



City of Colorado Springs

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

Meeting Minutes City Council

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Monday, February 26, 2024

1:00 PM

Council Chambers

Special meeting to hear a land use appeal

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1. Call to Order and Roll Call

President Helms called the meeting to order at 2:25 PM.

- Present:** 7 - President Pro Tem Lynette Crow-Iverson, Councilmember Dave Donelson, President Randy Helms, Councilmember Nancy Henjum, Councilmember David Leinweber, Councilmember Brian Risley, and Councilmember Michelle Talarico
- Excused:** 2 - Councilmember Yolanda Avila, and Councilmember Mike O'Malley

Councilmember Henjum attended the meeting virtually.

2. Public Hearing

- 2.A.** [APPL-24-00](#)
[01](#) An appeal of the City Planning Commission decision to approve both The Market at Pine Creek Major Concept Plan Amendment changing 7.87 acres from Commercial to Commercial and Residential and the Royal Pine Apartments Development Plan establishing multi-family residential consisting of 7.87 acres located at 4150 Royal Pine Drive.

(Quasi-Judicial)

Presenter:

Katelynn Wintz, Planning Supervisor, Planning + Neighborhood Services

Logan Hubble, Planner II, Planning + Neighborhood Services

Peter Wysocki, Director, Planning + Neighborhood Services

Attachments: [Staff Report_Royal Pine_LKH](#)
[Concept Plan](#)
[Concept Plan Project Statement](#)
[Development Plan Revised 2.09.2024](#)
[Development Plan](#)
[Development Plan Project Statement](#)
[Traffic Impact Analysis](#)
[Development Plan Public Comments](#)
[Royal Pine comments combined 1.8.24](#)
[Updated Neighbor Comments](#)
[Concept Plan Public Comments](#)
[CPC Minutes_RoyalPine_Draft](#)
[Appeal Documents](#)
[D20 Response](#)
[CPW Letter](#)
[Appellant_Holly Lawrence Letter](#)
[Appellant_Home Value Impact DBG - 7JAN2023](#)
[Appellant_LandAdvertisement](#)
[Appellant_NNA Slide](#)
[Appellant_Park Image](#)
[Appellant_PCVA Fire Evac](#)
[Appellant_PCVA Letter to Planning Commission](#)
[Appellant_Pine Creek High School Car Accident](#)
[Appellant_Royal Pines Apartments and Habitat Conservation Plan](#)
[Appellant_Royal Pines Apartments Letter Eddie Lawrence 12 30 2023](#)
[Appellant_The Wildlife of Pine Creek](#)
[Appellant_TrafficStudySurveyResults](#)
[Appellant_Trip Generated by Businesses - 1JAN2024](#)
[Appellant_Vue Apartments1](#)
[Appellant_Vue Apartments2](#)
[Appellant_Vue Apartments3](#)
[Appellant_Analysis of DBG Housing Data](#)
[Appellant_Briargate HCP](#)
[Appellant_Comments on Staff Report](#)
[Appellant_CommentsForPlanningCommission](#)
[Appellant_Eddie Lawrence City Planning Commission Speaking points](#)
[Appellant_Evac Explanation](#)
[Appellant_expanded IPaC_Explore Location resources](#)

[Appellant_Evac Study Still Shots](#)

[7.5.501.E Concept Plans](#)

[7.5.501 ADMINISTRATIVE DECISIONS GENERAL](#)

[7.5.515 DEVELOPMENT PLAN](#)

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services, presented the appeal of the Planning Commission decision to approve both The Market at Pine Creek Major Concept Plan Amendment changing 7.87 acres from Commercial to Commercial and Residential and the Royal Pine Apartments Development Plan establishing multi-family residential consisting of 7.87 acres located at 4150 Royal Pine Drive. She provided an overview of the applications, vicinity map, background information, public notice, zone change, Development Plan approval, history, proposed Plan amendment, PlanCOS conformance, and staff recommendations.

Renee Gerni, Baker Law Group, representing the appellant, Preserve Pine Creek Village, provided an overview of the appeal, the Planning Commission's approval criteria, and the ten reasons for the appeal which include 1. Inconvenience, safety, and nuisance concerns, 2. School concerns, 3. Quality of life concerns, 4. Privacy issues, 5. Parking concerns, 6. Common area maintenance and liability, 7. Snow removal, 8. Business concerns, 9. Property value impact, and 10. Impact on endangered wildlife and the environment near the site.

Brooke Dobbins, representing the appellant, provided a brief history of the site, conditions of record, other provisions, required infrastructure, criteria of the MX-Medium Zone, MX-Neighborhood Zone, traffic patterns, past City Staff comments, Unified Development Code (UDC) implementation guide, review criteria, Vue 21 street parking, walkability, and violations of the UDC 7.5.515 review criteria.

Steven Parrish, representing the appellant, identified the business patrons, the Pine Creek Village, traffic study, and simulated wildfire/conflagration affecting Pine Creek evacuations.

Councilmember Donelson asked if there is a barrier in the center of the road to prevent people from turning left out of the neighborhood. Mr. Parrish confirmed there is a median present which vehicles cannot cross.

Joseph O'Keefe, representing the appellant, spoke about the relevant evacuation issues.

Eric Grodahl, Principal, DBG Properties, representing the applicant, provided a brief overview of DBG Properties, Royal Pine Apartments, and how they have gone above and beyond what was required.

Harsh Parikh, President, Santulan Architecture, representing the applicant, went over the site location, site analysis, site plan, buffers, architecture, best practices, enhancements based on neighborhood input, and high quality of the development.

Cassie Slade, Principal, Fox Tuttle Transportation Group, representing the applicant, identified the traffic study overview, major reductions in site traffic, available roadway capacity, minimal impact to operations, emergency evacuation, and surplus of parking.

Mr. Grodahl provided an overview of the businesses in the area, existing infrastructure, reduced disruption to neighborhood, Low Income Housing Tax Credit (LIHTC) projects north of Woodmen Road, partnering private capital with local resources, sample resident employment, brand name employers located within one mile, wildlife preservation, response from Academy School District 20, and the investment in the City's future.

Councilmember Donelson asked if the traffic study would have different results if conducted at a different time of day. Ms. Slade explained how they analyzed the peak traffic patterns.

Councilmember Leinweber asked if there were additional medical offices added to the site instead, if it would create an increase in daily traffic. Ms. Slade stated the overall traffic analysis showed a sixty percent decrease for what is being proposed.

Councilmember Leinweber asked where the employees who work in this community live. Mr. Grodahl stated they did a market study which showed that at this rent level there is a .9 percent vacancy rate with a year and a half wait list in this area.

Citizens Jill Gaebler, Devon Camacho, Beth Lindquist, Susan Bolduc, Kee Warner, Katheryn Warner, Doug Hunt, and Lee Patke spoke in support of

the proposed project.

Councilmember Donelson requested that the citizens who are speaking for and against the project be integrated together rather than everyone speaking in favor getting to speak first. Michael Montgomery, Deputy City Council Administrator stated the Council Rules of Procedure would need to be amended in order to accommodate that request.

Citizens Jim Blair, Andy Peterson, Cliff Bratten, Dennis Scruggs, Steven Glendenning, Barbara Vinchattle, Eddie Lawrence, Matt Wilson, Ester Lee, Teresa Crews, Nancy Murray, Steven Clowser, Lee Hopkins, Bob Manderfield, Laura Wilky, Felix Dupre, Debbie Golucke, Todd Neuman, Holly Norvelle, Dr. Kristi Fisher, Omar Wymen, Colonel David Curdy, Kat Gayle, Dana Duggan, Anna Novey, Sandra Vicksta, and Josh Price spoke in opposition of the proposed project.

Councilmember Donelson asked if the Colorado Springs Housing Authority (CSHA) is involved in this project. Steve Posey stated the CSHA has been in conversation with the developer so it would be exempt from paying the City property taxes and would be eligible to receive a refund for building material costs.

Marc Painter, Principal, Holland and Hart, representing the applicant, clarified there is not eighty-five percent of impervious surface, there is only sixty-five percent impervious surface, the property is completely air-conditioned, there will be 430 occupants, the walkability score is forty-four, not twenty, covenants are private so the City does not get involved in them, and can be enforced regardless of what the City puts in place, the letters from the state identify there is no Preble's jumping mouse issue on this site, this project will not crash the economy, some individuals in favor of this project had to return to work due to the delay of the hearing, the neighborhood and the City as a whole is being benefited by the project because it is going to house the people who provide service to the people in this neighborhood, and the neighborhood already has their own neighbors looking into their backyards from twelve feet away.

Ms. Dobbins stated the disagreements regarding if there is enough parking in this area, if there is too much traffic, what is considered affordable housing, and whether the design aesthetic of the project is in conformity with its neighboring residential areas are not what need to be

considered by City Council, but what does need to be considered is does this project aid, hinder or act as a detriment to the public health, safety, convenience, or general welfare of this community. She stated the Planning Commission and the community raised a litany of objections that the project would have an impact on the environment and wildlife, create an obstruction of views, increase traffic, and concerns about emergency evacuation in the event of another wildfire in the area.

Mr. Painter stated the Traffic Engineer believes the roads are safe, they are built up to City standards, they have extra capacity, this project meets all the criteria because they have relied on actual experts within the City and the experts they hired, and the City and the affordable housing community wants this affordable housing development.

Councilmember Henjum stated she will make her decision based on the review criteria and requested additional information regarding covenants in City Code. Ben Bolinger, Assistant City Attorney, City Attorney's Office, read Section 7.1.108 and stated City Council does not have jurisdiction over covenants.

Councilmember Henjum asked if City Council is required to considered financial impact to the City. Mr. Bolinger stated there are some considerations which will affect the City budget or resources, but there is nothing which directly addresses taxes or the taxable status of an entity.

Councilmember Henjum asked regarding the Constitutionality of the Fifth Amendment regarding reduction of private property values. Mr. Bolinger stated in order for that to apply to a government matter, the City would have to take the property or restrict it to where the property becomes useless.

Councilmember Henjum requested additional information regarding the United States Housing and Urban Development (HUD) property values. Steve Posey, Chief Housing and Community Vitality Officer, stated all the property values in the City have increased over the past five years.

Councilmember Henjum asked how this project will be financed. Mr. Grodahl stated the general concept with affordable housing is that the Federal government, through the tax code, provides a subsidy to construct the project and in return for the subsidy, the rent rates are restricted for a minimum of thirty years, their project has Private Activity Bonds (PAB)

which low income housing tax credits are attached to, and the subordinate funding will be through the property tax exemption, \$500,000 loan from El Paso County, and the State's Division of Housing loan up to \$7 million. He stated they will contribute one hundred percent of the Development fee which means they will not make any money until the project has been completed and then it will be through outstanding operations after the loans have been paid in full, and they will not be receiving Federal funds for this project.

Councilmember Henjum asked if there was any risk to the City with the Private Activity Bonds. Mr. Posey stated the City would be completely indemnified.

Councilmember Henjum asked who would be responsible for repairs if Royal Pine Drive was damaged during construction. Todd Frisbie, City Traffic Engineer, Public Works Department, stated it would depend on whether the City was able to identify and prove who was at fault.

Councilmember Henjum asked if the infrastructure is already in place to support this project. Mr. Frisbie stated that is the purpose of the traffic study in which the findings reflect that evaluation.

Councilmember Henjum requested additional information regarding fire evacuation. Bret Lacey, Fire Marshall, Colorado Springs Fire Department (CSFD), stated they believe that this development meets all the requirements within the Fire Code which includes the application of the Codes and Standards for life, safety, property preservation, and environmental protection. He stated at this location, wildfire is insignificant relative to what they would consider if it was located in the wildland urban interface (WUI) or the Air Force Academy although they cannot presume that this is a risk-free environment because of the grass land and wind, but overall, there is low threat of a wildfire.

Councilmember Henjum asked how difficult it would be for the City to meet the goals of Proposition 123 to add three percent more affordable housing units each year for the next three years if this project is not approved. Mr. Posey stated the commitment breaks down to 758 units per year in 2024, 2025, and 2026 and if at the end of 2026 the City has not met that goal it would jeopardize funding opportunities for other projects that would be applying to the State to access those funds.

Councilmember Donelson asked what the rent will be for the units at sixty and seventy percent Average Median Income (AMI). Mr. Grodahl stated at the sixty percent level, a one-bedroom unit is \$1,097 per month, \$1,317 for a two-bedroom/two-bath, and \$1,521 for a three-bedroom unit. He stated at the seventy percent level, a one-bedroom is \$1,280, a two-bedroom is \$1,536, and a three-bedroom is \$1,774, and those include all utilities.

Citizen Josh Price stated he has an email from Carol Henning from PRD from HUD which states the future Small Area Fair Market Rental (SAFMR) values for all residents of 80920 being affected by the addition of these low-income affordable units will in fact decrease. Mr. Posey stated the five-and ten-years figures which he referenced were regarding property values and the SAFMR gauge is something that is used to determine the value of a rental housing assistance voucher.

Councilmember Donelson stated private citizens and businesses in this neighborhood have purchased homes and built businesses with these eight acres zoned as commercial and he does not believe it is fair for Council to allow that to be changed in order to add affordable housing units. He stated the review criteria for a Concept Plan is whether the proposed development have a detrimental effect upon the general health welfare and safety or convenience of persons residing or working in the neighborhood of the proposed development and he thinks safety is a concern due to traffic flow in the event of an emergency, the development will impact the convenience of the residents in the community, it will burden the businesses in the area, and the nearby Academy School District 20 schools are already well above state and local norms for capacity.

Councilmember Risley asked if this is a rezoning action. Peter Wysocki, Director, Planning and Neighborhood Services, explained it is not a Zone Change application, it is a Concept Plan and a Development Plan.

Councilmember Risley asked if multi-family residential is a use by right on this property zoned MX-M (Mixed-Use Medium Scale). Mr. Wysocki confirmed it is, subject to meeting the Development Plan review criteria.

Councilmember Risley asked if this applicant would still need to pay traffic, school, police, and fire impact fees even if they are granted property tax exemption status. Mr. Posey confirmed they would still be required to pay

all development fees related to the project even if granted property tax exemption status.

Councilmember Risley asked if this property has been granted property tax exemption status. Mr. Grodahl stated that it is not currently an exempt parcel.

Councilmember Talarico asked Mr. Posey if he believes this is a good project. Mr. Posey stated one of the goals of the City is to have housing available at all price points, the City does not have apartments at this particular price, and in that respect, he thinks that this is a very good project to come forward because it is going to meet a need for housing at that particular price point.

Councilmember Donelson stated that information is not part of the review criteria, but safety is.

Councilmember Leinweber asked if where employees commute from is factored in during a traffic study. Mr. Frisbie stated the traffic study makes estimates of where drivers are coming from, what roads will be used, the capacities around intersections, and if those intersections can accommodate that additional traffic. He stated ConnectCOS is the City's long range transportation plan and is independent of land use projections, but they design the road system to accommodate those projections and putting jobs near homes reduces the length of trips and provides opportunities to use other modes of transportation.

Councilmember Leinweber asked if there any other affordable housing projects in this region. Mr. Posey stated there are two other affordable housing projects which would be considered located within this region and two more which are constructed and leased up.

President Helms stated he is making his decision based on the review criteria of whether or not this project is a detriment to the health safety and overall welfare to the citizens of Pine Creek and will be supporting the affordable housing project.

Motion by Councilmember Henjum, seconded by Councilmember Talarico, to deny the appeal and uphold the approval of The Market at Royal Pine Major Concept Plan Amendment based upon the findings that the appeal criteria as set forth in UDC Section 7.5.415 are not met and the review criteria for Concept Plans as set forth in City Code Section 7.5.501 are met. The motion passed by a vote of

6-1-2-0

Aye: 6 - Crow-Iverson, Helms, Henjum, Leinweber, Risley, and Talarico

No: 1 - Donelson

Excused: 2 - Avila, and O'Malley

Motion by Councilmember Talarico, seconded by Councilmember Risley, to deny the appeal and uphold the approval of The Royal Pine Apartment Development Plan based upon the findings that the appeal criteria as set forth in UDC Section 7.5.415 are not met and the review criteria for Development Plans as set forth in UDC Section 7.5.515 are met..The motion passed by a vote of 6-1-2-0

Aye: 6 - Crow-Iverson, Helms, Henjum, Leinweber, Risley, and Talarico

No: 1 - Donelson

Excused: 2 - Avila, and O'Malley

3. Added Item Agenda

4. Adjourn

There being no further business to come before City Council, President Helms adjourned the meeting at 8:10 PM.

Sarah B. Johnson, City Clerk