



# City of Colorado Springs

Plaza of the Rockies  
South Tower, 5th Floor  
Blue River Board Room  
121 S Tejon St  
Colorado Springs, CO  
80901

## Meeting Minutes City Council

*City Council meetings are broadcast live on Channel 18. In accordance with the ADA, anyone requiring an auxiliary aid to participate in this meeting should make the request as soon as possible but no later than 48 hours before the scheduled event.*

---

Tuesday, July 13, 2021

10:00 AM

Blue River Board Room

---

### How to Watch the Meeting

Coloradosprings.gov/springstv | Facebook Live: Colorado Springs City Council  
Facebook Page @coscity Council | SPRINGS TV - Comcast Channel 18 / 880 (HD)  
- CenturyLink Channel 18

### How to Comment on Agenda Items

Before the meeting, you may email general comments for items not on the agenda or comments regarding agenda items to: [allcouncil@coloradosprings.gov](mailto:allcouncil@coloradosprings.gov)

During the meeting, those who wish to comment should submit their name, telephone number, and the topic or agenda item for comment via [allcouncil@coloradosprings.gov](mailto:allcouncil@coloradosprings.gov) in addition to calling +1 720-617-3426 United States, Denver (Toll) and entering this Conference ID: 773 914 721#

### 1. Call to Order

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

Councilmember Avila arrived at approximately 10:09 AM.

Councilmember Murray and President Pro Tem Skorman attended the meeting virtually.

### 2. Invocation and Pledge of Allegiance

The Invocation was made by Pastor Doug Bonner from Holy Cross Lutheran Church.

President Strand led the Pledge of Allegiance.

### 3. Changes to Agenda/Postponements

- 3.A. [CPC AP 20-00147](#) Postpone an appeal of the Planning Commission's decision to up hold the Notice and Order to Abate for violation of a carport in the 25-foot front yard setback to the September 14, 2021 City Council meeting.

Quasi-Judicial

Presenter:

Kurt Arnoldussen, Senior Code Enforcement Officer, Planning and Community Development

Peter Wysocki, Director of Planning and Community Development

**Attachments:** [Appeal to CC Application and Justification](#)

**Motion by Councilmember Williams, seconded by Councilmember Helms, to postpone the appeal of the Notice and Order to Abate to the September 14, 2021 City Council meeting pending the outcome of the proposed ordinance to allow front yard carports. The motion passed by a vote of 8-0-1-0**

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

**Absent:** 1 - Avila

- 3.B.** [CPC AP 20-00146](#) Postpone an appeal of the Planning Commission's decision to uphold the Notice and Order to Abate for violation of a carport in the 25-foot front yard setback to the September 14, 2021 City Council meeting.

Quasi-Judicial

Presenter:

Kurt Arnoldussen, Senior Code Enforcement Officer, Planning and Community Development

Peter Wysocki, Director of Planning and Community Development

**Attachments:** [Appeal to Council Application and Letter](#)

**Motion by Councilmember Williams, seconded by Councilmember Helms, to postpone the appeal of the Notice and Order to Abate to the September 14, 2021 City Council meeting pending the outcome of the proposed ordinance to allow front yard carports. The motion passed by a vote of 8-0-1-0**

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

**Absent:** 1 - Avila

#### **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.** [CPC ZC 20-00097](#) Ordinance No. 21-53 amending the zoning map of the City of Colorado Springs pertaining to 12.23 acres located near the southwest corner of Marksheffel Road and Cowpoke Road from A (Agricultural) to PK/AO/SS (Park with Airport and Streamside Overlay).

(Quasi-Judicial)

Presenter:

Katie Carleo, Planning Supervisor, Planning & Community Development  
Peter Wysocki, Planning Director, Planning & Community Development

**Attachments:** [ORD ZoneChangeAspenMeadowsPark](#)

[EXHIBIT A Aspen Meadows](#)

[EXHIBIT B Aspen Meadows](#)

[Signed Ordinance 21-53](#)

**This Ordinance was finally passed on the Consent Calendar**

- 4A.B.** [21-085](#) Ordinance No. 21-54 creating a two-month extension of a moratorium on the enforcement of certain zoning code violations related to carports in front yard setbacks

(Legislative)

Presenter:

Mitch Hammes, Neighborhood Services Manager

Peter Wysocki, Director of Planning and Community Development

**Attachments:** [CarportMoratoriumExtORD-6-14-21](#)

[Signed Ordinance 21-54](#)

**This Ordinance was finally passed on the Consent Calendar**

- 4A.C.** [CPC A 20-00143](#) Ordinance No. 21-55 annexing to the City of Colorado Springs that area known as Advanced Technology Campus Addition No.1 consisting of 160 acres located southwest of Drennan Road and Foreign Trade Zone Boulevard.

(Legislative)

Related Files: CPC A 20-00143R, CPC A 20-00143, CPC MP 20-00160, CPC ZC 20-00159

Presenter:

Katie Carleo, Planning Supervisor, Planning & Community Development  
Peter Wysocki, Director of Planning & Community Development

**Attachments:** [ORD Annex AdvancedTechnologyCampusAdditionNo1](#)  
[Exhibit A - Legal Description](#)  
[Signed Ordinance 21-55](#)

**This Ordinance was finally passed on the Consent Calendar**

- 4A.D.** [CPC ZC 20-00159](#) Ordinance No. 21-56 amending the zoning map of the City of Colorado Springs pertaining to 160.05 acres located southwest of Drennan Road and Foreign Trade Zone Boulevard establishing the PF/AO/APZ-2 (Public Facility with Airport and Accident Potential Zone-2 Overlay) zone.

(Legislative)

Related Files: CPC A 20-00143R, CPC A 20-00143, CPC MP 20-00160

Presenter:  
Katie Carleo, Planning Supervisor, Planning & Community Development  
Peter Wysocki, Director of Planning & Community Development

**Attachments:** [ORD ZC AdvancedTechnologyCampusAdditionNo1](#)  
[Exhibit A - Legal Description](#)  
[Exhibit B - Zone Change](#)  
[Signed Ordinance 21-56](#)

**This Ordinance was finally passed on the Consent Calendar**

#### **4B. First Presentation:**

- 4B.A.** [21-371](#) City Council Regular Meeting Minutes June 24, 2021

Presenter:  
Sarah B. Johnson, City Clerk

**Attachments:** [6-22-2021 City Council Meeting Minutes Final](#)

**The Minutes were approved on the Consent Calendar.**

- 4B.B.** [21-362](#) Appointments to Board, Commissions, and Committees

Presenter:  
Michael Montgomery, Deputy City Council Administrator

**Attachments:** [071321 Boards Commissions and Committee Appointments](#)

**This Item was approved on the Consent Calendar.**

- 4B.C.** [21-314](#) Ordinance No. 21-57 amending Ordinance No. 20-92 (2021

Appropriation Ordinance) for a supplemental appropriation to the 2C/2C2-Road Repair, Maintenance and Improvement Fund in the amount of \$10,416,414 for additional capital expenditures utilizing the final balance of the original 2C funding which ended December 31, 2020

Presenter:

Charae McDaniel, Chief Financial Officer  
Travis Easton, P.E., Public Works Director  
Corey Farkas, Manager of Operations and Maintenance Division of Public Works

**Attachments:** [Ordinance for Supplemental Approp-2C Final Balance](#)

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

- 4B.D.** [21-316](#) Ordinance No. 21-58 amending Ordinance No. 20-92 (2021 Appropriation Ordinance) for a supplemental appropriation to the General Fund in the amount of \$3,000,000 to fund the replacement of the heating, ventilation and air conditioning (HVAC) system at the Colorado Springs Pioneers Museum (CSPM)

Presenter:

Charae McDaniel - Chief Financial Officer  
Karen Palus - Parks, Recreation and Cultural Services Director

**Attachments:** [Ordinance for Supplemental Approp-Pioneer Museum HVAC](#)

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

- 4B.E.** [21-349](#) A Resolution Authorizing the Use of City Right of Way Known as the Public Alley Between South Weber Street and South Wahsatch Street, South of East Cimarron Street for a Pedestrian Sky Bridge.

Presenter:

Bob Cope, Economic Development Officer  
Darlene Kennedy, Real Estate Services Manager

**Attachments:** [File 21-349 Weber and Cimarron Apartments 99 Year Lease Presentation](#)  
[File 21-349 Resolution - Weber and Cimarron Aerial Bridge Lease](#)  
[Exhibit A](#)  
[Exhibit B](#)  
[Signed Resolution 94-21](#)

**This Resolution was adopted on the Consent Calendar.**

- 4B.F.** [21-288](#) A Resolution declaring the intention of the City of Colorado Springs, Colorado, to hold a Special Municipal Election and to participate in a Coordinated Election to be held on Tuesday, November 2, 2021, and

providing the effective date of this resolution.

Presenter:

Sarah B. Johnson, City Clerk

**Attachments:** [Intent to Participate Resolution](#)  
[Signed Resolution 95-21](#)

**This Resolution was adopted on the Consent Calendar.**

**4B.G. [21-291](#)**

A resolution declaring the intent of the City of Colorado Springs, Colorado to issue its Multifamily Housing Revenue Bonds to finance the acquisition, construction, improvement and equipping of an affordable multifamily housing development located at 5894 Tutt Blvd known as Copper Rose Apartments.

Presenter:

Steve Posey, HUD Program Manager, Planning & Community Development

John Bales, Fred Marienthal, Kutak Rock LLP

Peter Wysocki, Director of Planning and Community Development

**Attachments:** [Colorado Springs Copper Rose 2021 Inducement Resolution](#)  
[Prelim Inducement Res Copper Rose](#)  
[Signed Resolution 96-21](#)

**This Resolution was adopted on the Consent Calendar.**

**4B.H. [21-379](#)**

Quarterly Recognition for City Employee Retirees.

Presenter:

Mike Sullivan, Human Resources Director

**Attachments:** [Q2 2021 Running Resolution](#)

**This Resolution was adopted on the Consent Calendar.**

## **Approval of the Consent Agenda**

**Motion by Councilmember Williams, seconded by Councilmember Henjum, 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 8-0-1-0**

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

**Absent:** 1 - Avila

## **5. Recognitions**

There were no Recognitions.

## **6. Citizen Discussion For Items Not On Today's Agenda**

Citizens Irene and Louis Lucas, Kathy Perry spoke about the importance of the Westside Community Center to the neighborhood and requested to be included in the discussions regarding it.

Citizens Pamela Smith and Maria Asimov spoke about the extensive health issues of puppies purchased from retail pet stores and requested the City pass a humane pet store Ordinance.

Citizen Dutch Schulz, Old North End Neighborhood, spoke in opposition of the proposed carport Ordinance.

Citizen Anthony Caballero requested the legalization of psilocybins.

Citizen Jeannine Holt, Southern Colorado Handbell Alliance, spoke against the proposed changes to the City Auditorium.

## **7. Mayor's Business**

There was no Mayor's Business.

## **8. Items Called Off Consent Calendar**

There were no items called off the Consent Calendar.

## **9. Utilities Business**

There was no Utilities Business.

## **10. Unfinished Business**

There was no Unfinished Business.

## **11. New Business**

- 11.A. [21-389](#) Resolution Regarding the Town of Calhan Becoming a New Member Government of the Pikes Peak Rural Transportation Authority (PPRTA)

Presenter:

Wayne Williams, Councilmember At-large/PPRTA Member

Randy Helms, Councilmember District 2/PPRTA Chair

**Attachments:** [Calhan PPRTA Resolution\(2021\)](#)  
[2021-04-14 Resolution re Calhan Inclusion Request \(SIGNED\)](#)  
[Signed Resolution 97-21](#)

Councilmember Williams presented the Resolution regarding the Town of Calhan becoming a new member government of the Pikes Peak Rural Transportation Authority (PPRTA). He stated the issue is subject to a vote of the residents of the Town of Calhan and there will be a weighted voting condition added to ensure the City has an adequate representation on the PPRTA.

Councilmember Murray stated the conditions should be fully vetted before the Resolution is adopted. Councilmember Avila stated this Resolution allows Calhan to present this to a vote of the people.

**Motion by Councilmember Williams, seconded by Councilmember Helms, that the Resolution to add the Town of Calhan as a new member of the Pikes Peak Rural Transportation Authority (PPRTA), upon condition that the addition does not dilute the votes of the City of Colorado Springs and El Paso County; the two large PPRTA member governments be adopted. The motion passed by a vote of 8-0-1-0**

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

**No:** 1 - Murray

## **12. Public Hearing**

### **12.A. [21-318](#)**

Ordinance No. 21-59 Assessing Costs for Work Performed in Building Demolition at 1326 W. Kiowa Street, Charging the Work Against the Property Upon Which the Work was Done and Certifying this Assessment to the County Treasurer for Collection as a Priority Lien.

Presenter:

Gayle Sturdivant, City Engineer, Deputy Public Works Director  
Ben Bolinger, Senior Attorney, City Attorney's Office

**Attachments:** [Lien-1326W\\_KiowaORD](#)  
[Demolition Documentation](#)

Gayle Sturdivant, City Engineer, Deputy Public Works Director, presented the Ordinance assessing costs for work performed in building demolition at 1326 W. Kiowa Street, charging the work against the property upon which the work was done and certifying this assessment to the County Treasurer for collection as a priority lien. She gave an overview of the property location, Pikes Peak Regional Building Department (PPRBD) process, City Engineering process, abatement, demolition, cost breakdown, and requested action.

Citizen Doug Bruce spoke in opposition of the proposed Ordinance and requested the City Council agenda packet be emailed to him.



Travis Easton, Director, Public Works, stated he spoke with Mr. Bruce in September 2019 when the PPRBD order to demolish was received regarding Mr. Bruce's intent to obtain the deed and make improvements to the structure which were never completed.

Ms. Sturdivant gave an overview of the Right of Entry process.

Ben Bolinger, City Attorney, stated the City's due process began when they received the order to demolish from the PPRBD and identified they contacted the property owner for permission to enter which was denied, they obtained four warrants from municipal court which included 1. to sample the materials for hazardous substances which detected asbestos, 2. inspect the materials containing asbestos for proper method of mitigation, 3. mitigation of the asbestos, and 4. to demolish and remove the building and fill the foundation to grade.

Councilmember Williams asked if notice was given to the other party when the warrants were issued. Mr. Bolinger stated the warrant is an ex parte document, but it is served upon entry on the owner by posting on the property and by mailing.

Mr. Bolinger stated the hearing today is for review of the reasonableness of the demolition costs and assessed as a lien of approximately \$55,000 against the property.

Councilmember Donelson asked why PPRBD denied Mr. Bruce's seven requests to make abatements to the hazards on the property. Roger Lovell, PPRBD Official, stated the building was declared dangerous on January 25, 2019 and notice was provided to the owner to complete or file for permits for renovation within sixty days or appeal the PPRBD decision within thirty days. He stated the decision was appealed, but no plans were submitted for permits and the owner was never restricted from entering the property.

Councilmember Williams asked if it is legal for a residential building to be an empty shell until it is declared to be dangerous. Mr. Lovell confirmed that it is, but after that declaration, it must be demolished or brought up to full compliance PPRBD Code even if it remains vacant. Councilmember Williams asked if the building is not declared dangerous if the PPRBD

requires the building to be completed within a certain amount of time. Mr. Lovell stated the permit would close after 180 days without inspection but could be reopened if necessary.

Councilmember Williams asked if the offer to bring the property up to compliance is extended to parties who own an interest in the property. Virginia Koulchitzka, Regional Building Counsel, stated for purposes of repairs, remediation, or demolition, the obligation rests with the property owner and identified the capacity for which Mr. Bruce obtained a limited power of attorney from the property owner.

Mr. Bruce stated the deed of trust has a clause that if a person loans money for the property, they have the ability to enter the property to make repairs and requested the item be postponed to allow additional time for review. He stated it is illegal to state that a building must be fully compliant after it is declared dangerous rather than just making it safe.

Councilmember Williams asked when the procedures for when a property is declared dangerous was adopted. Mr. Lovell stated 1972.

President Strand recused himself due to the proximity in which he lives to the property and previous inquiries regarding the status of it from PPRBD and Public Works.

**Motion by Councilmember Donelson that the Ordinance assessing costs for the demolition of a dangerous building at 1326 W. Kiowa Street and certifying this assessment to the County Treasurer for collection as a priority lien be postponed for one month. The motion failed for lack of a second**

**Motion by Councilmember Donelson, seconded by Councilmember O'Malley, that the Ordinance assessing costs for the demolition of a dangerous building at 1326 W. Kiowa Street and certifying this assessment to the County Treasurer for collection as a priority lien be amended to remove the twenty-five percent surcharge fee. The motion failed by a vote of 2-6-0-1**

**Aye:** 2 - Donelson, and O'Malley

**No:** 6 - Avila, Helms, Henjum, Murray, Skorman, and Williams

**Recused:** 1 - Strand

Mr. Bolinger explained the surcharge allows the City to recoup some of the costs which are unaccounted for through contracts and invoices such as staff time.

Councilmember Williams disclosed that he served on the El Paso County Board of Commissioners with Mr. Bruce and stated the surcharge fee is warranted and proportional as a collection matter. He stated the PPRBD law for bringing up the building to full compliance was in place when the contract was written, he believes the costs are reasonable and due process was followed.

**Motion by Councilmember Murray, seconded by Councilmember Henjum, that the Ordinance assessing costs for the demolition of a dangerous building at 1326 W. Kiowa Street and certifying this assessment to the County Treasurer for collection as a priority lien be approved on first reading. The motion passed by a vote of 6-2-0-1**

**Aye:** 6 - Avila, Helms, Henjum, Murray, Skorman, and Williams

**No:** 2 - Donelson, and O'Malley

**Recused:** 1 - Strand

- 12.B.** [CPC MP 87-00381-A2 8MJ21](#) An appeal of the City Planning Commission's decision to recommend approval to City Council the Banning Lewis Ranch Master Plan amendment for 24 acres to change the land use from Educational to Residential Medium (3.5-7.99 dwelling units per acre), located southeast of Barnes Road and Shale Drive.

(Legislative)

Presenter:

Katelynn Wintz, Senior Planner, Planning & Community Development  
Peter Wysocki, Planning & Community Development Director

**Attachments:** [RES\\_BanningLewisRanchMPA](#)  
[Exhibit A - Master Plan Amendment](#)  
[Appeal Statement](#)  
[CPC Report Enclaves](#)  
[Fiscal Impact Analysis.Enclaves](#)  
[Project Statement](#)  
[PUD Concept Plan Amendment](#)  
[PlanCOS vision Map](#)  
[Context Map](#)  
[Public Comments](#)  
[7.5.906 \(B\) Appeal of Commission-Board](#)  
[7.5.408 Master Plan](#)

Councilmember O'Malley disclosed that he lives in the Enclaves at

Mountain Vista neighborhood, but that it does impact his ability to participate in these matters fairly and impartially.

Katelynn Wintz, Senior Planner, Planning and Community Development, provided a summary of the appeal of the City Planning Commission's decision to recommend approval to City Council the Banning Lewis Ranch Master Plan amendment and Major Planned Unit Development (PUD) Concept Plan amendment for 24 acres to change the land use from Educational to Residential Medium (3.5-7.99 dwelling units per acre), located southeast of Barnes Road and Shale Drive. She presented the vicinity map, context map, general information, major master plan amendment, PUD concept plan amendment, traffic report results, letter of map revision, statement from District 49, PlanCOS conformance, appeal information, and staff recommendations.

Janet Adams, representing the appellant, stated residents of the Mountain Vista Paired Patio homes did not want any development of the property between Marksheffel Road and their homes until improvements have been made to Marksheffel Road.

Jon Romero, N.E.S, Inc., representing the applicant, Challenger Communities, provided an overview of the site, supportive past approvals, and current application.

Councilmember Henjum asked when future traffic improvements will be made. Mr. Romero stated the Barnes Road improvements are currently in the early design stages.

Ms. Adams requested a more current traffic study be conducted.

Councilmember O'Malley stated the engineering work for Marksheffel Road will be going before the Pikes Peak Rural Transit Authority (PPRTA) Board this week and requested a further discussion regarding safety levels for the proposed houses which will be built in the proximity of large power lines.

President Pro Tem Skorman asked if the electromagnetic fields located under these power lines have been considered. Mr. Lucero stated there will be restrictions of one-hundred-foot easements from these utility lines.

Councilmember Williams requested an update regarding the City acquiring the necessary right-of-way on Marksheffel Road from El Paso County. Jeff Greene, Chief of Staff, stated they are in the process of conveying most of Marksheffel Road to the City, but there are some title related issues they are trying to overcome and the Mayor has made it very clear that Marksheffel Road is his number one priority for the City's PPRTA 3 project list.

Councilmember Henjum asked if there was a timeline for when building would begin in relation to the traffic improvements on Marksheffel Road. Marc Smith, Corporate Division Chief, Office of the City Attorney, stated the City can only require the development to necessitate roadway improvement for only what traffic it is creating and cannot be held up on the fact that Marksheffel Road may not be sufficient from a citywide perspective.

Mr. Smith stated there is not a regulatory standard under City Code related to any output of the utility poles so if it meets the setbacks requirements from Colorado Springs Utilities, it is acceptable for the City.

**Motion by Councilmember Williams, seconded by Councilmember Helms, to deny the appeal and uphold the City Planning Commission's decision based on the finding that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906(B) and adopt a resolution amending the Banning Lewis Ranch Master Plan, based upon the findings that the request meets the review criteria for granting a major master plan amendment, as set forth in City Code Section 7.5.408. The motion passed by a vote of 8-1-0-0**

**Aye:** 8 - Avila, Donelson, Helms, Henjum, Murray, Skorman, Strand, and Williams

**No:** 1 - O'Malley

- 12.C.** [CPC PUP](#) [16-00013-A3](#) [MJ21](#) An appeal of the City Planning Commission's decision to recommend approval to City Council the Major PUD Concept Plan Amendment for Enclaves at Mountain Vista establishing a residential development platter for 24 acres, located southeast of Barnes Road and Shale Drive.

(Quasi-Judicial)

Presenter:

Katelynn Wintz, Senior Planner, Planning & Community Development  
Peter Wysocki, Planning & Community Development Director

**Attachments:** [PUD Concept Plan Amendment](#)  
[7.5.906 \(B\) Appeal of Commission-Board](#)  
[7.5.501.E Concept Plans](#)  
[7.3.605 PUD Concept Plan](#)

Please see comments in Agenda item 12.B.

**Motion by Councilmember Williams, seconded by Councilmember Helms, to deny the appeal and uphold the City Planning Commission's decision based on the finding that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906(B) and approve the PUD Concept Plan Amendment for the Enclaves at Mountain Vista project, based upon the findings that the request meets the review criteria for establishing a PUD concept plan, as set forth in City Code Section 7.3.605, and the review criteria for establishing a concept plan, as set forth in City Code Section 7.5.501(E). The motion passed by a vote of 8-1-0-0**

**Aye:** 8 - Avila, Donelson, Helms, Henjum, Murray, Skorman, Strand, and Williams

**No:** 1 - O'Malley

**12.D.** [AR PUD  
20-00538](#)

An appeal of City Planning Commission's decision to overturn staff's approval of a Development Plan for the Kettle Creek North Subdivision illustrating 247 single-family detached lots on 61.71 acres located north of the Thunder Mountain Avenue and Old Ranch Road intersection.

(Quasi-Judicial)

Related File: AR FP 20-00539

Presenter:

Hannah Van Nimwegen-McGuire, Senior Planner, Planning & Community Development

Peter Wysocki, Planning & Community Development Director

**Attachments:** [Appeal Statement](#)  
[CPC Staff Report - Kettle Creek](#)  
[Approved Development Plan](#)  
[Approved Final Plat](#)  
[Appeal Statement](#)  
[Surrounding Area & Context Map](#)  
[Public Comments](#)  
[Additional Public Comments](#)  
[Briargate Master Plan](#)  
[April 2020 City Planning Commission Minutes](#)  
[June 9, 2020 City Council Minutes](#)  
[Project Statement](#)  
[CDOT Decision on Powers Boulevard Access](#)  
[North Fork-Kettle Creek Potential Evacuation Routes](#)  
[7.5.906 \(B\) Appeal of Commission-Board](#)  
[7.3.606 PUD Development Plan](#)  
[7.5.502.E Development Plan Review](#)  
[Staff Presentation- Kettle Creek North](#)

Hannah Van Nimwegen-McGuire, Senior Planner, Planning and Community Development presented a summary of the appeal of City Planning Commission's decision to overturn staff's approval of a Development Plan and Final Plat for the Kettle Creek North Subdivision illustrating 247 single-family detached lots on 61.71 acres located north of the Thunder Mountain Avenue and Old Ranch Road intersection. She provided an overview of the site location, subject applications, general information, development plan, final plat, background, timeline, Colorado Springs Fire Department (CSFD) review of fire evacuation routes, traffic impact analysis, traffic clarifications, El Paso County development code jurisdiction boundary, Planning Commission justification, compliance with the Briargate Master Plan and PlanCOS, review criteria for the appeal, and staff's recommendations.

President Strand requested additional information regarding traffic level of service (LOS). Ms. Van Nimwegen-McGuire stated each intersection is given a LOS depending on the amount of wait time each vehicle has at that intersection with Level A being the lowest amount of wait time and Level F being the highest amount of wait time. Todd Frisbie, City Traffic Engineer, stated even LOS D is an acceptable LOS which is on average thirty-five to fifty-five second delay per vehicle at a signalized intersection.

Councilmember Donelson asked what the wait time is for LOS A. Mr.

Frisbie stated zero to ten seconds of average delay per vehicle at the intersection.

Councilmember O'Malley asked what LOS is unacceptable for the CSFD. Mr. Frisbie stated the CSFD uses a different set of standards for emergencies. Randy Royal, Fire Chief, CSFD, stated their standard of coverage for medical is eight minutes, structure fire is twelve minutes for ninety percent of the time, and they are working toward getting another fire station in this area.

Councilmember Helms disclosed that he knows the area quite well due to working as a substitute teacher at Pine Creek High School prior to the pandemic and asked if there was a traffic study done if Howells Road was connected to Old Ranch Road. Mr. Frisbie stated at the time the traffic study was conducted, Howells Road was off limits for additional access, but did look at if Milam Road, Union Boulevard, and Old Ranch Road was connected.

Councilmember Williams asked when the connection of Union Boulevard will be completed. Mr. Frisbie stated they are waiting for an Intergovernmental Agreement (IGA) to be signed between the City and El Paso County for the right-of-way and maintenance for the intersection of Milam and Old Ranch Road. He stated they are also working on annexing those right-of-ways into the City to improve the design of the intersection. Jeff Greene, Chief of Staff, stated the IGA should be completed within sixty days. Councilmember Williams asked if no Certificates of Occupancy can be issued until that connection is made. Mr. Greene stated that is correct.

Councilmember Helms asked when the traffic signal on Thunder Mountain Avenue at Pine Creek High School will be installed. Mr. Frisbie stated they anticipated it will be installed by the end of the year.

Chris Lieber, N.E.S. Inc., representing the appellant, Vintage Communities, gave an overview of site context, master plan, entitlement history, PUD development plan, Filing 1 final plat, and PUD concept plan. He went over the traffic, access, site circulation, travel time, intersection LOS analysis, trip routing prior to and after the Union Boulevard and Milam Road connection, and the proposed signal at the Pine Creek High School entrance. Mr. Lieber identified the Wildland Fire Urban Interface (WUI) hillside overlay map, Colorado wildfire public viewer map, developer provided fifty-foot fuels management zone, and potential emergency access points.



President Strand asked what the cost of the signal at the Pine Creek High School entrance will be. Dean Venezia, Vintage Communities, representing the appellant stated between \$150,000 to \$175,000.

President Strand asked if Red Cavern Road intersects Thunder Mountain Road. Mr. Lieber confirmed it does.

Councilmember Henjum asked how many access points Red Cavern Road has. Mr. Lieber stated five to six.

Councilmember Williams asked if the appellant would object to the approval being contingent upon the completion of the connection of Union Boulevard and Milan Road and the signal light be installed prior to the issuance of any Certificates of Occupancy. Mr. Lieber stated they would not.

Councilmember Donelson requested additional information on the fifty-foot fuels management buffer. Mr. Lieber stated at the time of development, the trees and vegetation would be thinned out and the Homeowner's Association (HOA) would maintain the buffer and remove the undergrowth to reduce the risk of wildfire.

Councilmember Helms asked if a bridge could be constructed over the North Kettle Creek canyon and what the cost would be. Mr. Lieber stated a bridge would not provide access to Shoup Road without going through private property and it would also encroach on the Preble's meadows Jumping Mouse habitat. Mr. Venezia estimated the bridge construction cost would be approximately \$25M to \$35M.

Councilmember Henjum asked if the private property adjacent to the bridge is part of an approved master plan. Hannah Van Nimwegen-McGuire stated the Samuelson properties to the north of the project is not part of a master plan.

Councilmember Henjum asked if this future development was planned from the very beginning of the master plan. Mr. Lieber confirmed it had been.

Rich Sevil and Greg Edwards representing the Kettle Creek Homeowner's Association (HOA), and the appellants to the Planning Commission, gave an overview of the need for a second exit route, traffic conditions, emergency evacuation route, voting history, North Fork HOA Safety First Committee, traffic study, safety/evacuation plan, proximity of the Black Forest fire, wildfire risk, and PUD Plan requirements.

Citizens John Eades, Lisa Best, Lisa Rothlisberger, Doug Zwetter, Charlene Sevil, Sam Bryant, Andrea Pauly, Dave Pauly, Emma Goodwin, Mike Heath, Greg Edward spoke on behalf of Senthil McHalingam, Walter Lawson, Frank Bolten, Eric Barrell, spoke in opposition of the project.

Citizen Mike Fenton spoke in favor of the project.

Mr. Lieber stated the primary traffic issue represents approximately ten percent of the time which is when the students and teachers are approaching the high school and the proposed traffic signal will remedy the situation, they are open to a second access point at Howells Road for an evacuation, the development would not occur if they are required to build a bridge over North Kettle Creek, and they have been very accommodating of the requests made of them.

Councilmember Helms disclosed that he had spoke with staff, Mr. Greene, and the Fire Chief regarding evacuation routes and requested an emergency evacuation road be added from Dreamweaver Road to Howells Road. Mr. Venezia agreed to that request.

Councilmember Avila asked what other amenities have been added since this project was first introduced to City Council. Mr. Lieber stated the units will be built to WUI standards and the fifty-foot fuels mitigation buffer.

Councilmember Williams asked if the WUI building standards, traffic signal at the entrance to the Pine Creek High School, no Certificates of Occupancy until Milam Road and Union Boulevard connect, fifty-foot setback buffer, and an emergency access connection to Howells Road will be conditions of the development plan. Mr. Lieber stated they will be. Mr. Greene stated there will need to be coordination with El Paso County regarding the emergency access connection to Howells Road due to it still being under County jurisdiction.

Councilmember Murray stated he does not support the emergency access connection only being a dirt road.

President Strand requested additional information from the appellant's traffic study. Jeff Hodson, LSC Transportation Consultants, gave an overview of the traffic analysis conducted in March 2020 along with historical and projected traffic information for the area.

Councilmember Henjum requested additional information regarding the

2040 traffic projection. Mr. Hodson stated the projected 953 southbound trips is the current residential traffic along with the school traffic and their residential buildout traffic. Mr. Venezia stated the traffic signal will greatly improve the flow of traffic by easing the congestion at peak hours.

Mr. Edwards stated the underlying traffic issues are being ignored, there needs to be a second access point to this community, fires will most likely come from the east where there is moderate fire risk, and Howells Road would lead people into the fire.

Mr. Sevil requested another condition be added that requires a fire station to be constructed in the North Fork area in order to address the issue of response time or the developer has to notify buyers that they are outside of the response time. He stated there should be an emergency access to Powers Boulevard prior to the approval of the development plan and a bridge should be built over North Kettle Creek.

President Pro Tem Skorman asked what it would take for the HOA to be comfortable with this development. Mr. Sevil stated a second exit to the north or to the west.

Councilmember Williams asked where they preferred a bridge to be built. Mr. Sevil stated their preference is further to the west on Kettle Creek where there are fewer trees.

Ms. Van Nimwegen-McGuire requested direction regarding the amendment of the Briargate Master Plan if there is to be an emergency access point allowed on Howells Road. Marc Smith, Legislative Division Chief, Office of the City Attorney, stated an amendment to the master plan was not noticed to the public for today.

Chief Royal stated if the developer moves forward with an emergency access only road, it will need to be maintained and the CSFD will manage any evacuation to the best of their ability with as much notice as they can give.

Councilmember Williams asked what the emergency response time is for this area. Chief Royal stated approximately eight to nine minutes for medical and twelve for fire.

Councilmember Helms asked how an evacuation would be managed at the peak hours of traffic. Chief Royal explained their process in coordination with the Police Department which are dependent on conditions and trigger

points.

Councilmember Henjum asked if there is a requirement in City Code for a second access point to the development. Mr. Frisbie stated they follow the Traffic Criteria Manual and there is no requirement for a second access.

Councilmember Henjum asked for additional information regarding Table 2 of the traffic study. Mr. Frisbie stated it is a standard table the City requires and it represents the range of delay for the LOS for a signalized intersection or stop control.

Councilmember Henjum asked if emergency response time is a citywide challenge. Chief Royal confirmed it is. Mr. Greene stated they are in negotiations to acquire property in this general vicinity for a fire station, but the review criteria for this project must be based on City Code.

Councilmember Williams asked if the developer would agree to a plat note notifying buyers where the nearest fire station is located. Mr. Venezia stated they would.

Councilmember Williams stated he believes with the additional conditions discussed, this item meets the development plan review criteria.

**Motion by Councilmember Williams, seconded by Councilmember Helms, to uphold the appeal, thus overturning City Planning Commission's denial of the development plan for the Kettle Creek North Filing No. 1 subdivision based on the finding the appellant has substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906.B., and approve the development plan based upon the findings that the request meets the review criteria for a PUD development plan set forth in City Code Section 7.3.606, and the review criteria for a development plan as set forth in City Code Section 7.5.502.E as amended with the following conditions: 1. The standards for the Wildland Urban Interface (WUI) as set forth in the fire prevention code and standards and adopted by the City through Chapter 8 of City Code will be required of all construction within the subdivision, 2. No Certificates of Occupancy will be issued until the traffic signal on Thunder Mountain Road is installed, 3. No Certificates of Occupancy will be issued until Milam Road and Union Boulevard are connected, 4. There will be a fifty-foot fuels management area as described in the presentation today with documented continued maintenance by the Homeowner's Association (HOA), 5. An emergency exit to Howells Road will be constructed and approved by the Colorado Springs Fire Department (CSFD) with documented continued maintenance by the HOA, and 6. A note will be added to the plat indicating the location of the nearest fire station which provides documented notice to purchasers. The motion failed by a vote of 4-5-0-0**

**Aye:** 4 - Helms, Henjum, Strand, and Williams

**No:** 5 - Avila, Donelson, Murray, O'Malley, and Skorman

Councilmember Donelson stated he is not comfortable with the emergency

access contingencies and will err on the side of safety by not supporting this development plan.

Councilmember Avila stated when the Briargate Master Plan was designed, it did not take into account global warming or a year-round fire season, these homes would not help the housing crisis because it is in an affluent area, the traffic studies were done in the middle of COVID which do not reflect the actual number of vehicles on these roads, these developments are in the wildland, and she is concerned regarding the matter of safety.

Councilmember Henjum stated this is a very complex decision and she is not sure at this time how she will vote.

Councilmember Helms stated his decision will be based on the criteria to establish the correct thing.

Councilmember Murray stated the Planning Commission had significant concerns regarding the safety of the community and he does not feel those concerns have been allayed. He recommended the developer reorganize, incorporate the conditions which were discussed and come back with a better plan.

President Pro Tem Skorman stated he is uncomfortable with not having a fire station nearby and not having access to a major roadway.

Councilmember Williams asked if a condition requiring no Certificates of Occupancy will be issued until a fire station was built along the Highway 83 corridor would change any City Councilmember's opposition votes. Mr. Venezia agreed to that condition.

Councilmember Murray stated he does not believe these conditions are proper protocol for City Council. Councilmember Williams stated it is City Council's responsibility to find the best balance and what is best for the community.

Councilmember Donelson stated the additional egress route being provided is through a timbered route to the south which he does not support, but he would support it being referred back to Planning Commission.

Councilmember Avila requested a traffic study be completed in September 2021 when traffic is at its peak.

Mr. Smith stated if this item is referred back to the Planning Commission with the proposed conditions, whatever decision they make is going to final unless it is appealed to City Council.

Councilmember Murray asked if the developer could take the seven new proposed conditions back to the Planning Commission without City Council having to refer them. Mr. Smith confirmed the developer could refile the project.

**Motion by Councilmember Williams, seconded by Councilmember O'Malley, to uphold the appeal, thus overturning City Planning Commission's denial of the development plan for the Kettle Creek North Filing No. 1 subdivision based on the finding the appellant has substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906.B., and approve the development plan based upon the findings that the request meets the review criteria for a PUD development plan set forth in City Code Section 7.3.606, and the review criteria for a development plan as set forth in City Code Section 7.5.502.E as amended with the following conditions: 1. The standards for the Wildland Urban Interface (WUI) as set forth in the fire prevention code and standards and adopted by the City through Chapter 8 of City Code will be required of all construction within the subdivision, 2. No Certificates of Occupancy will be issued until the traffic signal on Thunder Mountain Road is installed, 3. No Certificates of Occupancy will be issued until Milam Road and Union Boulevard are connected, 4. There will be a fifty-foot fuels management area as described in the presentation today with documented continued maintenance by the Homeowner's Association (HOA), 5. An emergency exit to Howells Road will be constructed and approved by the Colorado Springs Fire Department (CSFD) with documented continued maintenance by the HOA, and 6. No Certificates of Occupancy will be issued until a fire station is built along the Highway 83 corridor. This motion was superceded by Councilmember Donelson's motion to refer the item back to the Planning Commission.**

**Motion by Councilmember Donelson, seconded by Councilmember Murray, to refer the development plan for the Kettle Creek North Filing No. 1 subdivision back to the Planning Commission as amended with the following conditions 1. An additional egress route which travels west or north and not south, 2. The standards for the Wildland Urban Interface (WUI) as set forth in the fire prevention code and standards and adopted by the City through Chapter 8 of City Code will be required of all construction within the subdivision, 3. No Certificates of Occupancy will be issued until the traffic signal on Thunder Mountain Road is installed, 4. No Certificates of Occupancy will be issued until Milam Road and Union Boulevard are connected, 5. There will be a fifty-foot fuels management area as described in the presentation today with documented continued maintenance by the Homeowner's Association (HOA), 6. An emergency exit to Howells Road will be constructed and approved by the Colorado Springs Fire Department (CSFD) with documented continued maintenance by the HOA, and 7. No Certificates of Occupancy will be issued until a fire station is built along the Highway 83 corridor. The motion passed by a vote of 8-1-0-0**

**Aye:** 8 - Avila, Donelson, Helms, Henjum, Murray, Skorman, Strand, and Williams

No: 1 - O'Malley

- 12.E. [AR FP 20-00539](#) An appeal of City Planning Commission's decision to overturn staff's approval of a Final Plat for the Kettle Creek North Subdivision illustrating 247 single-family detached lots on 61.71 acres located north of the Thunder Mountain Avenue and Old Ranch Road intersection.

(Quasi-Judicial)

Related File: AR FP 20-00539

Presenter:

Hannah Van Nimwegen-McGuire, Senior Planner, Planning & Community Development

Peter Wysocki, Planning & Community Development Director

**Attachments:** [Approved Final Plat](#)  
[7.5.906 \(B\) Appeal of Commission-Board](#)  
[7.7.303 Final Plat Req - Subdivision Plats Review Criteria](#)

Please see comments in Agenda item 12.D.

**Motion by Councilmember Williams, seconded by Councilmember Avila, to refer the final plat for the Kettle Creek North Filing No. 1 subdivision as amended with the following conditions 1. An additional egress route which travels west or north and not south, 2. The standards for the Wildland Urban Interface (WUI) as set forth in the fire prevention code and standards and adopted by the City through Chapter 8 of City Code will be required of all construction within the subdivision, 3. No Certificates of Occupancy will be issued until the traffic signal on Thunder Mountain Road is installed, 4. No Certificates of Occupancy will be issued until Milam Road and Union Boulevard are connected, 5. There will be a fifty-foot fuels management area as described in the presentation today with documented continued maintenance by the Homeowner's Association (HOA), 6. An emergency exit to Howells Road will be constructed and approved by the Colorado Springs Fire Department (CSFD) with documented continued maintenance by the HOA, and 7. No Certificates of Occupancy will be issued until a fire station is built along the Highway 83 corridor. The motion passed by a vote of 9-0-0**

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

### **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