

Kum & Go Gas Station Appeal

AR DP 21-00813(AP) & AR FP 21-00814(AP)
City Council
Public Hearing

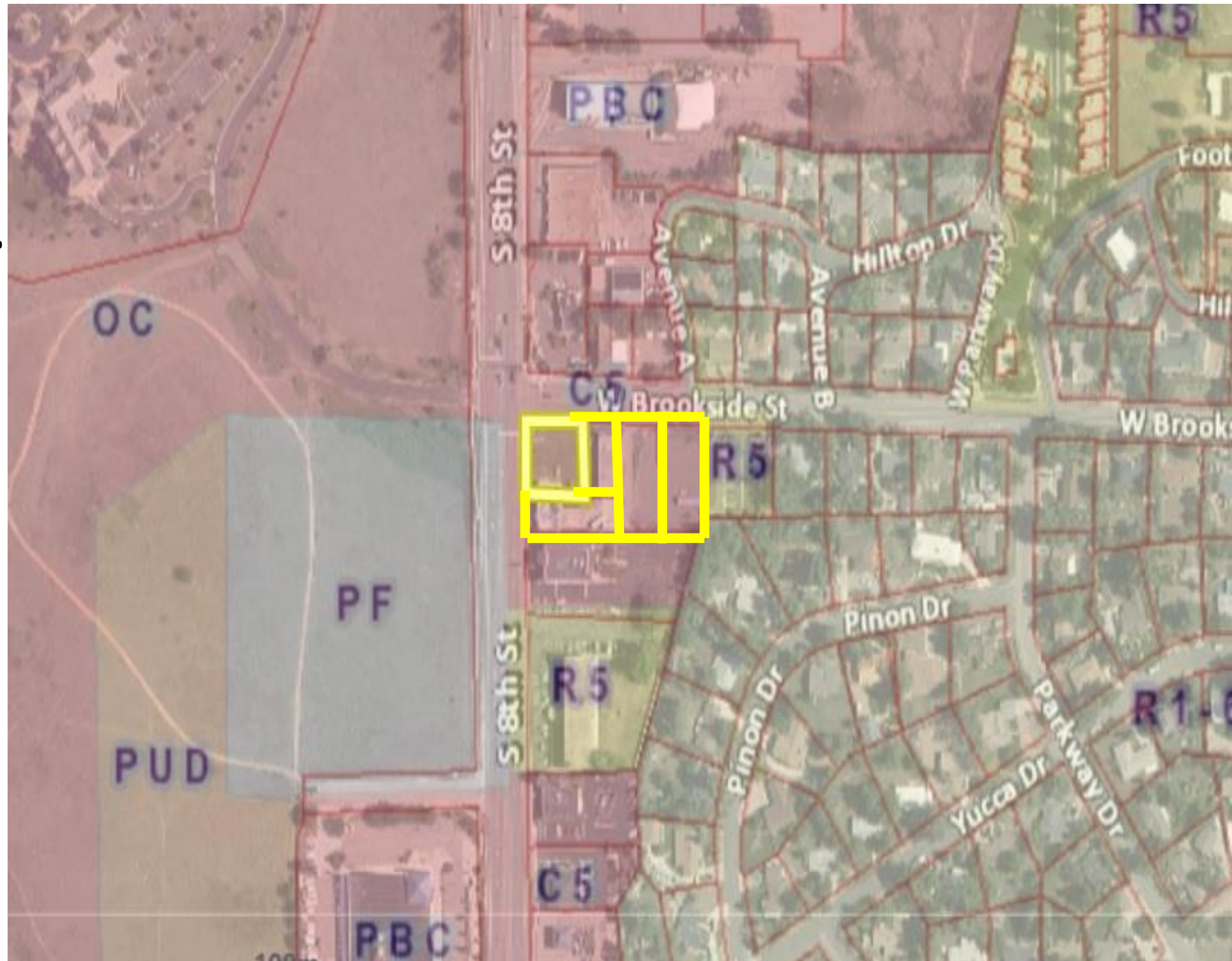
August 9, 2022
Matthew Alcuran, Planner II



Background



- Site located on the SE corner of S. 8th St. and W. Brookside St.
- 1.04-acre site
- Zoned C5
- Not within a master plan area.
- Convenience Store with Fuel Sales is a Permitted Use in the C5 zone

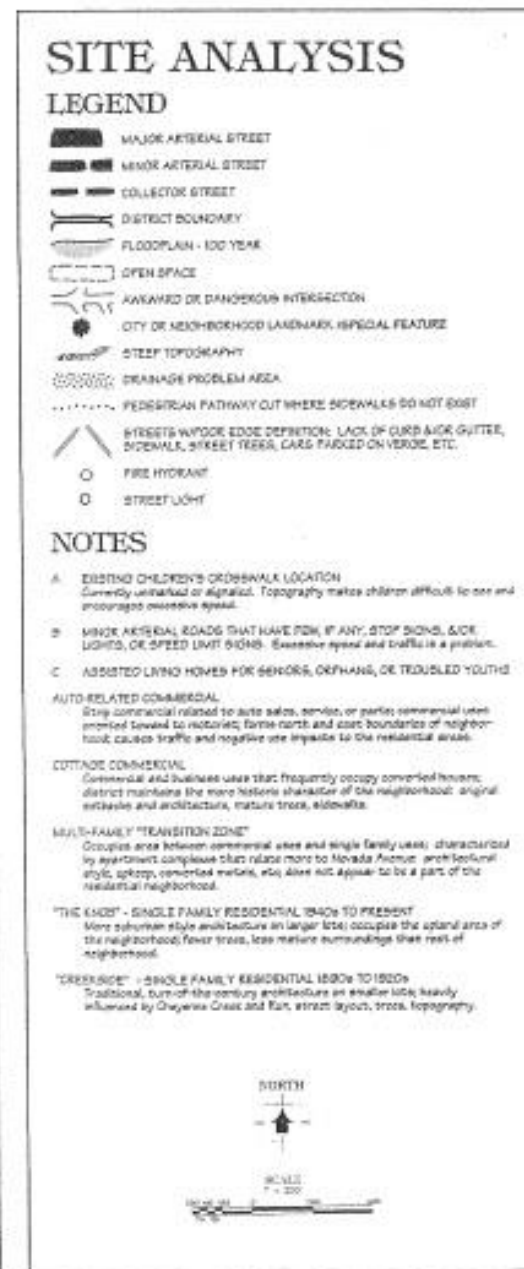


Analysis



I·V·Y·W·I·L·D MASTER PLAN NEIGHBORHOOD

- Ivywild Neighborhood Master Plan Site Analysis Map



West Brookside Street

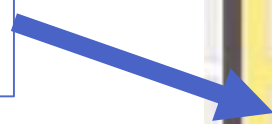
South 8th Street



Background



Project Site



- Within Ivywild Neighborhood Homeowners Association boundary map.
- Not an adopted plan.



Background



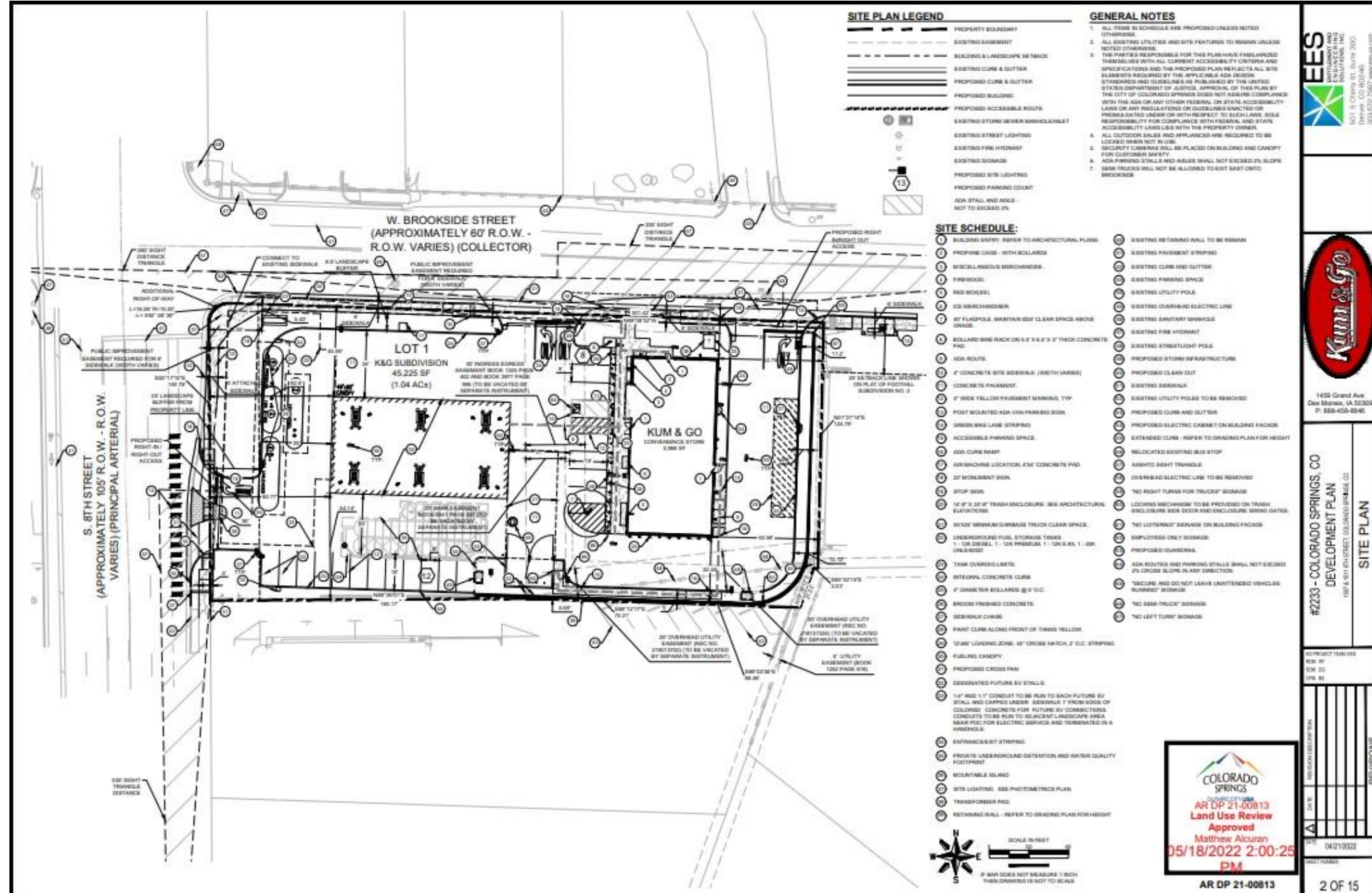
- Commercial uses to the north and south
- Residential uses to the east
- Vacant land and the Center for Creative Leadership to the west



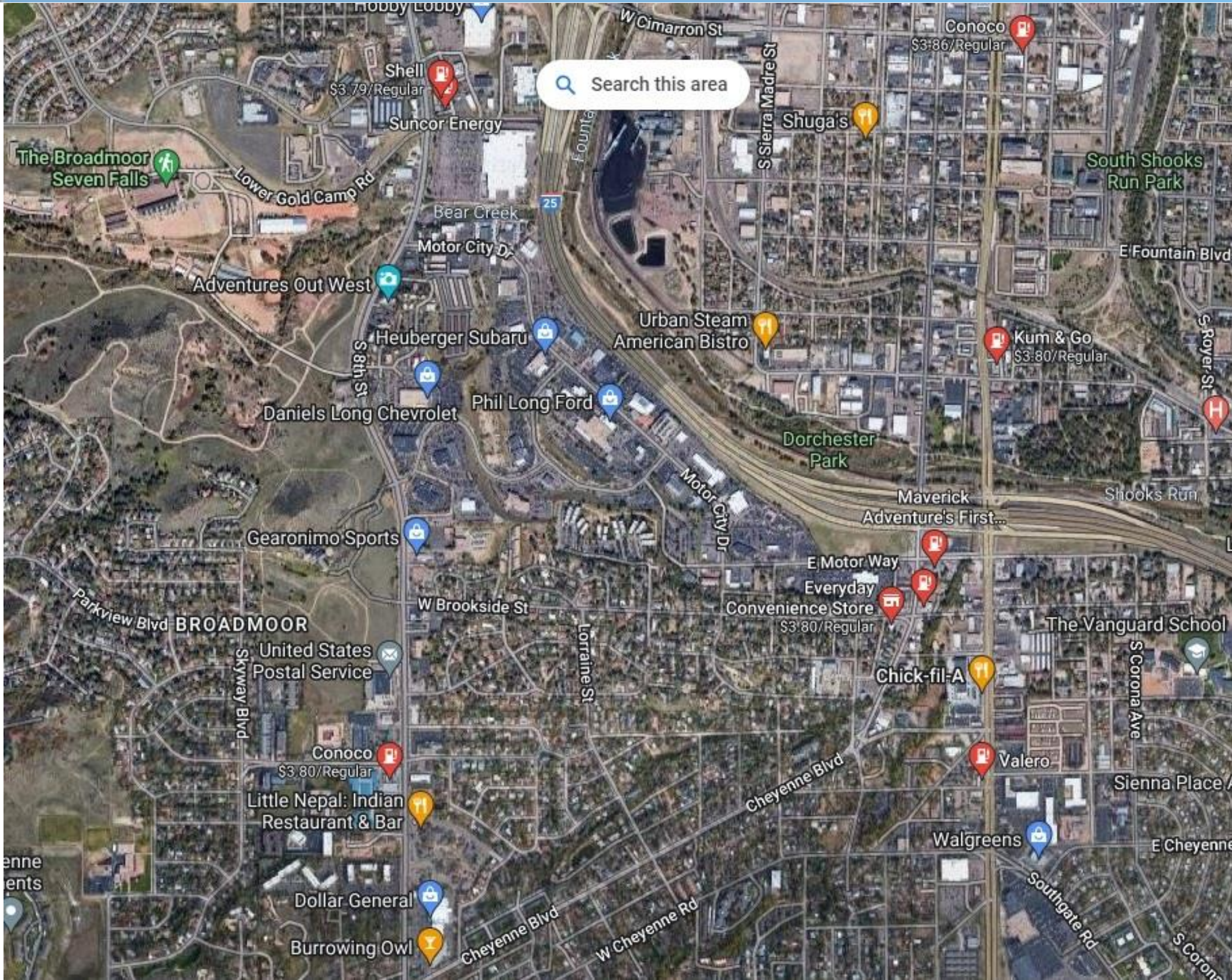
Applications – Development Plan



- Reviewed/approved administratively according to City Code on May 18, 2022
- Consistent with all standards and criteria
- Consistent with plans:
 - PlanCOS



Applications – Development Plan

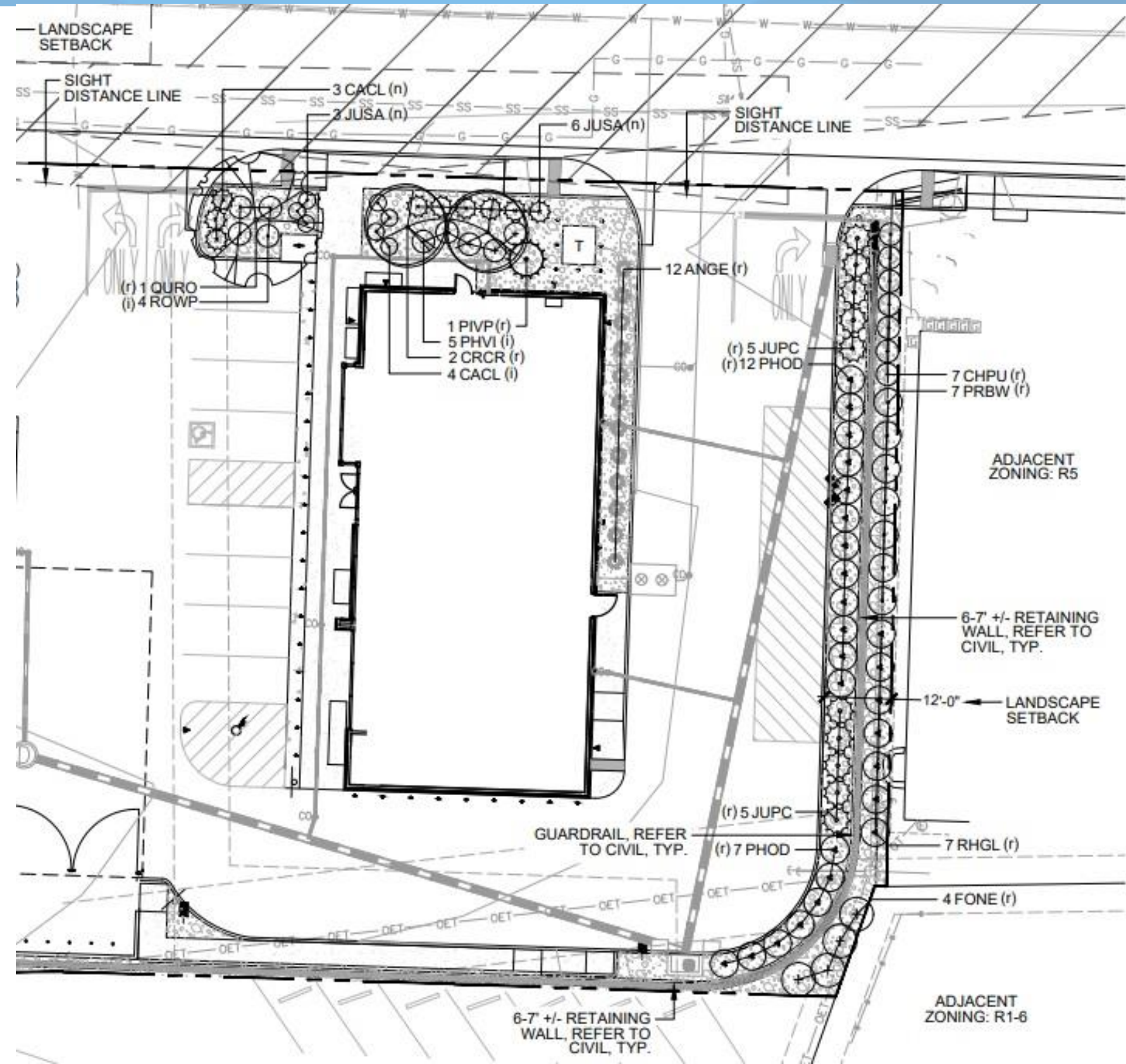


- Aerial view of known nearby gas stations

Applications – Development Plan



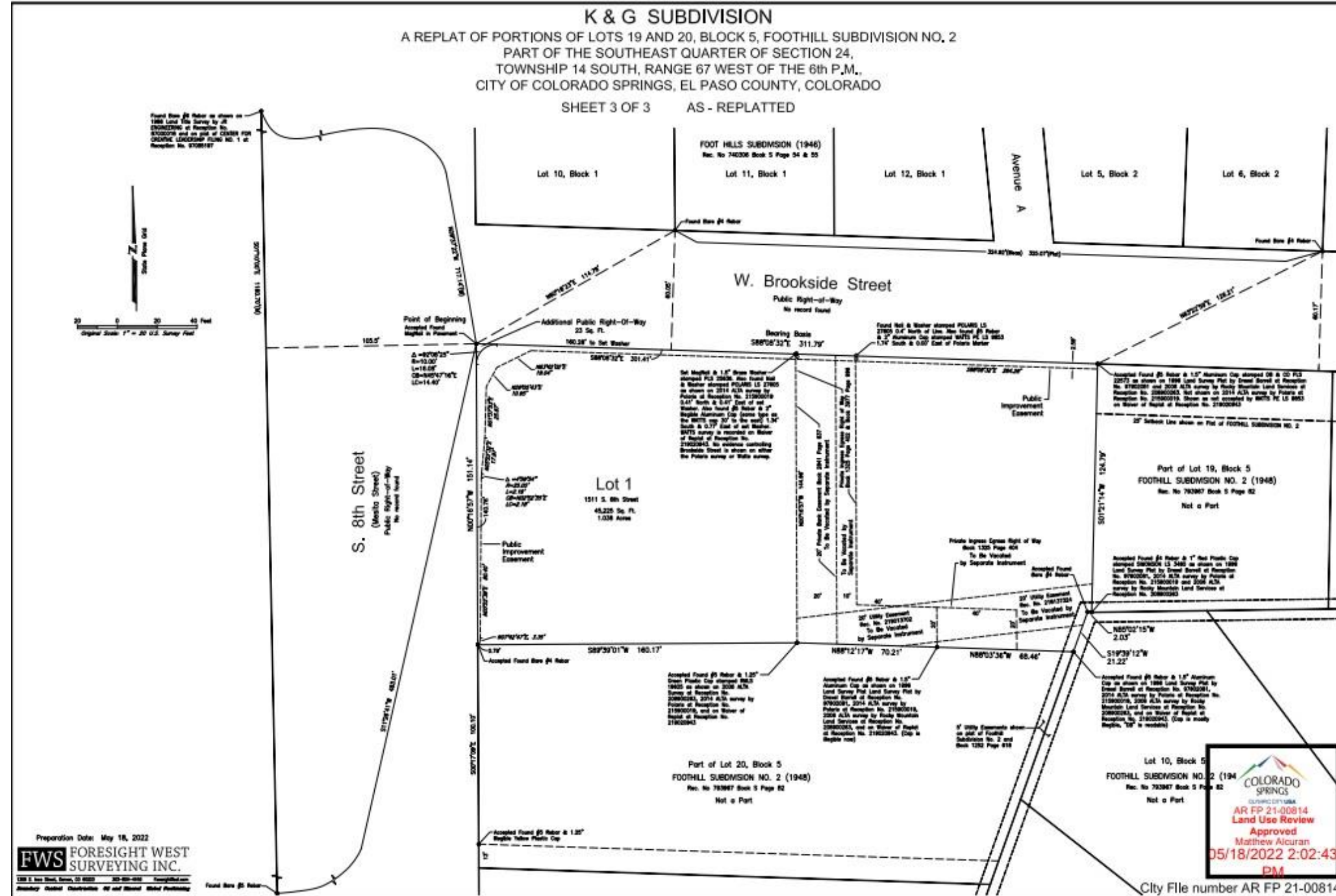
- Approved Alternative Landscape Design per City Code Section 7.4.307
 - 12-foot landscape setback
 - 44 additional shrubs installed



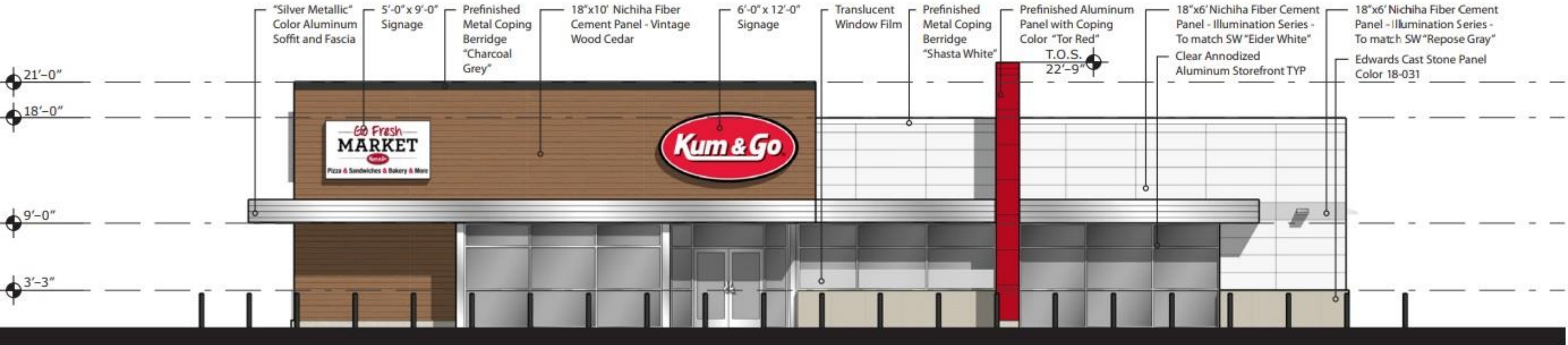
Applications – Final Plat



- Establishes 1 lot
- Reviewed/approved administratively according to Code on May 18, 2022
- Complies with all subdivision standards
- Supported by accepted drainage report



Applications

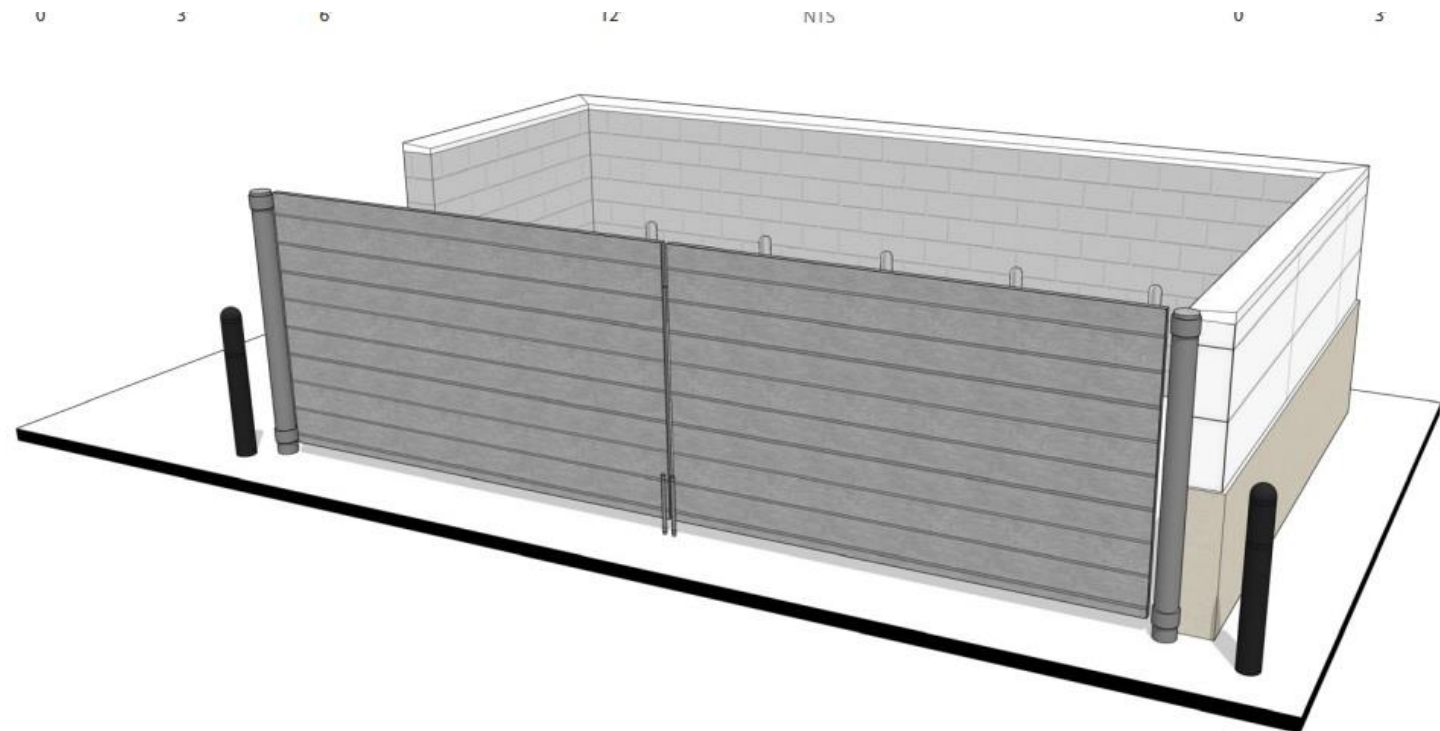


West Elevation



East Elevation

NTS



Stakeholder Notice



- Standard notice: poster and postcards at submittal and prior to appeal hearing
- A virtual neighborhood meeting was held on February 28, 2022
- An in-person neighborhood meeting was held on April 12, 2022, due to technical issues outside of the planning staff, the call-in feature was not functional
- The fourth notice was for the appeal to City Planning Commission
- The fifth notice was for the appeal to City Council.

- The appeal statements were largely focused on meeting City code sections
 - Neighborhood Historic Ivywild neighborhood
 - Intensity of use of the site for traffic concerns
 - Consistency with PlanCOS
- Argue that adverse impacts outweigh benefits

Analysis, cont.



- Staff contends that
 - All required standards are met
 - All required criteria are addressed
 - Drainage report correctly accepted by Stormwater Staff
 - Appeal criteria are NOT met
- Appeal should be denied, upholding Staff's administrative approvals.

Alternatives:



- • 7.3.202: PURPOSE AND SPECIFIC REQUIREMENTS OF INDIVIDUAL ZONES:
 - • The following statements describe the purpose and intent of each of the commercial zone districts.D. C-5 - Intermediate business: This zone district accommodates general commercial uses that are of moderate intensity. The emphasis of the zone is placed on individual sites which in some cases will be located near established residential zoning.
- • 7.3.201: PURPOSE: A. The purposes of this part are to:
 - • 1. Provide appropriate areas for commercial retail, service, and office use....in a manner which is consistent with the Comprehensive Plan.
 - • 2. Provide adequate space for commercial uses and their accompanying activities including off street parking, loading areas, pedestrian circulation, landscaping, and accessory uses.
 - • 3. Ensure compatibility with adjacent land uses and eliminate excessive noise, illumination, unsightliness, odor, smoke, and other objectionable influences.
 - • 4. Minimize traffic congestion and the overloading of utilities.
 - • 5. Provide areas for employment opportunities and commercial services for existing and future residents of the City and nearby areas.
 - • 6. Provide for land uses which meet the need of and attract regional populations in addition to the residents.

Applicant's Appeal



- Kum & Go filed an appeal to City Council on June 23, 2022
 - City Planning's decision was against the express language of the Colorado Springs zoning ordinances
 - Proposed use is a principal permitted use under the existing C-5 zone
 - Consistent with the established land use patterns
 - Denial of the use is erroneous and clearly contrary to law.

Alternatives:



- 1. Affirm the decision of the City Planning Commission to deny the proposed Development Plan and Final Plat; or
- 2. Reverse the decision of the City Planning Commission and approve the Development Plan and Final Plat; or
- 3. Modify the decision of the City Planning Commission; or
- 4. Refer the matter back to the City Planning Commission for further consideration.

Proposed Motions:

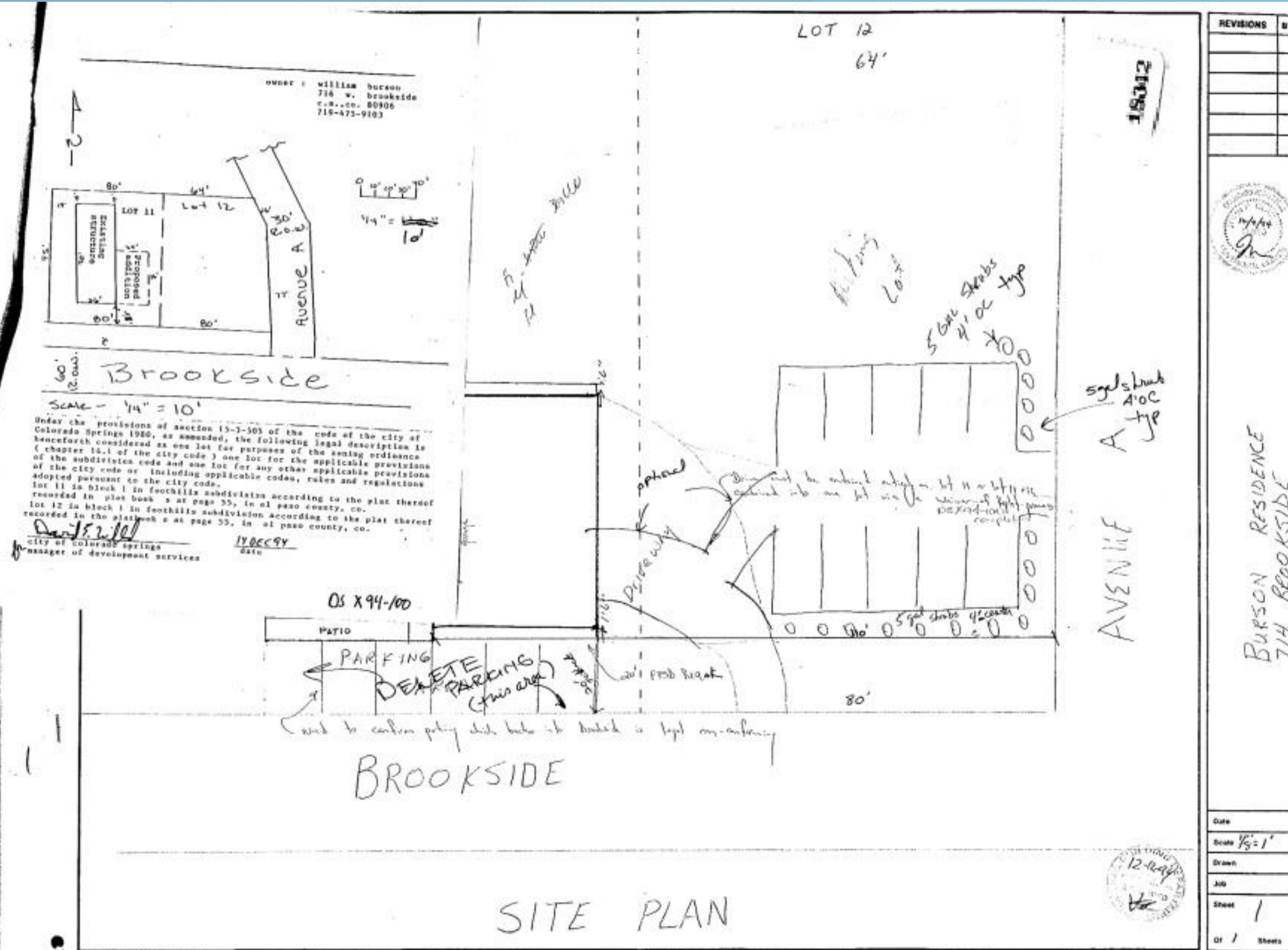


- Reverse the decision of the City Planning Commission and approve the Development Plan for the Kum & Go Gas Station, based upon the finding that the application complies with the review criteria in City Code Section 7.5.502.E, and that the appeal criteria found in City Code Section 7.5.906.B are not met.
- Reverse the decision of the City Planning Commission and approve the Final Plat to combine 5 parcels into one parcel based upon the finding that the application complies with all standards and procedures within Article 7 (Subdivision Regulations), of Chapter 7 of City Code, and that the appeal criteria found in City Code Section 7.5.906.B are not met.



QUESTIONS?

Analysis



- PPRBD permit C37815/18342 for 716 W. Brookside Avenue
- Showing 6 parking spaces to be removed along Brookside

Site Photos



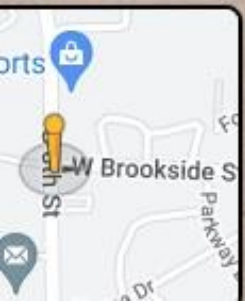
Site Photos



Site Photos



799 W Brookside St
Colorado Springs, Colorado
Google
Street View - Jul 2021



Site Photos



Colorado Springs, Colorado
Google
Street View - Oct 2017



Google

Site Photos



Appeal # 1



- “Urban Strategies, Inc.” on behalf of 352, LLC. filed an appeal of both applications on May 27, 2022
- Appeal Statement included as Appeal Statement Urban Strategies
- Numerous concerns
 - Intensity, hours of operation, traffic, noise, light pollution, drainage and property values

Les Gruen



May 27, 2022

Mr. Matthew Alcuran
Planner II, Northeast Team
Development Review Enterprise
2880 International Circle, #220-7
P.O. Box 1575, MC 1378
Colorado Springs, CO 80901

Via email at: Matthew.Alcuran@coloradosprings.gov and Hand Delivery

Re: Appeal Statement of Administrative Approval of AR DP-00813 and AF FP-00814

Dear Mr. Alcuran:

Urban Strategies, Inc. is appealing the administrative approval of the above referenced items on behalf of 352 LLC, the owner of the 10-unit Brookside Garden apartment property immediately adjacent to the subject property on the east. Tenants typically are lower income, in some cases disabled, and frequently long-tenured because of reasonable rents and well maintained grounds. Similarly located and priced options are extremely scarce. 352 LLC also owns a single-family home on the north side of Brookside Street directly across the street from the subject site.

The Appellant believes that staff's administrative approval of the proposed Kum & Go gas station and convenience store final plat and development plan application (development proposal) was incorrect because this decision was:

- against the express language of the zoning ordinance, specifically 7.7.303.B.1 and 7.5.502.E.1, 2, 7, 13
- against the express intent of the zoning ordinance specifically 7.7.303.B.1 and 7.5.502.E.1, 2, 7, 13
- unreasonable
- erroneous

Contrary to the justification provided by the Applicant and determination of the planning staff, this application does not meet the statutory approval criteria for a development plan which requires meeting the intent of the zoning code, consistency with the zoning code and compatibility with the land uses surrounding the site. This application further fails to meet various final plat review criteria requirements including:

Appeal # 2



- Eric and Anna Nicole and Jon Severson an appeal of the development plan application filed on May 31, 2022
- Appeal Statement included as Appeal Statement Severson
- Numerous concerns
 - Traffic, light pollution, increased crime, transient problem, Ivywild neighborhood compliance and property values

Eric and Anna Nicol
1427 Avenue A Street
Colorado Springs CO 80905

Jon T. O. Severson and Melinda K. Edwards
716 W. Brookside
Upper Level
Colorado Springs CO 80905

Project Name: Development Plan for the Kum and Go gas station, File Number: AR DP 21-00813
Site Address: Southeast corner of 8th Street and W. Brookside Street

APPEAL

We are submitting an appeal according to City Code 7.5.906.A.4 showing that the Kum and Go planned for the Southeast corner of 8th Street and W. Brookside Street is unreasonable and erroneous. The proposed plan does not improve the neighborhood and the people living in it for these reasons.

- Increased traffic on Brookside
 - Brookside is already a dangerous/busy street with no sidewalks. Kum and Go would increase traffic, including large delivery trucks, which would make turning out of our street on Avenue A more difficult than it already is.
 - The neighborhood is full of young families and increased traffic will only be dangerous as it increases risk of accidents to pedestrians and vehicles.
 - According to the development plan point #8 "Semi-trucks shall not travel east onto Brookside from the proposed site." This is great to help traffic, but it will not be enforceable by Kum and Go. We would like to see a better plan to enforce this traffic issue.
- Light and noise pollution.
 - There are at least 14 homes and an apartment complex whose windows look directly onto the proposed site. A 24-hour large gas station creates an immense amount of light and noise and will be a detriment to the privacy and quality of life of the neighbors. The main windows of our home, including bedrooms, overlook this property which would make it disruptive to sleep, quiet and privacy resulting in a reduced quality of life and increase to potential health risks. 24-hour noise due to customer traffic adds to the burden and disrupts sleep and privacy. Eric is a small business owner and employs 30 people within Loyal Coffee. His business and employees could suffer as a result of constant light, noise and lack of privacy affecting his rest.