbor Pines).

I, and many members of my HOA, have sent emails and made phone calls to Megan since the building of the "temporary office building" at Flying W Ranch began. I personally made phone calls & sent emails during the building of the "temporary office building" as it was obvious that it was not being built as a temporary structure.

We have witnessed, documented, and made the planning commission aware of the use of this structure by Markit Forestry, seeing anywhere from 7-18 large forestry trucks and pickup trucks parked near the "temporary office building". Although Flying W Ranch has needed reforestry, the use of their office building does not include the use of forestry trucks. Last year, 2019, Markit was told to remove their trucks to a different locations, which they did. Markit pickup trucks are still seen in front of the Flying W Ranch office building often. Markit were to also move their office to a different location. I looked up the Markit Forestry website just now and they are still using Flying W Ranch as their official address.

I object to any extension of the temporary use permit for an office.

1. Honor the original intent of the temporary office, which was to provide an office space during the rebuild. Flying W Ranch is now open. The building has now been there much longer than the original permit allowed.
2. There is documentation both written and verbal that Flying W Ranch and Markit Forestry intend to keep the building "permanently" and they intend to ask the City for that approval.
3. Now that Flying W Ranch is now open (Chuckwagon Suppers), they have new buildings, and they also have many acres of available land for their use, the purpose of the "temporary office building" structure is not needed.
4. One of our homeowners purchased his home with assurances from the City that the building was temporary. His home is in direct line of sight of the temporary structure. He believes the value of his home has declined or will decline if the building is not removed as per the temporary permit.

Sincerely,
Jackie B. Carr

HPHOA Secretary and Homeowner 5730 Harbor Pines Pt.

Herington, Meggan

From: Jackie B. Carr <jackieb.carr@gmail.com>
Sent: Thursday, February 13, 2020 9:26 PM
To: Herington, Meggan
Cc: Sharon Daughton; William Robertson; Malcolm Thomson; Steve Janes; Allan & Sally Creely; Al Chevalier; Dee Martz; Debbie Von Thun; Teri Kreps
Subject: Re: Flying W Ranch's Request for 2 year extension

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On Feb 13, 2020, at 4:17 PM, Herington, Meggan <meggan.herington@coloradosprings.gov> wrote:

Thank you all for the comments. The comment period ends tomorrow and I will send you additional information next week related to next steps with the permit request. Meggan

From: Sharon Daughton <daughtons@gmail.com>
Sent: Thursday, February 13, 2020 1:46 PM
To: William Robertson <wfrobertson@comcast.net>
Cc: Herington, Meggan <Meggan.Herington@coloradosprings.gov>; Malcolm Thomson <mthomson51@gmail.com>; Steve Janes <stevejanes@msn.com>; Allan & Sally Creely <allansally@comcast.net>; Al Chevalier <alonzochevalier@aol.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Dee Martz <deemartz@gmail.com>; Debbie Von Thun <vonthunhome@msn.com>; Teri Kreps <tmkreps@comcast.net>
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Bill Daughton
5780 Harbor Pines Pt.

William Daughton
Professor Emeritus
Missouri S&T
ASEM Fellow

On Feb 13, 2020, at 9:33 AM, William Robertson <wfrobertson@comcast.net> wrote:

Meggan,

I fully support everything Malcolm has said in the attached letter. From the very beginning Flying W have been evasive about the need for, use, and future of the "temporary" building they were allowed to construct. The permit to construct was allowed under some very stretched interpretation of City codes. The City was going to find a way for them to build the now not so "temporary" structure no matter what. The use of the building has been in violation of the permit from the beginning by allowing Markit to use the building as corporate headquarters. Now Flying W, after the fact and only after they were caught, have applied for an extension of their temporary permit which expired a year ago. It shows their complete arrogance, lack of disclosure, and disregard for process.

It is most likely the City will allow the extension. But, at the end of the extension period, Feb 2021, Flying W must be required to remove the building as previously promised.

William Robertson
5770 Harbor Pines Pt 80919

Begin forwarded message:

From: "Malcolm Thomson" <mthomson51@gmail.com>
Subject: RE: Flying W Ranch's Reply to HOAs' Letter
Date: February 12, 2020 at 3:47:42 PM MST
To: "William Robertson" <wfrobertson@comcast.net>
Cc: "David Martz" <dmartz7030@aol.com>, "Sharon Daughton" <daughtons@gmail.com>, "Steve Janes" <stevejaner@msn.com>, "Al Creeley" <allansally@comcast.net>, "dee martz" <deemartz@gmail.com>, "Jackie B. Carr" <jackieb.carr@gmail.com>, "Jo Janes" <joannjanegraphics@gmail.com>, "Matt & Debbie Von Thun" <vonthunhome@msn.com>, "Paul Lachance" <plachance1@comcast.net>, "Stephanie Gibson" <drskmayfield@gmail.com>, "Teri Kreps" <tmkreps@comcast.net>, "Tim & Theresa Blocher" <blochertd@icloud.com>, "Wayne Gibson" <drwgibson@gmail.com>

For those interested in the Temporary Permit extension for Flying W Ranch, I provided my input to Meggan today, a copy of which is below. The deadline, per the notice mailed to us is 2/14/20.

Good Morning Meggan. I received your office's notice regarding the extension of the "Temporary" office for Flying W Ranch located at 3330 Chuckwagon Road.

In summary, I am against the extension due to the disingenuous nature of the so called "temporary" building. First, the building was never constructed in a manner consistent with "Temporary" but temporary is all the zoning would allow for. To anyone with any knowledge of construction, it doesn't look temporary at all.

I purchased my property, 5820 Harbor Pines, last June and it looks directly at the temporary building. It is less than 200ft from my main living room view. As the temporary building was a serious concern of mine at that time, my realtor and I visited the temporary office and asked about the status of the building and whether it would be removed. We were assured by staff in the office it would be. Based upon this assurance and the city's temporary permit, I completed my purchase.

After living in my house but a few months it became clear that there was significant concern about the building and whether it was really temporary, especially as their permit had expired and nothing was being done about renewing it (at the time). This led to several meetings and emails between the HOA (mostly via Steve Janes) and Flying W's Gerald (Jerry) Thurston. I was present at the last of these meetings (8/27/19) in which Jerry made it 100% clear they have no intention of removing the building and planned on keeping it. In an earlier meeting, Jerry gave the HOA a presentation that threatened to build hundreds of apartments/homes right behind us but would forgo that effort for 3 years in return to agreeing to making the temporary building permanent! We have obviously ignored this threat, especially given the zoning challenges that should exist with respect to building anything on the land.

Additionally, they have been operating another business Markit, out of the same building causing significantly increased traffic and disturbance to our neighborhood. I believe this is not allowed under the rules of the temporary permit. I took this click from their website (<https://www.markitforestry.com/>) this morning:

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So, the problem is that they are misleading the surrounding community and the building department to skirt around the building departments rules. This situation is also effecting property values as this entire issue is now part of the HOA record

and has to be provided to prospective buyers. Several residences have already listed their properties and I understand there are more to come. As an example of the declining value, I paid \$570K for my house at 5820 Harbor Pines last June and my neighbor who has an identical home, looking at the same “temporary” building, has dropped their list price to \$540K and it still not sold!

I ask that the extension only be granted if written assurances are given that the building will be removed in Jan 2021, the end of the extension and that they won't file for a variance. If they agree, then we know they are being honest about the temporary nature, if not, then please deny the extension and they will have to fight for a variance which we will fight against.

I appreciate your consideration of this matter. I have many emails, some from Jerry himself, to back up what has been stated above.

Thank you.

From: William Robertson [<mailto:wfrobertson@comcast.net>]
Sent: Thursday, September 05, 2019 10:28 AM
To: Malcolm Thomson <mthomson51@gmail.com>
Cc: David Martz <dmartz7030@aol.com>; Sharon Daughton <daughtons@gmail.com>; Steve Janes <stevejanes@msn.com>; Al Creeley <allansally@comcast.net>; dee martz <deemartz@gmail.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Jo Janes <joannjanesgraphics@gmail.com>; Matt & Debbie Von Thun <vonthunhome@msn.com>; Paul Lachance <plachance1@comcast.net>; Stephanie Gibson <drskmayfield@gmail.com>; Teri Kreps <tmkreps@comcast.net>; Tim & Theresa Blocher <blochertd@icloud.com>; Wayne Gibson <drwgibson@gmail.com>
Subject: Re: Flying W Ranch's Reply to HOAs' Letter

Malcolm,

I agree with you that registering a protest of the extension with the City is a good move.

Bill

On Sep 3, 2019, at 1:06 PM, Malcolm Thomson <mthomson51@gmail.com> wrote:

All,

I also attended the meeting last week and have a couple of takeaways summarized as:

1. FW is going to do what is totally 100% in their own interest and not ours. This was made perfectly clear and stated as "It's just business", several times.
2. FW understands that there are significant challenges to developing behind us but have no current plans to do so. However, they pointed out that someday it would become economically viable, from a profit stand point and would get developed. They said this could happen in 5 years, 10 years or 20 years. Who knows but again stated as "Just Business".
3. FW fully intends to try and make the current building permanent. They did build it with that intent in mind. Again they stated "Just Business"

I would argue we must protest the extension now but understand that it will very likely be granted, especially given it is a temporary building. Protesting the extension on our part – "Just Business". The point being that it will be granted as a temporary structure for the remaining balance of the 2 year extension but the building department will have our record of objection and record of the fact that FW always intended it become permanent. If we do not object now, I believe we have little chance of succeeding later when objecting to the variance FW will have to file and win, with the City council, to make it permanent. Of course, the variance still may get granted but there are challenges that FW may not want to pursue to make that happen. Having FW install a few trees/bushes, in my view, is not worth just giving up and accepting the build stays. I look directly at the building, every day and bought 5820 based upon it being temporary.

Malcolm.

From: David Martz [<mailto:dmartz7030@aol.com>]
Sent: Tuesday, September 03, 2019 10:58 AM
To: Sharon Daughton <daughtons@gmail.com>
Cc: William Robertson <wfrobertson@comcast.net>; Steve Janes <stevejanes@msn.com>; Al Creeley <allansally@comcast.net>; dee martz <deemartz@gmail.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Jo Janes <joannjanesgraphics@gmail.com>; Malcolm Thomson

<mthomson51@gmail.com>; Matt & Debbie Von Thun
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<blochertd@icloud.com>; Wayne Gibson
<drwgibson@gmail.com>

Subject: Re: Flying W Ranch's Reply to HOAs' Letter

Fully agree with the Two Bills.

Thanks

Dave Martz

Sent from my iPhone

On Sep 3, 2019, at 10:27 AM, Sharon Daughton
<daughtons@gmail.com> wrote:

Many thanks to Bill R. for his thoughtful response. I fully concur with his assessment. As we watched the current cabin being constructed, it became abundantly clear that his building was here to stay. Our fight should be to prevent future structures and further development. Providing a shield to the current cabin in the form of trees and bushes should be part of our strategy as well.

Bill D.

From: William Robertson
<wfrobertson@comcast.net>
Sent: Tuesday, September 03, 2019
7:56 AM
To: Steve Janes <stevejanes@msn.com>
Cc: Al Creeley
<allansally@comcast.net>; Bill and
Sharon DAUGHTON
<daughtons@gmail.com>; Dave Martz
<dmartz7030@aol.com>; dee martz
<deemartz@gmail.com>; Jackie B. Carr
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<blochertd@icloud.com>; Wayne
Gibson <drwgibson@gmail.com>
Subject: Re: Flying W Ranch's Reply to
HOAs' Letter

Steve,

Answers to your questions:

Do we contest - NO POINT, the City will give them what they ask for. Past actions are a good predictor of the future.
What basis - Five years from original permit date 02/2017.
Conditions - No build in area from a point even with FW gate southward and add trees to better block off view from Daughton's and Malcolm's buildings.
Premise - Building is permanent
Goal - Prevent add'l buildings south of the gate.

Some additional thoughts per your original request:

I commend you and the Board for your patience in dealing with Flying W. I think they were caught with their pants down in front of City Planning for not renewing their permit and using the building as a Markit business office. Markit's rapid exit may be a result of the City telling them the permit would not be renewed if they didn't take corrective action.

I believe the building is permanent. It is built on a concrete foundation (not concrete blocks), appears to be built to current building codes, and has underground utilities. We were lied to from the beginning re the temporary nature and purpose of the building and the City was complicit. What FW wants FW gets. The location of the building may play into future FW plans which they still have not revealed.

If the majority of residents concur that the building is permanent, (as stated above) now may be the time to push for no new buildings in the area south of the gate, and the addition of landscaping, trees, and

whatever else we can get to shield the building and activities from our view.

On the subject of future development, I think what Jerry said is true. (Jerry again reaffirmed there are no definitive plans to build behind us, but that someday the land will become too valuable to ignore.) The question then becomes what and when. The what could be anything from developing a community centered around the entertainment venue to individual town homes along Chuckwagon Rd. Could it impact behind us? Hard to say, but the placement of the temporary building could help define the southern border of any future development activity. Infrastructure for a small number of units behind us would be difficult and expensive as the property contains a 24" steel water line on a 50' easement, is a defined drainage area, and has hillside and stormwater ramifications. Some of the land starting at Flying W Rd. is City owned. The when is an unknown. Hopefully never.

REGARDING A STATEMENT, I don't know the right answer and share concern with legal consequences that could come back and bite us. I would not formalize anything re future development plans as that is purely speculative.

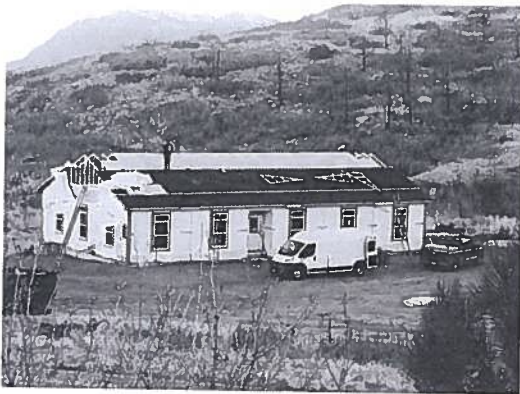
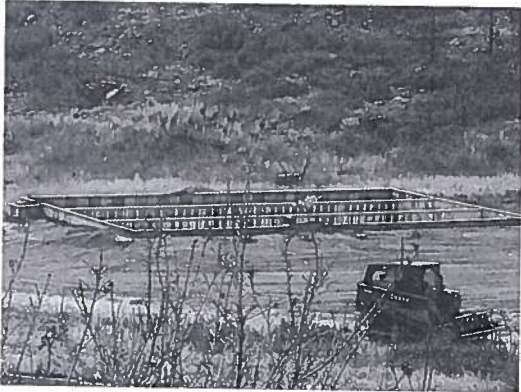
I still have an issue with how the drainage work behind HP was funded, how it was bid, who bid, who was the successful bidder, and what were the overages. Regarding the latter, the contractor didn't seem to know what they were doing replanting the same boulders multiple times. The contractor also did work further up in the main FW area and seemed associated with the owner. The bottom line is, was FW or Markit involved in the project and if so did that help fund any of their construction efforts?

Bill

Meggan

We have for many years been required to adapt to the dust and noise resulting from the Flying W Ranch temporary use permit. I fully understand that property owners have the right to develop their property as they see fit, within the guidelines established by the City of Colorado Springs. In developing their property the ranch should have been required to mitigate the impact on the community surrounding the development project.

Construction begins in October 2016. (photographs taken from my deck)



With all of the snow we've had over the past two weeks this is a good example of the dust that collects on my deck from the unpaved road directly across the street.



NEIGHBORHOOD COMMENTS

During the spring, summer and fall the I am required to clean the table and deck every day to keep the dust and dirt from entering my home and enjoy the use of the deck after the business is closed. To lesser extent the dust does filter through the windows.

They are now requesting an extension of another two years and building another office building in a residential neighborhood. We take a lot of pride in our neighborhood and I request that the extension not be approved and turning our residential community into a strip mall for office buildings.



NEIGHBORHOOD COMMENTS

Herington, Meggan

From: Sharon Daughton <daughtons@gmail.com>
Sent: Thursday, February 13, 2020 1:46 PM
To: William Robertson
Cc: Herington, Meggan; Malcolm Thomson; Steve Janes; Allan & Sally Creely; Al Chevalier; Jackie B. Carr; Dee Martz; Debbie Von Thun; Teri Kreps
Subject: Re: Flying W Ranch's Request for 2 year extension

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Malcolm.

From: David Martz [<mailto:dmartz7030@aol.com>]
Sent: Tuesday, September 03, 2019 10:58 AM
To: Sharon Daughton <daughtons@gmail.com>
Cc: William Robertson <wfrobertson@comcast.net>; Steve Janes <stevejanes@msn.com>; Al Creeley <allansally@comcast.net>; dee martz <deemartz@gmail.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Jo Janes <joannjanesgraphics@gmail.com>; Malcolm Thomson <mthomson51@gmail.com>; Matt & Debbie Von Thun <vonthunhome@msn.com>; Paul Lachance

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Theresa Blocher <blochertd@icloud.com>; Wayne Gibson
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Subject: Re: Flying W Ranch's Reply to HOAs' Letter

Fully agree with the Two Bills.

Thanks

Dave Martz

Sent from my iPhone

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To: Steve Janes <stevejanes@msn.com>
Cc: Al Creeley <allansally@comcast.net>; Bill and Sharon DAUGHTON <daughtons@gmail.com>; Dave Martz <dmartz7030@aol.com>; dee martz <deemartz@gmail.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Jo Janes <joannjanesgraphics@gmail.com>; Malcolm Thomson <mthomson51@gmail.com>; Matt & Debbie Von Thun <vonthunhome@msn.com>; Paul Lachance <plachance1@comcast.net>; Stephanie Gibson <drskmayfield@gmail.com>; Teri Kreps <tmkreps@comcast.net>; Tim & Theresa Blocher <blochertd@icloud.com>; Wayne Gibson <drwgibson@gmail.com>
Subject: Re: Flying W Ranch's Reply to HOAs' Letter

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On the subject of future development, I think what Jerry said is true. (Jerry again reaffirmed there are no definitive plans to build behind us, but that someday the land will become too valuable to ignore.) The question then becomes what and when. The what could be anything from developing a community centered around the entertainment venue to individual town homes along Chuckwagon Rd. Could it impact behind us? Hard to say, but the placement of the temporary building could help define the southern border of any future development activity. Infrastructure for a small number of units behind us would be difficult and expensive as the property contains a 24" steel water line on a 50' easement, is a defined drainage area, and has hillside and stormwater ramifications. Some of the land starting at Flying W Rd. is City owned. The when is an unknown. Hopefully never.

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associated with the owner. The bottom line is, was FW or Markit involved in the project and if so did that help fund any of their construction efforts?

Bill

Herington, Meggan

From: Al Creely <allansally@comcast.net>
Sent: Thursday, February 13, 2020 12:11 PM
To: Herington, Meggan
Cc: Cc: Malcolm Thomson; Steve Janes; Al Chevalier; Jackie B. Carr; Dee Martz; Bill & Sharon Daughton; Debbie Von Thun; Teri Kreps
Subject: Flying W Ranch Request for 2 year extension

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Meggan,

I too support all the comments that have been sent to your regarding the subject request. I will not try to add to the comments because those comments have been written clearly and have been supported by evidence. And I believe they express the feelings of every one of the HOA members.

So, no new words to add to those already received, rather a whole agreement with them.
Allan Creely

Herington, Meggan

From: steve janes <harborpines2019@gmail.com>
Sent: Thursday, February 13, 2020 11:46 AM
To: harborpines2019@gmail.com; Al Chevalier; Al Creeley; Bill Daughton; Dave Martz; Dee Martz; Eric Niemczyk; Jackie B. Carr; Jo Janes; Malcolm Thomson; Matt Von Thun; Mendi Properties; Michel Niemczyk; Paul Lachance; Stephanie Gibson; Steve Janes; Teri Kreps; Tim Blocher; Wayne Gibson; William Robertson; Herington, Meggan
Subject: Re: Fw: Flying W Ranch's Request for 2 year extension

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Meggan, I too am behind everything stated by Malcolm, Bill, and Dave. Given Malcolm's eloquently stated response, I will keep mind very simple :

- (1) Flying W has blatantly disregarded the original permit. They knew it was good for 2 years, and once expired, took no action for renewal.
- (2) They abused the original permit for purposes over and beyond what the original permit was intended by operating a multi-million, multi-state forestry operation out of the building.
- (3) This abuse led to an overflow of parking which on average was around 14 cars, well over the original 4-5 promised.
- (4) Both the parking and the building have affected resale. I have received multiple calls from the realtor regarding buyer concerns.
- (5) Flying W has specifically stated to Lloyd Burton, Malcolm Thomson, and myself that they have every intent on making this permanent.
- (6) Since that statement was made, 2 of our Harbor Pines HOA buildings have been listed, and one is forthcoming. In addition, Lloyd Burton has also sold and moved from Twin Harbors.
- (7) This temporary building is having a direct impact on our property values and desire to live here
- (8) I am very disappointed residents only have 10 days to respond. I've been gone for 3 weeks due to family emergency and got back yesterday. Is this the usual window for response?

The only way I can support the extension is if the original permit is honored, and we have a sworn statement that the temporary building be removed once Flying W is reopened. Otherwise, let's avoid this process and have Flying W file for a variance.

Sincerely,
Steve Janes

On Thu, Feb 13, 2020 at 11:30 AM Steve Janes <stevejanes@msn.com> wrote:

From: William Robertson <wfrobertson@comcast.net>
Sent: Thursday, February 13, 2020 9:33 AM
To: Meggan.Herington@coloradosprings.gov <Meggan.Herington@coloradosprings.gov>
Cc: Malcolm Thomson <mthomson51@gmail.com>; Steve Janes <stevejanes@msn.com>; Allan & Sally Creely <allansally@comcast.net>; Al Chevalier <alonzochevalier@aol.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Dee Martz <deemartz@gmail.com>; Bill & Sharon Daughton <daughtons@gmail.com>; Debbie Von Thun

<vonthunhome@msn.com>; Teri Kreps <tmkreps@comcast.net>

Subject: Flying W Ranch's Request for 2 year extension

Meggan,

I fully support everything Malcolm has said in the attached letter. From the very beginning Flying W have been evasive about the need for, use, and future of the "temporary" building they were allowed to construct. The permit to construct was allowed under some very stretched interpretation of City codes. The City was going to find a way for them to build the now not so "temporary" structure no matter what. The use of the building has been in violation of the permit from the beginning by allowing Markit to use the building as corporate headquarters. Now Flying W, after the fact and only after they were caught, have applied for an extension of their temporary permit which expired a year ago. It shows their complete arrogance, lack of disclosure, and disregard for process.

It is most likely the City will allow the extension. But, at the end of the extension period, Feb 2021, Flying W must be required to remove the building as previously promised.

William Robertson
5770 Harbor Pines Pt 80919

Begin forwarded message:

From: "Malcolm Thomson" <mthomson51@gmail.com>

Subject: RE: Flying W Ranch's Reply to HOAs' Letter

Date: February 12, 2020 at 3:47:42 PM MST

To: "William Robertson" <wfrobertson@comcast.net>

Cc: "David Martz" <dmartz7030@aol.com>, "Sharon Daughton" <daughtons@gmail.com>, "Steve Janes" <stevejanes@msn.com>, "Al Creeley" <allansally@comcast.net>, "dee martz" <deemartz@gmail.com>, "Jackie B. Carr" <jackieb.carr@gmail.com>, "Jo Janes" <joannjanesgraphics@gmail.com>, "Matt & Debbie Von Thun" <vonthunhome@msn.com>, "Paul Lachance" <plachance1@comcast.net>, "Stephanie Gibson" <drskmayfield@gmail.com>, "Teri Kreps" <tmkreps@comcast.net>, "Tim & Theresa Blocher" <blochertd@icloud.com>, "Wayne Gibson" <drwgibson@gmail.com>

For those interested in the Temporary Permit extension for Flying W Ranch, I provided my input to Meggan today, a copy of which is below. The deadline, per the notice mailed to us is 2/14/20.

Good Morning Meggan. I received your office's notice regarding the extension of the "Temporary" office for Flying W Ranch located at 3330 Chuckwagon Road.

In summary, I am against the extension due to the disingenuous nature of the so called "temporary" building. First, the building was never constructed in a manner consistent with "Temporary" but temporary is all the zoning would allow for. To anyone with any knowledge of construction, it doesn't look temporary at all.

I purchased my property, 5820 Harbor Pines, last June and it looks directly at the temporary building. It is less than 200ft from my main living room view. As the temporary building was a serious concern of mine at that time, my realtor and I visited the temporary office and asked about the status of the building and whether it would be removed. We were assured by staff in

the office it would be. Based upon this assurance and the city's temporary permit, I completed my purchase.

After living in my house but a few months it become clear that there was significant concern about the building and whether it was really temporary, especially as their permit had expired and nothing was being done about renewing it (at the time). This led to several meetings and emails between the HOA (mostly via Steve Janes) and Flying W's Gerald (Jerry) Thurston. I was present at the last of these meetings (8/27/19) in which Jerry made it 100% clear they have no intention of removing the building and planned on keeping it. In an earlier meeting, Jerry gave the HOA a presentation that threatened to build hundreds of apartments/homes right behind us but would forgo that effort for 3 years in return to agreeing to making the temporary building permanent! We have obviously ignored this threat, especially given the zoning challenges that should exist with respect to building anything on the land.

Additionally, they have been operating another business Markit, out of the same building causing significantly increased traffic and disturbance to our neighborhood. I believe this is not allowed under the rules of the temporary permit. I took this click from their website (<https://www.markitforestry.com/>) this morning:

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Mailing Address
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Colorado
80919
United States

So, the problem is that they are misleading the surrounding community and the building department to skirt around the building departments rules. This situation is also effecting property values as this entire issue is now part of the HOA record and has to be provided to prospective buyers. Several residences have already listed their properties and I understand there are more to come. As an example of the declining value, I paid \$570K for my house at 5820 Harbor Pines last June and my neighbor who has an identical home, looking at the same "temporary" building, has dropped their list price to \$540K and it still not sold!

I ask that the extension only be granted if written assurances are given that the building will be removed in Jan 2021, the end of the extension and that they won't file for a variance. If they agree, then we know they are being honest about the temporary nature, if not, then please deny the extension and they will have to fight for a variance which we will fight against.

I appreciate your consideration of this matter. I have many emails, some from Jerry himself, to back up what has been stated above.

Thank you.

From: William Robertson [<mailto:wfrobertson@comcast.net>]

Sent: Thursday, September 05, 2019 10:28 AM

To: Malcolm Thomson <mthomson51@gmail.com>

Cc: David Martz <dmartz7030@aol.com>; Sharon Daughton <daughtons@gmail.com>; Steve Janes

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Subject: Re: Flying W Ranch's Reply to HOAs' Letter

Malcolm,

I agree with you that registering a protest of the extension with the City is a good move.

Bill

On Sep 3, 2019, at 1:06 PM, Malcolm Thomson <mthomson51@gmail.com> wrote:

All,

I also attended the meeting last week and have a couple of takeaways summarized as:

1. FW is going to do what is totally 100% in their own interest and not ours. This was made perfectly clear and stated as "It's just business", several times.
2. FW understands that there are significant challenges to developing behind us but have no current plans to do so. However, they pointed out that someday it would become economically viable, from a profit stand point and would get developed. They said this could happen in 5 years, 10 years or 20 years. Who knows but again stated as "Just Business".
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Fully agree with the Two Bills.

Thanks

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Sent from my iPhone

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Bill

Herington, Meggan

From: DAVID MARTZ <dmartz7030@aol.com>
Sent: Thursday, February 13, 2020 11:11 AM
To: Herington, Meggan
Cc: William Robertson; Sharon Daughton; Steve Janes; Al Creeley; dee martz; Jackie B. Carr; Jo Janes; Matt & Debbie Von Thun; Paul Lachance; Stephanie Gibson; Teri Kreps; Tim & Theresa Blocher; Wayne Gibson; Malcolm Thomson
Subject: Re: Flying W Ranch's Reply to HOAs' Letter

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Meagan

As homeowners on Harbor Pines Point, we are deeply concerned about the continuing presence of the "Temporary Building" behind our homes erected by the Flying W Ranch properties.

They have consistently failed to comply with the original understandings, including that the building would be removed in three years and that there would be no additional vehicles. In addition, they have threatened to build homes and apartment houses behind our property.

This illegal and manipulative behavior is having a severe impact on our properties. The previously attractive view from the homes is seriously altered by the presence of the building. Both the salability of homes and the property value has declined substantially.

As one of fourteen homeowners negatively affected by this failure to comply with the agreement through the City Planning Council, we urge that the original commitment be fulfilled in toto, including enforced removal of the offending "Temporary Building" behind our homes.

Thank you for your thoughtful attention and response to our concerns.

Dee and Dave Martz

Sent from my iPhone

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Sent: Thursday, September 05, 2019 10:28 AM
To: Malcolm Thomson <mthomson51@gmail.com>
Cc: David Martz <dmartz7030@aol.com>; Sharon Daughton <daughtons@gmail.com>; Steve Janes <stevejanes@msn.com>; Al Creeley <allansally@comcast.net>; dee martz <deemartz@gmail.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Jo Janes <joannjanesgraphics@gmail.com>; Matt & Debbie Von Thun <vonthunhome@msn.com>; Paul Lachance <plachance1@comcast.net>; Stephanie Gibson <drskmayfield@gmail.com>; Teri Kreps <tmkreps@comcast.net>; Tim & Theresa Blocher <blochertd@icloud.com>; Wayne Gibson <drwgibson@gmail.com>
Subject: Re: Flying W Ranch's Reply to HOAs' Letter

Malcolm,

I agree with you that registering a protest of the extension with the City is a good move.

Bill

On Sep 3, 2019, at 1:06 PM, Malcolm Thomson <mthomson51@gmail.com> wrote:

All,

I also attended the meeting last week and have a couple of takeaways summarized as:

1. FW is going to do what is totally 100% in their own interest and not ours. This was made perfectly clear and stated as "It's just business", several times.
2. FW understands that there are significant challenges to developing behind us but have no current plans to do so. However, they pointed out that someday it would become economically viable, from a profit stand point and would get developed. They said this could happen in 5 years, 10 years or 20 years. Who knows but again stated as "Just Business".
3. FW fully intends to try and make the current building permanent. They did build it with that intent in mind. Again they stated "Just Business"

I would argue we must protest the extension now but understand that it will very likely be granted, especially given it is a temporary building. Protesting the extension on our part – "Just Business". The point being that it will be granted as a temporary structure for the remaining balance of the 2 year extension but the building department will have our record of objection and record of the fact that FW always intended it become permanent. If we do not object now, I believe we have little chance of succeeding later when objecting to the variance FW will have to file and win, with the City council, to make it permanent. Of course, the variance still may get granted but there are

challenges that FW may not want to pursue to make that happen. Having FW install a few trees/bushes, in my view, is not worth just giving up and accepting the build stays. I look directly at the building, every day and bought 5820 based upon it being temporary.

Malcolm.

From: David Martz [<mailto:dmartz7030@aol.com>]
Sent: Tuesday, September 03, 2019 10:58 AM
To: Sharon Daughton <daughtons@gmail.com>
Cc: William Robertson <wfrobertson@comcast.net>; Steve Janes <stevejanes@msn.com>; Al Creeley <allansally@comcast.net>; dee martz <deemartz@gmail.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Jo Janes <joannjanesgraphics@gmail.com>; Malcolm Thomson <mthomson51@gmail.com>; Matt & Debbie Von Thun <vonthunhome@msn.com>; Paul Lachance <plachance1@comcast.net>; Stephanie Gibson <drskmayfield@gmail.com>; Teri Kreps <tmkrepes@comcast.net>; Tim & Theresa Blocher <blochertd@icloud.com>; Wayne Gibson <drwgibson@gmail.com>
Subject: Re: Flying W Ranch's Reply to HOAs' Letter

Fully agree with the Two Bills.

Thanks

Dave Martz

Sent from my iPhone

On Sep 3, 2019, at 10:27 AM, Sharon Daughton <daughtons@gmail.com> wrote:

Many thanks to Bill R. for his thoughtful response. I fully concur with his assessment. As we watched the current cabin being constructed, it became abundantly clear that his building was here to stay. Our fight should be to prevent future structures and further development. Providing a shield to the current cabin in the form of trees and bushes should be part of our strategy as well.

Bill D.

From: William Robertson <wfrobertson@comcast.net>
Sent: Tuesday, September 03, 2019 7:56 AM
To: Steve Janes <stevejanes@msn.com>
Cc: Al Creeley <allansally@comcast.net>; Bill and Sharon DAUGHTON <daughtons@gmail.com>; Dave Martz <dmartz7030@aol.com>; dee martz <deemartz@gmail.com>; Jackie B. Carr <jackieb.carr@gmail.com>; Jo Janes <joannjanesgraphics@gmail.com>; Malcolm Thomson <mthomson51@gmail.com>; Matt & Debbie Von Thun <vonthunhome@msn.com>; Paul Lachance <plachance1@comcast.net>; Stephanie Gibson <drskmayfield@gmail.com>; Teri Kreps <tmkrepes@comcast.net>; Tim & Theresa Blocher <blochertd@icloud.com>; Wayne Gibson

<drwgibson@gmail.com>

Subject: Re: Flying W Ranch's Reply to HOAs' Letter

Steve,

Answers to your questions:

Do we contest - NO POINT, the City will give them what they ask for. Past actions are a good predictor of the future.

What basis - Five years from original permit date 02/2017.

Conditions - No build in area from a point even with FW gate southward and add trees to better block off view from Daughton's and Malcolm's buildings.

Premise - Building is permanent

Goal - Prevent add'l buildings south of the gate.

Some additional thoughts per your original request:

I commend you and the Board for your patience in dealing with Flying W. I think they were caught with their pants down in front of City Planning for not renewing their permit and using the building as a Markit business office. Markit's rapid exit may be a result of the City telling them the permit would not be renewed if they didn't take corrective action.

I believe the building is permanent. It is built on a concrete foundation (not concrete blocks), appears to be built to current building codes, and has underground utilities. We were lied to from the beginning re the temporary nature and purpose of the building and the City was complicit. What FW wants FW gets. The location of the building may play into future FW plans which they still have not revealed.

If the majority of residents concur that the building is permanent, (as stated above) now may be the time to push for no new buildings in the area south of the gate, and the addition of landscaping, trees, and whatever else we can get to shield the building and activities from our view.

On the subject of future development, I think what Jerry said is true. (Jerry again reaffirmed there are no definitive plans to build behind us, but that someday the land will become too valuable to ignore.) The question then becomes what and when. The what could be anything from developing a community centered around the entertainment venue to individual town homes along Chuckwagon Rd. Could it impact behind us? Hard to say, but the placement of the temporary building could help define the southern border of any future development activity. Infrastructure for a small number of units behind us would be difficult and expensive as the property contains a 24" steel water line on a 50' easement, is a defined drainage area, and has hillside and stormwater ramifications. Some of the land starting at Flying W Rd. is City owned. The when is an unknown. Hopefully never.

REGARDING A STATEMENT, I don't know the right answer and share concern with legal consequences that could come back and bite us. I would not formalize anything re future development plans as that is purely speculative.

I still have an issue with how the drainage work behind HP was funded, how it was bid, who bid, who was the successful bidder, and what were the overages. Regarding the latter, the contractor didn't seem to know what they were doing replanting the same boulders multiple times. The contractor also did work

further up in the main FW area and seemed associated with the owner. The bottom line is, was FW or Markit involved in the project and if so did that help fund any of their construction efforts?

Bill

Herington, Meggan

From: Malcolm Thomson <mthomson51@gmail.com>
Sent: Wednesday, February 12, 2020 3:41 PM
To: Herington, Meggan
Cc: 'Steve Janes'
Subject: Objection to Flying W "Temporary" building extension...

CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!

Good Morning Meggan. I received your office's notice regarding the extension of the "Temporary" office for Flying W Ranch located at 3330 Chuckwagon Road.

In summary, I am against the extension due to the disingenuous nature of the so called "temporary" building. First, the building was never constructed in a manner consistent with "Temporary" but temporary is all the zoning would allow for. To anyone with any knowledge of construction, it doesn't look temporary at all.

I purchased my property, 5820 Harbor Pines, last June and it looks directly at the temporary building. It is less than 200ft from my main living room view. As the temporary building was a serious concern of mine at that time, my realtor and I visited the temporary office and asked about the status of the building and whether it would be removed. We were assured by staff in the office it would be. Based upon this assurance and the city's temporary permit, I completed my purchase.

After living in my house but a few months it become clear that there was significant concern about the building and whether it was really temporary, especially as their permit had expired and nothing was being done about renewing it (at the time). This led to several meetings and emails between the HOA (mostly via Steve Janes) and Flying W's Gerald (Jerry) Thurston. I was present at the last of these meetings (8/27/19) in which Jerry made it 100% clear they have no intention of removing the building and planned on keeping it. In an earlier meeting, Jerry gave the HOA a presentation that threatened to build hundreds of apartments/homes right behind us but would forgo that effort for 3 years in return to agreeing to making the temporary building permanent! We have obviously ignored this threat, especially given the zoning challenges that should exist with respect to building anything on the land.

Additionally, they have been operating another business Markit, out of the same building causing significantly increased traffic and disturbance to our neighborhood. I believe this is not allowed under the rules of the temporary permit. I took this click from their website (<https://www.markitforestry.com/>) this morning:

Markit! Forestry Management

Markit! Forestry Management
Mailing Address
3370 Chuckwagon Road
Colorado Springs
Colorado
80919
United States

So, the problem is that they are misleading the surrounding community and the building department to skirt around the building departments rules. This situation is also effecting property values as this entire issue is now part of the HOA record and has to be provided to prospective buyers. Several residences have already listed their properties and I understand there are more to come. As an example of the declining value, I paid \$570K for my house at 5820 Harbor Pines last June and my neighbor who has an identical home, looking at the same "temporary" building, has dropped their list price to \$540K and it still not sold!

I ask that the extension only be granted if written assurances are given that the building will be removed in Jan 2021, the end of the extension and that they won't file for a variance. If they agree, then we know they are being honest about the temporary nature, if not, then please deny the extension and they will have to fight for a variance which we will fight against.

I appreciate your consideration of this matter. I have many emails, some from Jerry himself, to back up what has been stated above.

Thank you.