

# **CITY OF COLORADO SPRINGS PLANNING COMMISSION**

## **MINUTES / RECORD-OF-DECISION**

**THURSDAY, August 18, 2016, CITY HALL COUNCIL CHAMBERS  
107 NORTH NEVADA AVENUE. COLORADO SPRINGS, COLORADO 80903  
CHAIRMAN PHILLIPS CALLED THE MEETING TO ORDER AT 8:36 A.M.  
THE MEETING ADJOURNED AT 4:23 P.M.**

### **PRESENT:**

Phillips, Henninger, Markewich, Shonkwiler (left before the item was voted on), Walkowski, Smith

### **ABSENT:**

McDonald, Gibson, Graham (Shonkwiler left before the item was voted on)

### **ALSO IN ATTENDANCE:**

Mr. Peter Wysocki, Planning and Development Director

Mr. Marc Smith, City Senior Corporate Attorney

### **NEW BUSINESS CALENDAR**

**DATE: August 18, 2016**  
**ITEM: 6.D.1 – 6.D.4**  
**FILE NO.: CPC ZC 16-00061, CPC DP 16-00060, CPC DP 16-00062, CPC DP 16-00068**  
**PROJECT: Maizeland and Academy**  
**STAFF: Mike Schultz, Principal Planner**

### **STAFF PRESENTATION:**

Mike Schultz, Principal Planner gave a Power Point presentation.

### **Applicant:**

Tom Dermity a commercial real estate developer. The property was owned by Mr. and Mrs. Brooks and passed to their children who were raised in Colorado Springs and now live in Denver. They would like the property rezoned. The property has sat vacant for the last 30 years. After the death of Mr. and Mrs. Brooks he discussed with the owners the idea to rezone and change the conditions of records. A hybrid approach was discussed because of the conditions of record. After discussing with this with several other people a profile of the type of development emerged and but they wouldn't get an upscale types like Whole Foods or King Soopers you could get a Wal-Mart Neighborhood Grocer or a pawn shop and these weren't wanted by the neighborhood.

The three uses came to be by wanting to have something that was in high demand and a transitional use to the neighborhood. So that's how the self-storage came about. It will be a higher scale design and a low traffic generator, light impact is minimal, noise is minimal, building size is smaller. The developer of the storage offered to make it look more residential. The self-storage also said they could live without ingress and egress to the side streets and they could make a wall to create a high degree of security to the neighbors. They worked with the neighbors to find a solution. They put together three uses that worked for many but not everyone. They were able to balance the most ardent concerns of the stakeholders. We listened to the concerns noted by all. The development will help cut down on the constant noise from Academy Blvd. The self-storage will be very secure and safe.

Regarding repositioning the Kum & Go store hadn't been thought about it thought it would make the light go more toward the neighbors and that isn't the best idea.

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The development will capture traffic that is already going along this way. What happens with property values when next to a development of this type? Homes next to this area have sold over list price. People in this area want something to happen with this site.

They are asking for four conditions of records be removed and add ones the neighborhood has concerns about. They will meet all the requirements under the code for the zoning. They've tried to come up with a blending. He can't think of any recent development along Academy that meets the Great Streets Scape.

He appreciates the neighborhoods concerns. This doesn't break the neighborhood and it could be a step in the right direction.

#### **Questions**

Commissioner Markewich asked about the improvements along Sussex and Alpine, is there a wall there? Mr. Dermity said there will not be a wall in between the developments just on the south side. Commissioner Markewich said it'd start at the corner of Alpine and Sussex and go all the way to the Carl's Jr. site because there are some residents there. Mr. Dermity said it could go a little further but the house on the corner of Alpine Place is a commercial use. There should be some view corridor and the wall could probably come down to the residential property line.

Commissioner Markewich discussed the reorientation of the buildings particularly the Kum & Go so there'd be more access to pedestrians. Mr. Shultz said staff supports the project for the Kum & Go. But because the EOZ and the Great Streets Plan are guiding documents and suggest better pedestrian orientation and orientation toward Academy they asked for possible repositioning of the building. If the Commission is fine with the orientation that is ok but they can also provide some ideas and guidance for any future development along Academy. Commissioner Markewich asked if Mr. Dermity had an opinion for repositioning of the building. Mr. Dermity said he'd object for two reasons. The unconventional nature isn't ideal for the Kum & Go and the second is the front of the Kum & Go store will be well lit as well as the canopy and the back of the store will not. Also there would be more activity and light spillage into the neighbor. Commissioner Markewich said Mr. Dermity felt the current position better protects the neighborhood and Mr. Dermity said it did.

Commissioner Shonkwiler said what is different from what Mr. Dermity is proposing and what is already proposed. Mr. Schultz explained his reasoning and said it wasn't unusual to turn these stores perpendicular to the roadways.

Meggan Herrington said in Mr. Schultz's staff report it has one of the conditions for approval is not to move the Kum & Go building. Mr. Schultz verified that was correct. Ms. Herrington said the motion as based on the staff report with the conditions and technical modifications isn't listed. So you're making a statement that one of the design. Mr. Schultz clarified it's in the staff report, but they are still in support of the project and if Planning Commission wants to move forward as presented staff is fine with that. There is no specific code criteria that would require the repositioning of the building. Ms. Herrington said she wanted Commissioner Phillips to make sure he understood what Mr. Schultz was saying when explaining that.

#### **Applicant:**

Mike Humphrey with Your Storage Centers. This has been a slow process but they wanted to make sure they got it right and listened to the neighbors' concerns. Self-storage is very different today than in the 1980's. Regarding traffic - this store will generate about 10.8 cars per day. They have low noise and low light. The architecture will be a more residential look with an opaque screen, a landscape

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burm with a six-foot high wall. They'll have more cameras, more security and two access gates. Transitional use is why he thinks they're a good fit. They've taken slow methodical steps. They are certain things they can't address but felt they've brought forward a good product.

Commissioner Markewich asked about RV or boat storage. Mr. Humphrey's said there's no outdoor door facility but there is one potential indoor one.

#### **Applicant:**

Ron Holder with Kum & Go. The big thing is the orientation of the building that Mr. Schultz presented and they've reviewed his request and Kum & Go's concerns are regarding visibility. If they reposition the building they block visibility to their store front and their pumps. Kum & Go uses passerby traffic to generate business for their store. They believe they've addressed Mr. Schultz's request for more pedestrian access with the bus stop. Yes it passes close to the canopy but they've agreed to stripe that and add signage for ease of walking to the front door.

Commissioner Walkowski said they would stripe that like a crosswalk or sidewalk. Mr. Holder said yes.

#### **Applicant:**

Jay Hoffmeister with Carl's Jr. He's a second generation in Colorado Springs with Carl's Jr. They've tried to make as many design changes to move closer to Academy. The speaker box faces more toward Academy, they've added noise, and they've done side shields for the lights, and put in a catalytic converter to reduce smells. They believe the wall constructed on Alpine will significantly reduce car headlights. But have agreed to put a secondary landscape fence along the drive thru for light mitigation if necessary. The design is more contemporary. They are trying to invest in their community, invest in infill along Academy and invest in the neighborhood as a whole.

Commissioner Smith asked where the secondary fence would be. Mr. Hoffmeister said an additional landscape screening fence would be by the drive-thru. Commissioner Smith said that property was commercial and they don't operate at night. Mr. Hoffmeister said that was correct.

Commissioner Markewich asked if the additional wall is it planned. Mr. Hoffmeister said if Planning Commission wants them to put it in they will and if it will help reduce noise they'd also put it in.

#### **Citizens in Support:**

Michelle Wright and she lives up from the development. She drives this area every day. She's been to the all the neighborhood meeting. She has a background in planning and she's concerned about the neighborhood. It needs help. Retail stores are vacant. Apartment buildings wouldn't be a good idea. So what is left to put there? Unwelcome types of development. The plan fits well with the neighborhood. She likes plan with the green area, she likes the safety and they've been very responsive to the neighborhoods concerns. She believes this is an excellent plan. She has no objections. She thanks the developers for going beyond their questions and concerns.

Mr. William Mashburn is the owner. The developers have been having neighborhood meetings for over 2 ½ years. They've worked to push the buildings as close to Academy as possible. They've worked well with them and he doesn't believe this development will substantially increase traffic. They support it and think it's a good proposal.

Jonny Garcia it's a good project and they need something like this in the neighborhood like this for a long time. All three are appropriate for the area.

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#### **Citizen in Opposition:**

Susan Foth and lives out of the 750 foot notification area. The owners have the right to develop this property and the applicants have tried to make this development as palatable as possible. However it doesn't conform to the condition of record or the higher type of development the neighborhood was looking for. The conditions of record were to protect the integrity of the neighborhood and by default Palmer Park. Regarding infill there are other areas along Academy that are more suitable. When she looked at the review criteria the first five are not met. It's not compatible or harmonious with Palmer Park. This type of proposal introduces an entirely different type of business along the west side of Academy. Businesses that border the park are hardly noticeable and no amount of camouflage can hide this is a gas station, a mini-storage or a fast food restaurant. Traffic on Maizeland and Academy can be backed up 25 cars all the way to Sussex. If approved the constraints will be passed to the neighborhood with unwanted noise 24-7, light pollution, and increased and risky traffic patterns.

Dense Philpot said he lives about two blocks to the west and he found out about this because of his neighbor. There are a dozens of convenience stores and gas stations at every intersection to the north and the south along Academy for over a mile both ways. Kum & Go doesn't build gas stations they build truck stops along the interstate and Powers which is appropriate. But along a high residential area, it's not. Kum & Go and puts everyone else out of business then they hike up their prices and gas. There are plenty of fast food restaurants. The playground at Palmer Park is about the only playground for little kids. There will really be only one ingress to this site and that's off Academy because you can't enter across Maizeland because you can't cross a double yellow line the turn would be illegal. People will use the light at Alpine as a go around.

Natalie Morin said her property is in the middle of Alpine directly adjacent from the site. Her parents were part of the original group that set up the conditions of record. She appreciates the work and thought that went into the design but there are lots of concerns that haven't been address. The fast food restaurant will be right across from the residents on Alpine Pl and the wall won't go all the way down. In addition to that, this Carl's Jr's can't guarantee it won't be open 24-hrs. We don't want a 24-hr drive thru across from their homes. The gas station will be too much traffic for this area. Maizeland and Academy are already backed up as it is. People will get impatient and go through their neighborhood to go west. These types of businesses generate too many cars and we don't need another gas station or another fast food restaurant.

Cathy Smith said they just moved in May of 2016 and had no idea this would be built in the empty lot. She hopes it will be developed with the thought in mind of the quiet and peaceful nature of this established neighborhood. We are supposed to be the Olympic City and to put a fast food restaurant right next to Palmer Park is extremely counter intuitive.

Angela Waalkes said they're further out than anyone that has spoken. They are on a cul-de-sac and very aware of the cut through traffic. The applicant has done a great job with their plans. But these are "proposed" plans; we've seen two plans from the Kum & Go just today. The church up the street promised not to go over two-stories so the view of Pikes Peak would not be impeded but went ahead and put on the second story so neighbors who bought for the view were lied to. The church said they'd pave their roads, it took them 25-years to do it. She's leery of people who bring a proposed plan designs and aren't sure which way they'll go. The applicant says they've taken great effort to speak and work with the neighborhood. I'm in that neighborhood and found out about this through a flyer in my door. Then there's the issue that we need a name for our neighborhood? The applicant says the lack of development shows the area is struggling. How does a gas station and a Carl's Jr prove we are not struggling as opposed to that beautiful field that in the spring if full of wild flowers. They say office development has slowed down in the area and is no longer in demand and there is tiredness and blight

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What about the strip malls have been abandoned and moved out to Powers what about redeveloping those. A Kum & Go and fast food is not something we need. There are tons of gas stations everywhere. Not every piece of land or field needs to be developed.

Loretta said she's in the neighborhood and her parents were part of the group that help put in place the conditions of record. The intent was for office spaces. There are enough gas stations and convenience stores up and down Academy but there are also many vacancies up and down along Academy. She's not against Kum & Go or Carl's Jr it just doesn't need to be on that corner. She'd rather have the city buy the property and turn it into tennis court or something that would complement the park.

Charley Bobbitt lives in the neighborhood and he has to say that at the first meeting with Tom Dermity he said if they didn't do this he's make sure they got a Wal-Mart put in there and that felt like a threat. He objects to the development. One thing was no 24-hr businesses. All these business are replicated within a mile of the area. But his main objection is the traffic. The light at Maizeland and Academy can back up to Sussex and it can take up to three lights to get through that intersection. Kum & Go and Carl's Jr are heavily advertised. They want to drive people to their locations so for them to say it will not affect traffic is unreasonable. This Kum & Go is a super-size store a 24-hr operation. Turning out and into the property off Maizeland will be awful without any type of light. He doesn't know of anywhere else in the city that traffic engineering doesn't allow a right-turn-in and a right-turn-out. At this location you'll have traffic turning in from the turn left along with the big trucks. Impact will be big. If you approve this at least ask the traffic engineer to do a real study.

#### **Questions of Staff:**

Commissioner Walkowski asked for an explanation about the movement restrictions being adequate or not met. What does that mean? Mr. Schultz said he'd defer to Ms. Krager. Ms. Krager said that is a line-of-sight and it's not shown correctly on the plan so until its shown correctly she wants the note.

Regarding the concerns the neighbors have brought up. Gas stations and fast food generate the highest trip generations but are also two of their higher pass-by uses. Gas stations and fast food will gear where they want to be based on if they want are for people on the way to work or coming home. The vast majority of traffic for this site will be on Academy or Maizeland and not new traffic. We like gas stations to have as much convenience access as possible. Many times with infill a street is half residential and half commercial and it causes problems. Access from east bound Maizeland to north bound Academy had a double left turn lanes. She knew this could be a problem area so she asked for a traffic study to look at the left turn traffic. She doesn't mind left turns stacking on Maizeland. If this area becomes a problem she can do several things. One is return the dual left turn lane going from eastbound Maizeland onto northbound Academy. But that gives preference to one side of Maizeland over another and they have equal volume. The other is she can restrict turning movements on Maizeland. She's not done that right now because there is no median across Maizeland

Commissioner Smith said most of the comments from the people say there is already a problem at Maizeland. So what percentage of increase to that left turn lane will happen with this development? Ms. Krager said no increase. You don't see people turning left turn from a gas station to a major arterial. That left turn is has a lot of traffic from Circle because Circle turns into Fillmore and Maizeland is the last street that connects to Academy. .

Commissioner Markewich asked if a U-turn is allowable at Maizeland. Mr. Krager said yes. Commissioner Markewich asked if she had a problem with people doing a U-turn to get into a right-in/right-out. Ms. Krager said no. If going south on Academy and turn right on Maizeland and then turn left into the site would that happen? Ms. Krager said there will be a percentage of people who do that. But they will probably only do it once. Commissioner Markewich asked about the cut through traffic on

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Alpine. Ms. Krager said that type of cut through would seem difficult to her. Instead she would turn right on Academy go down to Constitution and turn right instead of going down Maizeland to go west because Constitution goes the same places as Maizeland but just a little farther.

#### **Rebuttal:**

A couple of notes about the 24-hr accessibility; there is a section of the community that works at different times and needs 24-hr access. Also the perception there is not market demand however that's not correct there is market demand for this. Finally about the property remaining open space – it's been open space since its inception but the owners have the right to develop it; keeping it as open space is not what is needed.

Mike Humphrey with Your Storage Centers said as part of the development team he wanted to say for people who are opposed to something and still come up and say they applaud the time and effort they've put into the project is great. He also wanted to be sure the neighbors knew there had been three notifications about the project. Regarding Griffith Blessing doing a development, he spoke with them and they've had a "Coming Soon" sign on the corner for three years and nothing has happened. Lastly self-storage offers a tremendous noise buffer and that will help with all the traffic sounds coming from Academy.

#### **DISCUSSION AND DECISION OF THE PLANNING COMMISSION:**

Commissioner Smith said when he was out at the site the weeds were the first thing he noticed. The place hasn't been kept up or mowed. Whether there should be more fast food or gas stations is not in their purview. Regarding noise – there is already noise from Academy. Smells won't be a concern with the converters that will eliminate smells. This is a good development site and its an infill project and he will be in support of the project.

Commissioner Markewich echoes Commissioner's Smith statement about developing more gas stations or fast food. Remaining open space wasn't really a viable option. It's privately owned so it can be developed. Regarding notification – he's doesn't like how we notify but even if we notify from 500, 1000, or 1500 there will still be people who do not receive notification. The proposal meets the four criteria for a change of zone district and the 12 development review criteria listed in city code. Lastly traffic there is like traffic everywhere and it's always a problem and there is only so much we can do to limit traffic problems and I feel we have done as good a job as possible for this site. So he will be in support of the project.

Commissioner Walkowski agrees with the previous commissioners comments. He'll specifically address Mr. Schultz's comments about repositioning the Kum & Go. For the future establishing pedestrian access and walkability is a great idea and he'd would've liked to have seen it here, but to move the building would have cause more light on the neighbors and that was something that isn't acceptable. So the way the Kum & Go is oriented outweighs the connectivity. But in the future keep that idea in mind. So he will be in support of the project.

Motion by Commissioner Markewich, seconded by Commissioner Smith, to recommend approval to City Council the zone change from PBC/CR (Planned Business Center with Conditions of Record) to PBC/CR (Planned Business Center with Conditions of Record), amending conditions of record originally approved in 1988, based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B).

Aye: Markewich, Henninger, Phillips, Walkowski, Smith

Absent: Graham, McDonald, Shonkwiler, Gibson

No: None

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Motion passed.

Motion by Commissioner Markewich, seconded by Commissioner Smith, to recommend approval to City Council the Kum & Go Store #686 development plan based upon the findings that the development plan meets the review criteria for granting a development plan as set forth in City Code Section 7.5.502(E), subject to the following technical and/or informational plan modifications listed in their packets

Aye: Markewich, Henninger, Phillips, Walkowski, Smith

Absent: Graham, McDonald, Shonkwiler, Gibson

No: None

Motion passed.

Motion Commissioner Markewich, seconded by Commissioner Smith, to recommend approval to City Council the Development Plan (Your Storage Center) based upon the findings that the development plan meets the review criteria for granting a development plan as set forth in City Code Section 7.5.502(E), subject to the following technical and/or informational plan modifications listed in their packets

Aye: Markewich, Henninger, Phillips, Walkowski, Smith

Absent: Graham, McDonald, Shonkwiler, Gibson

No: None

Motion passed.