



City of Colorado Springs

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

Meeting Minutes City Council

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Tuesday, January 10, 2023

9:00 AM

Council Chambers

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- Stratus IQ Channel 76 / 99 (Streaming)

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Estimated agenda item times are provided for planning purposes and do not constitute notice of a specific time for any item. Items may take more or less time than estimated. City Council may amend the order of items.

1. Call to Order and Roll Call

Present: 9 - Councilmember Yolanda Avila, Councilmember Dave Donelson, Councilmember Stephannie Fortune, President Pro Tem Randy Helms, Councilmember Nancy Henjum, Councilmember Bill Murray, Councilmember Mike O'Malley, President Tom Strand, and Councilmember Wayne Williams

Councilmember Fortune arrived at approximately 10:15 AM and attended the meeting virtually.

Councilmember O'Malley and Councilmember Williams arrived at approximately 9:30 AM.

2. Invocation and Pledge of Allegiance

The Invocation was made by President Pro Tem Helms.

President Strand led the Pledge of Allegiance.

3. Changes to Agenda/Postponements

There were no changes to the Agenda.

4. Consent Calendar

These items will be acted upon as a whole, unless a specific item is called for discussion by a Councilmember or a citizen wishing to address the City Council. (Any items called up for separate consideration shall be acted upon following the Mayor's Business.)

4A. Second Presentation:

- 4A.A. [22-738](#) Ordinance No. 22-96 by the City of Colorado Springs, Colorado extending the effective date of Ordinance No. 22-51, increasing the not to exceed amount of the bonds to \$21,500,000 and authorizing the execution and delivery by the City of certain loan documents for Paloma Garden

Presenter:

Katie Sunderlin, Senior Affordable Housing Coordinator
Steve Posey, Community Development Division Manager
John Bales, Fred Marienthal, Kutak Rock LLP
Peter Wysocki, Director of Planning and Community Development

Attachments: [COS Paloma Garden 2022 Amendment to Ordinance](#)
[COS Paloma Garden 2022 Financing Agreement](#)
[COS Paloma Garden 2022 Tax Regulatory Agreement](#)
[No. 22-51 Signed PAB Ordinance Paloma Garden](#)
[Paloma Gardens CC Work Session_11212022](#)
[Signed Ordinance No. 22-96.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.B. [22-759](#) Ordinance No. 22-97 amending section 102 (inoculation required for dogs and cats) of article 8 (regulation of animals - pets) of chapter 6 (neighborhood vitality / community health) of the code of the city of Colorado Springs 2001, as amended, pertaining to inoculation requirement

Presenter:

Jamie Norris, Director of Animal Law Enforcement
Humane Society of the Pikes Peak Region

Attachments: [NeighborhoodVitality-InnoculationORD-2022-11-4](#)
[RABIES FAQ](#)
[2022a 1235 signed](#)
[Signed Ordinance No. 22-97.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.C.** [PUDZ-22-0004](#) Ordinance No. 22-98 amending the zoning map of the City of Colorado Springs relating to 5.664 acres located at 1100 S. Royer Street from M2/PUD/SS (Heavy Industrial and Planned Unit Development with the Streamside Overlay) to PUD/SS (Planned Unit Development with a maximum of 0.36 dwelling units per acre, maximum 10,000 square feet of non-residential structures, and maximum building height of 40 feet, with the Streamside Overlay)

(Quasi-Judicial)

Presenter:

Ryan Tefertiller, Urban Planning Manager, Planning & Community Development

Peter Wysocki, Planning Director, Planning and Community Development

Attachments: [ORD_ZC_1100SouthRoyerStreet](#)
[Exhibit A - Concrete Coyote Zone Change Legal](#)
[Exhibit B - Concrete Coyote Zone Change Depiction](#)
[CPC Staff Report Concrete Coyote_RBTupdated](#)
[FIGURE 1 - Concrete Coyote Development Plan](#)
[FIGURE 2 - Concrete Coyote Project Statement](#)
[FIGURE 3 - Concrete Coyote Zoning Context Map](#)
[FIGURE 4 - PlanCOS Vision Map](#)
[FIGURE 5 - Concrete Coyote Letter of Support](#)
[7.3.603 Establishment & Development of a PUD Zone](#)
[7.5.603.B Findings - ZC](#)
[Signed Ordinance No. 22-98.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.D.** [CPC PUZ 22-00004](#) Ordinance No. 22-99 amending the zoning map of the City of Colorado Springs relating to 557.357 acres located east of Marksheffel Road and between the future extensions of Stetson Hills Boulevard, Barnes Road and Banning Lewis Parkway from R1-6000/R1-6000/cr/R5/cr/PBC/cr/PUD/SS/AO (Single-Family Residential, Single-Family Residential with conditions of record, Multi-Family Residential with conditions of record, Planned Business Center with conditions of record, and Planned Unit Development with Streamside and Airport Overlays) to PUD/SS/AO (Planned Unit Development: Residential, 2.0-24.99du/ac, and 35-50 foot maximum building heights with Streamside and Airport Overlays).

(Quasi-Judicial)

Related Files: CPC MP 87-00381-A30MJ22, CPC PUP 22-00005

Presenter:

Daniel Sexton, Planning Supervisor, Planning & Community Development

Peter Wysocki, Director, Planning & Community Development

- Attachments:** [ORD_ZC_FreestyleNorth](#)
[Exhibit A_Legal_Description](#)
[Exhibit B - PUD Zone Change](#)
[Receipt 212258_Sandcreek](#)
[7.3.603 Establishment & Development of a PUD Zone](#)
[7.5.603.B Findings - ZC](#)
[Signed Ordinance No. 22-99.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.E.** [SUBD-22-0061](#) Ordinance No. 22-100 vacating portions of a public right-of-way known as Hill Street consisting of 0.049-acres located at the eastern terminus of Hill Street.

(Legislative)

Presenter:

Johnny Malpica, AICP Candidate, Planner I, Planning and Community Development

Peter Wysocki, AICP, Planning Director, Planning and Community Development

- Attachments:** [ORD_HillStreetRight-of-way_Vacation](#)
[Exhibit A - Legal Description](#)
[Exhibit B - Vacation Plat](#)
[7.7.402.C Vacation Procedures](#)
[Signed Ordinance No. 22-100.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.F.** [PUDZ-22-0001](#) Ordinance No. 22-101 amending the zoning map of the City of Colorado Springs pertaining to 2.03-acres located on the southeast corner of Verde Drive and Zebulon Drive from R-5/AO (Multi-family Residential with Airport Overlay) to PUD/AO (Planned Unit Development: Residential, maximum of 12.81 dwelling units per acre, and maximum building height of 36 feet with Airport Overlay)

(Quasi-Judicial)

Presenter:

Austin Cooper, Planner II, Planning and Community Development
Peter Wysocki, Director, Planning and Community Development

Attachments: [ORD_ZC_VerdeCommons](#)

[Exhibit A - Legal Desc](#)

[Exhibit B - Zone Change](#)

[CPC Staff Report_Verde Commons](#)

[Project Statement](#)

[Development Plan](#)

[Public Comments](#)

[7.3.603 Establishment & Development of a PUD Zone](#)

[7.5.603.B Findings - ZC](#)

[Signed Ordinance No. 22-101.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

4B.A. [23-021](#) City Council Regular Meeting Minutes December 13, 2022

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [12-13-2022 City Council Meeting Minutes Final](#)

The Minutes were approved on the Consent Calendar.

4B.B. [23-001](#) Annual designation of the City Clerk's Office as the public place for posting of public notices for public meetings.

Presenter:

Sarah B. Johnson, City Clerk

This Item was approved on the Consent Calendar.

4B.C. [22-764](#) Ordinance No. 23-01 repealing and reordaining Article 29 (Vehicular Public Nuisances) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, pertaining to civil abatement of vehicular public nuisances and providing penalties for the violations thereof.

Presenter:

Adrian Vasquez, Chief of Police

David Edmondson, Deputy Chief - Patrol Operations

Attachments: [VPNO-ORD-2022-12-5](#)

[VPNO Council Presentation - 2022 Version_Final](#)

[Signed Ordinance No. 23-01.pdf](#)

This Ordinance was approved on first reading on the Consent Calendar.

4B.D. [22-781](#)

A resolution Authorizing the Purchase of Fort Lyon Canal Company Stock Owned by Thaddeus Wertz and Sierra Wertz for Colorado Springs Utilities and Authorizing the Filing of Water Court Applications for Changes of Water Rights and Appropriative Rights of Exchange

Presenter:

Abigail Ortega, General Manager of Water Resource and Demand Management, Colorado Springs Utilities

Travas Deal, Acting Chief Executive Officer, Colorado Springs Utilities

Attachments: [City Council Resolution ThadSierraWertz Amended](#)

[Thad and Sierra Amended PSA Clean](#)

[Signed Resolution No. 01-23.pdf](#)

This Resolution was adopted on the Consent Calendar.

Approval of the Consent Agenda

Motion by Councilmember Henjum, seconded by President Pro Tem Helms, 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 6-0-3-0

Aye: 6 - Avila, Donelson, Helms, Henjum, Murray, and Strand

Excused: 3 - Fortune, O'Malley, and Williams

5. Recognitions

5.A. [23-028](#)

A Joint Proclamation in Recognition of Martin Luther King Jr. Day

Presenter:

Nancy Henjum, Councilmember District 5

Mayor John Suthers

Attachments: [Martin Luther King Jr Day Proclamation 2023](#)

Councilmember Henjum read a joint Proclamation recognizing January 16, 2023 as Martin Luther King Jr. Day and introduce several members of the Alpha Phi Alpha Fraternity, Rosalie Rodriguez, Senior Associate Dean of Students at Colorado College and Co-Chair, Martin Luther King Jr. Planning Committee, Angela Stevens, President, Colorado Springs

Chapter, NAACP, Rodney Gullatte, Jr., President and CEO, Colorado Springs Black Chamber of Commerce, and Wardell Adams, President, Alpha Phi Alpha Fraternity.

Donald Deas, Alpha Phi Alpha Fraternity Chair, Martin Luther King Jr. Planning Committee, requested everyone recognize this day by attending the All People's Breakfast being held on Monday, January 16, 2023 at Ed Robson Arena.

5.B. [23-027](#) A resolution recognizing January 16, 2023 as Religious Freedom Day

Presenter:

Wayne Williams, Councilmember At Large

Attachments: [Religious Freedom Day](#)
 [Signed Resolution No. 02-23.pdf](#)

Councilmember Williams read the Resolution recognizing January 16, 2023 as Religious Freedom Day and gave a brief history of importance of religious liberty.

Pastor Steve Holt expressed appreciation for the Resolution and spoke about the significance of allowing the community to have diverse freedom of religion

Pastor Jeff Anderson, Grace Bible Church, stated every human being has free will and should have the right to choose their religion and the community needs to continue to fight for their freedoms.

Councilmember Murray stated if everyone listened more and argued less, we would all be better off across the spectrum.

Motion by Councilmember Henjum, seconded by Councilmember Murray, that the Resolution recognizing January 16, 2023 as Religious Freedom Day be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Donelson, Helms, Henjum, Murray, O'Malley, Strand, and Williams

Excused: 1 - Fortune

5.C. [22-794](#) Appointments to City Council Boards, Commissions, and Committees

Presenter:

Tom Strand, Council President and Councilmember At Large

Attachments: [011023 Boards Commissions and Committee Appointments](#)

President Strand presented the City Council Appointments to Boards, Commissions, and Committees.

Louie Larimer, Deborah Center, nominee appointee to the Independent Ethics Commission, expressed gratitude for the opportunity to serve.

Terry Grant, nominee appointee to the Audit Committee, expressed gratitude for the opportunity to serve.

Motion by Councilmember Donelson, seconded by Councilmember Murray, that the City Council Appointments to Boards, Commissions, and Committees be approved. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Donelson, Helms, Henjum, Murray, O'Malley, Strand, and Williams

Excused: 1 - Fortune

6. Mayor's Business

There was no Mayor's Business.

7. Citizen Discussion For Items Not On Today's Agenda

Citizens Diane Fitzkee and Marsha Wick spoke about the issues within the City resulting from the increase in development and growth within the City.

Citizen Bill Wysong expressed appreciation for the Town Hall meeting regarding traffic and ConnectCOS being held on Saturday, January 21, 2023 from 10:00-12:00.

Citizen Deborah Hendrix, Executive Director, Parent's Challenge, introduced Melissa Russo and identified the National School Choice event being held on January 21, 2023.

Citizen Jaymen Johnson expressed appreciation for the citizens attending the City Council meeting, the invocation, and the Proclamation and Resolutions which were adopted earlier in the meeting.

8. Items Called Off Consent Calendar

There were no items called off the Consent Calendar.

9. Utilities Business

- 9.A.** [22-688](#) Ordinance No. 23-02 Creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001,

As Amended, Pertaining to the Extension of Water Service.

Attachments: [ORD. 23 - 02 clean .docx](#)

[WaterSystem_RMD_ModelingSensitivity_FactSheet_2022](#)

Bethany Burgess, Utilities Division Chief, City Attorney's Office, presented the Ordinance creating Section 305 of the City Code pertaining to the extension of water service and went over the details of the language of the proposed Ordinance.

Mayor John Suthers encouraged City Council to approve the proposed Ordinance because it is in the best interest of the City. He stated the reasons behind his support include adequate water supply issues within the City due to its location, a historic drought in the Colorado River Basin, and that future growth of the City does not threaten the adequacy of the water supply.

Councilmember Murray asked why the Mayor is recommending the City's available water supply be 130 percent of existing water usage. Mayor Suthers stated it is because one hundred is what was recommended by Colorado Springs Utilities. Abigail Ortega, General Manager of Water Resource and Demand Management, Colorado Springs Utilities (CSU), stated the 130 percent was calculated based on the additional risk of supply from the Colorado River and the estimated development growth forecasted for the City.

Councilmember Williams asked if the Mayor had a stance regarding the possibility of bifurcating the Ordinance in regard to two-thirds vote or super-majority vote required for certain circumstances. Mayor Suthers stated it would not make a significant difference to him.

Councilmember Murray requested this Ordinance be postponed until the AnnexCOS plan is approved.

Councilmember Donelson asked if the reduced flows of the Colorado River were already considered in the CSU Integrated Water Resource Plan. Ms. Ortega confirmed it was, but they are seeing unprecedented conditions for Lake Powell and Lake Mead which are causing the conditions for the Colorado River.

Councilmember Donelson asked if a twenty percent reduction of Colorado

River water supply is forecasted. Ms. Ortega stated they calculated that reduction amount in 2017 with the Integrated Water Resource Plan and now looking at the long-term conditions, they do not believe twenty percent is enough which is why they are asking for the 130 percent buffer.

Councilmember Donelson stated he believes the proposed buffer is too conservative. Ms. Ortega stated the water modeling and planners have shown that the 130 percent buffer is adequate to alleviate the risk for growth.

Councilmember Williams asked if there was an existing Ordinance concerning water supply. Ms. Ortega confirmed there was and read some of the details of conditions/criteria of annexation and water surplus.

Councilmember Williams asked if 128 percent would be sufficient. Ms. Ortega stated it would change the way they review infrastructure for annexations.

Councilmember Henjum requested additional information regarding the process for planning for future water supply. Ms. Ortega stated they look at the reasonable foreseeable risks.

Dave Dazlich, Vice President, Government Affairs, Colorado Springs Chamber of Commerce and EDC, stated water is critical for the City and future growth, CSU has had an excellent track record of planning, a water supply buffer is needed, and the City is currently experiencing a housing shortage.

Citizens John Hawk, Kate Warner, Joel Sorenson, Patty Gould, spoke in support of the proposed Ordinance.

Citizens Bill Wysong, Mike Ruebenson, La Plata Communities, Doug Quimby, La Plata Communities, Kevin Walker, Housing and Building Association (HBA), Andy Merritt, The O'Neil Group, Craig Dossey, Vertex Consulting Services/The O'Neil Group, Eli Bremer, Nathan Fisk, Fisk Team ExP Realty, Doug Schultz, Tim Coutts, Dana Dugan, Don Gravette, La Plata Communities, and Jaymen Johnson spoke in opposition of the proposed Ordinance.

Councilmember Donelson made the motion to change a super-majority to

a simple majority.

Councilmember Murray asked what the other jurisdictions are doing to conserve water. Mr. Walker stated water conservation is being discussed throughout the area.

Mr. Merritt requested a report regarding the data associated with this proposed Ordinance be provided. Travas Deal, Acting Chief Executive Officer, CSU, agreed to that request.

Ms. Ortega provided an overview of CSU's Reuse Program which uses non-potable water for irrigation and other uses.

Councilmember Murray asked how much water was being used at the Martin Drake Power Plant. Ms. Ortega stated between one to two million of non-potable gallons per day which will be recaptured through their exchange system.

Motion by Councilmember Donelson, seconded by Councilmember Murray, that the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, As Amended, pertaining to the extension of water service as amended in Paragraph B to state City Council approval shall require a vote of a majority of the Councilmembers present be approved on first reading. The motion passed by a vote of 6-3-0-0

Aye: 6 - Avila, Donelson, Helms, Henjum, Murray, and Strand

No: 3 - Fortune, O'Malley, and Williams

President Strand asked if this Ordinance could be changed by a future City Council. Ben Bolinger, Assistant City Attorney, City Attorney's Office, confirmed they could.

Councilmember Murray stated he will support the amended motion to 120 percent water supply requirement.

Councilmember Henjum and Councilmember Williams stated they will be voting against the proposed amendment to 120 percent surplus requirement.

Council Donelson stated CSU already has an Integrated Resource Plan in place to address some of the issues discussed.

President Strand what the impact would be if the surplus water supply was reduced to 120 percent. Mr. Deal stated it basically comes down to risk.

Motion by Councilmember Donelson, seconded by Councilmember Murray, that the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, As Amended, pertaining to the extension of water service as amended in Paragraph B to read "The City's available water supply is sufficient to meet at least 120% of existing usage" be approved on first reading. The motion failed by a vote of 3-6-0-0

Aye: 3 - Donelson, Murray, and Strand

No: 6 - Avila, Fortune, Helms, Henjum, O'Malley, and Williams

Motion by Councilmember Murray, seconded by Councilmember Donelson, that the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, As Amended, pertaining to the extension of water service as amended in Paragraph B to read "The City's available water supply is sufficient to meet at least 125% of existing usage" be approved on first reading. The motion failed by a vote of 3-6-0-0

Aye: 3 - Donelson, Murray, and Strand

No: 6 - Avila, Fortune, Helms, Henjum, O'Malley, and Williams

Councilmember Henjum stated it is not Nor'Wood bringing this Ordinance to the table, it is Mother Nature and the changing environment, climate, and resources and it is City Council's responsibility to address the issues associated with those changes.

Councilmember O'Malley requested to withdraw his motion.

Councilmember Henjum did not agree to withdraw her second.

Councilmember Avila stated this should not be an annexation Ordinance, it should be a water Ordinance that includes the City, future annexations, and El Paso County.

Councilmember Murray stated looking at the City as a whole, there needs to be a structured plan to make everything work together and this Ordinance does not offer that so he will be voting against it.

Councilmember Williams stated the existing Ordinance in place is very vague and this proposed Ordinance addresses that and provide clarification regarding the needed water supply buffer.

Councilmember Donelson stated he believes this Ordinance needs more time to be developed.

Motion by Councilmember O'Malley, seconded by Councilmember Henjum, that the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, As Amended, pertaining to the extension of water service be approved on first reading. The motion passed by a vote of 5-4-0-0

Aye: 5 - Fortune, Helms, Henjum, O'Malley, and Williams

No: 4 - Avila, Donelson, Murray, and Strand

10. Unfinished Business

There was no Unfinished Business.

11. New Business

11.A. [22-788](#)

A resolution submitting to the registered qualified electors of the City of Colorado Springs, Colorado, at the general municipal election conducted by mail ballot to be held on Tuesday, April 4, 2023, the question of extending the sales and use tax for Trails, Open Space and Parks ("TOPS") program and modifying the program for the purpose of allowing revenue to be used on all city trails and open spaces and requiring seventy-five percent (75%) of open space funds be used for acquisition of open space, providing for the form of the ballot title and text, providing for certain matters with respect to the election, and providing the effective date of this resolution

Presenter:

Britt Haley, Director- Parks, Recreation and Cultural Services
Department

Attachments: [2023TOPS_Extension-1-3-23-DRAFT](#)

[TOPS Program Ballot Question CityCouncilJAN2023](#)

[Signed Resolution No. 03-23.pdf](#)

Britt Haley, Director, Parks, Recreation and Cultural Services Department, provided a briefing on the Trails, Open Space and Parks (TOPS) program and ballot initiative. She gave a brief overview of the history and accomplishments of TOPS, components of the ballot question, revised ballot question, TOPS funding division, and decision timeline for referral to the April 4, 2023 ballot.

Councilmember Williams stated he supports this initiative and believes it should go to the voters to make the decision regarding it.

Councilmember O'Malley asked if the new Coleman Park will be part of this. Ms. Haley stated the City's community parks do benefit from TOPS funding.

Councilmember Henjum stated she is very supportive of this initiative.

President Pro Tem Helms stated TOPS funding has helped parks all over the City.

President Strand stated he supports this item and read a letter from the constituent regarding her concern with only twenty-five percent going toward stewardship which would not leave enough money for the development of parks. Ms. Haley stated the features of the development of open space do not cost much and believes they will be able to open these spaces to the public with the revenue which is projected.

Councilmember Donelson stated he also supports this item.

Citizens Bill Wysong, Kent Obee, Bob Falcone, Dana Duggan, Steve Harris, Kurt Schroeder, Susan Davies, Corey Sutella, Linda Hodges, and Jaymen Johnson spoke in support of the proposed Resolution.

Motion by Councilmember Williams, seconded by Councilmember Helms, that the Resolution submitting to the registered qualified electors of the City of Colorado Springs, Colorado, at the General Municipal election conducted by mail ballot to be held on Tuesday, April 4, 2023, the question of extending the sales and use tax for Trails, Open Space and Parks (TOPS) Program and modifying the program for the purpose of allowing revenue to be used on all City Trails and Open Spaces and requiring a minimum of seventy five percent (75%) of open space funds be used for acquisition of open space, providing for the form of the ballot title and text, providing for certain matters with respect to the election, and providing the effective date of this resolution be adopted. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Donelson, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

- 11.B. CODE-22-00** Ordinance No. 23-03 repealing Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, and adopting the Unified Development Code of the City of Colorado Springs, incorporating various building codes, other primary and secondary codes, as included, and providing for the penalties and remedies for violation thereof

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Presenter:

Morgan Hester, Planning Supervisor

Mike Tassi, Assistant Director of Planning and Community Development
Peter Wysocki, Director of Planning and Community Development
Don Elliott, Clarion Associates

Attachments: RetoolCOS - 2-14-23
COS_UDC Final Draft CLEAN
ATTACHMENT 1 CC Recommendations
ATTACHMENT 2 - Neighborhoods
ATTACHMENT 3 - Appeals
ATTACHMENT 4 - TODs
ReToolCOS-AdoptingORD-2022-12-29
Pages A-BB PENALTY PROVISIONS UNDER UDC - 2022-12-05

Peter Wysocki, Director of Planning and Community Development, introduced the Ordinance repealing City Code Chapter 7 (Planning, Development and Building) and adopting the Unified Development Code (UDC) also known as RetoolCOS, incorporating various building codes, other primary and secondary codes, as included, and providing for the penalties and remedies for violation thereof. He expressed appreciation for everyone involved in the process, identified the details of a unified land development code, drafting of PlanCOS, PlanCOS keystone indicators, PlanCOS established goals, RetoolCOS project, and Clarion Associates - project consultant.

Morgan Hester, Principal Planner, Planning and Community Development, provided an overview of the RetoolCOS process overview, module breakdown. stakeholder involvement, collaboration/outreach, meetings/public discussion, UDC organization, Article 7.6 - Building Height Measurement, Planning Commission meetings/motions, requested changes, timeline, and next steps.

Councilmember Donelson asked what is being requested to be separated by 200 feet in the MX-N district. Ms. Hester stated if a bar is proposed, it would need to be 200 feet from a residential zoned lot or residential unit. Councilmember Donelson asked if that requirement would also apply to event centers. Ms. Hester stated those are reviewed on a case-by-case basis.

Citizens Diane Bridges, Historic Neighborhoods Partnership (HNP), Mike Anderson, HNP, Cheryl Brown, President Near Northend Association, Barbara Novey, HNP, Jim Kin, Dutch Schulz, President, Old North End,

HNP, Tim Scanlon, Pastor Daniel Smith, Faith Table, and Susan Bolduc, Mike Halbi, Tam Walsky, Dana Duggan, Monika May, Christie Chirby, Bill Wysong, Peter Reeves, and Jeff Norton, provided an overview of their recommendations.

Councilmember Williams asked if Mr. Schultz is requesting additional parking be added in an area which has street-only parking. Mr. Schultz stated there is a parking requirement standard based on the proximity of a bus stop and is asking that the Transit-Oriented Development (TOD) incentives not be implemented in historical neighborhoods.

Councilmember Williams asked Ms. Bolduc if she stated that the City's air-quality did not meet the standards for over one-hundred days. Ms. Bolduc stated that is the information she received from the state. Councilmember Williams stated that information is not correct. Councilmember Avila, liaison for the Pikes Peak Area Council of Governments (PPACG) stated the City is at risk for being out of compliance.

Councilmember Donelson requested this item be postponed to the January 24, 2023 meeting so that the proposed recommendations can be reviewed prior to voting.

Ben Bolinger, Assistant City Attorney, reminded City Council of the meeting agenda being published the week prior to the City Council meeting.

President Strand asked if an existing homeowner's lot does not meet the new standards if it would be affected by RetoolCOS. Ms. Hester stated it would be identified as nonconforming but would be grandfathered in.

Devin Camacho, Governmental Affairs Manager, Colorado Springs Chamber and EDC, Andrea Barlow, N.E.S. Tim Siebert, Nor'Wood Development Group, spoke in support of the proposed Ordinance.

Councilmember Donelson proposed this item be postponed to February 14, 2023 to allow additional time to organize and review the recommendations received from the public. Jeff Greene, Chief of Staff, stated that the printing of the Agenda could be delayed until Thursday, the week prior, if needed.

Motion by Councilmember Donelson seconded by Councilmember Williams, that the Ordinance repealing and replacing Chapter 7 (Planning, Development and Building) of City Code in its entirety with the Unified Development Code (UDC) which will serve as the zoning code and Chapter 7 of the City Code of the City of Colorado Springs 2001, as amended, with the proposed amendments provided in Exhibit 2 (CPC Recommendation Memo) as amended with an effective date of May 1, 2023 be postponed to the January 24, 2023 City Council meeting with recommended amendments provided to staff by close of business January 12, 2023. The motion passed by a vote of 9-0-0

12. Public Hearing

12.A. [AR PUD
22-00062](#)

An appeal of City Planning Commission's decision to approve a PUD Development Plan for Polaris Pointe South Filing No. 4, for an 8,000-seat outdoor entertainment amphitheater with ancillary site improvements on 18 acres in the PUD (Planned Unit Development) zone district located at the southeast corner of Voyager Parkway and Spectrum Loop intersection.

(Quasi-Judicial)

Related Files: AR NV 22-00480; AR NV 22-00481

Presenter:

Tamara Baxter, Senior Planner, Planning & Community Development
Department

Peter Wysocki, Director, Planning and Community Development
Department

Attachments: [Appeal Statement - Campbell/Fuqua](#)
[Appellant Summary 11.09.22 CPC Mtg](#)
[101722 Quote From Dr Russ Sojourner Transcript TCA Board meeting on Sunset](#)
[CC Staff Presentation Sunset Amphitheater Appeal ppt](#)
[Appellant Sunset Amphitheater Appeal v3 Presentation](#)
[Applicant City Council Presentation Final to City Development Requirements](#)
[CPC Staff Report Sunset Amphitheater TPB](#)
[Project Statement PUD Development Plan](#)
[Project Statement Nonuse Variances](#)
[PUD Development Plan](#)
[CSPD Letter Nov 7](#)
[Security Contracts](#)
[Shared Parking Agreements](#)
[Public Comments](#)
[PublicComments 11.09.22](#)
[Public Comments thru 1.3.23](#)
[CONTEXT MAP](#)
[Environmental Noise Assessment](#)
[Parking & Access Plan](#)
[Traffic Technical Memorandum](#)
[FAQ Handout](#)
[Sunset Amphitheater Econ Impact Report FINAL 12.20.2022](#)
[Planning Commission motions and votes](#)
[7.5.906 \(B\) Appeal of Commission-Board](#)
[7.3.606 PUD Development Plan](#)
[7.5.502.E Development Plan Review](#)

Ben Bolinger, Assistant City Attorney, City Attorney's Office, polled City Council regarding any ex parte communications. All Councilmembers responded and stated they are able to make fair and impartial decisions.

Tamara Baxter, Senior Planner, Planning and Community Development Department, presented the appeals of City Planning Commission's decision to approve a PUD Development Plan for Polaris Pointe South Filing No. 4, for an 8,000-seat outdoor entertainment amphitheater with ancillary site improvements and two nonuse variances to allow shared parking on properties within two miles where four hundred feet is the maximum distance and to increase the maximum reduction of the minimum

on-site parking requirements to eighty-five percent where thirty-five percent is allowed, and increase the distance to allow on-street parking to half mile of the subject property boundary located on 18 acres in the PUD (Planned Unit Development) zone district at the southeast corner of Voyager Parkway and Spectrum Loop intersection. She provided an overview of the context map, Master Plan/Urban Renewal Plan, PUD Zone/PUD Concept Plan, PUD Development Plan, application, Planning Commission's action, stakeholder notice/comment, and appeal of the Planning Commission's action. Ms. Baxter identified the noise/traffic considerations, parking/access plan, nonuse variances, parking summary, compatibility, annual reporting requirements, PlanCOS conformance, and staff recommendations.

Councilmember Fortune requested additional information regarding the off-site shared parking in the event those spaces are not available during a concert. Ms. Baxter stated the applicant will provide the information regarding their parking plan phases.

Councilmember Murray asked if there are agreements for annual reporting. Ms. Baxter stated there will not be a physical agreement recorded with the El Paso County Clerk and Recorder, but the notes of the development plan were modified to include those operational parameters and those will be recorded. Lisa O'Boyle, Attorney, City Attorney's Office, stated a stand-alone agreement was determined not to be the best mechanism because City Council does not have the authority to enter into that type of separate agreement.

Councilmember Henjum asked if during the planning process for PlanCOS, the community was in support of an amphitheater. Peter Wysocki, Director, Planning and Community Development Department, confirmed they were, but there was no specific dialog regarding location or size.

Councilmember Williams asked if the operational parameters are recorded with the El Paso County Clerk and Recorder and will stay with the land's development conditions. Ms. O'Boyle confirmed they will. Mr. Bolinger clarified that it is not recorded in the County real estate record, it is recorded as a City land use document.

Councilmember Donelson asked if the noise reporting requirement was in effect. Ms. Baxter confirmed it was.

Councilmember Henjum asked if the shared parking lot agreements are bound by the development plan. Ms. O'Boyle stated they are not. Mr. Wysocki stated if there is a reduction of off-site parking, the project is still bound to provide the amount of parking the development plan was approved with.

Councilmember Fortune asked who enforces the parking requirements. Mr. Wysocki stated the Planning and Community Development Department.

Jayson Campbell, representing the appellant, provided an overview of the unmet nonuse variance criteria, sound/noise impacts, hardship waiver approval violations of process, intent, and logic, and unintended violations of the Americans with Disabilities Act (ADA) and Fair Housing Act (FHA).

Robert Mudd, President, Notes Live Development, representing the applicant, identified the project team, economic impact, changes driven by public feedback, appeal response, compatibility, site location, their commitment to coordinate with the United States Air Force Academy (USAFA) and The Classical Academy (TCA) regarding parking, and substantial off-site sidewalk improvements.

Councilmember Donelson asked if the other venues owned by the applicant rely on similar shared parking agreements. Mr. Mudd confirmed they do.

Councilmember Henjum asked if the study on improved sound control will be measured in fifteen-minute increments. Mr. Mudd confirmed that its sound control samples will be measured and reported contiguously every fifteen minutes.

Chris Lieber, N.E.S., Inc., representing the applicant, went over the site location, context consistency with City plans, zoning, surrounding area, traffic circulation/off-site impacts, access, access dispersed versus concentrated parking, no overburdening of public facilities, compliance with drainage criteria manual, amphitheater parking.

Councilmember Murray asked if the proposed restaurants adjacent to the amphitheater will only be open during venue hours. Mr. Lieber stated those restaurants will be open all the time, not just during events and those

development plans are completely separate from the amphitheater.

Councilmember Murray asked how many parking spaces can be utilized from the Bass Pro parking lot. Mr. Lieber stated 195 spaces.

Councilmember Henjum asked if the future proposed developments are owned by the same developer. Mr. Lieber stated the contract with Notes Live Development is specifically for the amphitheater.

Councilmember Henjum asked if the amphitheater would accommodate those who ride their bike to the event. Mr. Lieber confirmed it would and identified the bike lanes and stated there will be bike racks located at the entrances.

Councilmember Donelson asked what created the exceptional condition which now requires a variance. Mr. Lieber stated the physical constraints, the inability to expand the site by twenty acres and the unique land use for the site.

President Pro Tem Helms and Councilmember Donelson asked how parking in adjacent neighborhoods will be addressed. Mr. Lieber stated the parking in designated in existing lots, City has experience in enforcing these types of situations, the developer has offered to put up temporary or permanent signage, it would be a long walk from a neighborhood, and ticket sales already include a parking fee. Mr. Mudd stated all eventgoers will be required to pay a \$10 parking fee as an approach to keep people out of the neighborhoods and there will be signage and barriers as well.

Councilmember Henjum asked if the \$10 parking fee was included regardless of where attendees parked. Mr. Mudd stated the closer parking will be a higher fee.

Mr. Mudd provided an overview of the economic impact, sound, buffering, and operational accountability.

Citizens Andrew Ritter, Johnna Reeder-Kleymeyer, President and CEO, Colorado Springs Chamber and EDC, Jariah Walker, Executive Director, Urban Renewal Authority, Paul Akerman, Vice President, Academy and Community Relations, USAFA Foundation, on behalf of Lieutenant General Retired Mike Gould, Andy Merritt, Doug Price, President and CEO, Visit

Colorado Springs, Victoria Winn, Sherman Terry, Brennan Wolf, Dan Coal, Linda Weise, President and CEO, Community Cultural Collective at the Colorado Springs Auditorium, Christina Wells, Eric Hobb, and Bob Cope, Economic Development Officer, spoke in support of the project.

Citizens Mary Talbot, Cecelia Ford, Danielle Frye, Matthew Grubasich, John Denniston, Barry Weinard, Chris McCoy, Wendy Berfeld, Jeffrey CKoch, Jed Fuqua, Katherine Gayle, and Jerry Brennan spoke in opposition of the project.

Mr. Mudd stated the notes to the development plan are tied to the development plan and will transfer if the land is ran by someone else, they did a full photometric study of the lighting which was accepted by the Planning Department, the laser light requires a permit from the City as well approval from the USAFA, seventy percent of all parking will be within one-half mile, all parking will be within two miles, the emergency lane access was approved by the Fire Marshal, sound checks will not be done prior to 3:00 PM on school days, the hardship variance is not permanent, the shuttle plan includes thirteen shuttles, and the traffic consultants were locally based.

Matt Mahon, LSTN Consultants, representing the applicant, provided an overview of the sound systems in regard to sounds and frequencies and how they will be mitigated.

Curtis Rowe, Kimley-Horn and Associates, Inc., representing the applicant, stated not all traffic needs to exit to Voyager Parkway, the traffic study was prepared conservatively, and Level of Service D is an acceptable level of service.

Mr. Campbell stated this area is densely populated, the parking arrangements are not solid, he would like to know how many of the fifty-passenger shuttles are handicap accessible, the sound levels have not been mitigated for the nearby apartments, sound monitoring is not sound policing, streets/highways are not physically exceptional conditions, parking signage does not mean it will be enforced, and this project does not meet the City's requirements on multiple levels.

JW Roth, Chairman and CEO, NotesLive, Representing the applicant, stated he is not a demanding person, he is a businessman who has built

responsible businesses and works with many diverse cultures, he operates his hospitality businesses responsibly, never had a violation of any kind, and will work diligently to be a good neighbor.

Councilmember Henjum requested Mr. Roth provide additional detail regarding how he has sympathy and empathy. Mr. Roth stated it comes from the fear of the unknown and he can empathize with traffic and parking issues from his own experience from living in the community. He stated people were concerned about Boot Barn Hall and those concerns were unnecessary.

Councilmember Williams asked Mr. Roth if he understands the conditions placed on this project in regard to parking and sound levels. Mr. Roth confirmed he does. Councilmember Williams asked Mr. Roth if he understands the approval of variances and a liquor license are not guaranteed based on today's land use decision. Mr. Roth confirmed he does.

Ms. Baxter stated the photometric plan was included in the development plan, any fireworks or pyrotechnics would require a permit from the Fire Department, the twenty-eight-foot sound wall will be installed as sound mitigation, and there are sufficient ADA parking stalls on site.

Councilmember Henjum asked how parking violations will be addressed. Mr. Wysocki stated parking enforcement is transferring from Community Services to Neighborhood Services and it is not illegal to park on a public street for an event so unless there is a residential parking permit system put in place, it would not be illegal to park in a neighborhood unless it is parked there for over seventy-two hours.

Councilmember Henjum asked how issues of parking and trash in the neighborhood will be addressed if necessary. Mr. Roth stated he has already been meeting with the neighbors and if needed, he will add/maintain trash cans and will add security guards to create a safe environment.

Councilmember Donelson asked for additional information regarding the hardship waiver. Deputy Chief Mary Rosenoff, Colorado Springs Police Department (CSPD), stated the CSPD cannot issue the noise permits without specific dates and times, they have issued seventy-five permits to

other special events. She also stated extra duty officers will assist with the traffic flow during events.

Councilmember Donelson asked if the parking variance contracts are permanent and in writing. Ms. Baxter confirmed they are permanent and are recorded with the El Paso County Clerk and Recorder's Office. Mr. Bolinger clarified that there is no requirement for a shared parking agreement in order to be granted a variance.

Councilmember Donelson asked what happens if Compassion International does not agree to allow parking at their facility because they do not approve of the artist/event. Mr. Mudd stated they will have the artists approved before using those parking spaces and the nature of their ticket sales always allows them the option to refund if they need to reduce occupancy.

Mr. Wysocki went over the conditions which need to be met before a development plan is approved and stated that there is no permitted parking on Spectrum Loop between Voyager Parkway and the roundabout.

Councilmember Donelson asked what Planning Commission's major concerns were. Mr. Wysocki stated noise, parking, traffic, and the ongoing monitoring of impacts.

Councilmember Williams asked if the City Code addresses the differences in walkability from parking based on use type. Mr. Wysocki stated it does not, but they do evaluate distances.

President Pro Tem Helms stated he supports the dispersed parking, but is concerned with patrons parking in the neighborhood, he will be monitoring the noise mitigation along with the other residents, believes this venue is very compatible with the area, and will be supporting this project.

Councilmember Donelson asked if the event ending time could be changed to 10:00 PM. Mr. Roth stated the agreements made with the various promoters have criteria related to the artists they route, the opening artists usually have ninety minutes, and the maximum a promoter can go is 11:30 PM.

Councilmember Donelson stated neighborhoods need to be protected and

support for meeting the variance criteria is not clear, and he will be supporting the appeal

Councilmember Murray stated he believes the City can step in if needed if any of the potential issues discussed become problems, a vibrant cultural environment would be beneficial to the community, and he will be supporting these items.

Councilmember Williams stated this site is located at the two biggest intersections in the City and two creeks, parking requirements are different for concert venues versus grocery store, restricted resident parking could be implemented, if necessary, the sound levels will be monitored, and he believes the decision of the Planning Commission should be sustained.

Councilmember Henjum asked if an environmental study was done related to the habitat of the Preble's meadow jumping mouse. Mr. Mudd stated the habitat of the Preble's meadow jumping mouse is located next to Monument Creek is not on this parcel and therefore an environmental study was not required.

Councilmember Fortune stated she will be supporting this project.

President Strand asked for staff's opinion regarding the traffic study which was conducted and the parking situation. Todd Frisbie, City Traffic Engineer, stated after reviewing the study, they are comfortable with the analysis/results, it is in a good location, and supports the dispersed parking plan.

President Strand stated he came into this hearing at a neutral level, he is familiar with living next to a venue, and after hearing the testimony, he will be supporting the denial of the appeal.

Councilmember Avila stated she was hoping for new development in the Southeast, but she is very supportive of the amphitheater project.

Motion by Councilmember Murray, seconded by Councilmember Helms, to deny the appeal and uphold the PUD Development Plan approval based upon the finding that the appeal criteria found in City Code Section 7.5.906(B) are not met, and uphold the action of Planning Commission to approve the application based upon the findings that the application complies with the review criteria for granting a PUD Development Plan as set forth in City Code Section 7.3.606, and the review criteria for granting a Development Plan, as set forth in City Code Section 7.5.502(E), with the following conditions of approval: 1. The LSC

Transportation Consultants, Inc. Traffic Technical Memorandum dated October 14, 2022, shall be updated to include the traffic counts adjustments and split ratio; additional analysis for Powers off-ramp/Voyage Parkway intersection; and include the project queue analysis in Table 5 of the memorandum which shall be approved by City Traffic Engineering. The motion passed by a vote of 8-1-0-0

Aye: 8 - Avila, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

No: 1 - Donelson

12.B. [AR NV
22-00480](#)

An appeal of City Planning Commission's decision to a nonuse variance to City Code Section 7.4.204(C)(1)(d)(2) for the Polaris Pointe South Filing No. 4 project to allow shared parking on properties within 2 miles where four hundred feet (400') is the maximum distance and to increase the maximum reduction of the minimum on-site parking requirements to eighty-five percent (85%) where thirty-five percent (35%) is allowed. The site is zoned PUD (Planned Unit Development) and is located at the southwest bend of Spectrum Loop, west of Voyager Parkway, consisting of 18-acres.

(Quasi-Judicial)

Related Files: AR PUD 22-00062; AR NV 22-00481

Presenter:

Tamara Baxter, Senior Planner, Planning & Community Development Department

Peter Wysocki, Director, Planning and Community Development Department

Attachments: [Project Statement Nonuse Variances](#)

[7.5.906 \(B\) Appeal of Commission-Board](#)

[7.4.204 Alternative Parking Options](#)

[7.5.802.B Nonuse Variance Criteria](#)

[7.5.802.E GuidelinesforReview NonuseVariance](#)

Please see comments in Agenda item 12.A.

Motion by Councilmember Murray, seconded by Councilmember Helms, to deny the appeal and uphold the non-use variance approval based upon the finding that the appeal does not meet the requirements of City Code Section 7.5.906.B, thereby upholding Planning Commission's action to approve the Nonuse Variance to City Code Section 7.4.204(C)(1)(d)(2) for the Polaris Pointe South Filing No. 4 project to allow shared parking on properties within 2 miles where 400' is the maximum distance and to increase the maximum reduction of the minimum on-site parking requirements to 85 percent (85%) where thirty-five percent (35%) is allowed, based upon the findings that the request meets the review criteria for granting a Nonuse Variance as set forth in City Code Section 7.5.802, with the following conditions of approval: 1. The LSC Transportation Consultants, Inc. Traffic Technical Memorandum dated October 14, 2022, shall be

updated to include the traffic counts adjustments and split ratio; additional analysis for Powers off-ramp/Voyage Parkway intersection; and include the project queue analysis in Table 5 of the memorandum which shall be approved by City Traffic Engineering. The motion passed by a vote of 8-1-0-0

Aye: 8 - Avila, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

No: 1 - Donelson

12.C. [AR NV 22-00481](#)

An appeal of City Planning Commission's decision to approve a nonuse variance to City Code Section 7.4.204(B) for the Polaris Pointe South Filing No. 4 project to increase the distance to allow on-street parking to half (½) mile of the subject property boundary. The site is zoned PUD (Planned Unit Development) and is located at the southwest bend of Spectrum Loop, west of Voyager Parkway, consisting of 18-acres.

(Quasi-Judicial)

Related Files: AR PUD 22-00062; AR NV 22-00480

Presenter:

Tamara Baxter, Senior Planner, Planning & Community Development Department

Peter Wysocki, Director, Planning and Community Development Department

Attachments: [Project Statement_Nonuse Variances](#)
[7.5.906 \(B\) Appeal of Commission-Board](#)
[7.4.204 Alternative Parking Options](#)
[7.5.802.B Nonuse Variance Criteria](#)
[7.5.802.E GuidelinesforReview_NonuseVariance](#)

Please see comments in Agenda item 12.A.

Motion by Councilmember , seconded by Councilmember, to deny the appeal and uphold the non-use variance approval based upon the finding that the appeal does not meet the requirements of City Code Section 7.5.906.B, thereby upholding Planning Commission's action to approve the Nonuse Variance to City Code Section 7.4.204(C)(1)(d)(2) for the Polaris Pointe South Filing No. 4 project to allow shared parking on properties within 2 miles where 400' is the maximum distance and to increase the maximum reduction of the minimum on-site parking requirements to 85 percent (85%) where thirty-five percent (35%) is allowed, based upon the findings that the request meets the review criteria for granting a Nonuse Variance as set forth in City Code Section 7.5.802, with the following conditions of approval: 1. The LSC Transportation Consultants, Inc. Traffic Technical Memorandum dated October 14, 2022, shall be updated to include the traffic counts adjustments and split ratio; additional analysis for Powers off-ramp/Voyage Parkway intersection; and include the project queue analysis in Table 5 of the memorandum which shall be approved by City Traffic Engineering. The motion passed by a vote of 8-1-0-0

Aye: 8 - Avila, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

No: 1 - Donelson

13. Added Item Agenda

There were no items added to the Agenda.

14. Executive Session

There was no Executive Session.

15. Adjourn

There being no further business to come before City Council, Council adjourned.

Sarah B. Johnson, City Clerk