



City of Colorado Springs

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

Meeting Minutes - Final Planning Commission

Thursday, August 18, 2016

8:30 AM

Council Chambers

1. Call to Order

Present: 6 - Chairperson Eric Phillips, Robert Shonkwiler, Jeff Markewich, Ray Walkowski, Carl Smith and Vice Chair John Henninger

Absent: 3 - Sherrie Gibson, Rhonda McDonald and Reggie Graham

2. Approval of the Record of Decision (minutes) for the July 21, 2016 City Planning Commission Meeting.

3. Communications

[CPC-038](#) Chairperson Eric Phillips

[CPC-002](#) Director Updates, Peter Wysocki

Motion by Walkowski, seconded by Vice Chair Henninger, to postpone indefinitely Item 5.A. CPC CA 16-00079 An ordinance amending Part 5 (Geological Hazard Study and Mitigation) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to geological hazard study and mitigation.. The motion passed by a vote of

Aye 6 - Chairperson Phillips, Shonkwiler, Markewich, Walkowski, Smith and Henninger

Absent 3 - Gibson, McDonald and Graham

CONSENT CALENDAR

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

4. CONSENT CALENDAR

Motion by Vice Chair Henninger, seconded by Walkowski, 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 6:0:3

Aye 6 - Chairperson Phillips, Shonkwiler, Markewich, Walkowski, Smith and Henninger

Absent 3 - Gibson, McDonald and Graham

- 4.A.1** [CPC MP 06-00219-A7 MN16](#) A minor amendment to the Flying Horse Master Plan changing 13.58 acres from Residential 2 - 3.5 dwelling units per acre to Residential 3.5 - 8 dwelling units per acre, located southeast of the future extension of Hawk Stone Drive and Ridgeline Drive.

(Legislative)

Related Files: CPC PUZ 16-00074, CPC PUD 16-00076

Presenter:

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

A motion was made that this Planning Case be referred to City Council. The motion carried by the following vote: 6:0:3

- 4.A.2** [CPC PUZ 16-00074](#) An ordinance amending the zoning map of the City of Colorado Springs pertaining to 13.58 acres located southeast of the future extension of Hawk Stone Drive and Ridgeline Drive A (Agricultural) to PUD (Planned Unit Development; single-family attached residential, 3.679 dwelling units per acre, 30-foot maximum building height).

(Quasi-Judicial)

Related Files: CPC MP 06-00219-A7MN16, CPC PUD 16-00076

Presenter:

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

A motion was made that this Planning Case be referred to City Council. The motion carried by the following vote:6:0:3

- 4.A.3** [CPC PUD 16-00076](#) A PUD Development Plan for Cortona at Flying Horse illustrating a layout for a 13.58 acre site to be developed with 54 single-family attached residences, located southeast of the future extension of Hawk Stone Drive and Ridgeline Drive.

(Quasi-Judicial)

Related Files: CPC MP 06-00219-A7MN16, CPC PUZ 16-00074

Presenter:

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

A motion was made that this Planning Case be referred. to City Council. The motion carried by the following vote: 6:0:3

Approval of the Consent Agenda

5. UNFINISHED BUSINESS

5.A. [CPC CA 16-00079](#) An ordinance amending Part 5 (Geological Hazard Study and Mitigation) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to geological hazard study and mitigation.

(Legislative)

Presenter:
Peter Wysocki, AICP, Director of Planning and Community Development

A motion was made by Walkowski, seconded by Vice Chair Henninger, that this Planning Case be postponed indefinitely.. The motion passed by the following vote: 6:0:0

Aye 6 - Chairperson Phillips, Shonkwiler, Markewich, Walkowski, Smith and Henninger

Absent 3 - Gibson, McDonald and Graham

6. NEW BUSINESS CALENDAR

6.A. [CPC CA 16-00086](#) Ordinance No. 16-97 amending Section 1503 (Home Occupation Permit Standards and Criteria) of Part 15 (Home Occupations) of Article 5 (Administration and Procedures) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, relating to the production and sales of plants, fruits, vegetables and cottage foods.

Presenter:
Peter Wysocki, Director of Planning & Community Development

STAFF PRESENTATION:

Peter Wysocki, Planning and Community Development Director gave a Power Point presentation.

Questions: Commissioner Shonkwiler asked for clarification on what staff was recommending. Mr. Wysocki said staff was not recommending approval right now.

Commissioner Walkowski asked about for the language in the draft ordinance.

Commissioner Markewich asked for clarification on the meaning of a stand and where it could be; signage at the home and HOA's approval. Mr. Wysocki gave clarification on all three items. Commissioner Markewich

asked for clarification regards if an HOA is formed after this ordinance was adopted and says no stands can it be enforced. Both Mr. Wysocki and City Attorney Marc Smith stated what an HOA does is a private matter and the city doesn't get involved in those situations.

Commissioner Phillips asked about who would inspect these stands to ensure they're in compliance. Mr. Wysocki said Neighborhood Services would do that.

Commissioner Walkowski asked about parking along on the street.

APPLICANT PRESENTATION: Meggan Andreozzi, Food Policy Advisory Board Chair, gave some history about the board and its purpose. CONO is in support of the ordinance. Tom Gonzales with El Paso County Public Health provided comment to Ms. Andreozzi that the ordinance does not conflict with any Colorado Board Health rules governing food safety. Colorado Springs has 18 farmers markets. There are out of state items sold at these farmers markets and the few farmers markets cannot grow their own food supply enough to support a city the size of Colorado Springs. So people will go and by large quantities produce from other stores and sell them at their own food stands. Local growers are minimal. The area has lost local growers. Growing and selling food in your own local area and neighborhood can build community connection.

Questions: Commissioner Markewich asked if the Denver Ordinance is exactly the same. Ms. Andreozzi said yes, the only difference is the signage. Commissioner Markewich asked about the number of stands that have been approved in Denver. Ms. Andreozzi said a handful since 2014 less than 50. He also asked if there had been any code enforcement issues. Ms. Andreozzi said no. Commissioner Markewich commented about food not grown on site, but bought at a store, then sold it at a stand. Ms. Andreozzi said farmer's markets do that all the time. Commissioner Markewich asked where else this had been successful. Ms. Andreozzi said Wheatridge and Arvada.

Commissioner Shonkwiler asked if Ms. Andreozzi knew El Paso County's policy was for selling foods and if sales tax was collected. Ms. Andreozzi said she didn't know the County's policy and no sales tax is collected because it's food.

Commissioner Phillips asked how many people had Ms. Andreozzi spoken to in the community. Ms. Andreozzi said they've not had town hall meetings but the board members all are affiliated with 25 other different food organizations in town and those were in favor of something like this. Commissioner Phillips asked how she knew that. Ms. Andreozzi said there's been conversation within the community and she's been involved in local food for eight years and there have not been any objections to something like this. Commissioner Phillips asked how they would get the word out if this passed. Ms. Andreozzi said there could be several avenues they could use.

Commissioner Smith asked if low income areas were a targeted group. Ms. Andreozzi said she'd like to see it start there because the need is there.

APPLICANT PRESENTATION: Ms. Aikta Marcoulier, Small Business Development Center Executive Director in the Pikes Peak region gave a Power Point Presentation and spoke about the business side of the ordinance. They have collaboration with El Paso County Public Health and the CSU Extension office for expertise and education of those involved in the cottage food industry.

Access to locally grown food and supporting locally grown food businesses will create economic vitality and development. El Paso County Public Health does not have concerns about this moving forward.

This will not disturb neighborhoods, is won't be like large farmers markets. It will be a few people selling from their homes. She agrees there needs to be more conversation about this. They want to work with CONO, El Paso County Public Health, CSU Extension and HOAs.

They are in support of creating new opportunities for employment and creating economic impact that includes being socially responsible and creating community.

Questions: Commissioner Markewich said he didn't see language in the ordinance about food safety course. Ms. Marcoulier said it wasn't mandated.

Citizens in Support: Elise Rothman with Pikes Peak Small Farms is in support of the ordinance. Something like this would improve walkability in a neighborhood and shows social cohesion and economic vitality of the neighborhood.

Zac Chapman the Executive Director of the Colorado Springs Food Rescue and resident of the Venetian Village and lives on an urban homestead. He sees this as a positive for the community and a help revitalizing the local food economy and civic engagement in Colorado Springs. Commissioner Phillips asked how they focus these types of stands and get the product there in the lower income communities. Mr. Chapman said there are already local food growers in various areas.

Commissioner Shonkwiler asked if a church or group wanted to have a back yard garden and sell it from the parking lot, the way the ordinance is written says you have to live there. Mr. Chapman said he'd let Ms. Andreozzi answer that question. Commission Shonkwiler asked if they changed to ordinance to allow that then groups and other organizations could have that as well. Ms. Andreozzi said she didn't know the code for a community garden and what that looks like.

Ruth Markwardt lives and works on Prospect Farm which is an urban tiny farm. Right now they are allowed to sell their produce but only two times a year under the garage sale laws and this isn't practical. She'd like them to approve this particularly since 98% of the food in Colorado comes from out-of-state. That's 98% of local dollars that could help with economic vitality in our communities.

Commissioner Markewich asked if their farm could apply to be a farmer's market. Ms. Markwardt said there are no farmer's markets in the neighborhood and to be a farmer's market requires a lot of restrictions. Ms. Markwardt explained she rents a home and the ordinance would directly affect her situation.

Commissioner Smith asked Ms. Markwardt to clarify what she does. Ms. Markwardt said her farm is project that's a partnership between Pikes Peak Small Farms and Pikes Peak Urban Gardens and UCCS. The idea is to have healthy fresh food along with educational programming in these areas. Ms. Markwardt said it was at the home she rented, it's a little less than one acre and located two blocks north of Fillmore on Prospect.

Elise Rothman explained these are not commercial farms they are just back yard farms. El Paso County's Health interpretive memo specifically addresses back yard farmers and private gardens.

Citizens in Opposition: NONE

Questions of Staff: Commissioner Shonkwiler asked if there was a way to allow a church group or other community organizations to sell produce grown on their premises it's a potential additional benefit.

Mr. Wysocki said city code allows community gardens in the residential districts and most commercial / industrial districts with a couple of exceptions. They are talking about selling what you produce for cottage foods on your property. He wasn't sure how to include what Commissioner Shonkwiler is suggesting without going back and rethinking it. To switch to would require a completely different ordinance. Commissioner Shonkwiler said if possible he'd like to change it to say something to the effect that if it's grown on site, it can be sold on site.

City Attorney Marc Smith said the ordinance was drafted to be in the home occupation section of the code. To do what Commissioner Shonkwiler suggested would cause them to take a step back and rework it. This is to fix a specific issue and if they expand beyond that, it wasn't noticed that way for the public and he wasn't sure where something like that would be in the code.

Commissioner Shonkwiler said it might be a step to far but it seemed something like this could have positive community benefits but he didn't want to delay it based on his suggestion.

Commissioner Markewich said if HOAs would have to draft new language for the bylaws. Mr. Wysocki said it was up to the HOAs on how strict or specific they want their bylaws to be and the city wouldn't be involved in those suggestions.

Commissioner Markewich asked about adding a food safety course that prior to the home occupation permit. Mr. Wysocki said they're open to it but if added to leave it loosely so it's not restrictive to one agency or another.

Commissioner Smith said much of what was discussed is outside of what

they were charged with regarding the ordinance. Mr. Wysocki said he was correct. The ordinance is very narrow and specific and regarding home occupations.

Rebuttal: Ms. Andreozzi liked what Commissioner Shonkwiler suggested about broadening the scope but this is more focused on the residential piece but it's the first step.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Shonkwiler said he thought this was a great experiment and could be good for multiple things and cannot find any difficulty with it. It may not be perfect and may need some tweaking down the road but it is a first step and intends to support it.

Commissioner Markewich said he agrees for the need for something like this and it can be good for the community overall. He'd like something in the ordinance for some type of food safety course or certificate if that's not part of the ordinance, he will not support it.

Commissioner Henninger said he didn't see an issue with the ordinance or having a stand in the neighborhood. He doesn't think there would be a lot of traffic. This is a great opportunity for the community. His concern is they're doing an ordinance for a specific situation one that could possibly encourage something within the community. He doesn't want to expand it. He'd be in support.

Commissioner Smith said he's conflicted on the ordinance but understands children need healthy food. He thinks there needs to be more community input because some neighborhoods won't want this. He likes the whole idea of community gardens and a church group but that's a different situation. He doesn't like the idea of imposing a food safety course because it's just another regulation. So he hasn't completely made up his mind.

Commissioner Walkowski said supporters made compelling argument for access to local food and produce. He thought it was good for community building, neighborhood connections and that is a lot of what the comprehensive plan will focus on. There are possible unintended consequences but the scale will be limited and if it becomes an issue, there are ways to address them. He also believes the idea of community gardens and common gardens is something that should be looked at. The safety or health concerns, they could include that in the home occupation permit requirements without them having to detail that at the dais. So he will be in support.

Commissioner Phillips said at first he had several issues with this, but after reading through and listening to the comments he thinks this will be a good project. He thinks the chemical on the food in the grocery store will be worse than what's grown in people's back yards. He has a concern with Commissioner Markewich's proposal. He started with the garden down in the south part and it's still going 10 years later and it's growing. He believes parking will not be an issue and doesn't believe a lot of people will be doing this. He thinks there needs to be more outreach but he will be in support.

Motion by Shonkwiler, seconded by Walkowski, to Recommend adoption to City Council of an ordinance amending section 1503 (Home Occupation Permit Standards and Criteria of Part 15 (Home Occupations of Article 5 (Administration

and Procedures of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, relating to the production and sales of plants fruits, vegetables and cottage foods. The motion passed by a vote of 5:1:2

Aye 5 - Chairperson Phillips, Shonkwiler, Walkowski, Smith and Henninger

No 1 - Markewich

Absent 3 - Gibson, McDonald and Graham

6.B.1 [CPC ZC 16-00082](#)

An ordinance amending the zoning map of the City of Colorado Springs pertaining to 11.06 acres located northeast of Union Boulevard and Continental Heights from PBC (Planned Business Center) to OC (Office Complex).

(Quasi-Judicial)

Related File: CPC CP 16-00083

Presenter:

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

STAFF PRESENTATION:

Katie Carleo, Principal Planner gave a Power Point presentation

APPLICANT PRESENTATION:

Jose Kreutz with Watermark Development gave a Power Point presentation about the communities they build and amenities they provide. Communities are resort like.

Questions: None

Citizens in Support: Joe Berkhahn with Continental 140 LLC representing the owner and in support of the project. They've tried for more than ten years to market this site out to various retailers of all different types with no takers so having Watermark have an interest in the area and the development is a positive sign.

Citizens in Opposition: Rhonda Lott is a neighbor in the Cordera area. The apartment complex adjacent to this has a high density and with this proposal it makes this area extremely dense. Why do they need another apartment complex right next to each other when there are other locations along Powers Corridor that are already earmarked for multi-family. She isn't opposed to apartments but just not in that location. She is also concerned about the parking. She is also opposed to the height.

Dwayne Harley is concerned about parking, pets, cleaning up after pets and schools that are already at capacity. His other concern is traffic. The traffic studies have not taken into consideration those apartments and the traffic from all the ones in the area that are being built.

Beth Hays is opposed because she and her husband believe it will hurt their home value. She's also concerned about the apartment complexes that are already being built. Apartments can be built fairly quickly which doesn't give the school district time to plan for the influx of students and all schools at all levels are already over capacity. She's also concerned about the parking and the stress it will put fire and police response.

David McCullum just moved into Cordera this week and his biggest concern is the amount of the multiple complexes in the area. The single-family homes are being built at a tremendous rate in this area and to stack multiple complexes in the area is not doing the area justice. To have multi-family complex stacked on top of one another didn't make sense.

Daniel Lee is concerned about the school capacity. If more kids come into the area they would have to overflow to one of the nearby schools and still more single-family homes to be built. Families that move into the area and have kids, cannot go to the school right in their neighborhood because of overcrowding right now.

Questions of Staff: Commissioner Markewich stated that information in their packet says District 20 didn't have any objections to this use. Mr. Smith who's contracted with District 20 spoke in regards to when they receive buckslips they limit their comments to the direct effect on the school district. They look at the number of students to be generated by the project, traffic issues and if it is an objectionable business next to a school. This property has been vacant for a long time. This project should generate 36 students (19 would in the elementary, 5 in middle school and 9 in high school).

Commissioner Markewich asked when analysis is done did they look at the district as a whole because neighbors have mentioned the elementary school is already overcrowded. Mr. Smith said they look at the specific location where the development will occur. The east side of the district is looking at alternatives due to growth. A bond issue will be brought forward to the ballot to build two new elementary schools, additions at the high schools and a new middle school. Right now they don't have the capacity to keep up with the growth.

Commissioner Markewich said they've seen several projects in and around this area that already have land dedicated for schools. Are there areas that have been designated for elementary schools that haven't been built yet? Mr. Smith said yes they have several sites.

Commissioner Henninger asked if the number of students on the west side of Powers for District 20 has stabilized. Mr. Smith said in the existing older areas of Briargate there is some stabilization and decline. They are moving some of the modular trailers from those schools to the east side of the district. West of I-25 is stabilized and in the future they may face what D-11 is facing with declining enrollment. Commissioner Henninger said that's why he asked about the projections of when and where to build for the future.

Commissioner Shonkwiler asked if District 20 has a plan 30-40 years from now for the schools that are being built now that would have to be closed as it happens when areas are older and more established. Mr. Smith said for something that far out - no. But that issue will be there but as we will have some vacancy on the west side of I-25 but it's inefficient and costly to bus kids from the east side to the west side. Commissioner Shonkwiler asked how many of the students at Chinook Elementary are residents to that area and how many are choice students. Mr. Smith said he didn't have those exact numbers because it's outside his job description. District 20 offers a choice program so there as long as there is room students can move to different schools. The problem happens that students are coming in faster than seats can be made available.

Commissioner Phillips asked Kathleen Krager, Transportation Manager, what traffic will look like with the apartments and with the growth in the future. Ms. Krager said a traffic impact study was done in 2005 as part of the master plan. It looked at total development for the future as well as traffic projections. Some changes in development can cause an updated trip generation report. These apartments were compared to retail uses which is what was proposed in the conceptplan and the apartments would generate about 1,600 trips per day and the shopping center would generate about 4,000 trips per day.

Commissioner Markewich asked about parking around the area and what is the situation, from an overflow standpoint. Ms. Krager said parking requirements are usually adequate for apartment buildings unless there is a specific use, like student housing, then they ask for more. When apartments have people parking on the street, it's usually because parking on the street is closer to where they're going. Commissioner Markewich asked if all the streets, with the exception of Union, would have on street parking. Ms. Krager said yes.

Commissioner Shonkwiler stated there wasn't an access point from Union into that neighborhood so it would be impossible for anyone in the apartment project to access that neighborhood without going down the street and coming back. Ms. Krager said that was correct.

Commissioner Markewich asked Ms. Carleo to describe the parking requirements. Ms. Carleo said they are meeting the requirement per the code regarding all parking.

Commissioner Smith asked about police and fire response and what their comments were about this project. Ms. Carleo said there were no concerned comments from either department.

Rebuttal: Jose Kreutz said they have 421 parking stalls proposed, 68 of those are garages. Regarding school age children they expect 19 children from their development. Why apartments - there has been a move with people going back to live in apartments in the last 10 years. He has the data to show why peoples are choosing that if the Commissioners' want it.

Commissioner Smith asked what would be the demographics of people in the apartments. Mr. Kreutz said there would be a very wide demographic of all kinds. Their development is for a more established renter rather than a first time renter. Rents are \$1600-1800 a month, 82% of their units will be a 1 and 2 bedroom units divided equally and the balance being 3 bedrooms.

Commissioner Phillips asked Kyle Campbell about the value of the surrounding homes in relation to the apartments or commercial property. Mr. Campbell said he was probably not the correct person to ask that on this project. Mr. Kreutz said his information would be anecdotal. They are building units to about \$200,000 and building 240 units. So the value on a square foot basis they're high and that's how an appraiser would look at it as well.

Mr. Wysocki stated comments can be raised when there are zone changes from commercial to multi-family that the change could affect property values negatively. Literature in their profession states there is virtually no impact to property values. The north and northeast part of the city is seeing a healthy appreciation to home values and there is a mix of housing choices in this area. However what affects property values are dilapidated and underutilized vacant properties.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Markewich said he supports the zone change. We look at the comprehensive plan and the city codes and they cannot tell the developer whether it's good to build something similar right next to each other. A large concern was the school situation and the district answered his questions regarding overcrowding. The project complies with the city code, the codes for rezoning as well as with the comprehensive plan and will be in support.

Commissioner Henninger said he looked at the benefits to the community and people; then looked at the criteria they have to review for concept plans. There are eight criteria to see if it impacts the surrounding area or not. Criteria five asks, "if the development will overburden streets, utilities, parks, schools and other public facilities." He focused on schools. District 20 is going to build additional schools due to the growth in the area and this will be on the ballot this year, so there should be relief in the near future. If it wasn't for that, he could see not supporting it, but there is relief that will happen shortly. As far as the project, overall it's a good project; it's compatible with the area, so he'll be supporting the project.

Commissioner Smith concurs with what Commissioner Henninger said. In addition to the change of zone, we're in compliance with the criteria for a zone change, therefore he will be in support of the project.

Commissioner Walkowski said he thanked everyone for coming out and voicing their concerns. They listened to all of those concerns and the testimony was that traffic will be less; schools we can't do anything about that, so he suggested talking to the school district about the overcrowding. As far as retail, retail usually follows density, and regarding fire and safety an infill site provides better support. The criteria for the zone change are met along with the criteria for concept plans, so he will be in support.

Motion by Markewich, seconded by Smith, to Recommend approval to City

Council the zone change from PBC (Planned Business Center) to OC (Office Commercial), 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 6:0:3

Aye 6 - Chairperson Phillips, Shonkwiler, Markewich, Walkowski, Smith and Henninger

Absent 3 - Gibson, McDonald and Graham

6.B.2 [CPC CP 16-00083](#)

Watermark at Briargate Concept Plan illustrating conceptual layout for the 11.06 acre site located northeast of Union Boulevard and Continental Heights, to be developed as a multi-family apartment complex. (Quasi-Judicial)

Presenter:

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

Please see minutes recorded for this item under 6.B.1

Motion by Markewich, seconded by Smith, to Recommend approval to City Council the Watermark at Briargate Concept Plan, based upon the findings that the concept plan meets the review criteria for concept plans as set forth in City Code Section 7.5.501(E).. The motion passed by a vote of 6:0:3

Aye 6 - Chairperson Phillips, Shonkwiler, Markewich, Walkowski, Smith and Henninger

Absent 3 - Gibson, McDonald and Graham

6.C. [CPC SWP 16-00057](#)

A request to postpone an appeal of the City Planning Commission’s approval of a subdivision waiver from design standards to provide legal access via a public alley to the property addressed as 543 Robbin Place.

(Quasi-Judicial)

Presenter:

Michael Turisk, Planner II, Planning and Community Department
Peter Wysocki, Director of Planning and Community Development

STAFF PRESENTATION:

Michael Turisk, Planner II gave a Power Point presentation. He discussed where the property is located, what it’s zoned, surrounding zones, what is the type of homes in the area, as well as the west side overall plan. He has spoken with city traffic about the alley and they will make the alley a One-Way access. City fire has also recommended mitigation of the potholes for the entire length of the alley. In a recent conversation with city fire they are “OK” with the alley. Initially there was a suggestion to widen the alley but from a practical standpoint that would be difficult. The access point from west Boulder must be mitigated or enlarged for fire apparatus. The final suggestion from city fire is the applicant would be required to install sprinkler systems in the units. A neighborhood meeting was done in June and they received 13 letters of opposition. We’ve encouraged the applicant to work

with the neighbors which he's done.

APPLICANT PRESENTATION:

Paul Rising with Tara Custom Homes and owner of the property. He's owned the property for about 13 years. His plan is to build nice duplexes and comply with all ordinances and code and submit plans in the next few weeks.

Questions:

Commissioner Shonkwiler asked if Mr. Rising had any problems for the requirements for repaving the alley and putting in sprinkler systems. Mr. Rising said no.

Commissioner Smith asked if Mr. Rising will repave the entire alley not just fill the potholes. Mr. Rising said he would comply with what the fire department stated in the letter sent to him and that was to fill the potholes and improve both ends of the alley.

Commissioner Smith asked about the highest point where the property is located. Commissioner Smith verified there'd be no build in the preservation easement. Mr. Rising said no.

Commissioner Smith asked if Mr. Rising would try to level out where building the duplexes. Mr. Rising said driveways will gradually slope up to the garages, foundations, and will be like a front walk out and the main level will be ground level on the rear of the property.

Commissioner Smith said what the depth would be. Mr. Rising said about 40 feet.

Commissioner Smith referenced the geological information about the piers drilled and how would that be done. Mr. Rising said there'd be 44 piers drilled across the backside, every seven feet, seven feet apart and alternate back and forth across the property. They'd be 24 inches in diameter and 35 feet deep and that is to just to comply with the Geohazard.

Commissioner Smith asked what types of soil material the piers will bear on. Mr. Rising said at the bottom, Pierre Shale. Commissioner Smith asked how deep into the shale will they be. Mr. Rising said he didn't know; Entech did all the engineering.

Commissioner Smith asked if there would be any type of material that would go from one pier to the next as a type of retaining wall. Mr. Rising said no

Commissioner Walkowski commented about parking and how far the driveway was setback from the alleyway. Mr. Rising said 25 feet and 20 feet wide so potentially four cars could park in the driveway along with two in the garage.

Commissioner Walkowski asked where drainage flowed from this development. Mr. Risen said to the alley and tie into the city system if they can. Commissioner Walkowski asked if there was a way to do that because

there's nothing to tie into in the alley so when the water from rain and down spouts comes and there are sheets of water, they have to go into something. Mr. Rising said the down spouts are along an underground drainage to the alley. Commissioner Walkowski asked if he had an engineering report for that. Mr. Rising said yes.

Commissioner Walkowski said the Geotech Report from Colorado Geological Survey says the area is susceptible to future landslide activity but you're going to try and mitigate that with pillars, correct. Mr. Rising said he was complying with everything Entech designed.

Commissioner Walkowski said reading the report what he's trying to make sure of is that what is being done won't affect the neighbors. Mr. Rising said he understood and the submittal from Entech to Colorado Geohazard has all been reviewed and approved and they plan to comply. Entech and their engineers plan to be out at the site when drilling happens. Commissioner Walkowski said staff recommends plat notes regarding the Geotech hazard site. Mr. Rising said that was correct and Entech will submit a letter after they're done.

Commissioner Markewich asked if there were plans to divert drainage before it comes to the duplexes. Mr. Risen said yes.

Commissioner Markewich said information at the Informal meeting and in their packets it said the 12-foot alley would become a 20-foot wide and be improved. That's different from what Mr. Turisk said today. Mr. Risen said a 20-foot alley is impossible they'd only do improvements.

Commissioner Markewich asked if it'd be a three-story building. Mr. Rising said yes, with a flat top roof and 32-feet high.

City Attorney Marc Smith gave some clarification to narrow the focus. They are looking at a very narrow portion of the project related strictly to access. A project has to have access off a street. Due to topography of the area that is not possible; so the question is if the Planning Commission will grant access in the alley. Geotechnical and drainage issues will be reviewed administratively. The focus needs to be on the specific subdivision waiver and the review criteria under the subdivision code.

Commissioner Shonkwiler stated correspondence in their packet from Steve Smith with City Fire stated, "The alley must be paved with all potholes repaired." It doesn't say it's in front of your property or the entire length of the alley. Mr. Risen said Steve Smith was at his property and said a couple of times, "all you need to do is repair the potholes and improvements to each side of the alley." Mr. Turisk said per Steve Smith with city fire, Mr. Smith recommended a plat note stating, "All pot holes on Robbin Place will be repaired prior to building permit," thus to Mr. Turisk it meant the entire alley.

Commissioner Shonkwiler reiterated he was making sure that everyone knew exactly what was expected. Mr. Turisk said Mr. Rising's property is

some of the worst. There are specifics that discuss Entech's, Colorado Geological Survey's, and city staff's concerns along with City Fire's access for their apparatus. Thus the reason for the plat notes as well as making sure that any buyer has as much disclosure as possible before they purchase.

Commissioner Smith said he understands what'd they're to do, but he's very concerned about how this will be built. Mr. Turisk said if this is approved the applicant would only need to submit a building permit. However, oversight would continue by other reviewing experts to ensure it agreed with all recommendations. Today we're here to discuss access and the only way to grant access to this area is from the alley.

Commissioner Smith said he understands what their focus should be but he's concerned about how this will be built. Mr. Turisk said if approved the applicant would only need to submit a building permit. However, oversight would continue by him and other reviewing experts. Commissioner Smith said he wanted the development plan come back to them. Mr. Turisk said there wouldn't be a development plan for something like this. Meggan Herrington, Planning Manager, stated they wouldn't see it again because each zone district is treated differently regarding development. In this situation this would come in with a final plat and move straight to building permit. If you're uncomfortable just having potholes repaired and not paved you can put conditions on the approval.

Citizens in Support: None

Citizens in Opposition:

Sarah Poe lives in the neighborhood and is speaking on behalf of several them. They aren't opposed to development but want to make sure what is developed is safe. She understands this is just about the waiver but in the code the waiver states, "The development needs to have a benefit that will outweigh the harm to property owners under A2. Under B1 it states, "The development will not be detrimental to the public good." They think there will be increased hazards to the neighborhood which include land slippage and the access and want to voice all their concerns. The Geological Survey says, "The slope as it is today is marginally stable and susceptible to future landslide activity." They feel this is unsuited for safe development because this hillside could end up in their backyards. Regarding a disclosure statement to future homeowners this alone will lower their property values. Widening at the entrance and exit ways could impede on homes on the corner. Not only is the access difficult for a firetruck and emergency vehicles but for day to day traffic. Fixing potholes before construction doesn't make since. The storm water issues are significant because right now all the water from the hill comes down the alley and into their back yards. They feel this development is not compatible and harmonious with their neighborhood because a three-story high duplex doesn't make since in a single-family area.

Welling Clark with the Organization for the Westside Neighbors, the HOA for this area said in a letter, "If the alley access is the only hurdle to construction intended by the property owner, OWN, the Organization for

Westside Neighbors recommends the request for the alley access be denied.”

Commissioner Markewich asked if Ms. Poe’s home back up to the alley, she said it did. Commissioner Markewich asked about traffic in the alley. Ms. Poe said just those few access their garages and the garbage trucks.

Don Hargrove lives on Cooper on the east side of the alley at the very south end of this property. The alley has been raised twice that he knows of but due to the runoff from Chestnut after they built on top of that hill all the water comes down the alley. The alley was chip sealed three years ago and they have potholes because of the run off from this property. The trash trucks have a hard time in this alley. Since the alley has been raised he’s had to put a lip in his garage to keep the water from running into the garage. A chip sealed it won’t last. If they build these units will there have to be a new water and sewer line. The neighbors aren’t against building but want it within reason but understands they are talking about the alley and not the building area.

QUESTIONS OF STAFF:

Commissioner Markewich asked for clarification about the alley. At Informal he heard the 12-foot alley was not sufficient and a quote from city fire says, “the alley was measured approximately 12-feet and fire code requires fire lanes to be 20-feet minimum.” Mr. Turisk said in the initial review city fire provided broad statements regarding the project and viability regarding emergency services access and said widening the alley. Mr. Risen met with city fire staff on two occasions and per the formal comments provided by city fire they have indicated widening of the alley wouldn’t be necessary but to help mitigate concerns the applicant would be compelled to install city approved sprinkler systems in the units, repair the pot holes, and mitigate entrances to the alley from Boulder and St. Vrain.

Commissioner Markewich asked if that information was in their packet. Mr. Turisk said he didn’t know it could’ve come in after the packet was completed. Commissioner Markewich said this was a significant change and that was disturbing that it was changing on the fly. Commissioner Markewich quoted from an email where it says, “The alley is a mixture of decomposed pavement as well as some intact pavement with potholes throughout. The alley must be paved with all potholes repaired.” So it sounds like pothole repair is not sufficient. Mr. Turisk said per city fire’s recent comments they recommend notes on the plat that read, “All potholes on Robbin Place shall be repaired prior to building permit application.” Commissioner Markewich said this also that had changed since Informal. Mr. Turisk said it seemed that way.

Meggan Herington, Planning Manager, stated as part of the review of the subdivision waiver while unclear on what fire recommended the Planning Commission could change that condition to say that it be has to be paved because it’s directly related to access of the alley.

Commissioner Markewich asked if they have the ability to require widening.

Ms. Herington said she didn't know if that was possible. The right-of-way for the alley is 20-feet. The pavement mat is 12-feet. Theoretically you could expand the alley within that right-of-way but there are overhead utility lines that will prevent that. Some of the confusion may be from what's the right-of-way, what's the alley, verses what is the actual drivable width of the alley. Mr. Turisk said he indicated earlier widening the alley is not doable because of the overhead utility lines and other infrastructure as well as private structures close to the pavement mat.

Commissioner Markewich said the other issue is the drainage. The applicant wasn't exactly clear on where the water is going and what the requirement will be. There's the runoff from the slope and having an impervious surface will increase the flow from the slope. He didn't see anything that would channel flow in the alley to keep water from going into backyards, garages and homes for the people to the east. He'd like some clarification on that. Steve Kuehster with City Engineering Development Review said they had a professional engineer look at the drainage report and reviewed it since it was less than one acre of improvements it wasn't enough of an impact to warrant or cause a rationale for access to the storm sewer system. The drainage flows off the site like all of the other houses along that area.

Commissioner Markewich said that's not the only drainage its' from above and the slope. With the entire impervious surface at the bottom that will cause more water to come off the property to the alley, but you're saying it was examined. Mr. Kuehster said there wasn't that much detail in the drainage report but he'd heard testimony stating some water already flows off the east side and that wasn't expressed much in the drainage report.

Commissioner Markewich said he didn't think filling potholes would be sufficient to bring the alley up to specs it will have to be filled, paved and potentially some type of swale along the east side to make sure everything stays in the alley. Mr. Kuehster said yes. If they are going to alley improvements they will have to create enough of a swale to capture that flow and this is probably a common problem in other parts of the neighborhood.

Commissioner Markewich said if you're increasing the water the connection from the alley to Boulder Street it must be done properly so water doesn't come into Mr. Hardgrove's garage. Mr. Kuehster said he'd have to see where Mr. Hardgrove's property was located.

Mr. Kuehster said rebuilding the two entrances off the street for the fire truck will require them to provide lighting of the alley aprons which is what the fire department was also recommending.

Commissioner Markewich said what if the alley has to be rebuilt could drainage be underneath the alley and connect it to city sewer system. Mr. Kuehster said he didn't look at the sewer system.

Commissioner Phillips said these were great ideas and he'd like to hear

some of this from the applicant.

Rebuttal:

Mr. Rising said this was a small development. He thinks water and sewer are in the alley but doesn't know where the taps are but he was planning on paving from Boulder or St. Vrain past his development because they will dig up an alley to put in the infrastructure. So if they have to put some soil in alley to accommodate drainage he's ok with that, but he relies on Colorado Geotech and his engineers in the drainage department to advise him and they will follow all the requirements necessary to take care of drainage for each unit but all down the hillside.

This alley is no different for other alleys in southern Colorado. He'd like to improve it and control drainage that's his first concern because they could be units he keeps as investment property. He's built on the west side with alley access and this alley is in better shape than most. But if they to pave the entire alley they'll do it because they are tearing up 2/3rd's of it.

Commissioner Smith said in the packet where it said potholes have to be done prior to building permit he thought repaving should be done at the end of the project not at the beginning. Mr. Rising said they'd improve the alley as much as possible before construction and then pave when everything is done.

Commissioner Markewich asked what point would you decide a tap into the city sewer, utilities and how to redirect drainage. Mr. Rising said before they break ground. Mr. Rising said the alley would be paved in a V for a swale in the middle but he defers to his drainage engineer. Commissioner Markewich asked if Mr. Rising would be willing to pave the entire alley. Mr. Rising said yes.

Meggan Herington said there was no other place the utilities could be other than in the alley. City specs require to not have a patch. So she could see where public works would require the entire alley be paved. Regarding the drainage report, she believes it's already been approved and has all the specific requirements per the engineering criteria manual for the development of this size. So we may have a technical glitch if you determine you want to attempt to put some requirements on the drainage report that's already been reviewed and approved.

Commissioner Markewich said he wants to make sure that additional runoff from the slope or from possible build are done so people on the east side aren't adversely affected. Mr. Rising said the drainage report addresses all that and he defers to that.

Commissioner Markewich said they discussed at Informal backing into alleys and needing a special variance would we need a special variance this. Mr. Turisk said he doesn't think that would apply based on what Mr. Rising has said. Ms. Herington said that provision applies more so to when you pull off the right-of-way into a parking space while not having a parking lot that has internal access and then you back out to the right-of-way. This

is a driveway just like any other driveway you back out of, so the variance doesn't apply in this situation.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Shonkwiler said to stop urban sprawl we must redevelop and reengineer difficult sites. This site is more difficult than others but properly engineered you can build it. This issue before us is all other access points are closed off. You have a right to use the public rights-of-way. The streets to this property should've never been closed off with vacations years ago. We've had testimony that it will be engineered properly before it's built. He will support this project. It's compatible with the neighborhood so as long as engineered properly and believes it will be so he will support it.

Commissioner Markewich said he was frustrated that major changes were made since the packet was given to them at Informal and they never received any information with those changes. He understands some of them are clarification in definitions but there were things introduced that weren't discussed before. So he'd like a condition of record requiring the repaving and proper construction be up to engineering requirements for the whole alley. Infill is a priority and something like this is exactly why it's so difficult. He appreciates Mr. Rising's willingness to spend a lot of extra money to get this done. It's a difficult site with unique challenges. He'd encouraged Mr. Rising to be careful and conscientious regarding the people on the east side and the drainage. If the alley is done properly it will solve a lot of the problems. It's hard for him to make a decision when they don't have all the facts in front of them. So if they can get that condition of record he'll be in full support.

Commissioner Henninger said he appreciates the effort to try and redevelop this property. The question is access to the property and that has to be within the alley. He has a concern about the alley as far as fire access and a concern about moving people into these properties. It will be tight and difficult. But if the builder takes the proper approach with what needs to be done it can be done.

Commissioner Walkowski said even though he has reservations about the whole project, the stability of the soil, the compatibility and the height that is not what we are charged with. They have to determine the access. Looking through the criteria for granting a subdivision waiver the project meets those. It was mentioned that a couple of those may not be met but if we improve the alley it's no longer a detriment and could actually be a little bit of improvement. He'd be in favor of the project if they can get a repaving of the alley and is in agreement with Commissioner Markewich about the condition of record.

Commissioner Shonkwiler said there are 13-15 other houses in front of this alley and requiring this developer to repave the entire alley seems unreasonable. If the condition is put in he'd like it to be narrowed by saying where it's been disturbed by the developer or utilities that it'd be completely repaved. He's concerned they might be overreaching.

Commissioner Walkowski agrees with Commissioner Shonkwiler about overreaching but the whole alley will be used by the additional cars especially since it's one way. The fire department is requesting the entire length of the alley be improved.

Commissioner Markewich concurs with Commissioner Walkowski especially

because the applicant has said he already agreed to that. He doesn't know if the whole alley needs to be engineered but repaving, yes, especially with it being a one-way along with the improvement to Boulder and St. Vrain per the Fire Department, so he doesn't feel it's putting undue burden on the applicant.

Commissioner Phillips says if the applicant agrees to pave it and do the work why are they making it a condition of record? Mr. Turisk said to memorialize it for a measure of assurance.

Motion by Markewich, seconded by Walkowski, to Approve the request for a subdivision waiver of design standards for the property located at 543 Robbin Place based on the finding the subdivision waiver request complies with the review criteria in City Code Section 7.7.1302, with a condition of record that the applicant complete the repaving of the alley per the fire department's recommendation and properly engineer the southern part of the alley to accommodate storm water runoff as to not affect the neighbors to the east.. The motion passed by a vote of 5:1:0

Aye 5 - Chairperson Phillips, Shonkwiler, Markewich, Walkowski and Smith

No 1 - Henninger

Absent 3 - Gibson, McDonald and Graham

6.D.1 [CPC ZC 16-00061](#)

An Ordinance amending the zoning map of the City of Colorado Springs pertaining to 7.05 acres located at the southwest corner of North Academy Boulevard and Maizeland Road from PBC/cr (Planned Business Center with conditions of record) to PBC/cr (Planned Business Center with conditions of record).

(Quasi-Judicial)

Related Files: CPC DP 16-00060, CPC DP 16-00062, CPC DP 16-00068

Presenter:

Mike Schultz, Principal Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

STAFF PRESENTATION:

Mike Schultz, Principal Planner gave a Power Point presentation.

Applicant: Tom Dermody a commercial real estate developer. The property was owned by Mr. and Mrs. Brooks and passed to their children who were raised in Colorado Springs and now live in Denver. They would like the property rezoned. The property has sat vacant for the last 30 years. After the death of Mr. and Mrs. Brooks he discussed with the owners the idea to rezone and change the conditions of records.

But maybe there was a hybrid approach they could make with the property because of the conditions of record. After discussing with this with several

other people a profile of the type of development emerged and that was they wouldn't get one of your upscale types like Whole Foods or King Soopers you could get a Wal-Mart Neighborhood Grocer or a pawn shop that would be opposed to by the neighbors. You could get better income but find a better scenario.

The three uses came to be by having something that was in high demand and a transitional use to the neighborhood. So that's how the self-storage came about. It will be a higher scale design and a low traffic generator, light impact is minimal, noise is minimal, building size is smaller. The developer of the storage offered to make it more residential. The self-storage also said they could live without ingress and egress to the side streets. They could also make a wall to create a high degree of security to the neighbors. There will be a solid wall ½ way to the Carl's Jr. lot. So they worked with the neighbors to find a solution. They put together three uses that worked for many but not everyone. They were able to balance the most ardent concerns of the three stakeholders. We listened to the concerns noted by all. The development will help cut down on the constant noise from Academy Blvd. The self-storage will be very secure and safe.

Regarding repositioning the Kum & Go store they hadn't thought about it but he'd say anything and make the light go more toward the neighbors isn't the best idea.

Concerns about traffic are there to capture traffic that is already along Academy. Regarding what happens with property values when next to a development of this type? Homes next to this area have sold over list price. People in this area want something to happen with this site.

Mr. Dermody reiterated that the request is to remove four conditions of records be removed and are willing to add new uses the neighborhood has concerns over. They will meet all the requirements under the code; adding that they have tried to come up with a blend of uses for the site. Mr. Dermody stated he can't think of any recent development along Academy that meets the (Academy Boulevard) Great Streets Plan.

He appreciates the neighborhoods concerns but he doesn't this this will break the neighborhood and it could be a step in the right direction.

Questions

Commissioner Markewich asked about the improvements along Sussex and Alpine, is there a wall there? Mr. Dermody said there will not be a wall in between the developments just on the south side. Commissioner Markewich said it'd start at the corner of Alpine and Sussex and go all the way to the Carl's Jr. site because there are some residents there. Mr. Dermody said it could go a little further but the house on the corner of Alpine Place is a commercial use. There should be some view corridor and the wall could probably come down to the residential property line.

Commissioner Markewich discussed the reorientation of the buildings particularly the Kum & Go so there'd be more access to pedestrians. Mr.

Schultz said staff supports the project for the Kum & Go, but because the EOZ and the Great Streets Plan are guiding documents and suggest better pedestrian orientation and orientation toward Academy they asked for possible repositioning of the building. If the Commission is fine with the orientation they can act on the plan as is; but the Commission can also recommend reorientation of the site; their decision will provide guidance for any future development along Academy. Commissioner Markewich asked if Mr. Dermody had an opinion for repositioning of the building. Mr. Dermody said he'd object for two reasons. The unconventional nature isn't ideal for the Kum & Go and the second is the front of the Kum & Go store will be well lit as well as the canopy and the back of the store will not. Also there would be more activity and light spillage into the neighbor. Commissioner Markewich said Mr. Dermody felt it would the current position better protects the neighborhood.

Commissioner Shonkwiler asked what is different from what Mr. Dermody is proposing and what is already proposed. Mr. Schultz said his recommendation would propose having the canopy face east and west and the building positioned along Maizeland. Mr. Schultz showed the slide and stated Carl's Jr. repositioned their building to better front Academy Boulevard. Mr. Schultz added that the request to reorient Kum & Go was better pedestrian access points and safe routes to the front of the store; it isn't unusual for Kum & Go to provide three entrance points and orient the building perpendicular to the roadways.

Commissioner Shonkwiler said the thought of having the bus stop there was important but doesn't think it would be an issue. The only people going (walking to the store) would be someone waiting for the bus or going to getting something to eat and were used to navigating around gas pumps.

Meggan Herrington asked Mr. Schultz to clarify in the staff report that staff supported the development plan and that reorientation of the Kum & Go building is a staff recommendation. Mr. Schultz verified that was correct. Ms. Herrington said the motion as based on the staff report with the conditions and technical modifications that (reorientation of the building) isn't listed. Mr. Schultz clarified it's in the staff report, staff is in support of the project and if Planning Commission wants to move forward as presented staff is fine with that decision and that there are no specific code criteria that would require the repositioning of the building. Ms. Herrington said she wanted Commissioner Phillips to make sure he understood what staff was requesting.

Applicant: Mike Humphrey with Your Storage Centers. This has been a slow process but they wanted to make sure they got it right and listened to the neighbor's concerns. Self-storage is very different today than in the 1980's. Regarding traffic, this store will generate about 10.8 cars per day. They also have low noise and low light. It's light enough to see people but not bright like across the street. The architecture of the buildings will be a more residential look and an opaque screen and a landscape berm with a six-foot high wall. They'll have more cameras, more security and two access gates. Transitional use is why he thinks they're a good fit. They've

taken slow methodical steps. They are certain things they can't address. They've brought forward a good product.

Commissioner Markewich asked about RV or boat storage. Mr. Humphrey's said there's no outdoor door facility but there is one potential indoor one.

Applicant: Ryan Halder with Kum & Go. The big thing is the orientation of the building that Mr. Schultz presented and they've reviewed his request and Kum & Go's concerns are regarding visibility from Academy. If they reposition it they block visibility to the front of the store and their pumps. Kum & Go uses passerby traffic to generate business for their store. They believe they've addressed Mr. Schultz's request for more pedestrian access with the bus stop; the access route does cross through the canopy but they've agreed to stripe (a walkway) and add signage for ease of walking to the front door.

Commissioner Walkowski said they would stripe that like a crosswalk or sidewalk. Mr. Halder said yes.

Applicant: Jay Hoffmeister with Carl's Jr. He's a second generation in Colorado Springs with Carl's Jr. They've tried to make as many design changes to move closure to Academy. The speaker box faces more toward Academy but also have noise reductions that have been put in there. They've done side shields for the lights. They've also agreed to the catalytic converter to reduce smells. They believe the wall that's constructed on Alpine will significantly reduce car headlights. They've also agreed to put a secondary landscape fence along the drive thru for light mitigation. The design is more contemporary. They are trying to invest in their community, invest in infill along Academy and the neighborhood as a whole.

Commissioner Smith said on the west side is the parking area where would the secondary fence would be. Mr. Hoffmeister said if they need to they've proposed to put additional landscape screening fence by the drive-thru. Commissioner Smith said that property was commercial and they don't operate at night. Mr. Hoffmeister said that was correct.

Commissioner Markewich said the additional wall is it planned. Mr. Hoffmeister said if Planning Commission wants them to put it in they will. And if it will help reduce noise they'd also put it in.

Citizens in Support:

Michelle Wright up from the development. She drives this area every day. She's been to the all the neighborhood meetings. She has a background in planning and she's concerned about the neighborhood. It needs help. Retail stores are vacant. Apartment buildings wouldn't be a good idea. So what is left to put there? Unwelcome types of development. The plans fit well with the neighborhood. She likes the green area, she likes the safety and they've been very responsive to the neighborhoods concerns. She believes this is an excellent plan. She has no objections. She thanks the developers for going beyond their questions and concerns.

Mr. William Mashburn, 2224 Sussex Lane. The developers have been having neighborhood meetings for over 2 ½ years. They've worked to push the buildings as close to Academy as possible. They've worked well with them and he doesn't believe this development will substantially increase traffic. They support it and think it's a good proposal.

Jonny Garcia it's a good project and they need something like this in the neighborhood like this for a long time. All three are appropriate for the area.

Citizen in Opposition:

Susan Foth, 2221 Tesla Drive, indicated she lives out of the 750 foot notification area. The owners have the right to develop this property and the applicants have tried to make this development as palatable as possible. However it doesn't conform to the condition of record or the higher type of development the neighborhood was looking for. The conditions of record remain relevant and they were to protect the integrity of the neighborhood and by default this extends to Palmer Park so any changes to the conditions of record will affect Palmer Park. These types of business were restricted for a good reason and the overall demographics haven't changed nor have the residents. Regarding infill there are other areas along Academy that are more suitable. When she looked at the review criteria the first five are not met. It's not compatible or harmonious with Palmer Park. This type of proposal introduces an entirely different type of business along the west side of Academy. Businesses that border the park are hardly noticeable and no amount of camouflage can hide this is a gas station, mini-storage or a fast food restaurant. Traffic can be backed up 25 cars at Maizeland and Academy. If approved the constraints will be passed to the neighborhood with unwanted noise 24-7, light pollution, and increased and risky traffic patterns.

Dennis said he lives about two blocks to the west and he found out about this because of his neighbor. There are a dozens of convenience stores and gas stations and every intersection to the north and the south along Academy for over a mile both ways. Kum & Go doesn't build gas stations they build truck stops along the interstate, along Powers which is appropriate. But along a high residential area, no. and what they do is they put everyone else out of business and those places close then they hike up their prices and their gas. There are plenty of fast food restaurants. All that area is residential. The playground at Palmer Park is about the only playground for little kids. There will be only one ingress to this site off of Academy. You can't enter across Maizeland because you can't cross a double yellow line. So the turn would be illegal. People will use the light at Alpine as a go around.

Natalie Morin, 3711 Alpine Place, her property is in the middle of Alpine directly adjacent from the site. Her parents were part of the original group that set up the conditions of record. She appreciates the work and thought that went into the design there are lots of concerns that haven't been address. The fast food restaurant will be right across from the residents on Alpine Pl. The wall won't go all the way down and in addition to that, five of the Carl's Jr. in Colorado Springs are open 24-hrs and this Carl's Jr's can't

guarantee it won't be open 24-hrs. We don't want a 24-hr drive thru across from their homes. The gas station will be too much traffic for this area. Maizeland and Academy already backed up as it is. People will get impatient and they will go through the neighborhood to go west. Those types of businesses will generate too many cars and we don't need another gas station or another fast food restaurant.

Kathy Smith said they just moved in May of 2016. They had no idea what would be built in the empty lot. She hopes it will be developed with the thought in mind of the quiet and peaceful nature of this established neighborhood. We are supposed to be the Olympic City and to put a fast food restaurant right next to Palmer Park is extremely counter intuitive.

Angela Wakiss. They are further out than anyone that has spoken. They are on a cul-de-sac and are very aware of the cut through people take. The applicant has done a great job with their plans. She's a graphic designer and works with the programs that develop those beautiful plans. But what worries her is these are "proposed" plans and we've already seen two plans from the Kum & Go. The church up the street said they promised not to go over two-stories so the view of Pikes Peak would not be impeded and the people who bought the property behind us bought their property for that view, so they were lied to. The church said they'd pave their roads; it took them 25-years to do it. She's leery of people who bring a proposed plan to you and have designs in there that show they aren't sure which way they'll go. The applicant says they've taken great effort to speak and work with the neighborhood. I'm in that neighborhood and found out about it through a flyer in my door. Then there's the issue that we need a name for our neighborhood if we are there to take care of each other and we are there for each other how will why this development show we're not poor and doing as well. The applicant says the lack of development shows the area is struggling. How does a gas station and a Carl's Jr prove we are not struggling as opposed to that beautiful field that in the spring is full of wild flowers. Office develop has slowed down in the area and is no longer in demand and there is tiredness and blight in this area which is part of the statement for the improvement plan for Academy from Maizeland to Drennan. Strip malls have been abandoned and moved out to Powers. A Kum & Go and fast food is not something we need. There are tons of gas stations everywhere. Not every piece of land or field needs to be developed.

Loretta her parents were part of setting the conditions of record. The intention was there would be office spaces there. There are enough gas stations and convenience stores up and down Academy. There are so many vacancies up and down along Academy. She's not against Kum & Go or Carl's Jr it just doesn't need to be on that corner. She'd rather have the city buy the property and turn it into tennis court or something light that would complement the park. Those can't be part of Palmer Park.

Charley Bobbitt, 3618 Alpine Place, he has to say that at the first meeting with Tom Dermody he said if they didn't do this he'll make sure they got a Wal-Mart put in there and that felt like a threat. Mr. Bobbitt indicated he

objects to the development due to 24-hour operation and that the businesses are replicated within a mile of the area. He objected to the level of traffic they would generate; the (signal) light can back up to Sussex and it can take up to three lights to get through that intersection. Also Kum & Go and Carl's Jr. are heavily advertised. They want to drive people to their location. For them to say it will not affect traffic is unreasonable. Kum & Go is a super-size store and a 24-hr operation. Turning out and into the property off Maizeland will be awful without any type of light. He doesn't know of anywhere else in the city that traffic engineering doesn't allow a right-turn in and right-turn out. At this location you'll have traffic turning in and turn left into a site along with the big trucks. Impact will be big. AT least ask the traffic engineer to do a real study. There is a traffic issue on Maizeland.

Questions of Staff:

Commissioner Walkowski for the conditions for the Kum & Go will have turning movement restrictions adequate speed line-of-sight if 35 mph is not met. What does that mean? Mr. Schultz said he'd defer to Ms. Krager. Ms. Krager said that is a line-of-sight they means based on ASHTO and it's not shown correctly on the plan so until its shown correctly she wants the note there.

Regarding the questions and concerns the neighbors have brought up. Gas stations and fast food generate the highest trip generations but are also two of their higher pass-by uses. So when you go in you do a right turn in and a right-turn out. Gas stations will gear where they want to be based on if they want to be for on the way to work or coming home. Fast food is a little different but also have a high pass-by usage and make the same decision if they serve breakfast they will look for the going to work sight. The vast majority of traffic will be on Academy or Maizeland not new traffic. We like gas stations to have as much convenience access as possible. Many times with infill that will be a street that is half residential and half commercial and it causes problems. Access off Maizeland you have to use the center left turn lane. She asked for a traffic study in this area to look at the left turn traffic looks like. If these developments operate in national average, she's left turn stacking on Maizeland. If this area becomes a problem there are several things she can do. One is they used to have a dual left turn lane going from eastbound Maizeland onto northbound Academy, she could reinstall that. But that gives preference to one side of Maizeland over another and they have equal volume. The other is she can restrict turning movements on Maizeland. She's not done that right now because there is no median across Maizeland. We have a signal like this on the eastside of Maizeland.

Commissioner Smith said most of the people today say there is already a problem at Maizeland. What percentage increase to that left turn lane will happen with this development? Ms. Krager said no increase. You don't see people turning left turn from a gas station to a major arterial. That left turn is has a lot of traffic from Circle because it turns into Fillmore and Maizeland is the last street that connects to Academy. If it continues to grow she'll make it a two-lane turn.

Commissioner Markewich asked if a U-turn is allowable at Maizeland. Mr. Krager said yes. Commissioner Markewich asked if she had a problem with people doing a U-turn to get into a right-in/right-out. Ms. Krager said no. If going south on Academy and turn right on Maizeland and then turn left into the site will that be an instance. Ms. Krager said there will be a percentage of people who do that. But they will probably only do it once. Commissioner Markewich asked about the cut through traffic on Alpine. Ms. Krager said that type of cut through would seem difficult to her. She would instead turn right on Academy and turn right on Constitution instead of going down Maizeland because Constitution goes the same place as Maizeland but further.

Rebuttal: Mr. Dermody clarified; the 24-hr access will provide for a section of the community that works at different times and needs 24-hr access. Also the perception there is not market demand however that's not correct there is market demand for these uses. Finally about the property remaining open space - it's been open space since its inception but owners have the right to develop it. Palmer Park is right next door and we need to keep it perspective and keeping it as open space is not what is needed.

Mike Humphrey with Your Storage Centers said as part of the development team he wanted to say for people who are opposed to something and still come up and say they applaud the time and effort they've put into the project is great. He also wanted to be sure they knew there had been three notifications about the project. Regarding Griffith Blessing doing a development, he spoke with them and they've had a "Coming Soon" sign on the corner for three years and nothing has happened. Lastly self-storage offers a tremendous noise buffer and that will help with all the traffic sounds coming from Academy.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Smith said when out at the site was the weeds and the place hasn't been kept. Whether there should be more fast food or gas stations that is not our purview. Regarding noise - there is already noise from Academy. Smells won't be a concern with the converters that eliminate smells. This is a good development site and its and infill project and he will be in support of the project.

Commissioner Markewich echoes Commissioner's Smith statement about developing more gas stations or fast food. Remaining open space pen space wasn't really a viable option. It's privately owned so it can be developed. Regarding notification - he's doesn't like how we notify but even if we notify from 500, 1000, or 1500 there will still be people who aren't notified. The proposal meets the four criteria for zone change of district and the development review criteria there are 12 and it fits within those 12. Lastly traffic there is traffic everywhere and it's always a problem and how we have to change how we drive. We can only do a good a job as we can and limitations as to what we can do. So he will be in support of the project.

Commissioner Walkowski the previous commissioners have addressed

much of what he would say. He'd specifically address Mr. Schultz's comments on moving the building around for Kum & Go. For the future establishing pedestrian access and walkability is a great idea for future development and would've liked to have seen it here, but to move the building would have cause more light on the neighbors so on this the way it's oriented outweighs the connectivity. In the future keep that idea in mind. So he will be in support of the project.

Motion by Markewich, seconded by Smith, to Recommend approval to City Council of the zone change from PBC/CR (Planned Business Center with Conditions of Record) to PBC/CR (Planned Business Center with Conditions of Record), amending conditions of record originally approved in 1988, 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).

**Conditions of Record
Conditions of Record**

1. The maximum height of all buildings, facades and other architectural features will be 35 feet and not more than two stories; and
2. Buildings adjacent to Sussex Lane will provide architectural elements of residential character; and
3. The following uses will not be permitted:
 - a. Taverns
 - b. Nightclubs
 - c. Pool/Billiard Parlors
 - d. Video Arcades
 - e. Liquor Outlets
 - f. Liquor Stores
 - g. Private Club or Lodge Serving Liquor or Allowing Gambling
 - h. Fish, Fowl, or Seafood Store not in conjunction with a restaurant; provided that a specialty grocery store selling the items listed shall be permitted
 - i. Movie Theatre
 - j. Chemical Abuse Rehabilitation Center
 - k. Pre-school or Day Care Center
 - l. Automobile Sales or Repair
 - m. Tire Stores
 - n. Car Washes
 - o. Ambulance Service
 - p. Day Old and/or Used Clothing Stores
 - q. Adult Uses as Defined in City Code Chapter 7 of the Zoning Code 2001, as amended
 - r. Laundromat/Dry Cleaning Business
 - s. Family Counseling/Abortion Clinics
 - t. Any marijuana related uses, medicinal or recreational, including but not limited to the sale, grow, manufacturing or consumption of marijuana
 - u. Tattoo shops

The motion passed by a vote of: 5:0:4

Aye 5 - Chairperson Phillips, Markewich, Walkowski, Smith and Henninger

Absent 4 - Gibson, McDonald, Shonkwiler and Graham

6.D.2 [CPC DP](#)
[16-00060](#)

A Development Plan for Kum & Go convenience store with fuel sales on a 1.96-acre lot and located southwest corner of North Academy Boulevard and Maizeland Road.

(Quasi-Judicial)

Related Files: CPC ZC 16-00061, CPC DP 16-00062, CPC DP 16-00068

Presenter:

Mike Schultz, Principal Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

Please see minutes recorded for this item under 6.D.1

Motion by Markewich, seconded by Smith, to Recommend approval to the City Council the Kum & Go Store #686 development plan based upon the findings that the development plan meets the review criteria for granting a development plan as set forth in City Code Section 7.5.502(E), subject to the following technical and/or informational plan modifications:

1. Clarify the installation of the relocated bus pad along North Academy Boulevard and relocation of the shelter as noted on Sheet 2.
 2. Provide striping and/or signage regarding the pedestrian access shown from the trail along North Academy Boulevard to the site.
 3. Update landscaping plan notes 14 and 16 as follows:
 - a. Note 14 shall indicate the design of the irrigation system and requirement of a final irrigation plan.
 - b. Note 16: Shall read, "The Contractor must be informed that the Designer of Record is to be called on site, to appropriately inspect for all things on the most current Inspection Affidavit check list."
 4. On the landscape plan sheets, the following changes and/or notations must be made:
 - a. Redistribute the bluegrass areas on-site by reducing the spray-irrigated turf within the MVL stand-alone island on the south end and by adding more near the front pedestrian walk (out front).
 - b. Trees need to be in drip-irrigated beds or bluegrass turf areas as much as possible. The majority of trees are located in the native turf, which has a much lower water requirement than trees. Native turf has a different water management plan (and this very low water management plan puts most trees under too much stress).
 - c. Add more shrubs or low junipers to the parkway space to appropriately fill the space (using a triangular spacing).
 5. On Sheet 1, add a note stating that the site is currently platted as a portion of Lot 6 Palmer Park Sub 3 Flg 6 and/or will be replatted as part of Maizeland Academy Commercial Filing No. 1.
 6. On Sheet 2, Note 2 should state, "The proposed access improvements on Maizeland Road and Academy Boulevard shall be constructed with Lot 1."
 7. The proposed access improvements on Maizeland Road shall be shown on this development plan.
 8. On Sheet 3, Note 16 should reference a 4' D10R inlet.
 9. On Sheet 3, Note 3 should state, "Tract A shall provide stormwater quality for Lots 1-3 and must be constructed with the development of Lot 1.
 10. The proposed site access off of Maizeland Road will have turning movement restrictions if adequate speed line of sight for 35 MPH is not met.
- .. The motion passed by a vote of: 5:0:4

Aye 5 - Chairperson Phillips, Markewich, Walkowski, Smith and Henninger

Absent 4 - Gibson, McDonald, Shonkwiler and Graham

6.D.3 [CPC DP 16-00062](#)

A Development Plan for Your Self Storage mini-storage facility on a 3.79-acre lot and located at the southeast corner of Maizeland Road and Sussex Lane.

(Quasi-Judicial)

Related Files: CPC ZC 16-00061, CPC DP 16-00060, CPC DP 16-00068

Presenter:

Mike Schultz, Principal Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

Please see minutes recorded for this item under 6.D.1

Motion by Markewich, seconded by Smith, to Recommend approval to the City Council the Development Plan (Your Storage Center) based upon the findings that the development plan meets the review criteria for granting a development plan as set forth in City Code Section 7.5.502(E), subject to the following technical and/or informational plan modifications:

1. The distance from the exterior buildings to the property line and to the public sidewalk must be noted.
2. Note 7 must be clarified to establish clear ownership and maintenance responsibilities of the common drives.
3. Demonstrate the ADA access route from the public right-of-way.
4. A "No Parking" sign must be indicated adjacent to the ADA access aisle. On Sheet 1, the detail needs to note dimensions (i.e. width and depth of stall, width of access aisle, ADA sign location, etc.).
5. Clarify if the main gate will have an outbound gate code.
6. Add a building elevation for Building 'A' along Maizeland Road, which shall have the same façade treatment used on the buildings along Sussex Lane.
7. Continue coordination with neighborhood representatives regarding the proposed neighborhood identification signage.
8. Add a note regarding the maintenance of the proposed benches along Sussex Lane.
9. Call out on the plan a "15 feet Landscape Buffer" (not a 10-foot Landscape Setback) and update the Sussex Lane info in the Calculation Chart as a "Buffer" not a setback; and which needs to reflect the rate of one tree per 20 linear feet, with half of those trees being evergreen tree. Update the plan accordingly.
10. Add a note stating, "The proposed improvements at the accesses on Maizeland Road and Academy Boulevard shall be constructed with the development of Lot 1." (EDR comment)
11. A 6-foot wide attached sidewalk along Maizeland Road shall be shown and labeled on all appropriate sheets of the plan set. (EDR comment)
12. A label the proposed sidewalk shall be included on Sheet 2. (EDR comment)

- 13. On Sheet 3, add a note stating, "The pond on Tract A shall provide stormwater quality for Lots 1-3 and must be constructed with the development of Lot 1." (EDR comment)
 - 14. The proposed site access off of Maizeland Road will have turning movement restrictions if adequate speed line of sight for 35 MPH is not met. (Traffic comment)
 - 15. Demonstrate on the plans that a gate opening width of 16 feet is adequate for apparatus to turn through the gate at the closest turning movement. (City Fire)
 - 16. Additional fire lanes along building fronts shall be added to the plans between the shown fire lanes/hydrants to other fire lanes/hydrants on the plans. (City Fire)
 - 17. Prior to issuance of a building permit provide a final copy of wastewater master facility form with all required signatures. (CSU)
 - 18. All screen walls shall be identified on the plans and shall be notated with the following at each instance where the proposed screen walls intersect with the private fire hydrant lateral entering:
 - a. Call out the screen wall;
 - b. Provide a grade beam at that section of the wall;
 - c. Sleeve the hydrant lateral pipe; and
 - d. For the hydrants that are near the wall, ensure 5-foot off-set from the wall.
- .. The motion passed by a vote of: 5:0:4

Aye 5 - Chairperson Phillips, Markewich, Walkowski, Smith and Henninger

Absent 4 - Gibson, McDonald, Shonkwiler and Graham

6.D.4 [CPC DP 16-00068](#)

A Development Plan for Carl’s Jr. restaurant on a .793-acre lot and located at the northwest corner of North Academy Boulevard and Alpine Place.

(Quasi-Judicial)

Related Files: CPC ZC 16-00061, CPC DP 16-00060, CPC DP 16-00062

Presenter:

Mike Schultz, Principal Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

Motion by Markewich, seconded by Smith, to Recommend approval to the City Council the Development Plan (Carl’s Jr.) based upon the findings that the development plan meets the review criteria for granting a development plan as set forth in City Code Section 7.5.502(E), subject to the following technical and/or informational plan modifications:

- 1. Move the (See Ord. 16-xxx) behind the zoning information; add another line below “Existing Zoning” to stated “Proposed Zoning: PBC/CR (See Ord. 16-xxx). Removed reference to number assigned by City Clerk.
- 2. Add a note that the 4 standards on the south side indicating “house side shields” will be provided.
- 3. On the landscape plan sheets, the following changes and/or notations must be made:

- a. Identify the land uses to the south.
- b. A 15-foot landscape buffer shall be shown along Alpine Place per Landscape requirements;
- c. Provide the landscape buffer treatments according the requirements or consider installing a 3 to 4-foot solid intermittent wall within the center of the 7-foot landscape area directly behind the back of curb on the south side of the parking and drive thru.
- d. Note the trigger for installation of the 20 trees located along the water quality facility.
- e. Please darken up the line work and plant call outs, as the scanned image is faded. Please always use a standard Property Line (double dash) symbol, using a bold line weight for plan clarity.
- f. The Plan Note on Sheet 7 of 10 states the parkway plantings will be planned and installed 'by the Master Developer'. This treatment - tree and shrub design needs to be presented in this application; or cross referenced on this plan stating in which application it is addressed.
- g. More plantings shall be added in the front of the bed, facing North Academy Boulevard.
- 4. The proposed 6-foot wide attached sidewalk on Sussex Lane and Alpine Place shall be called out. (EDR)
- 5. The proposed sidewalk on Maizeland Road shall be 6-foot wide detached sidewalk. (EDR)
- 6. Note 7 shall state, "The pond on Tract A shall provide stormwater quality for Lots 1-3." (EDR)
- 7. Add a note stating, "The proposed improvements at the accesses on Maizeland Road and Academy Boulevard shall be constructed with the development of Lot 1." These improvements must also be shown on the plans. (EDR)
- 8. The legal description should state that this site is to be replatted as "Lot 3 Maizeland & Academy Commercial Filing No. 1". (EDR)
- 9. The proposed site access off of Maizeland Road will have turning movement restrictions if adequate speed line of sight for 35 MPH is not met. (Traffic)
- 10. On the Preliminary Utility and Facility Plan, show the correct locations of the existing wastewater and water mains paralleling Academy Boulevard. (CSU)
- 11. The existing wastewater and water mains must be indicated on the Landscape Plan. Ensure no trees are proposed within 15 feet of the wastewater and water mains. The location of the water main must be revised to show the correct location. Adjust the location of proposed trees accordingly. (CSU)

The motion passed by a vote of: 5:0:4

Aye 5 - Chairperson Phillips, Markewich, Walkowski, Smith and Henninger

Absent 4 - Gibson, McDonald, Shonkwiler and Graham

7. Adjourn