

October 17, 2019

Peter Wysocki, AICP
Planning & Development Director
City of Colorado Springs
30 South Nevada Avenue, Suite 603
Colorado Springs, CO 80903

**RE: Trailside at Cottonwood Creek
CPC PUZ 19-00061; CPC CP 08-00142-A7MN19; CPC PUD 19-00063**

Dear Mr. Wysocki,

I am writing on behalf of my client, Springs Land Ventures, LLC, who is the Developer/Applicant for the Trailside at Cottonwood Creek project. The above referenced applications for a Zone Change from OC and PBC to a residential PUD, and an associated Concept Plan Amendment and Development Plan, was presented to City Council on September 24, 2019. The vote was 4-4, which equates to a denial of the applications.

This letter requests a right to resubmit the application in the context of Section 7.5.907 of the Zoning Code, which governs the limitations on further applications. This states that:

Whenever a change of zone, a conditional use, a use variance, or a nonuse variance has been finally disapproved by the Planning Commission, or an FBZ Review Board or City Council, no further application shall be made for the same change of zone, conditional use, use variance, or nonuse variance affecting the same property, or a part thereof, for a period of twelve (12) months from the date of the final action of disapproval. The applicant for said change of zone, conditional use, use variance, or nonuse variance may apply to the Manager for an exception to this limitation by specifying and showing that because of a change of circumstances, the existing zoning precludes the use of the property for any purpose to which it may be reasonably adapted, and that because of a change in circumstances, the landowner is deprived of all reasonable uses of the land and that the land is not susceptible to any reasonable use under the existing zoning. Any decision by the Manager may be appealed in accord with this part.

The Applicant is requesting an exception to the 12-month limitation for resubmittal of this Zone Change, and associated Concept Plan Amendment and Development Plan, on the basis that the existing zoning precludes the reasonable use of the property and that there has been a change in circumstances to warrant the reconsideration for the applications.

The basis for this request is as follows:

- 1. Reasonable Use of the Property:** The decision denying the rezoning application to a single PUD zone for the entire property rather than the current two zones (OC and PBC) is the circumstance that deprives the landowner of all reasonable use of the property. By requiring the property to retain the current OC and PBC zones, the property cannot be platted into a single lot for a single integrated use. Two separate zones, plats and development plans will require greater set-backs and other development requirements in a limited usable area within the property (given access, streamside, and slope constraints) and result in the property being economically unusable. It is only by utilizing both zoned areas of the property for a single purpose that this property is usable. The PUD zone achieves this in the best manner. To deny the property a single PUD zoning precludes the property from being utilized for any reasonable purpose.

By mandating that the property retain the two existing and separate zones, the OC zoned portion of the property is denied access and will be land-locked. This situation was exacerbated by with the recent approval of the storage facility to the west, where the City approved a grading plan that added 10 feet of fill at that property's eastern boundary, adjacent to the subject site. The grade difference between the storage facility site and the subject site is now 50 feet, making it impossible to gain access from Lee Vance Drive to the west.

The lack of access for a significant portion of the property is clear evidence that the property is not susceptible to any reasonable use under the existing zoning, thereby justifying the need for an exception to the limitation on further application for the requested zone change for the Property.

- 2. Change in Circumstances:** The change in circumstances relate specifically to the reasons given by those City Council Members opposed to the project and the opportunity given to the Applicant at the hearing to address these concerns. The principal concerns expressed at the hearing can be summarized as the loss of commercial sales tax and the generally commercial nature of the Woodmen Road corridor. The Applicant was requested to provide an abbreviated presentation due to the lateness of the hearing and was not afforded an opportunity to fully address these concerns. In addition, the Applicant was made aware after the hearing that the principal concern of one of the Council Members was the adequacy of the proposed access to the site. The Applicant was not given the opportunity to address this concern at all. Furthermore, this is a Development Plan criteria, which should not have influenced the decision on the zoning request.

The Applicant is requesting the opportunity to resubmit this Zone Change application, and associated Concept Plan Amendment and Development Plan, to specially address the concerns expressed at and after the City Council hearing as follows:

- Economic and market analysis to demonstrate that commercial development is not a viable option for this property.
- Area analysis to demonstrate that the Woodmen Road corridor comprises a variety of uses and is not a purely commercial area.
- Site analysis to show that the topographic constraints of the site are better suited to residential development, that can work with the grade, rather than commercial/office

development that will require significant and costly earthwork and retaining walls to provide a workable and ADA compliant site.

- Site analysis to show that the proposed development will create an attractive and safe residential living environment that is harmonious with adjacent uses and Woodmen Road.
- Zoning analysis to show that an OC/PBC zoning does not guarantee a use that generates sales tax for the City.
- Zoning criteria analysis to demonstrate that the proposed residential PUD zoning meets the criteria for a Zone change as set out in Section 7.5.603.

We respectfully request that you grant an exception to 7.5.907 for the above reasons. If you have any questions please contact me at 719.471.0073 or abarlow@nescolorado.com.

Sincerely,

A handwritten signature in black ink that reads "Andrea Barlow". The signature is fluid and cursive, with the first name being more prominent.

Andrea Barlow
Principal
N.E.S. Inc.

cc.

Allyn Brown – Springs Land Ventures LLC

Dustin Nelson – David Weekly Homes

Tasha Bracken – Senior Planner, City of Colorado Springs