

City of Colorado Springs

*Regional Development Center
2880 International Circle
Colorado Springs, CO 80910*



Meeting Minutes

Friday, November 17, 2023

9:00 AM

**Regional Development Center (Hearing Room)
2880 International Circle**

Planning Commission

All meetings are open to the public. Those who wish to participate may do so in-person, online, or via phone.

Conference Call: Dial 1-720-617-3426, enter Conf ID: 910 370 844# and wait to be admitted.

MS Teams: Copy and paste or type into your web browser to join the MS Teams meeting online:
<https://rebrand.ly/CityPlanningCommission-2023>

Attendees participating by telephone or MS Teams will be muted upon entry to the meeting. Please wait to be called on before speaking.

If you know you would like to comment on an agenda item, please contact the case planner for the item at 719-385-5905. If you are unable to contact them, there will still be an opportunity to speak during the meeting.

1. Call to Order and Roll Call

Present: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

2.A Approval of the Minutes

2.A.A. [CPC-23-585](#) Minutes for the October 11, 2023, Planning Commission Meeting

Presenter:

Scott Hente, Chair of the City Planning Commission

Attachments: [CPC_Minutes_10.11.23_draft](#)

Motion by Commissioner Rickett, seconded by Commissioner Almy, that approval of the minutes for the October 11, 2023, Planning Commission meeting be postponed until the December meeting. The motion passed by a vote of 5-0.

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

2.B. Changes to Agenda/Postponements

Peter Wysocki, Planning and Community Development Director, announced that items related to the Banning Lewis Ranch were postponed to the January 10 Planning Commission Meeting. These items on the agenda were 7.A. through 7.F..

Banning Lewis Ranch Village B2

Commissioner Slattery made a motion to postpone items 7.A. through 7.F. to the January 10, 2024, meeting with a second by Commissioner Rickett. This passed by a 5-0 vote.

A motion was made to postpone this item to the January 10, 2024 Planning Commission meeting. The motion passed by a vote of 5:0:4:0

- 7.A. [MAPN-23-0001](#) A major amendment to the Banning Lewis Ranch Village B2 Master Plan changing the existing land use classifications of R, RL, RM, RH, R, NR, ES to the following land use classifications PRO, RES-M and COM consisting of 511.20 acres located north of Tamlin Road and east of Dublin Boulevard and Banning Lewis Parkway.
(Quasi-judicial)

Presenter:
Tamara Baxter, Senior Planner, Planning + Neighborhood Services

- Attachments:** [Staff Rpt BLR Village B2](#)
[Project Statement](#)
[Master Plan Major Amendment](#)
[Public Comment Response](#)
[Public Comments](#)
[District 49 Letter](#)
[CONTEXT MAP](#)
[7.5.408 Master Plan](#)

A motion was made to postpone this item to the January 10, 2024 Planning Commission meeting. The motion passed by a vote of 5:0:4:0

- Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery
- Absent:** 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

- 7.B. [ZONE-23-0008](#) A zone change consisting of 9.2 acres located at the northeast corner of Dublin Boulevard and Banning Lewis Parkway from PDZ/R5/AP-O/SS-O (Planned Development Zone District and Multi-Family Residential with Airport and Streamside Overlays) to MX-M/AP-O/SS-O (Mixed-Use Medium Scale with Airport and Streamside Overlays).
(Quasi-Judicial)

Presenter:
Tamara Baxter, Senior Planner, Planning + Neighborhood Services

- Attachments:** [Rezone Commercial](#)
[7.5.603.B Findings - ZC](#)

See Item 7.A. (MAPN-23-0001)

- Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery
- Absent:** 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

- 7.C. [COPN-23-0010](#) Establishment of the Banning Lewis Ranch Village B2 Concept Plan for proposed commercial consisting of 9.2 acres located at the northeast corner of Dublin Boulevard and Banning Lewis Parkway. (Quasi-judicial)

Presenter:

Tamara Baxter, Senior Planner, Planning + Neighborhood Services

Attachments: [Concept Plan and PDZ Concept Plan](#)
[7.5.501.E Concept Plans](#)

See Item 7.A. (MAPN-23-0001)

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

- 7.D. [PUDZ-23-0002](#) A zone change consisting of 502 acres located at the northeast corner of Dublin Boulevard and Banning Lewis Parkway from PDZ/R-5-cr/R-1 6/MX-M-cr/AP-O/SS-O (Planned Development Zone District, Multi-Family High Residential with Conditions of Record, Single Family-Medium Residential, Mixed-Use Medium Scale with Conditions of Record, and Airport and Streamside Overlays) to PDZ/AP-O/SS-O (Planned Development Zone District with Airport and Streamside Overlays: single-family and/or two-family residential; density of 3.5-7.99 du/ac; and a maximum building height of 35 feet). (Quasi-Judicial)

Presenter:

Tamara Baxter, Senior Planner, Planning + Neighborhood Services

Attachments: [PDZ Rezone](#)
[7.5.603.B Findings - ZC](#)
[7.3.603 Establishment & Development of a PUD Zone](#)

See Item 7.A. (MAPN-23-0001)

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

- 7.E. [PUDC-23-0002](#) Establishment of the Banning Lewis Ranch Village B2 PDZ Concept Plan consisting of 502 acres to allow for single-family and/or two-family residential with medium residential density (3.5-7.99 du/ac and a maximum building height of 35 feet) consisting of 502 acres located north of Tamlin Road and East of Dublin Boulevard and Banning Lewis Parkway extension. (Quasi-judicial)

Presenter:
 Tamara Baxter, Senior Planner, Planning + Neighborhood Services

Attachments: [Concept Plan and PDZ Concept Plan](#)
[7.5.501.E Concept Plans](#)
[7.3.605 PUD Concept Plan](#)

See Item 7.A. (MAPN-23-0001)

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

- 7.F. [SUBD-23-0052](#) A Vacation of Public Right-of-Way of Vista Del Oro Boulevard and portions of public right-of-way of Dublin Boulevard and Banning Lewis Parkway consisting of 35.856 acres located north of Tamlin Road and east of Dublin Boulevard and Banning Lewis Parkway. (Legislative)

Presenter:
 Tamara Baxter, Senior Planner, Planning + Neighborhood Services

Attachments: [Vacation Plat](#)
[7.7.402.C Vacation Procedures](#)

See Item 7.A. (MAPN-23-0001)

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

3. Communications

Peter Wysocki - Planning & Neighborhood Services Director

4. Consent Calendar

This Planning Case was approved on the Consent Calendar

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

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

Guidepost Montessori School

- 4.C.** [CUDP-22-00](#)
[17](#) A Conditional Use to allow a children's daycare facility in the Office Residential (OR) zone district consisting of approximately 1.4 acres located at 6575 Oakwood Boulevard.
(Quasi-judicial)

Presenter:

Allison Stocker AICP, Planner II, Planning + Neighborhood Services

Attachments: [Montessori School CU Staff Report Final ADS](#)

[Project Statement Guidepost Montessori ADS](#)

[Public Comments Guidepost Montessori ADS](#)

[Vicinity Map Guidepost Montessori ADS](#)

[CUDP Guidepost Montessori 20231101 ADS](#)

[PlanCOS Vision Map](#)

[7.5.704 Conditional Use Review](#)

[7.5.502.E Development Plan Review](#)

This Planning Case was approved on the Consent Calendar

5. Items Called Off Consent Calendar

1713 Hercules Drive

- 4.A. [NVAR-23-0040](#) A Nonuse Variance to allow a front yard setback of 13-feet where 25-feet is required in the R1-9 (Single-Family Large) zone district, located at 1713 Hercules Drive.
(Quasi-judicial)

Presenter:

Molly O'Brien, Planner I, Planning & Neighborhood Services

Attachments: [CPC Staff Report - 1713 Hercules Dr](#)
[Project Statement - 1713 Hercules Dr](#)
[Site Plan and Elevations - 1713 Hercules Dr](#)
[Public Comment - 1713 Hercules Dr](#)
[PlanCOS Vision Map](#)
[7.5.526 NON-USE VARIANCE](#)
[7.2.203 R-1 9 SINGLE-FAMILY - LARGE](#)

Molly O'Brien, Planner I for Planning and Community Development, presented the scope of project to the Committee. The applicant presented to the Committee afterwards, voicing his request to approve the scope of the project.

Questions from commissioners:

Commissioner Rickett inquired if the project request had been based on the Geohazard report, to which the applicant confirmed it had been. Commissioner Rickett inquired if there were other homes in the potential slide zone, to which the applicant replied there had been at least three homes. Commissioner Rickett asked if the addition on the front being requested had fit in the back as it would have fit in the 20 feet setback. Lastly, he added he was afraid that allowing these encroachments into the front setbacks would open the floodgate very feasibly for others who would like to do the same. He wanted to keep the neighborhood conducive and believed the request was not the only option possible.

The applicant added there had been two other homes that had had their helix repaired. One had had a completely separated footer and the foundation fractured and slid. The other one had potentially sheered the foundation horizontally. This had worried the applicant because there had only been three homes away on the same side of the street.

Commissioner Almy had had similar concerns and questioned whether this project had met the approval criteria in B and C. B being the one that said the property had extraordinary exceptional physical conditions that were not generally seen in the same zone district. He had believed this project did not meet the approval criteria. He had added he was not totally against the project, but this had been the first UDC issue that had come up against a nonuse variance, and he had believed this project did not meet the approval criteria.

Vice Chair Commissioner McMurray had agreed the west side geologic hazard conditions had existed pretty broadly in the area. Commissioner Slattery had found herself agreeing with Commissioner Rickett about neighborhood characteristics and setbacks while setting a precedent. She had also agreed with Commissioner Rickett that this had not been the only option viable. Lastly, it had not been the Committee’s prerogative to design, but she had wanted to uphold the setbacks to set a precedent.

Attorney Trevor Gloss, City Attorney’s office, had made a clarification that variances were dealt with on a case-by-case basis. He had understood there had been concerns of opening the floodgates, but legally there had not been a requirement to do so.

Motion by Commissioner Rickett, seconded by Commissioner Slattery, to deny the Nonuse Variance to City Code Section 7.2.203 to allow a front yard setback of 13-feet where 25-feet is required in the R1-9 (Single-Family Large) zone district located at 1713 Hercules Dr based on the findings that the application does not conform to City Code Section 7.5.526. The motion passed by a vote of 3:2:4:0

Aye: 3 - Commissioner Almy, Commissioner Rickett and Commissioner Slattery

No: 2 - Commissioner Hensler and Vice Chair McMurray

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

305 Old West Broadmoor Road

- 4.B. [NVAR-23-0052](#) A Nonuse Variance to allow a reduced front yard setback of 10.2 feet where 20 feet is required for a garage in the R-E (Single-Family Estate) zone district, located at 305 W Old Broadmoor Rd (Quasi-judicial).

Presenter:

Molly O'Brien, Planner I, Planning + Neighborhood Services

- Attachments:** [Staff Report - NVAR-23-0052](#)
[Project Statement - 305 W Old Broadmoor Rd](#)
[Site Plan and Elevations - 305 W Old Broadmoor Rd](#)
[Public Comment - 305 W Old Broadmoor Rd](#)
[PlanCOS Vision Map](#)
[7.2.202 R-E SINGLE-FAMILY - ESTATE](#)
[7.5.526 NON-USE VARIANCE](#)

Molly O'Brien, Planner I for Planning and Community Development, presented the scope of project to the Committee. The applicant's representative, Chuck Gall with MVE Civil Engineering, presented to the Committee afterwards, voicing his request to approve the scope of the project. Afterwards, the applicant spoke to the Committee, echoing what the applicant's representative said and to request an approval to item 4.B.

Questions from commissioners:

Commissioner Rickett inquired if the drainage issue could be handled without a garage, to which the applicant replied yes. The applicant added he could also look for more help with the city but is willing to forgo that expense by getting a garage.

Commissioner Slattery wanted to add on the record that she views this project differently based on the topography and how it would fit it because one wouldn't see the road. She believed this would not negatively affect the characteristics of the neighborhood.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to deny the Nonuse Variance to City Code Section 7.2.202 to allow a front yard setback of 10.2-feet where 20-feet is required for a garage in the R-E (Single-Family Estate) zone district located at 305 W Old Broadmoor Rd based on the findings that the application does not conform to City Code Section 7.5.526. The motion failed by a vote of 2:3:4:0

Aye: 2 - Commissioner Almy and Commissioner Rickett

No: 3 - Commissioner Hensler, Vice Chair McMurray and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

Motion by Commissioner Hensler, seconded by Commissioner Slattery, to approve the Nonuse Variance to City Code Section 7.2.202 to allow a front yard setback of 10.2-feet where 20-feet is required for a garage in the R-E (Single-Family Estate) zone district located at 305 W Old Broadmoor Rd based on the application's conformance with City Code Section 7.5.526. The motion passed by a vote of 3:2:4:0

Aye: 3 - Commissioner Hensler, Vice Chair McMurray and Commissioner Slattery

No: 2 - Commissioner Almy and Commissioner Rickett

Absent: 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

Point of the Pines Gardens

- 4.D. [ZONE-23-00](#)
[23](#) An ordinance amending the zoning map of the City of Colorado Springs pertaining to 9.62 acres located at the northwest corner of Elkton Drive and Rusina Road from MX-N/HS-O-/WUI-O (Mixed-Use Neighborhood Scale with Hillside and Wildland Urban Interface Overlays) to MX-M/HS-O/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlay

Quasi-Judicial

Presenter:

Tamara Baxter, Senior Planner, Planning + Neighborhood Services
 Peter Wysocki, Director, Planning + Neighborhood Services

- Attachments:** [ORD ZC Point of the Pines Garden Assisted Living](#)
[Staff Rpt Point of Pines Villas](#)
[Project Statement Land Use Statement](#)
[Project Statement Zone Change](#)
[CONTEXT MAP](#)
[Zone Change Exhibit](#)
[Public Comment](#)
[Public Comment Response](#)
[7.5.704 ZONING MAP AMENDMENT \(REZONING\)](#)
[Additional Public Comments](#)

Tamara Baxter, Senior Planner for Planning and Community Development, presented the scope of project to the Committee. The applicant presented the scope of the project to the Committee.

Public Comments

Dorothy Macnack, a citizen, spoke in opposition of the project. She lives near Point of the Pines and expressed her concern on the influx of traffic if this project were to be approved.

Julia Owens, a citizen, spoke in opposition of the project. She requested the Committee to look into the evacuation of this area as there are minimal roads to enter and leave the site.

Mike Janson, the developer of the project, provided more information on the scope of the project to the committee. He added they are requesting a zone change to basically fix the nonconforming use of the facility and to potentially permit a small development next to it. Furthermore, he added the HOA board supported the rezoning request.

Commissioner Almy inquired if existing projects were grandfathered into the transition from Chapter 7 to UDC. Mike Tassi, Assistant Planning Director confirmed the existing use was considered a nonconforming use so yes, they are protected under UDC.

Vice Chair McMurray inquired if this would have been a permitted use prior to the adoption to the UDC. Tamara Baxter, Senior Planner for the Planning and Community Development confirmed that is correct and also before the rezoning.

Questions from Commissioners

Commissioner Rickett thanked the public for voicing their opinion, but he would be in support of this project.

Vice Chair McMurray added given the zoning prior to changing from Chapter7 to UDC, it would have been a permitted use under the old code, so he would be in support of this project.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to recommend approval to City Council the zone change of 9.62 acres from MX-N/HS-O-/WUI-O (Mixed-Use Neighborhood Scale with Hillside and Wildland Urban Interface Overlays) to MX-M/HS-O/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlay) based on the findings that the request complies with the criteria for a Zoning Map Amendment as set forth in City Code Section 7.5.704. The motion passed by a vote of 5:0:4:0

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

6. Unfinished Business

7. New Business

Autowash 5795 Tutt Center Point

- 7.G. [CUDP-23-00
17A](#) A Conditional Use to allow a carwash in the MX-M (Mixed-Use Medium Scale) zone district consisting of 1.08 acres located at 5975 Tutt Center Point.
(Quasi-Judicial)

Presenter:

Austin Cooper Planner II, Planning + Neighborhood Services

Attachments: [CPC Staff Report Autowash 5975 Tutt Center Pt](#)

[Project Statement](#)

[Context Map](#)

[Public Comment Response](#)

[Public Comments](#)

[7.5.601 CONDITIONAL USE](#)

Austin Cooper, Planner II for Planning and Community Development, presented the scope of project to the Committee.

Vice Chair McMurray mentioned one of the criteria was the Committee needs to be able to speak to the capacity and availability of the infrastructure, so not having the traffic study in advance does not help the committee help address certain criteria.

The applicant and architect presented the scope of the project to the Committee.

Public comments

Kevin Bradford, a citizen, spoke in opposition to the project. He discussed his concern on the noise level of the project with the proximity of neighborhoods.

Applicant rebuttal

Kevin Bradford is a carwash owner as well. He refuted he would be able to run his carwash in a nice and quiet way.

Questions from Commissioners

Commissioner Rickett mentioned that, as the applicant had wanted a modified approval request, he inquired what the applicant would have liked to see different from the original motion.

The applicant replied that outside activities would have had limited hours from 11 pm to 6 am, but the inside car wash activities would have been allowed to operate during those hours. Commissioner Rickett added if the modification were granted, the hours could be adjusted, to which the applicant confirmed they were open to that.

Vice Chair McMurray inquired what the noise ordinance was within the city.

Commissioner Rickett added that if the business were to exceed the noise level,

they would be shut down anyway. The applicant responded they were familiar with the reduction of noise levels and zoning repercussions.

Commissioner Almy stated the bottom line was not the hours but more of the noise level made by the customers outside, regardless of what they did. All these restrictions affected the business model, as the applicant had already articulated.

Commissioner Slattery requested to look through the carwash examples that were nearby neighborhoods. The applicant went over carwashes that were close in proximity to neighborhood homes with the Committee.

Commissioner Rickett stated he understood the public had seen multiple car washes lately. However, by code, there was not really anything to restrict that unless it was truly by code. From the Committee’s perspective, they had to look at the code and wanted the public to understand that.

Trevor Gloss, City Attorney’s office, clarified per code 9.8.104, for commercial zone district between the hours of 7 am to 7 pm, it was 60 decibels during the day, and under 55 decibels throughout the night. Commissioner Rickett mentioned the size scale height density multimodal impacts were compatible with the surrounding area. Any potential adverse impacts were mitigated to the extent and he stated he would be in favor of the modified proposal, which was unrestricted hours with auto bay doors programmed to be closed with external vacuums to be closed from 9 pm to 7 am.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to approve the Conditional Use based upon the finding that the request complies with the criteria as set forth in City Code Section 7.5.601, with the following conditions of approval:

- 1) Unrestricted hours with auto-bay doors programmed to be closed and external vacuums off between 9 p.m. and 7a.m.;**
- 2) Illuminated signage shall not be visible to the residential development along Tutt Boulevard;**
- 3) Year-around landscape screening, such as evergreens a minimum of 8 feet in height, shall be provided along Tutt Boulevard. If site utilities along Tutt Boulevard limit tree plantings, other screening methods will be required, such as a screen wall and robust shrub planting. This shall be determined at the time of the development plan review;**
- 4) Permissible noise levels between residential and commercial zones shall not exceed City Code Section 9.8.104;**
- 5) Exterior structure and site lighting shall be directed inward to the site and away from the resident development along the south of Tutt Boulevard;**
- 6) A development plan application is necessary to be submitted for the future car wash which will be reviewed administratively.**

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

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

Autowash 1245 Space Center Drive

- 7.H. [CUDP-23-0016](#) A Conditional Use to allow a carwash in the MX-M (Mixed-Use Medium Scale) zone district consisting of .86 acres located at 1245 Space Center Drive. (Quasi-Judicial)

Presenter: William Gray, Senior Planner, Planning + Neighborhood Services

Attachments: [CPC Staff Report Space Center Drive Autowash 11072023](#)

[Context Map](#)

[County Zone Map](#)

[Vicinity Map](#)

[Final Plat](#)

[Land Use Statement](#)

[Development Plan](#)

[Concept Plan](#)

[Ordinance No 87-175](#)

[7.5.601 CONDITIONAL USE](#)

Bill Gray, Senior Planner for Planning and Community Development, presented the scope of project to the Committee. The applicant also presented to the Committee.

Public comments

John Harvey, a citizen, spoke in opposition of the project. He mentioned his concern on the noise decibel.

The applicant refuted they can meet the noise requirements.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to approve the Conditional Use based upon the findings that the request complies with the review criteria as set forth in City Code Section 7.5.601 with the following conditions:

- Limit hours of operation between 6:00 am to 11:00 pm
- Illuminated signage shall not be visible to the residential development located immediately North of the lot.
- Year-around landscape screening, such as evergreens a minimum of 8 feet in height, shall be provided along the North property line and Power Boulevard. If site utilities limit tree plantings, other screening methods will be required, such as a screen wall and robust shrub planting. This shall be determined at time of the development plan review.
- Permissible noise levels between residential and commercial zones shall not exceed City Code Section 9.8.104.
- Exterior structure and site lighting shall be directed inward to the site and away from the resident development along the north property line.
- A development plan application is necessary to be submitted which will be reviewed administratively.
- The development plan application must demonstrate compliance with Ordinance No. 87-155.

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

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray,
Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner
Cecil

Humble Paws

- 7.I. [UVAR-23-0005](#) A Use Variance to allow the Humble Paws Animal Care Facility use within the MX-L/cr (Mixed-Use Large with prior conditions of record) zone district consisting of 7,500 square feet located at 925 W. Cucharras St.

Presenter:

Ryan Tefertiller, Urban Planning Manager, Planning + Neighborhood Services

Peter Wysocki, Director, Planning + Neighborhood Services

Attachments: [Humble Paws CPC Staff Report RBT](#)

[Humble Paws Aerial Photo 1](#)

[Humble Paws Aerial Photo 2](#)

[Humble Paws Lower Floor of building site plan](#)

[Humble Paws Main Floor of building site plan](#)

[Humble Paws Project Statement and Justification](#)

[Humble Paws Legal Description](#)

[All Stakeholder Communications as of 102423](#)

[Consolidated PACFA Documents](#)

[CPC Minutes HumblePaws draft](#)

[7.5.527 USE VARIANCE](#)

Ryan Tefertiller, Urban Planning Manager, presented the scope of project to the Committee. The applicant also presented to the Committee.

Public comments

David Seeley, a citizen, spoke in opposition of the project.

Wade Harper, a citizen, spoke in opposition of the project. He spoke on the increased noise and traffic since Humble Paws has moved in nearby.

Bill Tibbit, a citizen, owns the building next door and spoke in opposition of the project. He spoke how this operation was not allowed in this zone.

Shelby Marcus, a citizen, spoke in opposition of the project. She mentioned her concern on this variance as Humble Paws does not fit the current criteria.

Joanna Bean, a citizen and wife of Wade Harper, spoke on her appreciation on what Humble Paws was trying to accomplish, but not appropriate in this neighborhood.

Applicant rebuttal

The applicant asked Ryan if we do not get approved, where can we move? And he explained on June 1 of 2023, the zoning was changed and did not add dog facilities the zoning criteria.

Ryan Tefertiller, Urban Planning Manager, explained that the old zoning code, predating the UDC adoption, had a definition for an indoor-only kennel, which included outdoor uses. However, the UDC did not incorporate those defined uses; instead, it introduced the term "animal care facilities." Under the old code, the kennel correlated with the c6 zone, now MX-L. While it was not a permitted or prohibited use on the property, it did require a conditional use, a major application necessitating a public hearing in front of the commission.

This use wasn't initiated until late June, after the UDC became effective. At that point, it became a prohibited use, requiring a use variance in the MX-L zone. An animal care facility is permitted in the A zone, which is scarce in the city. In LI or GI industrial zones, an animal care facility can be established via a conditional use permit. While these zones don't permit such uses outright, they can be legally established with a conditional use permit.

The UDC is undergoing review, and the plan is to propose code updates to the commission and city council within the next four to six months. The proposal aims to reintroduce the definitions of an indoor-only kennel and a kennel with outdoor use in the UDC, correlating these uses with appropriate zones. However, there is no guarantee that these uses will be reinstated as they were under the old code, as the proposal will undergo a public process through the commission and city council.

Questions from commissioners

Commissioner Almy stated commissioners were there to look at the variances, not the business. He added the Committee had heard plenty of public comments on the disruption this community had had on their lives, and that swayed him quite a bit.

Commissioner Rickett echoed Commissioner Almy's statements regarding the code perspective. Unfortunately, the Commission had to look at the code with the six criteria that were required. Furthermore, he added small animal clinics were permitted in this zone area, so that may be an option in the future.

Commissioner Hensler concurred with others on the panel and appreciated the

applicant for telling the backstory of the business. She also appreciated the presentation having a lot of information on what to do to amend complaints, but it felt like with all the work one would have to do to amend the complaints, maybe it would be more successful in another area where one didn't have to make all of those adjustments.

Commissioner Slattery stated it came down to a code issue. She loved the business and what they were doing but stated it was in the wrong location. She inquired if there was a grace period to assist with finding a new location.

Ryan Tefertiller, Urban Planning Manager, clarified this project would be going to City Council next, and there is a grace period given to businesses. It is usually around 30 - 90 days. He also clarified the business had been given plenty of notice to look at other locations just in case.

Vice Chair echoed with others on the panel and said he believed this was a straightforward case as it pertained to the code, but he recognized the good faith of the applicant and the good service they were providing. He hoped he would see the applicant with a new application in an appropriate zone.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to recommend to City Council denial of UVAR-23-0005 based on the findings that the required Use Variance Criteria found in Section 7.5.527 are not met. The motion passed by a vote of 5:0:4:0

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

8. Updates/Presentations

9. Adjourn