

City of Colorado Springs

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



Meeting Minutes - Draft

Thursday, November 16, 2017

8:30 AM

Council Chambers

Planning Commission

1. Call to Order

- Present:** 8 - John Henninger, Samantha Satchell-Smith, Reggie Graham , Chairperson Rhonda McDonald, Jeff Markewich, Jim Raughton, Ray Walkowski and Jamie Fletcher
- Absent:** 1 - Vice Chair Carl Smith

2. Approval of the Minutes

[CPC 378](#) Minutes for the October 19, 2017, City Planning Commission Meeting

Presenter:
Rhonda McDonald, Chair, City Planning Commission

Motion by Fletcher, seconded by Walkowski, that this Planning Case be accepted

Proposed Motion:
Approve the October 19, 2017, meeting minutes.. The motion passed by a vote of

- Aye:** 8 - Henninger, Satchell-Smith, Graham, Chairperson McDonald, Markewich, Raughton, Walkowski and Fletcher

- Absent:** 1 - Smith

3. Communications

Rhonda McDonald - Chair

Peter Wysocki - Director of Planning and Community Development

4. 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.A.** [CPC CU 17-00126](#) Christian Brothers Automotive Conditional Use to allow an automotive repair facility on 2.66-acre property zoned PBC/CR/SS (Planned Business Center with Conditions of Record and Streamside Overlay) located at 20 South Rockrimmon Boulevard.

(Quasi-Judicial)

Presenter:
Mike Schultz, Principal Planner, Planning & Community Development Department

STAFF PRESENTATION:

Mr. Schultz gave a power point presentation discussing the scope of the project

APPLICANT PRESENTATION:

Johnathan Wakefield, Development Director for Christian Automotive gave a brief outline of the project but deferred specific questions regarding technical aspects to his engineer.

QUESTIONS:

Commissioner Fletcher had questions about the Geohazard letter from CGS and if all of their issues had been addressed; if the retaining wall be sufficient for the slope; if the city had written requirements for a retaining wall. Mr. Schultz stated city staff relies on the engineers who are the experts in their fields to ensure the wall is properly designed and since he wasn't an engineering expert if CGS was satisfied with the report for a note will be placed on the development plan then that's what would be done. City Staff's responsibility is to ensure applicants are aware of issues on the site. Mr. Schultz regarding requirements for the retaining wall those are provided at the time of building permit. Commissioner Fletcher stated he'd have to make a decision based on partial information. Mr. Schultz stated city staff's responsibility is to review the building permits and ensure all issues have been addressed.

Mr. Wysocki added the Regional Building Department (RBD) will ultimately be responsible for signing off on issuance of the building permit. They review construction methods and issues the building permit or they rely on a third party certify all items associated with any geohazards have been designed and built accordingly. This is handled out of the land use entitlement process. That structural review occurs through them. All city departments reviewing the project and sign off on the review of the building permit but we do not issue it.

Commissioner Fletcher asked about a site grading plan. Mr. Schultz stated they are allowed to submit a preliminary grading plan now and a final grading plan for City Engineering later.

Commissioner Fletcher stated the Geologic report referenced possible corrosive minerals and to use special cement. Commissioner Fletcher stated the engineer got back with him and stated he'd convey that to the builder and if that sufficient for Mr. Schultz or do we need written documentation that special cement will be used. Mr. Schultz stated the engineers do the soil borings and determine potential issues based on those borings. Mr. Schultz reiterated city planning staff is not geotechnical experts and we defer that liability to the applicant and contractor to ensure they reference the geotechnical report and address that as part of their construction documents.

Commissioner Fletcher wanted clarification where the bays were actually located. Mr. Schultz referenced the site plan and where bays were located.

Commissioner Fletcher stated the information in the packet stated this item is not consistent with the 2020 Land Use Map. Did Mr. Schultz believe this is consistent with the 2020 Land Use Map? Mr. Schultz stated yes gave the history of the area and land uses allowed which showed allowance for this type of development thus he didn't require the amendment to the Land Use Map.

Commissioner Markewich discussed the streamside overlay and the retaining wall covering a portion of the overlay and if wall go farther to the west. Mr.

Schultz deferred to the engineer.

Mr. Glen Ellis with JR Engineering stated they're matching into existing grade in the west and in the east they pick up the grade differential and slope of the stream so the retaining wall wouldn't be needed in the area reference since it ties into the existing slopes.

Commissioner Markewich discussed subsidence and how well the coal mine tunnels are mapped out. He wants to the property safe, and the owner to be aware of it, and that we're mitigating future problems.

Mr. Schultz reiterated he's not a geotechnical engineer expert and he'd rely on CGS but there are documents that show the tunnels and he didn't see any tunnels in this specific location. However subsidence doesn't mean you can't build in the area it means designing it property, which the applicant has done and then building it properly.

Commissioner Markewich stated he wanted to make sure the owner and applicant were aware there are issues or potential issues here and they should do as much as they could to protect themselves.

SUPPORTERS: None

OPPONENTS: None

REBUTTAL:

Mr. Wakefield stated regarding the notes on the geotechnical report their general contractor is legally obligated to adhere to all aspects of geotechnical report and all other reports provided. Whether the city adds a note to the plan for specific cement or not they will do it anyway. The geotechnical report does borings and if the boring shows it was not suitable for development they wouldn't be purchasing the property. The geotechnical report requires some excavation and the general contractor is obligated that if he encounters soils not previously identified he has to report that to them, and then they report that to you. We have to over-excavate the site and use select fill to ensure their slab doesn't crack and fall into the stream. We will do everything suggest and some things you haven't to make this a successful venture.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Raughton stated he commended the applicant. They've address drainage issues and accommodated those. He thought the signage was integrated well and well done. He's in support.

Commissioner Walkowski stated he appreciated everyone's work on the project. It's well designed and they addressed all the geotechnical concerns. He appreciated the additional landscaping that will help the look and feel of the corridor. They meet the review criteria for both the Conditional Use and the Development plan and he will be in support of the project.

Commissioner Fletcher stated he had nothing to add but wanted to clarify two things. His mention of discussions with the engineer was a matter of public

record. They were email to Ms. Elena Lobato, the engineer emailed responses back and those responses along with his questions were, he believed, emailed to everyone.

Commissioner Fletcher stated his second comment was he met the franchisees this morning and he knows they're wonderful people because he worked with one of the franchisees owners for approximately six months, one year ago. If City Attorney Smith would like him to recuse himself from the vote he will be happy to do so. But they've had no contact in one year.

City Attorney Smith asked Commissioner Fletcher if he believed that that relationship would cause him to be impartial or do you have any financial dealings with them. Commissioner Fletcher stated he had none. He didn't believe it's a conflict of interest he just wanted to check.

City Attorney Smith stated he didn't know the extent of the dealing so he couldn't opine on that. Commissioner Fletcher stated he didn't believe it's a conflict in any way.

Motion by Walkowski, seconded by Graham, to Approve the conditional use for Christian Brothers Automotive based upon the findings that the conditional use development plan meets the development plan review criteria set forth in City Code Section 7.5.502.E and the three findings for granting a conditional use permit as set forth in City Code Section 7.5.704, subject to the below technical modification:

1. Determine overall land disturbance area and if full spectrum detention is required amend the plan to illustrate required adjustments to the water quality pond as depicted on the plan. The motion passed by a vote of 8:0:1

Aye: 8 - Henninger, Satchell-Smith, Graham, Chairperson McDonald, Markewich, Raughton, Walkowski and Fletcher

Absent: 1 - Smith

5. UNFINISHED BUSINESS

- 5.A.1.** [CPC MP 87-00381-A2 0MJ17](#) Major amendment of the Banning Lewis Ranch Master Plan changing the land use of 162 acres from industrial park and retail to residential, office, industrial/research and development and neighborhood-scale commercial land uses located east of Marksheffel Boulevard, south of Space Village Avenue, and north and west of undeveloped property within the Banning Lewis Ranch.

(LEGISLATIVE)

Presenter:
Meggan Herington, Assistant Director, Planning and Community Development

Motion by Markewich, seconded by Raughton, to postpone this item to the December 21st City Planning Commission hearing. The motion passed by a vote of 8:0:1

Aye: 8 - Henninger, Satchell-Smith, Graham, Chairperson McDonald, Markewich, Raughton, Walkowski and Fletcher

Absent: 1 - Smith

5.A.2. [CPC ZC 16-00152](#)

Reagan Ranch zone change of 162 acres from PIP-2/PBC/AO/APZ-1 (Planned Industrial Park/Planned Business Center with Airport Overlay and Accident Potential Zone-1) to PUD/AO/APZ-1 (Planned Unit Development with Airport Overlay and Accident Potential Zone-1) located east of Marksheffel Boulevard, south of Space Village Avenue, and north and west of undeveloped property within the Banning Lewis Ranch.

(QUASI-JUDICIAL)

Presenter:
Meggan Herington, Assistant Director, Planning and Community Development

Motion by Markewich, seconded by Raughton, to postpone this item to the December 21 City Planning Commission hearing. The motion passed by a vote of 8:0:1

Aye: 8 - Henninger, Satchell-Smith, Graham, Chairperson McDonald, Markewich, Raughton, Walkowski and Fletcher

Absent: 1 - Smith

5.A.3. [CPC CP 16-00153](#)

A PUD Concept Plan illustrating the amendment of the existing industrial park land use type and eliminating the retail land use type in favor of residential, office, industrial/research and development and neighborhood-scale commercial land uses located east of Marksheffel Boulevard, south of Space Village Avenue, and north and west of undeveloped property within the Banning Lewis Ranch.

(QUASI-JUDICIAL)

Presenter:
Meggan Herington, Assistant Director, Planning and Community Development

Motion by Markewich, seconded by Raughton, to postpone this item to the December 21st City Planning Commission hearing. The motion passed by a vote of 8:0:1

Aye: 8 - Henninger, Satchell-Smith, Graham, Chairperson McDonald, Markewich, Raughton, Walkowski and Fletcher

Absent: 1 - Smith

6. NEW BUSINESS CALENDAR

6.A. [CPC CM1
17-00020](#) A Conditional Use for a Commercial Mobile Radio Service (CMRS) installation of a 13-foot cupola for a concealed stealth telecommunications facility with associated supporting ground equipment located at 5075 Flintridge Drive.

(Quasi-Judicial)

Presenter:

Rachel Teixeira, Planner II, Planning and Community Development

STAFF PRESENTATION:

Ms. Teixeira gave a power point presentation discussing the scope of the project

APPLICANT PRESENTATION:

Pamela Goss with Verizon gave a Power Point presentation describing the project.

QUESTIONS:

Commissioner Markewich stated with these types applications we get the same questions about health and the Planning Commission can only regulate the visual impact, location, height, and type of cellular communication facilities. The Federal Communication Committee (FCC) sets everything else. Is that what most of the concerns boil down to? Ms. Goss said yes.

Commissioner Walkowski assured the neighbors they read their concerns and one was regarding noise from a generator. Ms. Goss stated due to feedback they redesigned and removed the generator but, there's a plug for a mobile generator in emergencies.

Commissioner Raughton stated the FCC encouraged co-location was this one. Ms. Goss said no. The copula will have only Verizon antennas. Another carrier could have something elsewhere on the roof. The original design was a taller structure and to co-locatable it'd have to be even taller. But due to the topography it would have to closer to the street and the residents and they didn't want that, thus the relocation.

Commissioner Raughton stated the veneer looks like brick similar to the building. What was it? Ms. Goss stated she didn't know the exact material but most copulas are materials that can transmit RF signals and one of those is fiberglass.

SUPPORTERS: None

OPPONENTS:

Glenn Sandler has a background in planning. They live at the corner of Flintridge and Mira Loma. The previous church owners were going to put in a cell tower in, but it was denied. It's a new church and they've been approach by Verizon. He has ATT and he's never had bad cell phone coverage and he doesn't know where the cell tower is for ATT. They walked the neighborhood most were not in favor. He quoted information from the neighborhood meeting that discussed how an agreement couldn't be reached with District 11. Mr. Sandler asked for an agreement to be signed between the church and Verizon. Commissioner/Chair McDonald stated as a board they couldn't require the parties to sign this agreement because that is not our prevue.

Rodger Reddish spoke about getting an email, he didn't get an email. The people that live there, most weren't born after 1982. The project is for money, not the value of the neighborhood and none in the neighborhood are making financial gain from this.

REBUTTAL:

Ms. Goss explained the District 11 reference and why not feasible to come to a lease agreement with the other cellular phone carrier. Regarding text messages, they went only to Verizon customers. As far as home values, she understands the neighborhood is not millennials. But those are the people looking to buy a home and those are the ones this appeals to.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Markewich stated they've read the concerns raised and they are similar to other people who raise those same concerns but we have to base our decisions based on our city code. The code is very narrow with what we can do regarding these types of facilities. It meets the criteria for a Conditional Use. In reference to this agreement of conditions, they're reasonable but something like this should be addressed to the federal government. The FCC assigns the band width, the frequency, the amount of power these things can have. So any standards are out of Verizon control or anyone else other than the FCC. The Planning Commission cannot require this. Based on the review criteria he'll be supporting the application. They've done a good job to minimize the visual impact. If the copula had been built originally, it would look like part of the church and so it will blend in. He is in support.

Commissioner Raughton stated to sign an agreement outside of our prevue. Suggestions in the agreement seem reasonable but many of them were addressed in the presentation, such as the noise pollution has been mitigated - they could read the agreement into the record but it's not needed.

Motion by Graham, seconded by Satchell-Smith, to approve the conditional use for the CMRS at 5075 Flintridge Drive Conditional Use Development Plan, based upon the findings that the CMRS conditional use development plan meets the review criteria for granting a conditional use as set forth in City Code Section 7.5.704, and the CMRS location and design criteria as set forth in City Code Sections 7.4.607 and 7.4.608. The motion passed by a vote of 8:0:1

Aye: 8 - Henninger, Satchell-Smith, Graham, Chairperson McDonald, Markewich, Raughton, Walkowski and Fletcher

Absent: 1 - Smith

- 6.B.** [CPC CA 16-00142](#) An ordinance amending Section 105 (Additional Standards for Specific Uses Allowed in Residential Zones) of Part 1 (Residential Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to beehives.

(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Development

STAFF PRESENTATION:

Peter Wysocki, Planning Director gave a presentation about bee hives.

QUESTIONS:

Commissioner Graham asked what rationale to removing the enforcement language. Mr. Wysocki stated there were no standards previously and they we relied on the word nuisance. Regarding bees there is no definition of what nuisance is and how can you prove something was caused by a particular bee hive, bee, or swarm of bees and enforce that. The removal was partially for enforceability and we're establishing standards with this ordinance. The majority of the city will fall under the standard of two bee hives.

Commissioner Markewich stated his primary concern as Commissioner Graham stated was about the removal of the enforcement language. Do other jurisdictions have some of that of language? Mr. Wysocki stated he looked specifically at some type of formal urban farming or urban agricultural zoning where some of the bee hive ordinances or regulations are a part of the code. He hadn't researched the respective codes of those cities any other nuisance sections of code and he didn't know if they had the ability to enforce nuisance or injurious to adjoining properties with other parts of their codes sections. Those codes pertaining to that weren't prevalent instead it went into the standards regarding size, flyaway barriers, and fresh water were the top three standards he noticed.

Commissioner Markewich stated he was comfortable with all the other the other language in the ordinance and asked if alternative language would allow code enforcement to handle complaints. Mr. Wysocki stated the ordinance language could be bolstered with more descriptive words. However, since he's been here there's been no complaints to Neighborhood Services or Code Enforcement for this. He can understand his concern and with some more language it could give code officers some guidance on how to handle a situation. Commissioner Markewich stated without the language in there he's voting against it.

City Attorney Smith asked Commissioner Markewich what was he looking for as far as what a nuisance or is injurious to the surrounding neighborhood. If a zoning enforcement action was done, and appealed, it would come before you as the Planning Commission. To determine what is a nuisance or injurious would be a tough thing to come up with and that's why these specific standards are being put in place. What this is saying is if this doesn't meet these requirements that is what is determined to be a nuisance and what is injurious.

Commissioner Markewich stated he wants a mechanism to allow it to be handled in this forum instead of forcing residents into hiring a lawyer and go to court. City Attorney Smith asked Commissioner Markewich what type of situation would constitute that situation happening? What we currently have are specific standards proposed and there are no standards right now.

Commissioner Markewich stated from his experience there really aren't issues and Mr. Wysocki stated there have not been any complaints. But if a home owner gets a hive and the next day a child next door gets stung and they are allergic to bees there could be a cause or link there. He'd say research it and see what other cities are doing that that fits his concern or maybe some of the expert beekeepers have a suggestion.

City Attorney Smith said if there was some type of civil action and someone was injured that isn't handled by our zoning code. If someone was injured and was allergic that would normally be a private cause of action. Mr. Wysocki said they could work with the City Attorney's Office to come up with something that narrows that definition of nuisance or injurious before going to City Council.

Commissioner Walkowski stated his concern would be health if someone was allergic and a bee hives was placed next to their property. He wasn't sure how you'd handle it but the health concern would be his issue.

Commissioner Raughton asked where beekeeping is allowed. Mr. Wysocki stated only in residential zoned property.

Mr. Wysocki discussed the Samuelson project that it had bees as part of their project but it was a 400 acre area within the city limits at the southeast corner of Shoop Rd and Highway 83 that was zoned agriculture.

Commissioner Markewich stated he supports this but the zone change requirements are where he sees it not working and they are: the action will not be detrimental to public interest, health, safety, convenience or general welfare. That's broad in how we determine it would be an inconvenience to a neighbor. From a code standpoint we need some other language.

Mr. Wysocki stated from all brochures, pamphlets, and website he visited this is a very well self-regulated industry. Those with bee hives go through the due diligence to educate themselves and understand how bees behave. He believes this will be self-regulated, self-monitored, and those with the hives will be good neighbors and not jeopardize their ability to have the bee hives if it really was injurious to adjoining properties.

SUPPORTERS:

Mike Halby, Secretary of Pikes Peak Beekeepers association. Listening to the concerns you raise. He addressed bee's behavior. Honey bees sting one time and then flies away and dies. Honey bees are not aggressive by nature. If they are around people, it's generally women who wear perfume and that are floral based. The biggest behavior when around bees is do not swat at them.

They do a lot of educational presentations throughout the area. Getting along with their neighbors is a large concern the bee association has. They have guidelines they recommend to their members about placement of their bee hives and for new beekeepers they will have a more experience bee keep go to their property and suggest locations. The general guideline is to be as far away as possible from your neighbors' property line as possible. He's had Code Enforcement visit him one time in 17 years of beekeeping. The complaint was the bees were swarming his hummingbird feeders. The code enforcement officer noticed the hummingbird feeders in their yard had no bees and that's because hummingbird feeders' nectar is too weak for the bees to want it. When they feed their bees it's 1-part sugar to 1-part water and hummingbird feeders is 4-parts water to 1-part sugar. If they are there, they're looking for a water source. Responsible beekeepers put out a water source for their bees. Their bee keepers are very responsive to neighbor's complaints. We try to make sure it's mediated between the beekeeper and the complaining neighbor without getting code and law enforcement involved.

Rebecca Sunderland, President of Pikes Peak Beekeepers Association and the Secretary of the Colorado State Beekeepers Association showed a picture of how aggressive honey bees were while she was removing their honey and if they were to get aggressive this would be that time they'd do that and they were not attacking or swarming at all.

Ms. Sunderland addressed the question if there being beehives in other areas other than residential areas and there are. We have them at the zoo, Bear Creek Nature Center and please note these two areas have a lot of children and people and we've had no problems. We have them on top of the Broadmoor and the Mining Exchange Building. She address the concern about children that are deathly allergic to bees. Beekeepers have problems with hornets, wasps, yellow jackets and all of those can be aggressive. So if people say they got stung we ask was it a bee, a wasp, a yellow jacket and they may not know. All they know is they were stung. It could be a problem proving it was a bee that stung you and not one of these others.

Another question she gets is what about Africanized bees? It won't happen here they can't tolerate our weather.

Sabrina Cotta, Legislative Assistant for the City Council spoke about the concerns about the restriction language. She's done a lot of research with a lot of communities in the United States and she's not found any language that speaks to the nuisance of bees mostly because of what the beekeepers have said, it would hard to prove if it was a bee, a wasp, hornet or yellow jacket. It would be setting up Code Enforcement for failure to have that language. Currently we allow one bee hive so to have one additional bee hive we're putting

in a lot of restrictions on bee keepers to ensure they're good neighbors and we can make sure the bee hives are placed in an appropriate place. We also have a commitment to sustainability through the Food Policy Advisory Board. Bees are very important and the ordinance will allow for more bees within the city which is important for our food system. This is supported by the Food Policy Advisory Board and Council so they'd appreciate moving forward with the ordinance with the language as it is.

Opponents: None

QUESTIONS:

Commissioner Henninger asked if there is a standard for a rating or classification for Colorado Springs in relationship to the bee business would it be better or worse area is it average area or any type of national rating. Ms. Sunderland said there's no national rating. This is a good area for bees to make honey due to the nectar friendly plants native to this area, especially the Linden Trees.

Mr. Halby stated El Paso County Extension Service did a survey/study in the last 2-3 years and determined 90% of stings in El Paso County were due to yellow jackets or wasps not honey bees.

Mr. Wysocki said if adopted by council they'll provide some pamphlets and information they can provide through the Planning Office or the Neighborhood Services Office and if CONO is willing to help to educate their staff and affected HOA's If covenants says beekeeping is prohibited by the HOA they are not allowed then they couldn't have one.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Raughton stated Linden Trees have the highest oxygen replacement rate of all the trees that are used. He is fully supportive of the ordinance.

Commissioner Markewich stated generally support of the ordinance and wanted to poll the other commissioners about adding a condition that staff should come up with some sort of language to allow Code Enforcement to get involved if there was a controversy. Commissioner/Chair McDonald said it's not necessary. There's standard put in place for beekeeping that they have if something should become an issue.

Commissioner Walkowski said he had a lot of his questions answered about language and he's not sure how they could draft something that could be enforceable or even worthwhile going through that effort. He is in support of the proposal as is.

Commissioner Henninger he sees no reason to add what we have and will be in support of the item.

Commissioner Graham stated he initially had similar concerns as

Commissioner Markewich but after listening to city attorney for how we would defend this he saw no need to add any language to the ordinance.

Motion by Fletcher, seconded by Raughton, to Recommend adoption of an ordinance to the City Council amending Section 105 (Additional Standards for Specific Uses Allowed in Residential Zones) of Part 1 (Residential Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to beehives, based on the finding that it complies with City Code Sections 7.5.602 and 7.5.603. The motion passed by a vote of 8:0:1

Aye: 8 - Henninger, Satchell-Smith, Graham, Chairperson McDonald, Markewich, Raughton, Walkowski and Fletcher

Absent: 1 - Smith

7. Informational Reports/Updates

8. Adjourn