

CITY OF COLORADO SPRINGS
INTEROFFICE MEMORANDUM

DATE: April 1, 2019
TO: Peter Wysocki, Director of Planning
FROM: Sarah Johnson, City Clerk
SUBJECT: Notice of Appeal

ITEM NO. 6.A.: AR NV 19-00028; ITEM NO. 6.B.: AR R 19-00017; ITEM NO. 6.C.
CPC DP 03-00259-A10MJ19

An appeal has been filed by Walter Lawson and Cynthia Kulp regarding the Planning Commission action of March 21, 2019.

I am scheduling the public hearing on this appeal for the City Council meeting of April 23, 2019. Please provide me a vicinity map.

CC: Lonna Thelen

N.E.S. Inc.
619 N. Cascade Ave. #200
Colorado Springs, CO 80903

Cyndy Kulp
2959 Electra Dr. S.
Colorado Springs, CO 80906

Walter Lawson
755 Deerhorn Ridge Grove
Colorado Springs, CO 80906



THE PLANNING & DEVELOPMENT DEPARTMENT APPEAL TO CITY COUNCIL

Complete this form if you are appealing City Planning Commission's, Downtown Review Board's or the Historic Preservation Board's decision to City Council.

APPELLANT CONTACT INFORMATION:

Appellants Name: Walter Lawson & Cindy Kulp Telephone: See attached
Address: _____ City _____
State: _____ Zip Code: _____ E-mail: _____

PROJECT INFORMATION:

Project Name: Broadmoor Event Center (Exhibit Hall)
Site Address: 3 Lake Circle
Type of Application being appealed: Development Plan Major Amendment
Include all file numbers associated with application: CPC DP 03-00259-A10 MJ 19
Project Planner's Name: Lonna Thelen
Hearing Date: _____ Item Number on Agenda: _____

CITY CLERK'S OFFICE
2019 APR - 1 P 11:06

YOUR APPEAL SUBMITTAL SHOULD INCLUDE:

1. Completed Application
2. \$176 check payable to the City of Colorado Springs
3. Appeal Statement
 - See page 2 for appeal statement requirements. Your appeal statement should include the criteria listed under "Option 1" or "Option 2".

Submit all 3 items above to the City Clerk's office (30 S Nevada, Suite 101, Colorado Springs, CO 80903). Appeals are accepted for 10 days after a decision has been made. Submittals must be received no later than 5pm on the due date of the appeal. Incomplete submittals, submittals received after 5pm or outside of the 10 day window will not be accepted. If the due date for the submittal falls on a weekend or federal holiday, the deadline is extended to the following business day.

If you would like additional assistance with this application or would like to speak with the neighborhood development outreach specialist, contact Katie Sunderlin at sunderka@springsgov.com (719) 385-5773.

APPELLANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Cindy Kulp
Walter Lawson
Signature of Appellant

4/1/2019
4-1-2019
Date

THE APPEAL STATEMENT SHOULD INCLUDE THE FOLLOWING

OPTION 1: If you are appealing a decision made by City Planning Commission, Downtown Review Board, or the Historic Preservation Board that was originally an administrative decision the following should be included in your appeal statement:

1. Verbiage that includes justification of City Code 7.5.906.A.4
 - i. Identify the explicit ordinance provisions which are in dispute.
 - ii. Show that the administrative decision is incorrect because of one or more of the following:
 1. It was against the express language of this zoning ordinance, or
 2. It was against the express intent of this zoning ordinance, or
 3. It is unreasonable, or
 4. It is erroneous, or
 5. It is clearly contrary to law.
 - iii. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.

OPTION 2: If the appeal is an appeal of a City Planning Commission, Form Based Zoning Downtown Review Board, or Historic Preservation Board decision that was not made administratively initially, the appeal statement must identify the explicit ordinance provision(s) which are in dispute and provide justification to indicate how these sections were not met, see City Code 7.5.906.B. For example if this is an appeal of a development plan, the development plan review criteria must be reviewed.

CITY AUTHORIZATION:

Payment: \$ 176

Date Application Accepted: 4/1/19

Receipt No: 113896

Appeal Statement: _____

Intake Staff: EW

Completed Form: ✓

Assigned to: _____

APPELLANT CONTACT INFORMATION:

Appellants Name: Cyndy Kulp Telephone: 719-634-0627
Address: 2959 Electra Dr. S., Colorado Springs, CO 80906
Email: kulpc@comcast.net

Appellants Name: Walter Lawson Telephone: 719-632-7320
Address: 755 Deerhorn Ridge Grove, Colorado Springs, CO 80906
Email: walrieduson@yahoo.com

APPEAL STATEMENT

Submitted by Walter Lawson and Cyndy Kulp – 4/1/2019

Attachment to Appeal Application to City Council – Broadmoor Event Center, CPC DP 03-00259-A10MJ19

Our appeal of this project is based on the fact that in our judgement it fails to comply with several sections of the City Code and with sections of the Comprehensive Plan (Plan COS), as stated below.

I. **Criteria for Review of an Appeal of an Administrative decision** – City Code, Sec. 7.5.906A4

A. Identify the explicit ordinance provisions which are in dispute:

- Intent and purpose of the Zoning Code (7.2.102)
- Development Plan Review Criteria (7.5.502E, Nos. 1,2,3,4,5,7,8, 11)
- C-6 Zoning District (7.3.202E)
- Other citations in this appeal statement

B. 1) Show that the administrative decision is incorrect because:

- Against the express language of this zoning ordinance, and
- Against the express intent of this zoning ordinance, and
- Unreasonable for all the reasons stated below in 1-4

2) Zoning Code intent and purpose (7.2.102)

No Development Plan shall be approved unless the plan complies with all requirements of the zone district

1. This Broadmoor Hall Event Center Development Plan is in a C-5 zone currently, but operates as a C-6 zone use (7.3.202E).

C-6 - General business: This zone district accommodates general commercial uses that are typically high volume traffic generators and are generally dependent on more than the immediate neighborhood for their market area. (Ord. 94-107; Ord. 95-125; Ord. 01-42; Ord. 09-70)

Mr. Damioli has repeatedly said that their hotel business comes predominantly from a distance. In the materials handed out at the public meeting, the Broadmoor states that they “will market the Exhibit Hall Addition exclusively for multi-day conferences and events that attract out-of-town guests....” (Fact Sheet, January 2019)

Therefore, the plan does not comply with this requirement and should have been sent to City Council for a change of zone.

2. The Plan is not the most appropriate land use (7.2.102) because “It is the intent and purpose of this Zoning Code to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise, excessive traffic, incompatibility of uses, inappropriate design of buildings, and visual obstructions.”

a) Townhomes were the planned and promised “transition buffer” from commercial to residential areas surrounding the site on three sides (7.5.502E 1,2,4).

b) Convention-size activities with tens of thousands of people lack support infrastructure at the Development Plan location (7.5.502E 2,3).

c) The Development Plan is not compatible with surrounding land uses due to the size of the added building and its functions, which are totally disparate from a residential area (7.5.502E 2,3).

d) The Development Plan area is in a high wildfire hazard zone, as the Broadmoor is centrally located in the Wildlife-Urban Interface Zone south of US 24. This location should not add thousands more people to this wildfire threat and liability (7.5.502E 7).

“This Zoning Code is designed to ensure the most appropriate use of land throughout the City.... Secure safety from fire, panic and other dangers....”
7.2.102

C. Benefits and Adverse Impacts Created by the Decision:

This expansion will help the Broadmoor Hotel and its partners grow and become more profitable. Obviously, the Broadmoor, the Space Symposium and the tourism industry in Colorado Springs are important economic drivers that bring people to the area, generate sales tax revenue, and create employment. Large events like the annual Space Symposium are very prestigious gatherings for the hotel and for the defense industry.

However, the economic benefits of this proposed project, which relies on hosting an increasing number of similar large events like the Space Symposium, do not address, offset or mitigate the impacts that a project of this size and scale will have on its surrounding communities, which are primarily residential.

The location of the Broadmoor is such that it necessitates reliance on motorized travel to get the public to the hotel, traversing residential areas in the process. A large convention center placed in a neighborhood setting has the potential to overwhelm the surrounding residential community, if the impacts are not fully stated, and effectively and satisfactorily resolved beforehand. To date, they have not been.

In addition, private busing operations are not a solution to the lack of parking around the Development Plan site, and they have their own negative impacts on surrounding areas. Such operations add a number of large, slow commercial vehicles, emitting pollutants, overwhelming narrow streets, contributing to traffic congestion and posing safety threats to persons using non-motorized transport, like bicycles and walking. The adoption of an expanded busing service to get people to large events at the Broadmoor will have much impact on Lake Ave., depending on the frequency of such events and the number of buses required to get the public there.

As a preview of coming problems, residents of Skyway/Cheyenne Canon have already been experiencing negative impacts from the Broadmoor's existing shuttle bus operation to 7 Falls, based at Norris Penrose Events Center since June of 2018. These effects have not been mitigated by the Broadmoor at all. Local residents now have to cope with a high volume of commercial shuttle buses, travelling neighborhood streets as frequently as every 3-5 minutes in peak seasons, and lessening the "peaceful enjoyment" of their properties.

These negative impacts from the Broadmoor's current shuttle bus operation show how important it is to thoroughly plan for such private transport operations, including mapping out the route in advance, establishing schedules and travelling on proper roads that can handle commercial traffic without endangering pedestrians and bike riders. This has not been done with the Broadmoor's plan, and it is left up to the applicant to decide routes and frequency.

The Plan COS recognizes that "Vibrant Neighborhoods" are an important component to our quality of life. Commercial operations can overwhelm and negatively affect neighborhoods, if not properly monitored, and that is what is at stake with the Broadmoor's proposed expansion of Broadmoor Hall, compounding impacts with thousands more people.

This plan is too one-sided in terms of valuing the economic contributions of the parties involved, but not giving equal weight to valid neighborhood concerns or protecting the investments that people make in their homes. Due to its location, it is necessary for the Broadmoor to co-exist with surrounding communities, and not take actions detrimental to its neighbors. Commercial operations need to be placed in the right location, so that the benefits of them are shared both by the economic actors who gain and the surrounding community.

We need a FAIR PROCESS to reach fail-safe solutions, so that while the Broadmoor succeeds, the neighborhood also wins, and is not crushed or slumped by impacts. We had time for SUCH A PROCESS before the existing Broadmoor Hall approval 15 years ago, and were able to reach policy and performance agreements. Some worked, and some failed for 15 years. In this current review, little citizen time was allowed to even define impacts much less reach effective solutions.

II. Administrative Approval

City Planning erred in agreeing to use the Administrative Approval process for this large project. Choosing this option had the effect of keeping it from oversight by the public bodies which have expertise on and authority over Land Use Decisions, including the City Planning Commission and the City Council.

It also put the burden on community members to pay appeal fees in order to bring the project before these public bodies to ensure it receives a more robust review process.

While it appears that City Planning did have the option to classify this project as a “major amendment to an existing development plan”, the loss of transparency is concerning. It gives the impression that the Broadmoor, as a powerful player in the community, is receiving special treatment and a rush approval.

The development plan being amended is quite old and possibly expired, as it was approved around 2004; in addition, the original is quite different from what is proposed today. The first version was sold to the community with housing on the location now slated for the huge new commercial addition. That must have been a marketing strategy used to gain community acceptance of the first Broadmoor Hall because the housing component was never built and the community deceived.

Now that plan has all changed. A development project of this size with this many neighborhood impacts needs to be fully vetted and reviewed by all responsible community parties. We feel that only a cursory, inadequate review was conducted through the administrative approval process.

A zone change to upgrade the Broadmoor from C-5 to a C-6 zone to accommodate the transition from “intermediate” to “high volume commercial use” would have been a logical course of action. Had City Planning sought that, it would have caused the project to automatically go before both the City Planning Commission and the City Council, as well as required the Broadmoor to meet additional criteria for a zone change. The community would not have needed to spend over \$500 to ensure a thorough review, which they were forced to do by the City Planning staff’s end-run around the public process.

III. Zoning Issues

As stated above, the expanded commercial use proposed by the Broadmoor in this addition would be more appropriate in a C-6 commercial zone. We feel a zone change should have been required.

The C-5 Zone, which the Broadmoor is currently designated, recognizes the substantial residential components that surround the hotel. The zoning definition states that this zone is for “intermediate business” and commercial uses of “moderate intensity”:

“7.3.202D. C-5 - Intermediate business: This zone district accommodates general commercial uses that are of moderate intensity. The emphasis of the zone is placed on individual sites which in some cases will be located near established residential zoning.”

Considering the size of this new addition (170,00 sq ft), which more than doubles the capacity of the original Broadmoor Hall (147,000 sq ft), and its proposed uses that rely on sizeable convention-type events, patronized primarily by out-of-town guests, the C-6 zone seems a better designation, referring to “high volume” uses “dependent on more than the immediate neighborhood”.

“7.3.202E. C-6 - General business: This zone district accommodates general commercial uses that are typically high volume traffic generators and are generally dependent on more than the immediate neighborhood for their market area. (Ord. 94-107; Ord. 95-125; Ord. 01-42; Ord. 09-70)

There are other zoning discrepancies around the Broadmoor Halls. A parking lot at 1st and Elm (East Lot) is being used for commercial bus parking and has a guard shack on it, but is zoned Residential. This lot is also used for staging numbers of buses with engines running, producing pollution and noise in a residential area. Clearly these are not residential uses, and the Broadmoor should be required to upgrade zoning to reflect its current activities, which have veered away from “moderate intensity” and residential projects.

IV. Development Plan

The Broadmoor Events Center expansion fails to comply with section 7.5.502 A of the zoning code:

“It is necessary to require a development plan in order to review the specific impacts of the proposed land use and site design on the adjacent properties, neighborhood, schools, parks, road systems, and existing and planned infrastructure. The proposed site design can be evaluated against all the circumstances weighing upon this individual case.”

The development plan does not fully disclose all major impacts resulting from a project of this size: The large numbers of attendees that can be accommodated (15-20,000 and more), the high volume of bus traffic that will be required to transport them to the convention site, the high volume of vans/shuttle buses required to transport Broadmoor staff to the site, and the resulting traffic, congestion, pollution, and other impacts on surrounding neighborhoods.

Therefore, the specific impacts of the development were not reviewed nor evaluated against all the circumstances, as required in Sec. 7.5.502 A.

V. Parking

Portions of the City’s Parking Codes are stated below:

“7.4.201: PURPOSE:

The purposes of this part are to ensure the provision, location and design of off-street parking areas that accommodate motor vehicles, while supporting the objectives and policies of the Comprehensive Plan, including balancing the needs of pedestrian and transit users with use of the automobile. Parking areas are secondary to the primary land uses on a site.

7.4.202.A. Applicability: Off street parking and maneuvering areas which conform to this section shall be provided for a newly constructed building or new use on previously vacant land, for all uses in a building which has been enlarged, and for all uses in a building when any use is changed and the newly approved use requires more parking than the previously approved use.....”

This development will have less parking when completed than the Broadmoor has currently (600 current spaces reduced to 238 after construction). City Planning Staff accepted the Broadmoor’s Parking Operations Plan rather than conduct an independent analysis, using one of the standards set out in the city code to determine how much off-street parking is needed. The Planner did not require any additional parking. She ignored the input of the community members in attendance at the Public Meeting, who all stated that Broadmoor parking in front of their homes is a serious problem for them.

The Broadmoor's Parking Operations Plan is not adequate because it is old, originally prepared in 2004 before the first Broadmoor Hall was even constructed, and because the 2019 Updates were not professionally prepared and are not credible. They fail to recognize the tremendous growth since the Broadmoor was purchased by Mr. Anschutz in 2011.

For example, a shuttle bus service was started to 7 Falls (purchased by the Broadmoor in 2014) and that required customer parking. This lot was recently closed to 7 Falls visitors because the Broadmoor said they did not have adequate parking at the hotel to accommodate them. There is no mention of this in the updates for the Parking Operations Plan, calling into question the accuracy of the new demand figures cited in the Broadmoor's application.

Why are people parking on the street in front of residents' homes, as much as six blocks away, during Broadmoor events if the current parking is adequate?

VI. The Comprehensive Plan

A. Plan COS, which was recently adopted to guide the city on future development, recognizes the value to neighborhoods for a prospering city:

"Plan COS provides a vision and framework for enhancing the quality, diversity, and safety of our neighborhoods. It speaks to each neighborhood by addressing the effects of growth and land use changes, as well as attainable housing options..... Creating and recreating resilient neighborhoods will require attention to physical details, connectivity and encouragement of mixed and integrated land uses." (page 24, Plan COS)

Policy VN—1.B: "Inform and engage with neighborhoods, neighborhood-based organizations and individual residents during the development review process....."

Strategy VN-1.B-1: "Create and implement state-of-the-art, transparent, clear and cost-effective methods to inform and involve neighborhoods and affected property owners in development applications and planning initiatives."

The Broadmoor did not fully disclose the sizes of occupancy loads and related impacts. Therefore, we are concerned that the surrounding residential areas which will be impacted are not fully aware of what the Broadmoor has planned and how they may be diminished by the expansion of Broadmoor Hall.

The public review process has not been adequate for community participation and discussion of ways to offset these impacts and reach effective solutions.

B. Plan COS also emphasizes the importance of strong connections between transportation systems, promoting multimodal uses throughout the city.

Policy SC-1.D: "Establish and maintain convenient multimodal connections between neighborhoods, local destinations, employment and activity centers, and Downtown."

Strategy SC1.D.5: "Pay particular attention to addressing and reasonably mitigating the impacts of multimodal transportation decisions have on traditional, historic, and established neighborhoods....."

Strategy SC-1.D-6: “Continue to coordinate bicycle and pedestrian planning, design, and implementation with other infrastructure projects and land use decisions.”

A private busing system to bring large numbers of people from remote parking sites in to the hotel campus is not very practical and will have many impacts on surrounding residential areas. The high volume of 14-passenger shuttle vans and 55-passenger buses required can easily overwhelm streets used for transport. That will discourage and reduce multi-modal options, and increase danger to residents riding bikes or walking.