

CITY PLANNING COMMISSION AGENDA

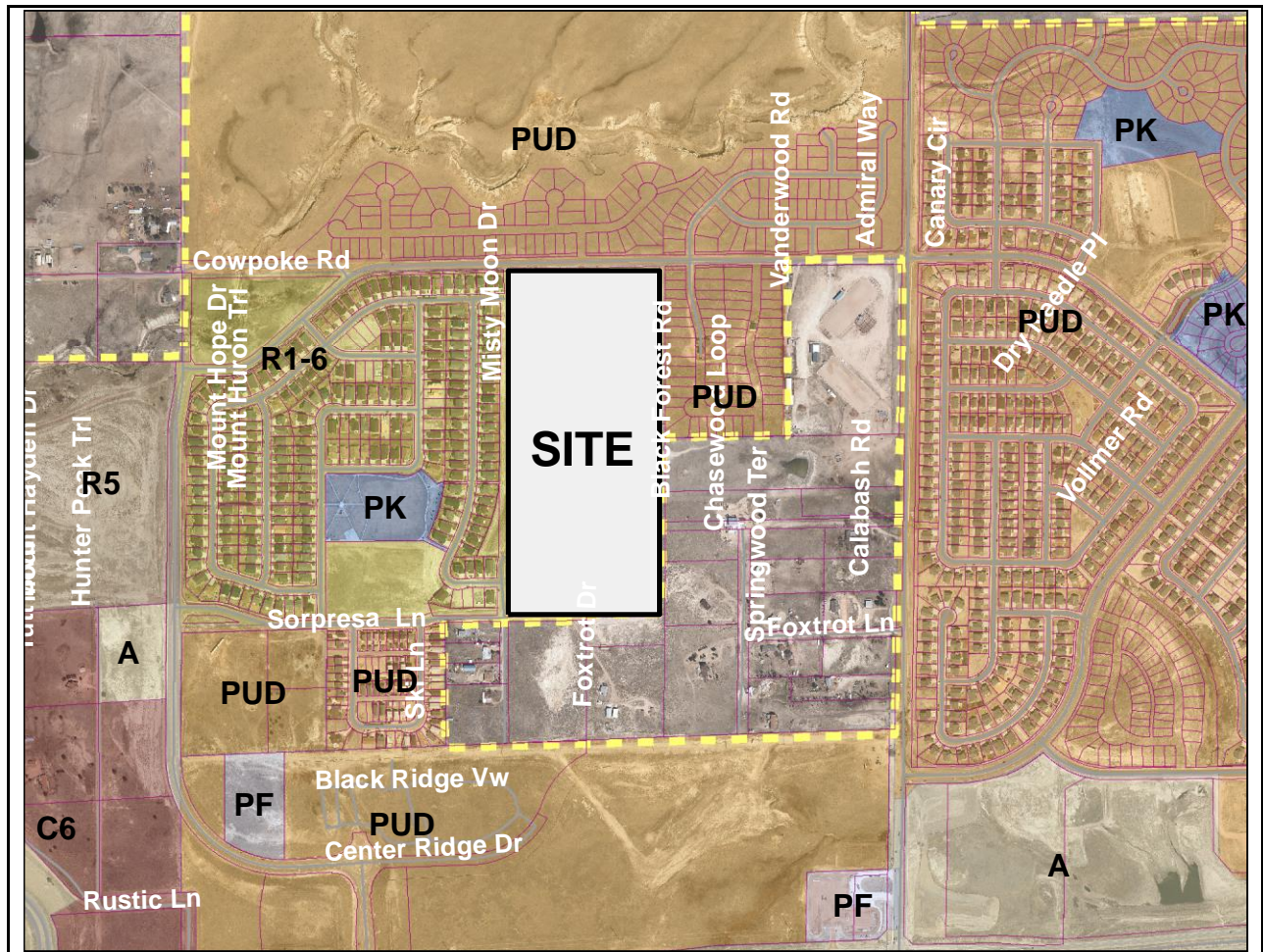
STAFF: KATIE CARLEO

CPC DP 05-00092-A5MN16 – QUASI-JUDICIAL

PROJECT: CUMBRE VISTA DEVELOPMENT PLAN

APPLICANT: NINE DESIGN, LTD

OWNER: KF 103-CV, LLC



PROJECT SUMMARY:

1. **Project Description:** The proposed project is an amendment to the previously approved Cumbre Vista Development Plan. This amendment proposes a change in the phasing sequence, street and lot layout, extension of De Anza Peak Trail to Sorpresa Lane, and a reduction in the number of lots. The overall site layout with associated changes is illustrated as **FIGURE 1**.

The property is located between Cowpoke Road and Sorpresa Lane, east of Tutt Boulevard and consists of 113 acres.

2. Applicant's Project Statement: **(Refer to FIGURE 2)**
3. Planning and Development Team's Recommendation: Staff recommends approval of the amendment application with a condition of the approval.

BACKGROUND

1. Site Address: This site is currently vacant. The property is located between Cowpoke Road and Sorpresa Lane, east of Tutt Boulevard.
2. Existing Zoning/Land Use: R1-6000/DF/AO (Single-Family Residential with Design Flexibility and Airport Overlay)/Single-family Residential and Vacant
3. Surrounding Zoning/Land Use:
North: PUD (Planned Unit Development)/Vacant (Planned: Residential – Wolf Ranch)
South: PUD (Planned Unit Development & County RR-5 (Rural Residential)/Single-Family Residences & Vacant
East: County RR-5 (Rural Residential)/Single-Family Residences
West: A (Agricultural)/Vacant (Planned Commercial & Multi-Family Residential)
4. Comprehensive Plan/Designated 2020 Land Use: General Residential
5. Annexation: This property was annexed in 2005 as part of the Powerwood 4 Annexation
6. Master Plan/Designated Master Plan Land Use: This site is part of the Powerwood 3-6 Master Plan identified as Residential.
7. Subdivision: The area of this amendment is unplatted.
8. Zoning Enforcement Action: None
9. Physical Characteristics: The site has no significant vegetation or natural features.

STAKEHOLDER PROCESS AND INVOLVEMENT

The standard City notification process for internal review has been followed. This included posting the property and sending public notice to 95 property owners within a 500-foot buffer of the subject property. Prior to the City Planning Commission hearing a public notice will include a 1000-foot buffer for postcard mailings and a public notice poster posted on site.

Staff has received three letters of opposition to the development plan amendment (**FIGURE 3**). The included letters of opposition summarize concern with easements and access as part of the amendment, as well as the concern for City approval while the land is part of ongoing litigation. At this time a final judgement has been determined. Further details are discussed below in staff's review.

Staff sent plans to the standard internal and external review agencies for comments. All comments received from the review agencies are addressed. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, School District 20, Police and E-911, and El Paso County Development Services. This site is within the Airport Overlay and has been seen by the Airport Advisory Committee; the site is outside of the buffer for review by USAFA.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE

1. Review Criteria / Design & Development Issues
 - a. Background

This application was previously before the City Planning Commission in February 2014 but with pending litigation the development was not constructed. This previously approved amendment has expired and with final judgement completed the applicant is now seeking approval for this amendment.

The initial Cumbre Vista Development Plan was approved in 2005 for a single-family detached residential neighborhood. As phasing and development of the area moved forward in 2007, so did the construction of Sorpresa Lane near the intersection of Ski Lane. Ski Lane is the existing county private access road to adjacent properties that was planned to remain as a private access. During Sorpresa Lane construction, grading resulted in a grade separation at Ski Lane of nearly 12 feet. In addition, neighbors expressed concern that construction was destroying a private access easement they had rights to for access to Cowpoke Road. Efforts failed to resolve this issue between the neighbors and the developer. In 2008, the City approved the interim roadway design and amended street plan for this intersection. **(FIGURE 4)**

In 2008 the developer, together with the Woodmen Heights Metro District, initiated litigation to seek quiet title to the easements to relocate the private access. The Court's judgement in 2010 denied this request. Litigation continued in 2012 with a second trial in which the Court re-affirmed its earlier findings. In 2013 the Court issued post trial rulings which grants approval to vacate and relocate the private easement and accepts the interim intersection design as approved by the City.

In October 2013 the developer submitted plans to the City for an amendment to the Cumbre Vista Development Plan. The amendment reflected phasing changes, as well as lot and roadway design that upheld the Court's decision. The amendment was administratively approved on December 27, 2013 but appealed by neighbors on January 6, 2014. The application was subsequently approved by City Planning Commission on February 20, 2014 and further affirmed by City Council.

Since the City approvals in 2014 there has been further litigation related to the project. A variety of issues related to the property have been litigated through the El Paso County District Court and the State appellate court system. At this time the previously approved amendment has expired. A final ruling has been made through the Colorado Supreme Court and the developer has reflected these final Court findings in the proposed amendment. Due to the significance of the amendment and the history of the property, staff and the applicant feel it appropriate to refer this application for review, again, by the City Planning Commission.

b. Development Plan Amendment

The proposed amendment changes phasing to include the construction of De Anza Peak Trail as a connection from Cowpoke Road to Sorpresa Lane, along with the Ski Lane intersection, within the next phase of development. This will provide improved access from the interim intersection (Sorpresa Lane and Ski Lane) to Cowpoke Road as discussed in the Court findings. The amendment also recognizes the City approved and Court ordered construction of the intersection and roadway design at Sorpresa Lane and Ski Lane.

This amendment will establish new notes that will reflect the Court's findings for vacation of previous access easements. The easements shall be vacated with access provided from Sorpresa Lane and Ski Lane to Cowpoke Road. Staff has requested the developer record the Court action on the property so it shall be associated with individual lot development moving forward. **(FIGURE 5)**

It is the finding of the City Planning and Development Staff that the Cumbre Vista Development Plan Amendment meets the development plan review criteria found in City Code Section 7.5.502.E.

2. Conformance with the City Comprehensive Plan

The proposed applications are consistent with the envisioned development patterns for the subject parcel, which is identified as General Residential per the Comprehensive Plan 2020 Land

Use Map. This is supported by the intention of the Comprehensive Plan to accommodate regional growth.

- a. Policy LU 201: Promote a Focused Consolidated Land Use Pattern
Locate new growth and development in well-defined contiguous areas in order to avoid leapfrog, scattered land use patterns that cannot be adequately provided with City services.
 - b. Objective LU 5: Develop Cohesive Residential Areas
This development is a consistent and logical extension to the Cumbre Vista development. This allows for continued cohesive growth of the neighborhood. The applicant's proposal is supportive of the City's efforts to encourage the creation of functional and attractive neighborhoods sharing in interconnected network of facilities, while ensuring this area develops as a well-functioning neighborhood.
 - c. Policy LU 601: Assure Provision of Housing Choices: Distribute housing throughout the City so as to provide households with a choice of densities, types, styles and costs within a neighborhood or residential area.
 - d. Objective N 1: Focus On Neighborhoods: Create functional neighborhoods when planning and developing residential areas. Regard neighborhoods as the central organizing element for planning residential areas. Rely on neighborhood-based organizations as a means of involving residents and property owners in the decision-making process.
3. Conformance with the Area's Master Plan
The subject site is part of the Powerwood 3-6 Master Plan area and is designated for General Residential use. The current amendment remains in conformance with the intended use as provided with the Powerwood 3-6 Master Plan.

STAFF RECOMMENDATION

CPC DP 05-00092-A5MN16 - DEVELOPMENT PLAN MINOR AMENDMENT

Approve the Cumbre Vista Development Plan Minor Amendment, based upon the finding that the amendment complies with the development plan review criteria found in City Code Section 7.5.502.E subject to compliance with the following condition:

Conditions of Approval on Development Plan Amendment:

1. Provide final recordation information for the final judgement recorded with El Paso County Clerk.