



City of Colorado Springs

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

Meeting Minutes - Final Planning Commission

Thursday, May 18, 2017

8:30 AM

Council Chambers

1. Call to Order

Present: 8 - Reggie Graham , Rhonda McDonald, Jeff Markewich, John Henninger, Chairperson Eric Phillips, Robert Shonkwiler, Ray Walkowski and Vice Chair Carl Smith

2. Approval of the Minutes

2.A. [CPC 257](#) City Planning Commission Meeting Minutes for April 20, 2017

Presenter:

Eric Phillips, Chair, City Planning Commission

A motion was made by McDonald, seconded by Walkowski, to approve the April 20, 2017 Planning Commission minutes. The motion carried by the following vote: 8:0

Aye: 8 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler, Walkowski and Smith

Absent: 1 - Gibson

3. Communications

3.A. [CPC-038](#) Chair McDonald

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

Postponements

6.B.1 [CPC ZC 16-00123](#) A zone change of 78.3 acres from PIP-1/cr/SS (Planned Industrial Park with conditions of record and Streamside Overlay) and PIP-2 (Planned Industrial Park) to C-5/cr/SS (Intermediate Business with conditions of record and Streamside Overlay) located south and southeast of East Woodmen Road and Vincent Drive.

(Quasi-Judicial)

Presenter:

Michael Schultz, Principal Planner, Land Use Review Department

Motion by Vice Chair Henninger, seconded by Walkowski, that the Planning Case be postponed indefinitely. The motion passed by a vote of 8:0

Aye: 8 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler, Walkowski and Smith

Absent: 1 - Gibson

6.B.2 [CPC CP 16-00124](#) A Concept Plan for the Crest at Woodmen illustrating the re-development of 78.3 acres for mixed light industrial, commercial and retail center located south and southeast of East Woodmen Road and Vincent Drive.

(Quasi-Judicial)

Presenter:
Michael Schultz, Principal Planner, Land Use Review Department

Motion by Vice Chair Henninger, seconded by Walkowski, that the Planning Case be postponed indefinitely. The motion passed by a vote of 8:0

Aye: 8 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler, Walkowski and Smith

Absent: 1 - Gibson

6.C.1 [CPC SWP 16-00155](#) A request to postpone an appeal of the City Planning Commission’s approval of a subdivision waiver to allow primary legal access via a public alley and associated preliminary and final plat applications re-platting the subject property from three lots into six lots

(Quasi-Judicial)

Related File: CPC PFP 16-00155, AR NV 17-00141

Motion by Walkowski, seconded by Vice Chair Henninger, that the Planning Case be postponed to a date certain. The motion passed by a vote of 8:0

Aye: 8 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler, Walkowski and Smith

Absent: 1 - Gibson

6.C.2 [CPC PFP 16-00156](#) A request to postpone an appeal of the City Planning Commission’s approval of a preliminary and final plat and associated subdivision waiver to allow primary legal access via a public alley applications re-platting the subject property from three lots into six lots

(Quasi-Judicial)

Related File: CPC SWP 16-00155, AR NV 17-00141

Motion by Walkowski, seconded by Vice Chair Henninger, that the Planning Case be postponed to a date certain. The motion passed by a vote of 8:0

Aye: 8 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler, Walkowski and Smith

Absent: 1 - Gibson

6.C.3 [AR NV 17-00141](#)

A request to postpone an appeal of the City Planning Commission’s approval of a nonuse variance for lot width and associated subdivision waiver to allow primary legal access via a public alley and preliminary and final plat applications re-platting the subject property from three lots into six lots

(Quasi-Judicial)

Related File: CPC SWP 16-00155, CPC PFP 16-00156

Motion by Walkowski, seconded by Vice Chair Henninger, that the Planning Case be postponed to a date certain. The motion passed by a vote of 8:0

Aye: 8 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler, Walkowski and Smith

Absent: 1 - Gibson

4. CONSENT CALENDAR

4.A.1 [CPC ZC 16-00098](#)

Ordinance No. 17-51 amending the zoning map of the City of Colorado Springs pertaining to .8-acre located at the northeast corner of Stetson Hills Boulevard and Templeton Drive from PBC/cr/AO (Planned Business Center with conditions of record and Airport Overlay) and OC/cr/AO (Office Complex with conditions of record and Airport Overlay) to PUD/AO (Planned Unit Development: Multi-Family Residential, 15 Dwelling Units per Acre, maximum building height of 30 feet with an Airport Overlay)

(Quasi-Judicial)

Related File: CPC DP 16-00099

Presenter:

Peter Wysocki, Director Planning and Community Development
Michael Schultz, Principal Planner, Planning and Community Development

This Planning Case was adopted and forward to City Council on the Consent Calendar.

4.A.2 [CPC DP 16-00099](#)

Stetson Ridge Townhomes Filing No. 4 PUD Development Plan consisting of 12 townhome units on .8-acre located at the northeast corner of Stetson Hills Boulevard and Templeton Drive.

(Quasi-Judicial)

Related File: CPC ZC 16-00098

Presenter:

Peter Wysocki, Director Planning and Community Development
 Michael Schultz, Principal Planner, Planning and Community Development

This Planning Case was adopted and forward to City Council on the Consent Calendar.

Approval of the Consent Agenda

Motion by Smith, seconded by Graham, 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 8:0

Aye: 8 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler, Walkowski and Smith

Absent: 1 - Gibson

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.)

5. UNFINISHED BUSINESS

5.C.1 CPC A Ordinance No. 17-56 annexing to the City of Colorado Springs an
16-00133-1 area known as the Kum & Go Store 689 Annexation Number 1 consisting of .773-acre.

(Legislative)

Related Files: CPC A 16-00133R (public hearing dates), CPC A 16-00133-1, CPC A 16-00133-1R, CPC A 16-00133-2, CPC A 16-00133-2R, CPC V 16-00147, CPC ZC 16-00146, CPC DP 16-00148, CPC NV 16-00149

Presenter:

Peter Wysocki, Director Planning and Community Development
 Michael Schultz, Principal Planner, Planning and Community Development

Staff presentation:

Ms. Herington gave a PowerPoint presentation.

- I. Property location
- II. Area able to be developed
- III. Explanation of an enclave

- IV. Proposed zone
- V. Results of Fiscal Impact Analysis
- VI. Area is a serial annexation
 - A. Annexation is broken into two parts
 - i. Annexation Number 1 consists of .773 acres including Pearl Drive ROW
 - ii. Annexation Number 2 consists of 1.403 acres including ROW of Park Vista Blvd and Cobalt Drive
- II. Rezone to PBC
 - A. Zone consistent with Austin Bluffs Boulevard corridor
- III. Vacation of Pearl Drive ROW
 - A. Location of Pearl Drive ROW
 - B. Vacation include on Annexation Number 1 plat
- IV. Convenience Store Development
 - A. Site Area
 - B. Store size
 - i. Outdoor seating area
 - C. Fuel pumps location
 - D. Parking
 - i. ADA compliance
 - E. Delivery Area location
 - F. Location of water quality facility
 - G. Landscaping
- V. Public Improvements
 - A. Items written into annexation agreement
 - B. Extension of Cobalt to Austin Bluffs Parkway
 - i. Right-in/Right-out only
 - ii. Currently no access to Austin Bluffs Parkway
 - iii. Closure affects traffic flow
 - C. New sidewalk along Austin Bluffs Parkway, Park Vista Blvd and Cobalt Drive
 - D. New storm drain at Cobalt Drive
 - E. Nonuse Variance for 9-foot setback where 25-feet is required
- VI. Stakeholder Input
 - A. Notification area
 - B. Comments from owners
 - i. Future connection of Cobalt Drive to Austin Bluffs Parkway/elimination
 - 1. Access will remain
 - ii. Existing wastewater connections
 - 1. Property owner has a connection in the area to be vacated.
 - 2. Applicant agreed to move wastewater connection for property owner
 - iii. Traffic volume and student cut-through
 - 1. City Traffic will monitor and adjust if needed

Applicant Presentation:

Josh Erramouspe with Olsen and Associates consulting engineer for Kum & Go stores discussed the project. Mr. Erramouspe gave reason for the nonuse variance. They placed the building as far away from the residential areas as possible. Benefits to the area include water and sewer extensions. Mr. Erramouspe discussed the sewer connection for the property owner on the west side and how to accommodate his situation.

Questions: None

Supporters: None

Opponents:

Steve Clark lives on Diamond Drive diagonally from the site. His objects to the 24-hour operation and the traffic coming in and out of the neighborhood at any time during the day or night; there are six convenience stores and 30 gas pumps available within .7 miles of this site no need for another one; the monument sign that no other stores in the area have; traffic diverted to Park Vista. Mr. Clark he tried to ask about Kum & Go's hiring practices, how they'd control flow in and out of the site at late hours, monitor people, will they serve anyone especially if they come into the store intoxicated. They didn't reply to his questions and feels this is indicative of the concern they show for the neighborhood.

Commissioner Shonkwiler asked Mr. Clark where he lived and if it was in the county. Mr. Clark stated where his residence was in reference to the site and stated he lived in the county and thought his zoning was R-2 - residential.

Sam Bader, property manager for Cheyenne Village the assisted living facility to the west of the site. His only objection is how it affects their wastewater line. Right now they have to pump their wastewater to Cobalt Drive. He would like to get some type of assurance about what that shortening the line will do and where the connection will be made. He thinks it will be on Park Vista but he hasn't received any information about that despite the statement there was a private agreement.

Questions of Staff:

Commissioner Henninger asked Ms. Herington about access for Cobalt Drive to Austin Bluffs and if a deceleration lane would be there because most of the areas along Austin Bluffs have it and by changing Cobalt it would make sense to have one otherwise the configuration could cause traffic problems.

Kathleen Krager, City Traffic Engineering, stated this is area has been a

problem for traffic due to the awkward intersections. In the past Cobalt came down and connected to Pearl Drive, then to Park Vista and then to Austin Bluffs. Ms. Krager discussed right-in/right-out verses signalized intersections. Right now the light industrial area along Cobalt would come down to Park Vista and then access Austin Bluffs. By removing Pearl Drive at that location and have Cobalt connect to Austin Bluffs she is able to serve both the new gas station and the light industrial and retail businesses with a right-in/right-out. This will also take care of some of the signal problems at Barnes and Park Vista.

Regarding a deceleration lane they asked for one but when Austin Bluffs was improved a large stormwater inlet was put in that doesn't allow much room to move it but they will make some adjustments to it, thus for that reason there cannot be a 300-ft deceleration lane. Austin Bluffs is a six-lane road with the left and center lanes having most of the traffic and the right lane becomes a default deceleration lane. The State Highway Access Code states you do not have to build acceleration/deceleration lanes on a six-lane road. Therefore, a right-in/right-out was worth putting in since they couldn't get an actual deceleration lane.

Commissioner Henninger asked Ms. Krager if she had a problem with a deceleration lane that starts at Cobalt what would be done with that because it didn't make sense to have the intersection with Cobalt and then have four lanes and the right lane be the declaration lane. Ms. Krager said the deceleration lane served the Park Vista signal. There is a little bit of the deceleration lane to use for Cobalt. Ms. Krager discussed different ways to use deceleration lanes into different areas. A longer deceleration lane would have been better but couldn't be accommodated so she's satisfied with what she has.

Rebuttal:

Commissioner Shonkwiler discussed the sewer line connecting to Park Vista and solving the problems of the assisted living facility. The applicant said a gravity flow would be difficult and wanted it clarified was it impossible to do a gravity flow, more expensive or inconvenient?

Mr. Erramouspe said at first the sewer design within Park Vista was as deep as possible to allow a gravity connection for the assisted living facility. However, with further investigation they found existing utilities that prohibited them from being as deep as they wanted consequently they had to raise the sewer line higher. It's still covered but now the sewer connection from the assisted living facility is lower than their connection. They will still need to pump up into their sewer main as they extend it to the north but by decreasing the amount of pipe associated with that forced main they are still providing some benefit but not as much as they originally projected.

Commissioner Shonkwiler questioned if Mr. Erramouspe was saying impossible or more difficult. Mr. Erramouspe thought it would be more difficult. Mr. Erramouspe said during the first review of their utility plans CSU stated not to connect the sewer main into Austin Bluffs. The complexities would make it awful so they were asked to look at alternatives. The alternative is to go two blocks west to an existing sewer main and extend that line to Park Vista and go north to the farthest northern end of the development. He doesn't know the depth of the new sewer line so it may be impossible to make a forced main connection with the new rerouting of the sewer main. But he doesn't know that because he doesn't have enough information.

Commissioner Shonkwiler said he thought there was an agreement in place. How do we give the assisted living facility the assurance of what would be done? Mr. Erramouspe he didn't believe there was an actual written agreement in place. The plans were shown to Mr. Bader but it showed a forced main. Mr. Erramouspe agreed there needed to be an agreement in place. Having the force main where it is today, Kum & Go wouldn't be able to develop this property so it needs to be addressed.

Commissioner Shonkwiler said he agreed and they couldn't vacate that street if this problem isn't resolved could they. Mr. Erramouspe said that was correct. When the Right-of-Way for Pearl Drive is vacated and replatted they will put a 30-foot easement in place and that will house the utilities. The forced main will be right up against Kum & Go's canopy. They don't want a private sewer service crossing Kum & Go's lot which could disrupt business if it needed maintained or repaired.

Commissioner Shonkwiler asked if there was some assurance this would be resolved before everything's done. Mr. Erramouspe said the only assurances they have are the plans in for review with CSU showing this forced main connecting to their sewer system. Commissioner Shonkwiler asked if a technical modification needed to be added for this because he didn't see one.

Ms. Herington asked Mr. Erramouspe if it was the preliminary utility plan that was part of the development plan that was still under review and being finalized or construction drawings. Mr. Erramouspe said yes, construction. Ms. Herington asked if all of this was shown on the preliminary utility plan because if it's shown on the preliminary utilities plan if it can be written in as a technical modification.

Commissioner McDonald and Commissioner Graham are excused at this time.

Mr. Erramouspe showed a preliminary utility plan that was a little older

than what was in for review and it still shows the forced main connection but reads "Connect to sanitary sewer main with 6-inch flexible service saddle." That is the forced main connection planned for the connection for Kum & Go's sewer main. So it is in the preliminary utility plan which is part of the development plans set and part of their construction documents turned into CSU for review.

Commissioner Shonkwiler asked if that meant it would be done. Mr. Erramouspe said yes it would be done.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Walkowski stated the staff and the worked well together in considering the neighbors. He was satisfied with the traffic engineering report on the deceleration lanes. He will be in support.

A motion was made by Walkowski, seconded by Markewich, for this Planning Case to be referred to the City Council. The motion carried by a vote of 6:0:3

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

Absent: 3 - Graham, McDonald and Gibson

**5.C.2 CPC A
16-00133-2**

Ordinance No. 17-57 annexing to the City of Colorado Springs an area known as the Kum & Go Store 689 Annexation Number 2 consisting of 1.403 acres.

(Legislative)

Related Files: CPC A 16-00133R (public hearing dates), CPC A 16-00133-1, CPC A 16-00133-1R, CPC A 16-00133-2, CPC A 16-00133-2R, CPC V 16-00147, CPC ZC 16-00146, CPC DP 16-00148, CPC NV 16-00149

Presenter:

Peter Wysocki, Director Planning and Community Development
Michael Schultz, Principal Planner, Planning and Community Development

A motion was made by Walkowski, seconded by Vice Chair Smith, for this Planning Case to be referred to the City Council. The motion carried by a vote of 6:0:3

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

Absent: 3 - Graham, McDonald and Gibson

**5.C.3 CPC V
16-00147**

Ordinance No. 17-58 vacating portions of a public right-of-way known as Pearl Drive consisting of 9,096 square feet (.209-acre).

(Legislative)

Related Files: CPC A 16-00133R (public hearing dates), CPC A 16-00133-1, CPC A 16-00133-1R, CPC A 16-00133-2, CPC A 16-00133-2R, CPC V 16-00147, CPC ZC 16-00146, CPC DP 16-00148, CPC NV 16-00149

Presenter:

Peter Wysocki, Director Planning and Community Development
 Michael Schultz, Principal Planner, Planning and Community Development

A motion was made by Walkowski, seconded by Vice Chair Smith, for this Planning Case to be referred to the City Council. The motion carried by a vote of 6:0:3

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

Absent: 3 - Graham, McDonald and Gibson

**5.C.4 CPC ZC
 16-00146**

Ordinance No. 17-59 establishing a PBC/AO (Planned Business Zone with Airport Overlay) zone district pertaining to 1.539 acres located at the northeast corner of Austin Bluffs Parkway and Park Vista Boulevard.

(Legislative)

Related Files: CPC A 16-00133R (public hearing dates), CPC A 16-00133-1, CPC A 16-00133-1R, CPC A 16-00133-2, CPC A 16-00133-2R, CPC V 16-00147, CPC ZC 16-00146, CPC DP 16-00148, CPC NV 16-00149

Presenter:

Peter Wysocki, Director Planning and Community Development
 Michael Schultz, Principal Planner, Planning and Community Development

A motion was made by Walkowski, seconded by Vice Chair Smith, for this Planning Case to be referred to the City Council. The motion carried by a vote of 6:0:3

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

Absent: 3 - Graham, McDonald and Gibson

**5.C.5 CPC DP
16-00148**

A development plan for Kum and Go Store 689 pertaining to 1.539 acres for the purpose of a 6,210-square foot convenience store located at the northeast corner of Austin Bluffs Parkway and Park Vista Boulevard.

(Quasi-Judicial)

Related Files: CPC A 16-00133R (public hearing dates), CPC A 16-00133-1, CPC A 16-00133-1R, CPC A 16-00133-2, CPC A 16-00133-2R, CPC V 16-00147, CPC ZC 16-00146, CPC DP 16-00148, CPC NV 16-00149

Presenter:

Peter Wysocki, Director Planning and Community Development
Michael Schultz, Principal Planner, Planning and Community Development

A motion was made by Walkowski, seconded by Henninger, for this Planning Case to be referred to City Council. The motion carried by a vote of 6:0:3

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

Absent: 3 - Graham, McDonald and Gibson

**5.C.6 CPC NV
16-00149**

A non-use variance for Kum and Go Store 689 to allow a nine (9) foot building setback along Cobalt Drive where 25 feet is required, property is located at the northeast corner of Austin Bluffs Parkway and Park Vista Boulevard.

(Quasi-Judicial)

Related Files: CPC A 16-00133R (public hearing dates), CPC A 16-00133-1, CPC A 16-00133-1R, CPC A 16-00133-2, CPC A 16-00133-2R, CPC V 16-00147, CPC ZC 16-00146, CPC DP 16-00148, CPC NV 16-00149

Presenter:

Peter Wysocki, Director Planning and Community Development
Michael Schultz, Principal Planner, Planning and Community Development

A motion was made by Walkowski, seconded by Henninger, for this Planning Case to be referred to the City Council. The motion carried by a vote of 6:0:3

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

Absent: 3 - Graham, McDonald and Gibson

6. NEW BUSINESS CALENDAR

- 6.A. [AR PFP](#) An appeal of the Planning Commission decision to approve the Archer
[16-00629](#) Park Preliminary and Final Plat, dividing 4.7-acres into 7 single-family
residential lots located at 10 El Encanto Drive.

(Quasi-Judicial)

Presenter:

Lonna Thelen, Principal Planner, Planning & Community Development
Peter Wysocki, Planning and Community Development Director

Staff presentation:

Ms. Thelen gave a Power Point presentation:

- I. Described where site is located
 - A. How site is accessed
 - B. Zoning of the area
 - C. Requirement of lot size of 20,000 square feet
 - D. Function of the current property
- II. Type of Application
- III. Neighborhood Meetings
 - A. June 22, 2016 - Pre-Application Meeting
 - B. October 8, 2016 - Internal Review Neighborhood Meeting
- IV. Preliminary Site Plan
 - A. Location of El Encanto Road in relationship to the site
 - B. Access into the site along a 20-Ft. access road
 - C. Location of proposed homes
 - D. Location of detention pond
 - E. Location of grass paver parking area
- V. Who uses the access road
- VI. Neighborhood concerns or differences
 - A. Density
 - B. Private Access and Parking
 - C. Fire access and safety
 - D. Utility easements
 - E. Detention and Water Quality
 - F. Traffic
 - G. Geologic Hazard

Mr. Peter Wysocki, Planning Director, stated preliminary and final plats are usually not seen by the commission. Given neighborhood interest in the project the applicant asked the item be presented to Planning Commission. If approved administratively any party that felt aggrieved could have appealed to Planning Commission so you may have heard it anyway but this expedites the process for everyone.

Applicant Presentation:

Kristin Heggem with Altitude Land Consultant; Altitude Consultants provided survey work, civil engineering work, landscape architecture, and planning consultant for the applicant. Ms. Heggem gave a Power Point presentation.

- I. First rendering of project shown at a Neighborhood Meeting
- II. Discussed the Newport Company whose 46 homes in the Broadmoor area.
- III. Photos of the site from different views
- IV. Property is open pasture land next to residential homes
- V. Type of streets
 - A. Curb and gutter
 - B. Rolled curb
- VI. Time line of the project
- VII. Site Requirements
 - A. Zoning
 - B. Parcel size
 - C. Minimum lot size
 - D. Maximum allowable number of lots
 1. 10 individual lots
 2. Developing 7
 - E. Less lots done to accommodate concerns of the neighbors
 - F. Open Space
 - G. 44% of Perimeter Property line buffered from surrounding lots
 - H. Public Process
 - I. Storm Water Detention Pond
 1. Required by the city
 - i. Captures water and drains within 72 hours
 2. Pond is a stormwater BMP and will reduce historic rates
 3. Inlets and outlets protected by grates for safety
 4. Pond is landscaped as an amenity
 5. Environmentally friendly
 6. Graphic designs of what detention pond will look like
- VII. Roadway Width
 - A. 20-Ft. proposed meets City's Code and requirements
 - B. Consistent with characteristics of area
 - C. Matches or exceeds other Broadmoor area roads
 - D. Approved by City Fire
 - E. Photos of similar roads in the area that are same width or less
- IX. Grass Pave Parking
 - A. Size - 9-ft wide, 330-ft long
 - B. Parking spaces provided
 1. Above and beyond City requirements
 - C. Permeable surface
 1. Reduces runoff

- 2. Increases stormwater infiltration
 - D. Constructing due to concerns express by neighbors of possible parking El Encanto and Mayfield
- X. Swales
 - A. Sensitive approach to stormwater runoff
 - B. No curb and gutter
 - C. Allows water to flow into detention pod
 - 1. Flow requirements
 - i. Provides 41.46 cubic feet (CF) of stormwater capacity vs 38.80 (CF) as required
 - D. Swales used throughout Broadmoor area
 - E. Preserves rustic character of the neighborhood
- XI. Density
 - A. Referenced lot size in the area
 - B. Lot size similar and exceeds minimum requirements
- XII. Homes cost
 - A. One Million plus
- XII. Site Design harmoniously with surrounding neighborhood

Questions:

Commissioner Markewich asked about the Wildland Urban Interface and the hardening to be done to the structures, please clarify. Steve Smith with Colorado Springs Fire Department stated what is being referred to is the mitigation process adopted in 2009 International Fire Code. Hardening deals with non-combustible eaves and overhangs, sealing the bottom of footers at the bottom of the homes. Also required mitigation measures in terms of landscaping around the home, type of fire-wise friendly fuels. Commissioner Markewich confirmed composite decking opposed to wood decking would be an example of hardening.

Commissioner Markewich asked about the north of the parking area. What is the divider between the homes on the north and that area? Ms. Heggem stated there's a an existing wood fence which will remain and they are not proposing any new fencing on the property

Commissioner Markewich stated neighbors mentioned gated access and he wanted it confirmed it wasn't part of the proposal. Ms. Heggem stated in first proposal they had it but removed it after the first neighborhood meeting.

Commissioner Markewich asked if the access from Mayfield to the property down to 12 El Encanto would be paved. Ms. Heggem stated yes. Commissioner Markewich asked if it would be paved the entire way to 12 El Encanto. Ms. Heggem explained how access would be but only to a certain point. The owner of 12 El Encanto would have to connect the portion where it stops and pave it to his property to the east.

Supporters: None

Opponents:

Les Gruen stated he was coordinating for several people who wanted to speak. Mr. Gruen discussed his connection to the neighborhood and how he was asked to represent the neighbors in opposition to this application. He provided exhibit packets outlining their concerns. Mr. Gruen stated at Informal Planning Commission Ms. Thelen stated all issues remain unresolved. Mr. Gruen reiterated these types of applications are normally reviewed administratively and this application has had four staff reviews. Mr. Gruen stated their presentation will prove the application doesn't meet minimum review criteria. Mr. Gruen stated drainage is the greatest deficiency of the proposal. Roland Obering a professional engineer will discuss the applicant's drainage report; Ron Steeler an environmental lawyer will explain how the drainage review doesn't appear to be consistent with commitments the city has made in connection with the EPA lawsuit against the City.

Chief Noel Perrin with the Broadmoor Fire Protection District stated he's familiar with the project and wanted to clarify his involvement. The Broadmoor Fire Protection District does not review plans or approve them. The Broadmoor Fire Protection District neither supports nor opposes the project. It's true that he looked at the plans with city staff and stated it met minimum fire safety requirements. Could they do more, yes, but they could not do less. Planning Commission determines if minimum safety standards are what the project deserves.

Betty Wolfe said the pasture behind her house is large and when it rains there's a river between her house and the pasture. When the pasture is paved the runoff will become worse. The same developer built her house and she has drainage problems. The developer is relying on a 30-year old drainage report that didn't address the problems in the first place. She's speaking on behalf of the HOA who advised the City and the applicant they objected to any discharge of stormwater from the detention pond onto Mayfield Lane which the plans currently show. This extra drainage will require additional maintenance their HOA will have to pay for. The project will damage neighbor.

Rick Holt stated he lives next to Ms. Wolfe and has similar flooding issues. He stated the drainage needs to be reviewed carefully. The applicant wants to put a parking strip on the north side of the development behind their back yards causing noise and headlights shining into their houses. This type of parking isn't found anywhere in the neighborhood. The applicant needs to go back and redesign something that fits into their neighborhood.

Bill Kosar explained how the lot flows. It has a large swale running

diagonally across it. And all the land and streets slope down to the east. Street crowning directs most of the stormwater to the street gutters. The project will add a large amount of impervious surface resulting in more stormwater runoff. When the detention pond is full any additional stormwater will exceed the drainage capacity. After reviewing the plans he doesn't believe the detention pond will control stormwater effectively.

Diana Matsinger said her issues are drainage. She said the rules aren't being followed with this project. The drainage system isn't designed to handle the water throughout the site. The city's drainage criteria requires a maintenance agreement to be submitted with a final drainage report and none have been submitted. The timing of agreement is essential because the HOA is supposed to handle it. There won't be a fully functioning HOA for many years. Who's responsible to maintain that system in the meantime? Without a maintenance agreement there's no guarantee this will be safe or environmentally friendly. Possibly fencing for the pond for safety reasons wasn't consider because the developer said one wasn't required.

Jen Sullivan stated they moved to this area for the wide streets and lots. She and her daughter ride their bikes and her biggest concern is for her. A 20-foot isn't wide enough to accommodate traffic and biking and walking. There are no sidewalks. She's a real estate agent and stated in El Paso County a home priced at this amount took on average 400 days to sell. Her other concern is the fire access. They are a closed system. There needs to be more planning and a traffic study be done.

Mike Roslin stated lives at 7 El Encanto and most of the neighborhood is governed by covenants with one and two-story homes, wide streets, and sidewalks with curb and gutter. The proposed subdivision is opposite of that. The applicant indicated the homes could be 3-stories or larger. The proposed road for ingress is 780-ft. long, 20-ft. wide with one way in and out. In the event of a fire this size of street doesn't allow for safe evacuation. Parking will be an issue. Fire and police can ticket a car, but it wouldn't be towed. Overflow of parking will be onto El Encanto Drive and then onto Mayfield Lane which is a private road. The solution is fewer lots, a wider road, and better drainage.

Dr. Jim Albert stated they live at 9 El Encanto and purchased 12 El Encanto for his aging parents. Right now 12 El Encanto is rented. Both properties will bear the brunt of this development. Dr. Albert stated a rural lane that served one home will now have an additional home plus additional traffic from the proposed homes along with a maintenance road from the new detention pond. Pedestrians will need to compete with this traffic along a 20-ft wide road with no sidewalks. The small width of the road with bidirectional traffic along with people walking in the street violates safety. If the project is approved he couldn't

recommend his aging parent live at 12 El Encanto. Car lights will shine directly into 9 El Encanto's windows. The development will have devastating real estate impacts for these two properties and the entire neighborhood will be ruined forever. His properties are 5-7 feet lower than the proposal and a poorly designed drainage system will affect them adversely. The developer will disturb their easement to 12 El Encanto for placement of utilities. The applicant does not have the legal permission to proceed with that action. He asks they deny the application.

Roland Obering with Obering and Worth Associates stated their firm has been retained by the residents regarding the stormwater management being proposed. Neighbors have expressed concerns about historic drainage. The site upstream and the subject site drains from southwest to northeast with the slope resulting historic flooding at intersections and adjacent properties. Their greatest concern is the lack of consideration of the historic offsite flows routed through the proposed subdivision and the impact to the proposed stormwater management facility. Mr. Obering gave details regarding the amount of flow on the site and the offsite amounts and resulting problems because of this. The applicant's capacity exceeds the required capacity but does not take into consideration the offsite flow. Mr. Obering said the pond is too small. It needs to be bigger to accommodate the flow from both onsite and offsite flows..

Commissioner Walkowski said the drainage report states the detention pond is adequate and you're saying it's not correct, or is incorrect according to the way you measure. Mr. Obering stated yes. The deficiency is the 13-acre offsite runoff that runs through the proposed subdivision. Commissioner Walkowski asked if the prior drainage report included the offsite flows. Mr. Obering said the first two didn't it but the current one does but doesn't consider the routing of the offsite flow. Commissioner Walkowski asked could that be, how could it not route it through that if they're including that? Mr. Obering said all he could say was it wasn't being considered as part of the sizing of the pond. Commissioner Walkowski stated Mr. Obering believed it was an inadequate drainage report. Mr. Obering said yes

Commissioner Shonkwiler asked if Mr. Obering was saying the design of the drainage plan would remove the water from the area and reroute it to the east into the detention pond. Mr. Obering confirmed it was. Commissioner Shonkwiler said that meant Mr. Obering testified that the existing problem would go away. Mr. Obering said he wouldn't say it goes away. He would rather say the potential was reduced based on contingency that the swale redirecting the flow away from the neighbors was adequately sized. Commissioner Shonkwiler stated the way he understood drainage was that you're required to let the water flow

through your property to the next. Mr. Obering said yes, in its historic form. Commissioner Shonkwiler said historic drainage through this property goes into the back yards of the properties to the west of the drainage pond and the new design would mitigate that to a certain extent if done correct. Mr. Obering said yes

Commissioner Smith confirmed Mr. Obering was stating the detention pond was not large enough. Mr. Obering said yes. Mr. Obering said the stormwater management has three parts: 1.) The swale 2.) The headwall and culvert to divert a 16-inch swale into a 3-ft diameter culvert is a significant challenge. 3.) The detention facility itself. All three are undersized in relativity to the combination of onsite and offsite flows.

Commissioner Smith confirmed the swale is on the south side of the street and asked Mr. Obering if he was saying there is a culvert under the street before it gets to the pond. Mr. Obering said yes the proposed 36-inch culvert. Commissioner Smith confirmed Mr. Obering didn't think it's big enough. Mr. Obering said the calculations provided show that it had a capacity for 36 CFS but the flow at the swale is 55 CFS. Only 39 CFS will get into the detention pond and the rest will go elsewhere. Commissioner Smith asked Mr. Obering what he would do to fix it. Mr. Obering said there are two solutions. One route it through the subdivision and accommodate approximately 2 ½ times the amount of flow generated by the subdivision and two intercept it at the south property line and carry it to the east to a suitable outfall. There is a piping area at Sierra Vista that could be used.

Commissioner Smith asked if the current proposed site for the pond could be larger at the area. Mr. Obering said no they would need two to three additional lots.

Commissioner McDonald said their exhibit shows the additional offsite basin flows and it was his testimony that the owner of Archer Park is responsible for the flows of those additional 13-acres and make sure that all that flow is handled properly. Mr. Obering said yes. Commissioner McDonald said despite only owning a small portion of that. Mr. Obering said he is responsible for historic flows entering his property and safely conveying through the property to a proper outflow point.

Commissioner McDonald said Mr. Obering's calculations differ from the company that completed this report and thus we have two differing opinions. Mr. Obering said yes. Commissioner McDonald asked if the other calculations take into account all of the 13-acres of drainage. Mr. Obering said the swale attempts to but doesn't meet the threshold. The pond definitely doesn't take into account any offsite drainage. Commissioner McDonald said the person who did the drainage report

doesn't feel the property owner is responsible for all the offsite drainage, would Mr. Obering agree. Mr. Obering said he had no opinion. But as a professional engineer you have to accommodate both onsite and offsite drainage.

Commissioner Shonkwiler said while driving around the neighborhood it appeared the first pipe system was in Sierra Vista and everything south of that street was built without any accommodation to stormwater at all. Mr. Obering said he wouldn't agree with that. The exception would be the 1987 report which concluded the system and street had adequate capacity to accommodate historic offsite plus the developed the Mayfield lots. Commissioner Shonkwiler said there's been testimony that flooding happens now and there is no stormwater piped system until you get to Sierra Vista. Mr. Obering said that was correct. Commissioner Shonkwiler said someone didn't do what they should've and now it's coming in after the fact. Mr. Obering said that was correct as well.

John Steeler an environmental lawyer representing Dr. Albert and his wife said the crux of the issue is simply that water flows downhill which is the key of this argument. What you are hearing are the downhill neighbors will be impacted particularly the Alberts. He's looked and city code and the drainage criteria but focused on the lawsuit against the city on the stormwater issue. The key issue is the state of Colorado and federal government has alleged the city hasn't followed the rules. The drainage criteria in Chapter 4 and Colorado law are clear, it says you have to take and convey water through your site and off your site without adversely affecting others in a manner that is beyond their historic flows. Right now the ground is a pervious surface that takes on a lot of water. Yes mitigations could help and yet it won't because the facilities are undersized. When it's undersized it backs up and overflows. The downstream owners aren't responsible to figure this out it's the city and the current applicant's responsibility to deal with that these issues and get it to a location that is safe and not negatively impacting anyone. If the city approves this this will be another example of the city's inability to comply with its own rules.

Commissioner McDonald commented on Figure 3 of the opposition's packet and asked if the figure shows where the water will end up when the subdivision is developed. Mr. Steeler said yes. Commissioner McDonald asked if they had a figure of what happens with the flow now because is it worse now and will it get better once the detention pond is installed. Mr. Steeler said they believe it will be worse. Because 5-acres that is now permeable a portion will become impermeable.

Commissioner McDonald said yes but they would have all the drainage pieces that will go into place to accommodate those 5-acres. Mr. Steeler said they were all under sized because it's not accommodating

the rules. Commissioner McDonald said she understood but wanted to know if the drainage is taking care of the 5-acres and is it worse now or then. Mr. Steeler said they believe it will be worse. It will either direct flow or back up and then flow. He's more concerned about what the rules and they're clear and that flow must be convey across the property. The rules require it be moved through and off the property. Commissioner McDonald said she understood and wished they had some type of comparison but they don't.

Commissioner Shonkwiler stated there are historic flows on the site now causing drainage problems and areas built north and east didn't care to do what you just discussed as being required by law. Mr. Steeler said he wasn't aware of the previous approvals. Commissioner Shonkwiler said without anything being build there are flows causing flooding problems now. Mr. Steeler said that was correct. The piped system Mr. Obering testified to, there are 30-40 homes between this property and the piped system. So I'm making some assumptions that what was built without proper drainage. So practically what do you do next - who take cares of this for what was done 30 years ago.

Mr. Steeler said every downstream owner under Colorado law and city code is required to take the quantity and quality of the historic drainage and move it to the next property downhill. It's a chained responsibility to take this on. What they don't have to do is take on more a worse quality which is the fundamental legal issue facing us here. We believe this will increase the historic flow. Houses will be still flooded. The problem the city faces is how do you deal with hundreds of years of development and make it right. The immediate neighbors shouldn't take on more than they are obligated to take and they believe that is what will happen with this system.

Commissioner Markewich stated if downstream owners are required to take the historic flows then the only responsibility the applicant has is to the additional flows that are generated by his project and taken care of on his site. He's not responsible for restricting historic flows from the 13-areas. His responsibility is to pass through the historic flows from the 13-acres to whoever is downstream. His primary responsibility is to ensure his property isn't making the situation worse, is that accurate? Mr. Steeler said it's somewhat accurate. He's required to convey those 13-acres through or around his property then hit the system. But it doesn't get it all the way through the system because it's undersized and it will not get it through his property. Commissioner Markewich said there's no system now and a system, to him, would be a curb or creek or sewer that passes it through to the downstream neighbors and they pass it to their downstream neighbors. As long as he's not making it worse by increasing the flow down to the neighbors, doesn't it fit in their review requirement? Mr. Steeler said there is a system. It's 5-acres of

permeable ground the soaks much of this up. What's not soaked up goes to Ms. Wolf's property then out into the street. The problem is we're developing property and your review criteria requires you deal with the newly developed property as well as getting this through to the street and then to the detention pond. Commissioner Markewich said in your opinion if 100% of the flow can be routed and discharged off property it meets the requirement. Mr. Steeler said yes

Bruce Wright discussed easements. 1.) A 15-ft public utilities easement with a deed dated 1877 reserving an easement for the Colorado Springs Company for an irrigation canal. Only the Colorado Springs Company can use it for an irrigation canal. 3.) Existing 15-ft public utility and non-exclusive easement recorded in 1968 granted to Broadmoor Sanitation Company for the purpose of a sewer line for 12 El Encanto. It's not a public easement. 4.) There is a 20-ft private access easement allowing access to 12 El Encanto for ingress and egress. It's uninterrupted access for the repair and maintenance of utilities. If there is no access for any extended length of time it would be a violation. Lastly the easement prohibits any dedication to the general public for public services whatsoever. The applicant was required to dedicate a 45-ft utility easement along the east side and 20-feet of it is over the existing access easement that prohibits any public use. It would have to move 20-ft to the west putting it under the detention pond. His final item has the detention pond is proposed to empty onto Mayfield. Mayfield is a private road and you can't dump the drainage onto private property without permission of the property owner and if done it's trespassing. It's impossible for the drainage plan they have to work.

Commissioner Markewich said one the easement is to the Broadmoor Sanitation District. Does it still exist? Mr. Wright said he did know. Commissioner Markewich said if it doesn't exist and CSU is the service provider it would be up to the current entity to say if the sewer line can be used since they own that easement. Mr. Wright said that would be the logical assumption but he doesn't know how it was legally done. Commissioner Markewich said his point is if CSU reviewed the plan, they're aware of easements and past easements, the size of the pipe and what it can hold and CSU said this is an adequate solution for the site to discharge their waste, then he'd go with CSU saying this is all okay. Mr. Wright said he wouldn't assume CSU looks into capacity issues. But if a new sewer line had to be put in it would violate the 2016 exclusive access easement. Commissioner Markewich said the easement the Broadmoor Sanitation District holds or the one to 12 El Encanto. Mr. Wright said the easement 12 El Encanto holds. Commissioner Markewich said if a new line had to go in and you were able to divert traffic to allow access would that work. Mr. Wright said you'd have to get the owners of 12 El Encanto's permission because they own the easement. The developer hasn't approached the owner to

see how they could work this out.

Mr. Gruen said he included in their packet the subdivision review criteria and highlighted the ones applicable to this application. Testimony heard today shows that application doesn't meet the criteria and why the proposal should be denied. Staff's recommendation to approve this with 20 technical and informational modifications would strip neighbors of further input on the unresolved issues to be addressed. There are development plan requirements for this zone should the plat be approved. The plan should be denied outright rather than approved with conditions however if the commission concurs with staff's recommendation we'd request any approval be conditioned on Planning Commission rehearing the preliminary and final plat but also conduct a full development plan review once all conditions have been satisfied.

Dr. Karen Dana said she's heard concern about safety and legal issues. She's heard there are too many houses being proposed without it being thoroughly researched. This area slopes, the lot is irregular and there are too many things in question to approve. There isn't enough room for natural environments. We want to make sure it's looked at from all perspectives.

Fred Jones lives at the corner of Sierra Vista and El Encanto. His is drainage relating to sewage drainage. He's lived at his home about two years and in that time sewage has back up a couple of times. When cleaned out he was told his system is clean it's coming from the street. The sewer line T's into Sierra Vista and he's the first house off the T. With seven new homes running into that sewer line he's going to be impacted. He knows the City thinks the capacity of the system is adequate but he doesn't agree with them. So this needs to be considered too.

Questions of Staff:

Commissioner Graham asked if the most recent drainage plan account for the 13-acres upstream and how to mitigate that water. Erin Powers with Stormwater and engineer reviewing the project stated the report discusses these offsite flows but the system is not designed to handle the offsite flows but the flows will still be conveyed through the site. Regarding the detention design for the offsite flows the purpose for full spectrum detention is to mimic historic flow rates. Historic flows are usually green fields. The offsite flow is in this condition so the detention that would be required is only for the developed area to mimic the historic rate.

Commissioner Graham said if the offsite flow from the 13-acres isn't accounted for how is that water moving through. Ms. Powers said historically the water would sheet flow across the field into back yards or

the street. With the development it would be captured mostly in that swale and routed to the east towards the pond. Once it reaches the culvert there's a low spot and if it ponds up it would sheet flow over the road into the pond and into the street rather than people's houses.

Commissioner Graham said testimony has been given that the pond is undersized and culvert undersized so did you account for that. Ms. Powers said the testimony that the drainage pond is undersized is based on requiring detention for the entire offsite area. Developments per the criteria are not required to mitigate the entire offsite area they are only to treat what is being developed and the flows they are increasing. Regarding the culvert it's not required to convey the entire offsite area as long as the drainage from the offsite is still conveyed through the site. It doesn't need to be conveyed through the culvert to be conveyed through the site.

Commissioner Markewich asked if there was just one swale. Mr. Powers said there is one swale for the entire length of the project and all the flows are directed into that one swale. Commissioner Markewich asked based on Ms. Powers' experience with diverting flows would she recommend additional diversion possibly along the south side of the property in another place to make sure historic flows can get through and onsite flows are being properly mitigated per our code. Ms. Powers said her job is to only review to the criteria. The current design meets the criteria with the technical modification.

Commissioner Walkowski discussed the offsite flow. Right now the field and mitigates some of the flow. But now put a development on top of this doesn't it change the historic flow. Doesn't it cause additional historic flow that doesn't go into the ground and has to flow through? Ms. Powers said he was correct the pasture area mitigates some of the historic flows now and in the developed stage it will continue to be mitigated by the grass. The difference is on the developed site that is the change required to be mitigated. Commissioner Walkowski said with the flows that go into the street now, will that change with this new development. Will it be greater than what it is today? Ms. Powers said from the drainage report the drainage flow accounted for the 98 CFS going onto the street and this site under peak low rates for the 100 year would increase the 98 CFS by 1.25 and that is within the error bars.

Commissioner Markewich asked for CSU to address easements for the site. Bethany Burgess with the City Attorney's office and Jan Crosby can address concerns about the easements. Commissioner Markewich asked if the easement to the Broadmoor Sanitation District has transferred to CSU and what is CSU's position for the use of that easement. Ms. Burgess said the easement was acquired by the City with the annexation of the area into the city. The 1968 easement would

become a CSU sewer easement and it's limited to only sewer. While it's a non-exclusive easement in the since that other easements may overlap the easement but it was only for sewer. The existing sewer main does have the capacity to accommodate the sewer flows from the proposed development.

Commissioner Markewich stated from a legal standpoint you have no concern about this. Ms. Burgess said they don't. She said Mr. Wright referenced a 2016 easement there will need to be an additional 30-ft easement. Commissioner Markewich stated it would extend past the current easement further onto their property to allow CSU to put addition infrastructure under the pond. Jan Crosby with CSU said it wouldn't go under the pond it would be adjacent to it.

Commissioner Markewich said from their perspective regarding capacity will the gas and electric be further west and not disturb the 20-ft easement for access to 12 El Encanto. Ms. Crosby said there were two of points; on the eastern edge of 10 El Encanto there are two 5-ft property line easements that were created when the area was replatted that are unrestricted and are senior to the 2016 easement and those are public utility easements. The 1968 easement to the Broadmoor District for the sanitary sewer is an 8-inch main which is sufficient capacity for the new development. Then applicant is granting a 45-ft easement that will overlap the existing easements but there will be 20-ft access of the 2016 easement to the west that

A motion was made by Smith, seconded by Markewich, that this Planning Case be adopted. The motion carried by the following vote: 7:1:1

This Planning Case is being forwarded to City Council due to an appeal of the Planning Commission's decision to approve this item.

Aye: 7 - Graham, McDonald, Markewich, Henninger, Chairperson Phillips, Shonkwiler and Smith

No: 1 - Walkowski

Absent: 1 - Gibson

7. Adjourn