

CITY PLANNING COMMISSION AGENDA  
JUNE 16, 2022

STAFF: MATTHEW ALCURAN

FILE NO(S):

A. - AR DP 21-00813(AP) – QUASI-JUDICIAL

B. - AR FP 21-00814(AP) – QUASI-JUDICIAL

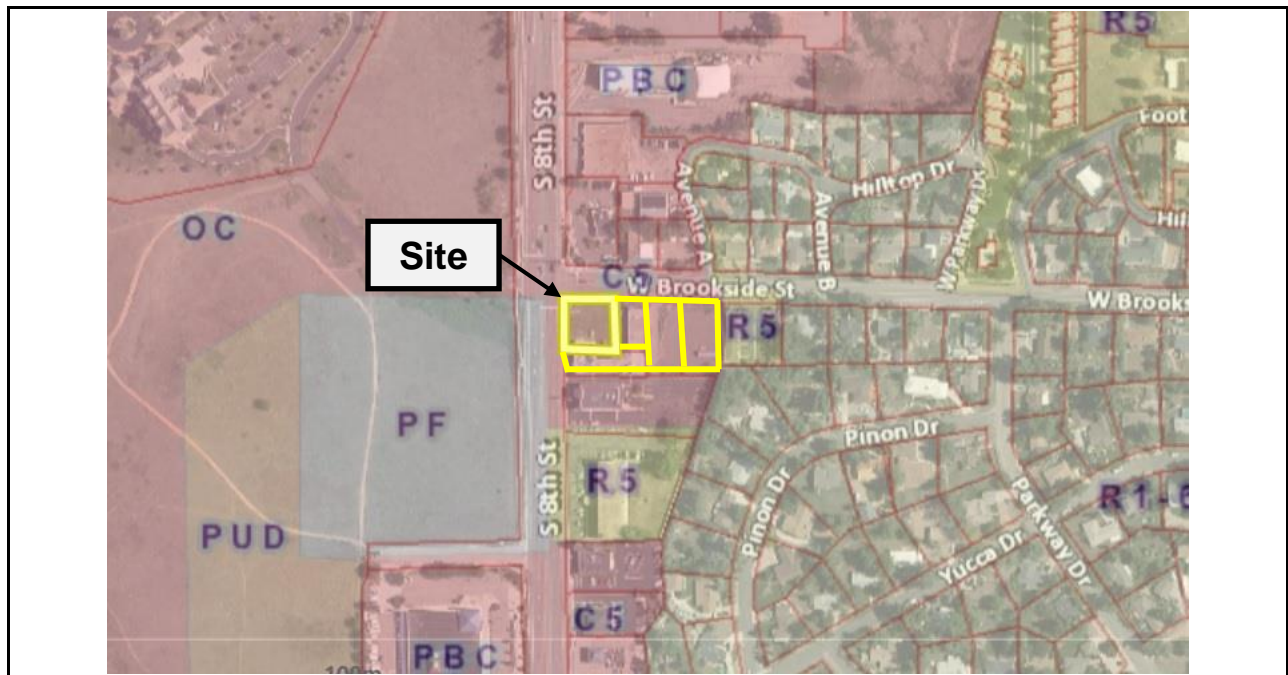
PROJECT: KUM & GO GAS STATION

OWNER: STERLING WOLF, INC. AND KOSGOVE METAL

DEVELOPER: KUM & GO, L.C.

CONSULTANT: ENTITLEMENT AND ENGINEERING SOLUTIONS, INC.

APPELLANT: URBAN STRATEGIES, INC.



**PROJECT SUMMARY:**

1. Project Description: This is an appeal of two administratively approved applications located at 1501, 1505 & 1515 South 8th Street and 703 & 711 West Brookside Street. Planning Staff administratively approved a development plan and subdivision plat on May 18, 2022; those approvals allow construction of a convenience store, 6MPD fuel canopy, associated drives, parking, landscaping and a subdivision plat of the current five (5) parcels that will be replatted into a single parcel for the Kum & Go Gas Station. An appeal was filed on May 27, 2022 by 352, LLC, which is represented by Mr. Les Gruen of Urban Strategies, Inc. A 2<sup>nd</sup> appeal was filed on May 31, 2022 by Eric and Anna Nicol and Jon Severson and Melinda Edwards.
2. Appellant's Appeal Statement: (see "**Appellant's Appeal Statement**" attachment)

3. Applicant's Response to Appeal Statement: (see "**Applicant's Response to Appeal Statement**" attachment)
4. Planning and Development Team's Recommendation: Staff recommends denial of the appeal, upholding Staff's administrative approvals for the development plan (see "**Approved Plan Set**" attachment) and subdivision plat (see "**Approved Final Plat**" attachment).

#### **BACKGROUND:**

1. Site Address: 1501, 1505 & 1515 South 8th Street and 703 & 711 West Brookside Street.
2. Existing Zoning/Land Use: The property is currently zoned C-5 (Intermediate Business) and currently commercially developed with two (2) stand-alone one-story buildings on three (3) lots and vacant land on two (2) adjacent parcels.
3. Surrounding Zoning/Land Use: (see "**Context Map**" attachment)  
North: C-5 (Intermediate Business) across from West Brookside Street and currently developed with commercial/office uses and multi-family residential above a medical office use.  
South: C-5 (Intermediate Business) and currently developed with a commercial use (KeyBank).  
East: R-5 (Multi-family residential) and currently developed with a one-story apartment complex (Brookside Garden).  
West: PF (Public Facilities) across South 8<sup>th</sup> Street and currently vacant land.
4. PlanCOS Vision: According to the PlanCOS Vision Map (see "**PlanCOS Vision Map**" attachment), the project site is identified as part of an Established Traditional Neighborhood.
5. Annexation: The property was annexed into the City under the 8<sup>th</sup> Street Addition in 1968.
6. Master Plan/Designated Master Plan Land Use: The project site is not a part of a master plan.
7. Subdivisions: The project site was platted as the entirety of the K & G Subdivision plat approved on May 18, 2022, and subject to this appeal; the plat has not yet been recorded as the appeal was filed before final signatures and recordation were completed. The site is made up of five (5) lots prior to the current plat.
8. Zoning Enforcement Action: no active enforcement on record.
9. Physical Characteristics: The site is currently commercially developed with two (2) stand-alone one-story buildings on three (3) lots and vacant land on two (2) adjacent parcels.

#### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public process involved with the review of these applications included posting of the site and sending of postcards on four (4) separate occasions. The initial submittal included postcards to 147 property owners within 1,000 feet, and poster that was posted from January 3, 2022 to January 13, 2022. The second occasion was for a virtual neighborhood meeting that was held On February 28, 2022, which included postcards to 147 property owners within 1,000 feet and poster that was posted from February 18, 2022 to February 28, 2022. Due to technical difficulties outside the scope of planning staff, the call-in feature was not functional. City Staff determined that a second neighborhood meeting would be required, and an in-person neighborhood meeting was held on April 12, 2022, which included postcards to 147 property owners within 1,000 feet and a poster that was posted from April 2, 2022 to April 12, 2022. The fourth occasion was for the appeal for Planning Commission, which included postcards to 147 property owners within 1,000 feet and a poster that was posted from June 6, 2022 to June 16, 2022.

Comments were received with general concerns to traffic, homelessness, compatibility, pedestrian safety, and light and noise pollution. The applicant and city staff have addressed these comments throughout the submittal process. An approval was granted to the applicant on May 18, 2022, with an email following to neighbors of the decision made and the appeal instructions. City Staff has received two (2) appeals , one on Friday, May 27, 2022 and the second on Tuesday May 31, 2022, both meeting the requirement to appeal within 10 days of when a decision is made.

During the review of the applications, City Staff sent the plans and supporting documents to all standard internal and external review agencies for comments as part of the administrative review process. A number of review agencies had technical comments upon first review; all issues were resolved after multiple rounds of review allowing staff to approve both applications. Commenting agencies included City Engineering, Colorado Springs Utilities, Water Resource Engineering, the City Surveyor, and others.

## **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

### 1. Review Criteria / Design & Development Issues:

#### a. Background and History

The project area totals roughly 1.04 acres of land on the west side of South 8<sup>th</sup> Street south of West Brookside Street. The site is not within a master plan designated area but is along a commercial corridor along 8<sup>th</sup> Street.

#### b. Administrative Approvals

Planning Staff received the submittal documents for the Kum & Go Gas Station development plan and K & G Subdivision plat in December of 2021. Both applications were publicly noticed, reviewed by the City standard internal and external review agencies, and reviewed by Planning Staff for conformance with City standards, guidelines, and criteria all following standard City procedures. After multiple rounds of resubmittals through the spring of 2022, Staff approved both applications on May 18, 2022 (**see “Approval Letter for Development Plan” attachment and “Approval Letter Final Plat” attachment**).

Both applications were found to be consistent with City standards for the C-5 (Intermediate Business) zone district, parking requirements, landscaping standards, grading standards, and all applicable review criteria. A convenience store and gas station is a permitted use, by right, in the C-5 zoning district. The entitlements required were a development plan and a final plat, both which are an administrative approval. Staff approved the applications after finding the development plan met the review criteria in Section 7.5.502.E and the development plan standards within Chapter 7 Article 4, and the final plat met the replat requirement of Section 7.7.305 and the final plat requirements of Section 7.7.303 of the City Code were met.

The City’s Stormwater staff reviewed and approved the development plan, plat, and drainage report for compliance with the drainage criteria manual and other relevant requirements. The City’s Traffic Engineers reviewed and accepted the proposed access points and associated public improvements as indicated in the Traffic Impact Analysis. Colorado Springs Utilities has accepted the project’s public facilities to adequately serve the building with water, wastewater, gas, and electric services. The development plan was also reviewed by other agencies, such as CSPD, who accepted the security plan, CSFD had no exceptions, and City Engineering accepted the geologic hazard waiver and off-site street improvements. The project’s subdivision plat was reviewed by all agencies, including the City’s surveyor, and was found to meet all standards and requirements of the subdivision code; the plat is currently being held by City Staff for recordation.

#### c. Appeal

The first appellant, Urban Strategies, Inc on behalf of 352 LLC, first raised concerns about the development of the Kum & Go Gas Station development plan and final plat after receipt of the City’s 1<sup>st</sup> review comment letter, dated January 6, 2022. The second appellant is from Eric and Anna Nicole and Jon Severson and Melinda Edwards, and first correspondence from the former was January 9, 2022, while correspondence from that latter is January 11, 2022 (**see “City’s 1<sup>st</sup> Review Comment Letter” attachment**). The applicant also provided a response letter, dated March 18, 2022, addressing all public comments received during the 1<sup>st</sup> review public notice posting period (**see “Applicant’s 1<sup>st</sup> Review Public Comment Response Letter” attachment**). The applicant’s 1<sup>st</sup> Review Public Comment Response Letter clarified public feedback and concerns by confirming items such as a gas station/convenience food sales is an allowed use by right in the C-5 (Intermediate Business) zone district, acceptable access points, safe pedestrian circulation, site layout of the building blocking the canopy lighting from the residential district, and a reduced building footprint to fit within the site.

City Code Section 7.5.906.A.4 includes the criteria to be used to evaluate an appeal of an administrative decision. The appellant must identify the ordinance provisions which are in dispute, must show how the administrative decision was incorrect (e.g. against zoning provisions, unreasonable, erroneous, contrary to law), and must identify the benefits and impacts of the

decision and show that the burdens on the appellant outweigh the benefits accrued by the community. The formal appeal statements cite a number of concerns about the approved applications, which have already been addressed by City staff and City internal and external reviewers during the application process. In addition, the first appellant had concerns regarding an access easement that should have benefited his applicant. After further clarification by City staff and the applicant to this issue, the appellant confirmed by email on May 18, 2022, stating "I wanted to let you know that our further research led us to conclude that my client's property does not, in fact, benefit from any easements on the adjacent property".

2. Conformance with the City Comprehensive Plan:

The Kum & Go Gas Station development plan application as well as the final plat application are closely aligned with PlanCOS, the City's Comprehensive Plan. Planning staff has determined that the Kum & Go Gas Station Development Plan project meets the applicable review criteria and the City's PlanCOS Comprehensive Plan intention, vision, and policies of the Plan.

The PlanCOS Comprehensive Plan Vision Map shows that the development proposal fits into the overall community framework because the project location is within an Established Traditional Neighborhood and the goal of this neighborhood typology is to recognize, support, and enhance the existing character of the neighborhoods, while supporting their ongoing investment and improved adaption. Currently, there is no curb, gutter or sidewalk along the project frontage on W. Brookside Street. The development proposal will enhance and improve the area by installing new curb, gutter and sidewalk, which will also meet ADA accessible standards. The development proposal meets the Traditional Neighborhood recommendation to enhance walkability features because of the new off-site street improvements.

In addition, the PlanCOS Comprehensive Plan Neighborhood Framework shows the project site is within the Established Traditional Neighborhood and per Policy VN-3.C, (Promote neighborhood-level shopping and service options that increase local access and walkability) the development proposal supports this policy because the removal of the five (5) existing parking spaces including one (1) ADA parking space along S. 8th Street is included in the development plan set. The development plan set also indicates a new drive access along S. 8th Street and one on W. Brookside Street with both meeting City Engineering standards. The addition of a convenience store with different options for healthy food within walking distance of the neighborhood aligns with promoting with neighborhood-level shopping.

Planning staff finds that the development proposal is consistent with the goals and objectives of the PlanCOS Comprehensive Plan.

3. Conformance with the Area's Master Plan:

The project site is not located within an adopted area master plan. The neighborhoods surrounding the project are developed with a mix of commercial, office and residential land uses. The applicant's convenience store and accessory fueling station use proposal is complementary and supportive of the current land use patterns. Staff would note, that while this site is not located within a master plan, the neighboring Ivy Wild Master Plan's Site Analysis Map, indicates that development along 8<sup>th</sup> street is identified as auto-oriented commercial. Through staff's review of the administrative development plan application and consideration of the review criteria for establishing a development plan, as set forth in City Code Section 7.5.502(B), the overall area impacts of the project were analyzed.

**STAFF RECOMMENDATIONS:**

**AR DP 21-00813(AP) – APPEAL OF DEVELOPMENT PLAN APPROVAL**

Deny the appeal, upholding Staff's administrative approval of the Kum & Go Gas Station Development Plan, 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.A.4. are not met.

**AR FP 21-00814(AP) – APPEAL OF FINAL PLAT APPROVAL**

Deny the appeal, upholding Staff's administrative approval of the K & G Subdivision Plat, 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.A.4. are not met.