



City of Colorado Springs

City Hall
107 N. Nevada Avenue
Colorado Springs, CO
80903

Meeting Minutes - Final Planning Commission

Thursday, October 17, 2019

8:30 AM

Council Chambers

1. Call to Order

- Present:** 7 - Vice Chair Scott Hente, Commissioner Jim Raughton, Commissioner Rhonda McDonald, Commissioner Alison Eubanks, Commissioner John Almy, Commissioner Marty Rickett and Commissioner Natalie Wilson
- Excused:** 2 - Commissioner James McMurray and Chair Reggie Graham

2. Approval of the Minutes

- 2.A. [CPC 19-645](#) Minutes for the August 15, 2019 City Planning Commission Meeting

Presenter:

Scott Hente, Vice Chair, City Planning Commission

Motion by Commissioner Rickett, seconded by Commissioner Raughton, to approve the August 15, 2019 City Planning Commission Minutes. The motion passed by a vote of 7:0:2:0

- Aye:** 7 - Vice Chair Hente, Commissioner Raughton, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

- Absent:** 2 - Commissioner McMurray and Chair Graham

3. Communications

Peter Wysocki - Director of Planning and Community Development

Mr. Wysocki introduced two new additions to the Land Use Review Department. Ms. Katelynn Wintz, Senior Planner on the Central Team, from Cape May, New Jersey
Ms. Gabi Serrano, Planner II on the Central Team, coming to us from the town of Fountain.

4. CONSENT CALENDAR

These items will be acted upon as a whole, unless a specific item is called for discussion by a Commissioner/Board Member or a citizen wishing to address the Commission or Board. (Any items called up for separate consideration shall be acted upon following the Consent Vote.)

Advanced Concrete

- A. [CPC ZC 18-00148](#) An Ordinance amending the zoning map of the City of Colorado Springs pertaining to 5.1 acres located at 3570 Aerospace Boulevard, changing the zoning from PIP-2/CR/AO APZ-2 (Planned Industrial Park with Conditions of Record and an Airport Overlay-Accident Potential Subzone 2) to PIP-2/CR/AO APZ-2 (Planned Industrial Park with Conditions of Record and an Airport Overlay-Accident Potential Subzone 2) to remove a Condition of Record.

(QUASI-JUDICIAL)

Related File: CPC DP 18-00149

Presenter:

Peter Wysocki, Director, Planning and Development Department
Hannah Van Nimwegen, Senior Planner, Planning and Community Development Department

This Ordinance was referred on the Consent Calendar to recommend approval to City Council of the Advanced Concrete Zone Change from PIP-2/CR/AO APZ-2 (Planned Industrial Park with Conditions of Record and an Airport Overlay-Accident Potential Subzone 2) to PIP-2/CR/AO APZ-2 (Planned Industrial Park with Conditions of Record and an Airport Overlay-Accident Potential Subzone 2), based upon the finding that the request complies with the zone change review criteria in City Code Section 7.5.603.B.

- B. [CPC DP 18-00149](#) A Development Plan for a contractor’s yard, office, and associated improvements on 5.1 acres located at 3570 Aerospace Boulevard.

(QUASI-JUDICIAL)

Related File: CPC ZC 18-00148

Presenter:

Peter Wysocki, Director, Planning and Development Department
Hannah Van Nimwegen, Senior Planner, Planning and Community Development Department

This Planning Case was referred on the Consent Calendar to recommend approval to City Council of the Advanced Concrete Development Plan, based upon the finding that the amended plan complies with the development plan review criteria in City Code Section 7.5.502.E.

Approval of the Consent Agenda

Motion by Commissioner Rickett, seconded by Commissioner Raughton, that all matters on the Consent Calendar be passed, adopted, and approved by unanimous consent of the members present. The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair Hente, Commissioner Raughton, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

Absent: 2 - Commissioner McMurray and Chair Graham

Items Called Off Consent

5. UNFINISHED BUSINESS - None

6. NEW BUSINESS CALENDAR

Tutt Boulevard Annexation

- 6.A. [CPC A 19-00067](#) Ordinance No. 19-92 annexing into the City of Colorado Springs that area known as the Tutt Boulevard Addition No. 1 Annexation consisting of 1.74 acres.
(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Before staff presentation, Commissioner Hente disclosed that his company used to own property that was adjacent to this site. It has been nine years since the company owned the site and Commissioner Hente said he has no financial interest in the property around there.

Staff presentation:

Ms. Katie Carleo, Principal Planner with the City of Colorado Springs, presented a PowerPoint with the scope and intent of this project.

Jeff Dunn, Civil Engineer, Stormwater Enterprise, expounded on Ms. Carleo's presentation.

Questions:

Commissioner Raughton asked if this will be a part of the parks and trails system. Mr. Dunn said that was correct. Mr. Dunn said they have graded out an area for the future trail extension through the pond area, which will be part of the pond construction, as well as a pedestrian underpass underneath Tutt Boulevard that will serve the trail in the future when it is completed.

Supporters:

None

Opponents:

Ross Clinger, Peacock Ranch

- Asked Commissioner Hente to recuse himself since he was associated with this area back in 2005
 - Commissioner Hente reiterated that the ownership of the property was nine years ago and he had no interest financial or otherwise with this property
 - Attorney Ben Bolinger noted that Commissioner Hente had already disclosed this information before the hearing and agreed this was not a conflict
- Takes issue that there will be about 1000 feet where people will have to walk right next to a busy street
- Mr. Clinger spoke of the property Commissioner Hente use to own
- Mr. Clinger said Mr. Hente deposited a mountain of contaminated lead from a gun club
- Would like the large pipe coming off the detention pond to be straightened

Questions of Staff:

Commissioner Eubanks asked Ms. Carleo if the potential soil contamination mentioned was looked into. Ms. Carleo explained there was not a geo-hazard or soil analysis completed because the portion of land that was mentioned was not a part of this property.

Rebuttal:

Mr. Dunn addressed Mr. Clinger's concerns regarding the pipe being straightened. Mr. Dunn said they had talks with the downstream developer about realigning the channel but nothing was ever solved because the easements could never be obtained from the two parties downstream. The design was left as is because any water that is discharged from the pond will be released at non erosive velocities.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

None.

Motion by Commissioner Raughton, seconded by Commissioner Rickett, to recommend approval to City Council the annexation of the Tutt Boulevard Addition No.1 Annexation based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203.

The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair Hente, Commissioner Raughton, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

Absent: 2 - Commissioner McMurray and Chair Graham

6.B. [CPC ZC 19-00121](#) Ordinance No. 19-93 amending the Zoning Map of the City of Colorado Springs relating to 1.28 acres located northwest of Tutt Boulevard and Cowpoke Road establishing the PF (Public Facility) zone district. (Legislative)

Related Files: CPC A 19-00067R, CPC A 19-00067, CPC ZC 19-00121

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Motion by Commissioner Rickett, seconded by Commissioner Raughton, to recommend approval to City Council the establishment of the PF (Public Facility) zone district, based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B).

The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair Hente, Commissioner Raughton, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

Absent: 2 - Commissioner McMurray and Chair Graham

HistoricCOS

6.C. [CPC MP 92-227-A1MJ 17](#) A resolution adopting HistoricCOS as the City of Colorado Springs Historic Preservation Plan. (LEGISLATIVE)

Presenter:

Peter Wysocki, Director, Planning and Community Development
Daniel Sexton, Principal Planner, Planning & Community Development

Staff presentation:

Daniel Sexton, City Planning, presented a PowerPoint with the scope and intent of the HistoricCOS Master Plan.

Applicant Presentation:

Patrick Rawley, Stan Clausson Associates, Inc, presented a PowerPoint detailing the intent and scope of the HistoricCOS Master Plan.

Questions:

Commissioner Eubanks asked if there were time frames for rewriting Chapter

16 of the code. Mr. Sexton clarified Mr. Rawley misstated the chapter and was actually referencing Chapter 7, Part 16 of the administrative piece in City Code. Mr. Sexton explained the Planning Department was currently under contract with a consultant to rewrite all of Chapter 7.

Commissioner Eubanks mentioned that HistoricCOS is a seven-year plan, which is not that far into the future and wanted to know what updating the plan in seven years would look like (i.e. would the action item matrix need to be revised or would the whole plan be looked at again).

Mr. Sexton explained that subject matter focused plans tend to have a much shorter shelf life because of the expectation and understanding more things will happen in that shorter window. Mr. Sexton said with the work being done now to strengthen and reinforce the information within the plan, we would be looking at an amendment to reevaluate the action item matrix.

Commissioner Rickett said he was a huge supporter of the Historic Preservation and said he was presently working on a preservation project. Commissioner Rickett said he has seen in other cities where there is a historic site that has ongoing development at adjacent sites, which can cause conflicts. Commissioner Rickett wanted to know if there was an opportunity in this program to be able to de-list a property that is on the local historic registry.

Mr. Sexton said Colorado Springs does not have a historic registry, but there are mechanisms and processes within the state register and the national register to de-list properties that are determined to either be noncontributing anymore or have been demolished.

Mr. Sexton went on to say that the bigger mechanism or conversation really would be reinforced and strengthened in Chapter 7, in terms of what oversight the historic preservation board and what their role as development continues to occur.

Supporters:

None

Opponents:

None

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Raughton said neighborhood plans and this plan are the most important first steps in implementing a comprehensive plan for the future of Colorado Springs. Through plans like these we will be able to preserve a very rich history. Commissioner Raughton said he was delighted to see this.

Motion by Commissioner Raughton, seconded by Commissioner Rickett, to recommend approval to City Council of the HistoricCOS as the new City of Colorado Springs Historic Preservation Plan, based upon the findings that the request is consistent with the purpose for a master plan as set forth in City Code Section 7.5.401 and meets the review criteria for granting a major master plan amendment as set forth in City Code Section 7.5.408.

The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair Hente, Commissioner Raughton, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

Absent: 2 - Commissioner McMurray and Chair Graham

Revoke or Suspend Short Term Rental Permit #0149

- 6.D.** [STR-0149](#) Revoke or suspend Short-Term Rental Permit #STR-0149 issued to Tanya Mitchell for the property located at 6040 Castlewood Lane, Colorado Springs, Colorado.

(Quasi Judicial)

Presenter:

Mitch Hammes, Neighborhood Services Manager, Planning and Community Development

Peter Wysocki, Director of Planning and Community Development

Staff presentation:

Mitch Hammes, Manager of Neighborhood Services, gave a presentation to the commission detailing the City’s guidelines for retaining a Short Term Rental permit and listed the complaints received for the Short Term Rental located at 6040 Castlewood Lane.

- 7.5.1706 - establishes rules and regulations for the operation of short term rentals
- 7.5.1707 - sets forth procedures for revocation or suspension of a short term rental permit

Witness Testimony:

Al English, lives at 6035 Castlewood Lane (across the street from 6040).

Mr. English informed the commission of the complaints he had made to Neighborhood Services and the violations he documented at the residence.

Respondent:

Tanya Mitchell, owner of the residence located at 6040 Castlewood Lane, addressed the complaints as they were given to her by Neighborhood Services.

Ms. Mitchell also had several questions that she presented to the commission and to Neighborhood Services regarding what rules and regulations she actually broke.

Ms. Mitchell has specific questions that she would like answered:

- What is the definition of a large social gathering or event
- How many people can my guests have over for dinner
- What is the maximum occupancy for the house
- Should I ask all guests if they are related
- What violations were actually made
- How to answer to noise complaints when there were no warnings or citations from the police

Questions:

Supporters:

Bill Medeiros, 6050 Castlewood Lane (1:45:58)

- Against Ms. Mitchell turning the home into a short term rental
- Has not made a complaint due to medical problems
- A neighborhood has an implied covenant to quiet enjoyment
- This is a commercial business (a hotel)
- Six plus occasions where there have been at least 8 to 12 vehicles parked in front of his property
- Been at least 12 or 25 guests

Nicole Neff, neighborhood resident

- Noise issues every other week
- Gun was fired in the back yard repeatedly, police were called
- Wedding in the backyard

Janice Hill, neighborhood resident

- Noise issues
- This is a hotel
- Too many cars

Opponents of the revocation:

Melinda Salazar, resident in the vicinity of a short term rental unit owned by Ms. Mitchell

Karen McCaslin, resident in the vicinity of a short term rental unit owned by Ms. Mitchell

- Ms. Mitchell introduced herself as short term rental and gave her contact info

- Ms. Mitchell responded to all texts and complaints
- Ms. Mitchell was a good neighbor

Ryan Spradlin, operates the Short Term Rental Alliance in Colorado Springs Alliance works with the hosts and short term rental operators to try to make sure they are in compliance

- Would like to know the process on revocations
- In a meeting in January 2019 there was a conversation with City staff, short term rental groups and neighborhood groups discussing a remediation opportunity for a host to be able to resolve issues - was not written down
- Would expect more documentation evidence that would prove why revocation was necessary and what was done or not done to resolve the issue (call log, complaints, calls to police, citations, city correspondence)
- Seems the process is jumping to step Z without covering the bases along the way

Questions of Staff:

None

Rebuttal:

Mitch Hammes Rebuttal:

Mr. Hammes reiterated the conditions that were observed by the neighbors and what it says in the ordinance. Section 7.5.1706(D) says the use of the short term rental for any commercial or large social event or gatherings such as weddings is prohibited. Through the observations of the neighbors, we are here to determine if there was a violation.

Ms. Mitchell Rebuttal:

Ms. Mitchell said she submitted the guest count and put a response next to each of the complaints. Ms. Mitchell read some of the reviews she has received from some of the guests. Ms. Mitchell said there was someone who was getting married at Garden of the Gods and were only getting ready at the house. She was not aware of an actual wedding in the backyard.

Ms. Mitchell said she knew there was a 24/7 rule for guests, which she has provided her number and her husband's number. Ms. Mitchell said she looked into some kind of barrier for the backyard but didn't think a fence was really going to calm the storm. Ms. Mitchell explained that she is going to be selling the home, but would still like answers to her questions.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Raughton asked for clarification on revoking or suspending and what are the limitations.

Attorney Ben Bolinger read 7.5.1707(F): A suspended permit may be suspended for a term not to exceed 30 days and for so long thereafter until reinstated by the manager upon proof that the cause of the Suspension has been remedied.

Mr. Bolinger explained a revocation would be for a longer period and would be one or two years until they would be eligible to reapply, but a suspension is up to 30 days.

Commissioner Almy said there should be a better documentation process where somebody tells the applicant, you have to fix a, b, or c and you have so many days to comply. Commissioner Almy asked if there was a process defined for noncompliance or is there any other remedies other than suspension or revocation.

Mr. Hammes said in this case, the City is relying on the testimony of the neighbors or the witnesses and then coming to the Commission for a decision.

Commissioner Almy asked to verify that there was no homeowner's association because a homeowner's association has some rights under the short term rental to exclude or allow. Mr. Hammes said that was correct.

Commissioner Almy said it seemed we had a lot of anecdotal evidence, but it seemed like there should be some process and documentation on resolution before it comes to this stage of formal action of suspension or revocation. Commissioner Almy added what he heard today was more complaints about the ordinance and the fact they are being allowed in historically residential neighborhoods. Commissioner Almy asked if the whole ordinance was currently under review.

Mr. Wysocki said it was under review although there was not a discussion to prohibit short term rentals. The current discussion is about regulations and standards. Mr. Wysocki said this is not the venue to debate the pros and cons of short term rentals, but just to decide if there has been a violation. Mr. Wysocki said what was before the Commission today was whether or not there was a violation of 7.5.1706(D), which is holding a large event.

Commissioner Almy asked if there were any other statistic on short term rentals as far as number of complaints and time to respond. Mr. Hammes said he did not bring any data with him but typically the majority of complaints for short term rentals were operating without a permit. Mr. Hammes said they make contact

with those owners, educate them that they need a permit, and then they get it. There have also been a handful of other complaints that involve something other than not having a permit, but those have been corrected with the property owners and the neighbors.

Commissioner Eubanks said it sounded like the majority of the complaints were noise related and why hadn't there been citations. Mr. Hammes said there were two ways to measure noise, one being decibel levels code enforcement uses to determine if a facility having constant noise is going above certain decibel limits. The other is if there was a loud party where police are called, then the police enforce the disturbing the peace type noise ordinance. It would be up to the police department to handle the noise complaints such as these.

Commissioner Eubanks said the noise is something that applies to all residential neighborhoods and is not mentioned anywhere in the short term rental ordinance. The issue is more of a noise complaint than Ms. Mitchell actually breaking anything in the short term rentals except for the fact she was not always there to respond to the noise, whereas if she were living in the unit, she would be directly there to respond to it. Commissioner Eubanks said she was trying to decide if Ms. Mitchell actually violated anything in the short term rental ordinance in that regard.

Commissioner Eubanks said she agreed with Commissioner Almy that there should be some kind of mediation, and mentioned Ms. Mitchell stated she has had limited conversations with Mr. Hammes.

Mr. Hammes said he was not sure how many times he has corresponded with Ms. Mitchell. Mr. Hammes said when Ms. Mitchell asked what a large event was, he could not answer that because it is up to the Planning Commission to decide that. The code is vague in that definition, so it had to go before Planning Commission for a decision.

Commissioner Eubanks said if the code is too vague, then it does not necessarily mean Ms. Mitchell was breaking it. It just means the code needs to be rewritten or updated to state that. Commissioner Eubanks said she understood the neighbors' frustrations and how some Ms. Neff was trying to resolve the issue with Ms. Mitchell professionally through text messaging; however, the vast majority of the complaints, well over 100, were all from Mr. English. Commissioner Eubanks said it sounded like even before the rental was established, Mr. English had decided he was going to get rid of it. With that, Commissioner Eubanks said she was unsure how many of those complaints were valid in his regard.

Commissioner McDonald asked Mr. Hammes for confirmation on whether there

were no other written warning notices given to the owner of this property prior to the actual hearing today. Mr. Hammes said that was correct.

Commissioner McDonald said she knew the code was vague, but it seemed to her that Neighborhood Services would have given some kind of written notice prior to it actually happening. Mr. Hammes explained a Show Cause Hearing was given, which in the ordinance is the first step. So there was not a notice of ordinance violation or anything else like what is done for a different code enforcement case.

Mr. Wysocki asked Commissioner McDonald if she was asking the question whether or not Neighborhood Services provided any written communication with notification saying numerous complaints were received. Commissioner McDonald affirmed that was her question.

Mr. Hammes said there had been conversations, emails, and informal communications that there were complaints being received about this property.

Commissioner McDonald asked if the communication was official, and Mr. Hammes said there was nothing that said there was a violation of a specific code.

Commissioner Rickett asked Mr. Hammes to expand on Ms. Mitchell claiming she has no control over how many people occupy the property and that she was not responding to phone calls nor returning voicemails from neighborhood services.

Mr. Hammes said on or about August 24, he left a voicemail for Ms. Mitchell using the number on the application asking her to return his phone call to discuss the short term rental permit. Mr. Hammes said he has still not received a return phone call. After waiting 14 to 16 days, it was decided to move forward.

Commissioner Rickett said there might have been an opportunity to have a written letter asking for a conversation regarding this. Mr. Hammes said looking back, that could have been something that was done.

Commissioner Hente said in looking throughout the Short Term Rental ordinance, he did not see anything that talks about noise and asked if that would revert back to the normal city ordinances that covers those items in terms of people in the house and the noise levels.

Mr. Bolinger said there are a set of rules and regulations that every STR has to meet. 7.5.1706(A) says all short term rentals shall abide by all applicable noise, housing and public health ordinances of the city and with all other city and fire

safety ordinances.

Commissioner Hente asked Mr. Hammes if he knew if the police responded to any noise complaints and spoke to the property owner. Mr. Hammes said he does not know because it would have been the police who responded.

Additional Rebuttal from Ms. Mitchell:

Ms. Mitchell said she was unaware of a wedding and never allowed a wedding. Ms. Mitchell said her advertisement says no parties or events at the house. Ms. Mitchell asked that if her permit were to be suspended to please let the guests she is expecting tomorrow stay there.

Commissioner McDonald said she knows the ordinance is very vague, but felt like there should have been some sort of notification officially given before it got to this point. Commissioner McDonald told Ms. Mitchell that she seemed like a reasonable person and she felt like Ms. Mitchell would have attempted to correct any issues. Commissioner McDonald said she was not going to be in favor of suspending the permit.

Commissioner Raughton said he would be supporting the suspension, perhaps starting in a week or something like that to provide for this one occupant.

Commissioner Eubanks said she was not going to support a suspension because she did not believe the primary person who complained has given Ms. Mitchell the opportunity to work with him. She believed Ms. Mitchell tried to work with him, but every time Ms. Mitchell was threatened, and for that reason, Ms. Mitchell should not be suspended.

Commissioner Hente apologized to both sides as this was the first time something like this was being presented to the commission. Commissioner Hente said he is very sympathetic to the neighbors, but the commission has to follow the rules that were laid out in the ordinance. Commissioner Hente agreed with Commissioner McDonald in that the city has not made the point that the permit should be suspended at this time because there was not a lot of interaction with Ms. Mitchell. He said he could not support a suspension at this time because he was not sure the city has done all it could to work with Ms. Mitchell in that regard.

Commissioner Almy echoed he was sympathetic with the surrounding homeowners, but the underlying process needs to be beefed up somehow with sufficient documentation that the owner was notified and told to respond in some way. Commissioner Almy said he would not be supporting a suspension.

There was a question to the city attorney if there could be a delay in the

suspension. Mr. Bolinger said the code outlines the suspension will be effective immediately upon the decision of the Planning Commission.

Motion by Commissioner Rickett, seconded by Commissioner Eubanks, finding that City Codes 7.5.1706.A and 7.5.1706.D pertaining to Short Term Rental Rules and Regulations have been violated by the respondent.

The motion passed by a vote of 5:2:2:0

Aye: 5 - Vice Chair Hente, Commissioner Raughton, Commissioner Eubanks, Commissioner Rickett and Commissioner Wilson

No: 2 - Commissioner McDonald and Commissioner Almy

Absent: 2 - Commissioner McMurray and Chair Graham

Motion by Commissioner Rickett, seconded by Commissioner Eubanks, finding there should be no suspension or revocation of the Short Term Rental permit STR-0149.

The motion passed by a vote of 6:1:2:0

Aye: 6 - Vice Chair Hente, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

No: 1 - Commissioner Raughton

Absent: 2 - Commissioner McMurray and Chair Graham

7. Presentations/Updates

8. Adjourn