



City of Colorado Springs

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

Meeting Minutes City Council

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Tuesday, June 9, 2020

10:00 AM

Council Chambers

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1. Call to Order

Present: 9 - Councilmember Yolanda Avila, Councilmember Jill Gaebler, Councilmember David Geislinger, Councilmember Don Knight, Councilmember Bill Murray, Councilmember Andy Pico, President Richard Skorman, President Pro Tem Tom Strand, and Councilmember Wayne Williams

2. Invocation and Pledge of Allegiance

The Invocation was made by Reverend Norman Bouchard Center for Spiritual Living.

President Skorman led the Pledge of Allegiance.

3. Changes to Agenda/Postponements

President Skorman stated there will be a Special Work Session held on Thursday, June 11, 2020 to discuss a citizen, City Council, and Mayor committee in regards to exploratory review of law enforcement.

Sarah B. Johnson, City Clerk, stated Mayor's Business as well as items 11.D. and 11.E. will be held after 1:00 PM. Councilmember Knight

requested item 4B.A. and 4B.B. be removed from the Consent Calendar.

Consensus of Council agreed to these changes on the agenda.

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 19-00178](#) Ordinance No. 20-31 amending the zoning map of the City of Colorado Springs pertaining to 0.206-acre located at 2217 Bott Avenue from R2 (Two-Family Residential) to C5 (Intermediate Business).

(Quasi-Judicial)

Related Files: CPC ZC 19-00178 and AR DP 15-00139-A1MJ19

Presenter:

Lonna Thelen, Principal Planner, Planning and Community Development
Peter Wysocki, Director, Planning and Community Development

Attachments: [ZC_ORD_PubDog](#)

[Exhibit A-legal description](#)

[Exhibit B-zoning depiction](#)

[Signed Ordinance 20-31.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.B. [CPC ZC 19-00175](#) Ordinance No. 20-32 amending the zoning map of the City of Colorado Springs relating to 6.8 acres located at 1265 Kelly Johnson Boulevard from PIP-1 (Planned Industrial Park) to PBC (Planned Business Center)

(Quasi-Judicial)

Related files: CPC ZC 19-00175, CPC CU 19-00176

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development
Peter Wysocki, Planning and Community Development Director

Attachments: [ZC Ordinance](#)
[Exhibit A - Legal Description](#)
[Exhibit B - Legal Description Depicted](#)
[1 - Vicinity Map](#)
[Signed Ordinance 20-32.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.C.** [CPC ZC 20-00017](#) Ordinance No. 20-33 amending the zoning map of the City of Colorado Springs relating to 14.93 acres located northwest of the intersection of Briargate Parkway and Grand Cordera Parkway from A (Agriculture) to PBC (Planned Business Center).

(Quasi-Judicial)

Related files: CPC ZC 20-00017, CPC CP 20-00018

Presenter:

Katie Carleo, Principal Planner, Planning and Community Development
Peter Wysocki, Planning Director, Planning and Community Development

Attachments: [ZC ORD BriargateCrossingEastNo.6](#)
[Exhibit A - Zone Change and Legal Description](#)
[Exhibit B - Zone Change Depiction](#)
[EXHIBIT 1 Vicinity and Surrounding Uses](#)
[EXHIBIT 2 BCE No.6 Concept Plan](#)
[EXHIBIT 3 PlanCOS Supporting Map](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.D.** [20-173](#) Ordinance No. 20-34 of the City of Colorado Springs, Colorado providing for the refunding of certain outstanding Utilities System Revenue Bonds of the City; providing for the extension, betterment, other improvement and equipment of the City of Colorado Springs Utilities System; providing for the issuance and sale of the City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2020A in an aggregate principal amount not to exceed \$285,000,000, the City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2020B (Private Activity) in an aggregate principal amount not to exceed \$68,500,000 and the City of Colorado Springs, Colorado, Utilities System Improvement Revenue Bonds, Series 2020C in an aggregate principal amount not to exceed \$110,000,000 payable solely out of the Net Revenues to be derived from the operation of the City of Colorado Springs Utilities System; authorizing the execution by the city of a Paying Agent Agreement,

Escrow Agreements, a Bond Purchase Agreement and an Official Statement related thereto; and providing other matters relating thereto.

Presenter:

Scott Shewey, Acting Chief Planning and Finance Officer, Colorado Springs Utilities

Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

Attachments: [CSU 2020ABC Bond Ordinance 4845-2830-0980 6](#)
[Ordinance Summary \(First Publication\) 2020ABC 4845-6589-7147 2](#)
[Signed Ordinance 20-34.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

4A.E. [20-216](#)

Ordinance No. 20-35 of the City of Colorado Springs, Colorado providing for the refunding of certain outstanding Utilities System Revenue Bonds of the City; providing for the issuance and sale of the City of Colorado Springs, Colorado, [Taxable] Utilities System Refunding Revenue Bonds, series 2020D [2021A] in an aggregate principal amount not to exceed \$86,000,000, payable solely out of the Net Revenues to be derived from the operation of the City of Colorado Springs Utilities System; authorizing the execution by the City of a Paying Agent Agreement, an Escrow Agreement, Bond Purchase Agreements and an Official Statement related thereto; and providing other matters relating thereto.

Presenter:

Scott Shewey, Acting Chief Planning and Finance Officer, Colorado Springs Utilities

Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

Attachments: [CSU 2020D-2021A Bond Ordinance 4825-6984-1849 5](#)
[Ordinance Summary \(First Publication\) 2020D-2021A 4821-4735-7115 2](#)
[Signed Ordinance 20-35.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

4B.C. [20-195](#)

A Resolution Approving a Memorandum of Understanding among Colorado Springs Utilities, the City of Colorado Springs, El Paso County, the El Paso-Teller County E911 Authority, Teller County, and the City of Fountain to Acquire Digital Orthorectified Imagery in 2020

Presenter:

Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities
Michael Herrmann, Manager -Asset Management/Geospatial

Technology, Colorado Springs Utilities
Renee Congdon, Senior Attorney, City Attorney's Office-Utilities Division

Attachments: [PPGA OP 2020 MOU](#)
[PPGA2020Project_RES-2020-04-28.docx](#)

This Resolution was adopted on the Consent Calendar.

- 4B.D.** [20-196](#) A Resolution Approving an Intergovernmental Agreement for Fire Protection and Incident Response Services

Presenter:
Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

Attachments: [TCSO & CSU Fire Protection and Incident Response Services Agreement \(2\)](#)
[TellerCountyWildlandFireTeam_FireProtAndIncRespIGA_RES](#)

This Resolution was adopted on the Consent Calendar.

- 4B.E.** [20-197](#) A Resolution Approving an Intergovernmental Agreement for Wildfire Mitigation and Suppression Planning

Presenter:
Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

Attachments: [TCSO & CSU Wildfire Mitigation and Suppression Planning Agreement \(2\)](#)
[TellerCountyWildlandFireTeam_MitigationAndSuppressionPlanningIGA_RES](#)

This Resolution was adopted on the Consent Calendar.

- 4B.F.** [20-210](#) A Resolution authorizing the abandonment or partial abandonment of several 2020 Lodgers and Auto Rental Tax (LART) projects and contracts totaling \$3,488,711 and the transfer of LART funds in the amount of \$90,000 to three additional projects and events recommended by the LART Citizen Advisory Committee, with the remaining \$3,398,711 reserved for expenditure budget reductions necessitated by the projected LART revenue loss due to COVID-19 impacts on the lodging and auto rental industries

Presenter:
Charae McDaniel, Chief Financial Officer
Laurel Prud'homme, LART Citizens Advisory Committee Chair

Attachments: [VERSION 2-Resolution to abandon and transfer 2020 LART Projects-with Ex A](#)
[VERSION 2-Exhibit A for LART item 20-210](#)
[Signed Resolution 39-20.pdf](#)

This Resolution was adopted on the Consent Calendar.

Approval of the Consent Agenda

Motion by President Pro Tem Strand, seconded by Councilmember Williams, 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 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, Strand, and Williams

5. Recognitions

There were no Recognitions.

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

Citizens Andrew Kuro, Christina Rader, Ré Cockrell, Nicky Hernandez, Derek (Wavy) Matthews, Diane Stober, Angela Gilpin, Ted Brassfield, and Adison Quin Petti spoke about their concerns regarding the actions of the Colorado Springs Police Department (CSPD), the creation of an oversight advisory committee of law enforcement, and violence towards black people.

7. Mayor's Business

There was no Mayor's Business.

8. Items Called Off Consent Calendar

4B.A. [20-141](#)

A resolution extending the suspension of the Rules of the City Council of the City of Colorado Springs and authorizing the conduct of electronic or telephonic quasi-judicial hearings and executive sessions during the period of the state of emergency declared for the City of Colorado Springs and resulting from a public health emergency caused by the 2019 Novel Coronavirus

Presenter:

Wynetta Massey, City Attorney

Attachments: [City Council Resolution_Electronic Meetings_05-26-20.docx](#)

[Signed Resolution 19-20.pdf](#)

[Signed Resolution 23-20.pdf](#)

[Signed Resolution 40-20.pdf](#)

Councilmember Knight requested the date extending the suspension of the Rules of the City Council and authorizing the conduct of electronic or telephonic quasi-judicial hearings and executive sessions during the period of the state of emergency declared for the City of Colorado Springs and resulting from a public health emergency caused by the 2019 Novel

Coronavirus be extended to September 30, 2020. Wynetta Massey, City Attorney, stated the Resolution has already been amended to reflect that change.

Motion by Councilmember Knight, seconded by President Pro Tem Strand, that the Resolution to approve a resolution suspending certain rules of the City Council of the City of Colorado Springs until September 30, 2020 resulting from a public health emergency caused by the 2019 Novel Coronavirus. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, Strand, and Williams

4B.B. [20-253](#) City Council Regular Meeting Minutes May 26, 2020

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [5-26-2020 City Council Meeting Minutes Final](#)

Councilmember Knight requested the summary of his comments from the Public Hearing, item 12.A. held at the May 26, 2020 City Council meeting be amended to reflect that emergency egress has always been a concern of his and he has previously voted against at least two applications based on this reason.

Motion by Councilmember Knight, seconded by Councilmember Pico, that the City Council Regular Meeting Minutes May 26, 2020 be approved as amended. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, Strand, and Williams

9. Utilities Business

There was no Utilities Business.

10. Unfinished Business

- 10.A. [CPC PUZ 19-00090](#)** Ordinance No. 20-36 amending the zoning map of the City of Colorado Springs relating to 61.71 acres located southeast of Powers Blvd and Highway 83 from A (Agriculture) to PUD (Planned Unit Development: 35-foot maximum height, single-family detached units, maximum density of 4.0 du/ac)

(Quasi-Judicial)

Related File: CPC PUP 19-00091

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

Attachments: [ZC Ordinance](#)[Exhibit A - Legal Description](#)[Exhibit B - Legal Description Depicted](#)[Vicinity Map](#)[Kettle Creek North Presentation](#)[CPC Staff Report - Kettle Creek](#)[Figure 1 - Concept Plan](#)[Figure 2 - Project Statement](#)[Figure 3 - Surrounding Area & Context Map](#)[Figure 4 - Neighborhood Comments](#)[Figure 5 - Briargate Master Plan](#)[Kettle Creek North - Additional Public Comments](#)[CPC Minutes_KettleCreek_draft](#)[7.5.603.B Findings - ZC](#)[7.3.603 Establishment & Development of a PUD Zone](#)[City Planning Commission Minutes - 4.30.20](#)[Signed Ordinance 20-36.pdf](#)

Peter Wysocki, Planning and Community Development Director, gave a brief background on the development of the North Fork area, the City's commitment not to connect Howell's Road, potential evacuation routes

Todd Frisbie, City Traffic Engineer, stated the Colorado Department of Transportation (CDOT) would not allow emergency access to Powers Boulevard.

Councilmember Murray asked if the County has provided a letter of refusal for the connection to Howell Boulevard. Mr. Wysocki stated they have not.

Brett Lacey, Fire Marshall, Colorado Springs Fire Department, stated the emergency access is not desirable, but workable and they could accommodate it by working with the Police Department. He presented photos of the emergency access roadways within the development.

Councilmember Geislinger asked how the CSFD would evacuate this area. Mr. Lacey gave an overview of the procedures they would utilize in the event of an emergency.

Councilmember Knight stated the CSFD needs to address and be the

enforcement agency regarding the issues with the access gates.

John Maynard, N.E.S, Inc., representing the applicant, stated this property was annexed forty years ago and there has been no change in the master plan and street system other than lowering the density and increasing the open space.

Councilmember Geislinger asked if the owners also own land to the north of this parcel. Mr. Maynard confirmed they did. Councilmember Geislinger asked if the secondary access could be developed in conjunction with this development. Mr. Maynard stated the secondary access is actually to the east of the property and the land suitability analysis identified this parcel as having development constraints so it has been deferred until a later time.

Councilmember Knight asked if there were any geographical reasons a connection could not be made to Powers Boulevard. Mr. Maynard stated there was not.

Citizens Sam Bryant, Andrew Hits, Louellen Welsch, Duncan McNabb, and Dennis Jaspin spoke in opposition of the project.

Mr. Maynard identified the access roads into the subdivision and stated it would not be feasible technically or financially to build a bridge over Kettle Creek.

Councilmember Knight asked if it possible to widen Thunder Mountain Road. Mr. Frisbie stated it was built to collector road standards which is one way in each direction and some widening has occurred near the high school.

Councilmember Knight asked if having evacuation routes going through neighborhoods would be a violation of City Code. Hannah Van Nimwegen, Senior Planner, Planning and Community Development stated in the event of an evacuation, residents may need to go through neighborhoods and the master plan design envisioned Thunder Mountain Road as the access road.

Councilmember Gaebler stated this area was master planned in 1993 as one development and the City needs to continue to evaluate the streets to ensure safety to the community.

Councilmember Williams stated the access points of this development meets the City's requirement and in order to build a bridge over Kettle Creek, it would cost millions of dollars plus there is a Preble's meadows jumping mouse habitat in the area.

Councilmember Geislinger stated the concerns expressed are legitimate, but it is a City/County issue which needs to be addressed and he will be supporting this item.

Councilmember Knight stated he will be voting against this item because he believes this violates City Code 7.5.603(b) that the actions are detrimental to the health and safety of the residents.

Councilmember Murray stated access to Howells Road needs to be connected now rather than later and he will not be voting in favor of the motion.

Councilmember Pico stated he also has concerns regarding emergency access that the City and County need to address, but it meets the criteria.

Councilmember Avila stated it is always fire season, this is encroaching on wildlife, and will not be supporting this change.

Motion by Councilmember Gaebler, seconded by Councilmember Williams, that the Ordinance for the rezone of 61.71 acres from A (Agriculture) to PUD (Planned Unit Development: 35-foot maximum height, single-family detached units, maximum density of 4.0 dwelling units per acre), 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), as well as the criteria for establishment of a PUD zone district as set for in City Code Section 7.3.603 be approved on first reading. The motion passed by a vote of 5-4-0-0

Aye: 5 - Gaebler, Geislinger, Pico, Strand, and Williams

No: 4 - Avila, Knight, Murray, and Skorman

10.B. [CPC PUP
19-00091](#)

The Kettle Creek North Concept Plan for a single-family residential development with density between three and four dwelling units per acre, generally located south and east of the Powers Boulevard and Highway 83 intersection.

(Quasi-Judicial)

Related File: CPC PUZ 19-00090

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

Attachments: [Figure 1 - Concept Plan](#)

[7.5.501.E Concept Plans](#)

[7.3.605 PUD Concept Plan](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Gaebler, seconded by Councilmember Williams, that the concept plan for Kettle Creek North based upon the findings that the concept plan complies with the review criteria for concept plans as set forth in City Code Section 7.5.501(E) and criteria for PUD concept plans set forth in City Code Section 7.3.605 be approved. The motion passed by a vote of 5-4-0-0

Aye: 5 - Gaebler, Geislinger, Pico, Strand, and Williams

No: 4 - Avila, Knight, Murray, and Skorman

11. New Business

11.A. [CPC CA 20-00006](#)

Ordinance No. 20-37 amending Article 2 (Basic Provisions, Definitions, and Land Use Types and Classifications) and Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Family Suites

(Legislative)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development Department

Peter Wysocki, Director of Planning and Community Development

Attachments: [ORD CodeAmendment AccessoryFamilySuites](#)

[6.9.20 ADUs](#)

[CPC Staff Report - Accessory Dwelling Unit](#)

[Ordinance 1.1 - Accessory Family Suites](#)

[Affidavit - Occupancy total](#)

[Restrictive Covenant - Subdivision](#)

[Council Work Session Minutes - 9.9.19](#)

[Council Work Session Minutes - 01.27.20](#)

[City Planning Commission Minutes 4.30.20](#)

[5.22.20 City Council Work Session Presentation](#)

Hannah Van Nimwegen, Senior Planner, Planning and Community

Development Department, presented the Ordinances pertaining Accessory Dwelling Units and Accessory Family Suites. She explained the opportunities offered for citizen input, collaboration with Colorado Springs Utilities, ADU overlay zone only applies to new developments.

President Skorman clarified that the City is not rezoning R1 zones.

Citizens Mary Sue Wildman, James Lola, Rick Hoover, and Robert Cobalt, spoke in opposition to the Ordinances.

Citizens Max Kronstadt, Mary Sprungerfase, and George Nehme spoke in support of the Ordinances.

Citizen Rick Hoover requested the Ordinances be postponed until the COVID-19 related occupancy restrictions are lifted and citizens are allowed to speak directly in front of City Council. Councilmember Geislinger stated this item is time sensitive due to the Chapter 7 rewrite currently being written by a consultant.

Councilmember Williams and Councilmember Pico explained the change in the R1 zone is only a reconfiguration of the living area, not an increase in the number of people permitted in a home.

Councilmember Geislinger stated he sees this is a compromise and will be supporting this item.

Councilmember Avila stated she does not believe anyone is getting what they want with this Ordinance, but she will support it because of all the work which went into it to get it to this point.

Motion by Councilmember Gaebler, seconded by Councilmember Williams, that the Ordinance amending Article 2 (Basic Provisions, Definitions, and Land Use Types and Classifications) and Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Family Suites be approved on first reading. The motion passed by a vote of 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, Strand, and Williams

11.B. [CPC CA
20-00087](#)

Ordinance No. 20-38 amending multiple sections of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) and Multiple sections of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Dwelling

Units

(Legislative)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development Department

Peter Wysocki, Director of Planning and Community Development

Attachments: [ORD CodeAmendmentADU Definitions & Conditional Use Permit](#)

[Restrictive Covenant - Owner Occupancy](#)

[Restrictive Covenant - Subdivision](#)

Councilmember Geislinger stated this is an appropriate compromise after diligent and extensive public engagement.

Councilmember Gaebler stated incremental change is usually what is best for everyone and she supports this item.

Councilmember Knight asked if the motion could be amended to revise the language which states “In the A zone district, the owner shall not be required to occupy either the principal structure or the accessory dwelling unit” to “In the A (Agricultural) zone district, the owner shall not be required to occupy either the principal structure or the accessory dwelling unit” and the language “The enforcement of the requirement would create an economic hardship” be changed to “The enforcement of the requirement would create a temporary economic hardship resolvable within two years”. Ms. Van Nimwegen stated staff is amenable to the requested language change.

Councilmember Pico stated he does not support ADUs in existing R1 zones.

Councilmember Williams stated he believes the process involved in obtaining a conditional use permit is acceptable and supports this item.

Councilmember Knight stated he agrees with the intent of the conditional use permit process, but he believes the process is very subjective and will not be supporting this item.

Councilmember Geislinger stated even though there is always a risk of unintended consequences, the conditional use process is a good process.

Councilmember Pico stated he is concerned with turning single-family residential units into duplexes.

President Pro Tem Strand asked if the entire neighborhood has to agree with the conditional use in order for it to be approved. Ms. Van Nimwegen stated it depends on the content from the individual who objects or opposes the conditional use and if Planning staff can resolve or mitigate the concern.

President Pro Tem Strand stated he does not support this item.

Councilmember Williams stated he trust the Planning Commission to make good decisions and there is also an appellant process in which it would come before City Council.

Councilmember Knight stated if there were an objective which states there has to be a majority support of the neighbors, he might support it. He requested if the item is approved, that the conditional use process in RetoolCOS is not watered down.

Motion by Councilmember Geislinger, seconded by Councilmember Gaebler, that the Ordinance amending multiple sections of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) and Multiple sections of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Dwelling Units as amended to revise the language which states “In the A zone district, the owner shall not be required to occupy either the principal structure or the accessory dwelling unit” to “In the A (Agricultural) zone district, the owner shall not be required to occupy either the principal structure or the accessory dwelling unit” and the language “The enforcement of the requirement would create an economic hardship” be changed to “The enforcement of the requirement would create a temporary economic hardship resolvable within two years” be approved on first reading. The motion passed by a vote of 5-3-0-1

Aye: 5 - Gaebler, Geislinger, Murray, Skorman, and Williams

No: 3 - Knight, Pico, and Strand

Excused: 1 - Avila

11.C. [CPC CA
20-00088](#)

Ordinance No. 20-39 amending Part 5 (Overlay Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Dwelling Unit Overlay

(Legislative)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development Department

Peter Wysocki, Director of Planning and Community Development

Attachments: [ORD CodeAmendment ADUOverlay](#)

Please see comments in Agenda item 11.B.

Motion by Councilmember Geislinger, seconded by Councilmember Gaebler, that the Ordinance amending Part 5 (Overlay Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Dwelling Unit Overlay be approved on first reading. The motion passed by a vote of 8-0-0-1

Aye: 8 - Gaebler, Geislinger, Knight, Murray, Pico, Skorman, Strand, and Williams

Excused: 1 - Avila

11.D. [20-150](#)

A Resolution Authorizing the Acquisition of Approximately 341.5 Acres of Open Space located in the Mountain Shadows Open Space Candidate Area through the Trails, Open Space and Parks Program.

Presenter:

Britt Haley, TOPS Program Manager, Parks, Recreation & Cultural Services Department

Attachments: [Final Offer Summary Letter 11.21.19](#)

[ResolutionMTNSHADOWSOPENSSPACEAcquisitionFINAL](#)

[CCJune8WorkSessionMtnShadowsAcquisitionsPowerpoint](#)

[Signed Resolution 41-20.pdf](#)

Britt Haley, TOPS Program Manager, Parks, Recreation and Cultural Services Department, presented the Resolutions for acquisition of up to 193.47 Acres at the Black Canyon Quarry and 148.02 acres of Pikeview Quarry frontage property for the purpose of public open space and trails through the Trails, Open Space and Parks (TOPS) fund. She stated Jerry Schnabel, Castle Concrete Company, requested a release of the contingency on approval of Permit Amendment 4, but the request was denied by his company. Ms. Haley presented a TOPS estimated fund balance summary based on several 2020 revenue scenarios in response to Councilmember Knight's request for a more realistic percentage regarding the City's loss of revenue due to COVID-19 because he believes it will be higher than ten percent.

Chris Wheeler, City Budget Manager, stated the ten percent estimated

TOPS revenue loss is consistent with the City's Phase I revenue loss projections.

Councilmember Knight asked if the Mine Land Reclamation Board (MLRB) will vote on the Permit Amendment 4 on June 24, 2020. Ms. Haley stated she does not have that information.

Councilmember Murray asked if \$1.5 million should be put into escrow for completion of the reclamation. Ms. Haley stated that option was discussed, but the state's performance bond was chosen for the City's protection.

Councilmember Williams asked if there are pending matters in which the fund balance is needed. Ms. Haley stated the Kettle Creek Open Space purchase, but that acquisition has been slowed down.

Steve Mulliken, Attorney, representing Warren Dean, a property owner near the Hitchrack Ranch, gave a brief overview of the history of the site, MLRB cease and desist order, Colorado Geological Survey (CGS) statement, currently approved Permit Amendment 3, big picture of Permit Amendment 04, issues with the City contracts, and the inadequacy of the bond. He stated the City should not blindly rely on Colorado Division of Reclamation, Mining, and Safety (CDRMS) or Continental Materials Corporation's (owner of Castle Concrete) promises.

Councilmember Geislinger asked for the anticipated date of closing. Mr. Mulliken stated it is uncertain because it would be after certain conditions have been met.

President Pro Tem asked why the City should not trust the CDRMS. Mr. Mulliken stated they are hugely understaffed, lacking expertise, very easily swayed by the mining community, and plans are approved very easily.

President Pro Tem Strand asked how much should be in the escrow account. Mr. Mulliken stated the entire amount should be in escrow.

Councilmember Geislinger stated there is protection of City interest built within the contract. Mr. Mulliken stated the City should not step into liability for the reclamation with the Continental Materials Corporation's not holding any of the liability.

Councilmember Williams disclosed he has previously associated with Mr. Mulliken on various mining issues, but has not discussed this matter with him.

Councilmember Williams stated if the City does not acquire this property, it could become a residential development. Mr. Mulliken stated the right business strategy would be to keep the Permit Amendment 3 in place because Permit Amendment 4 would be subjecting taxpayers to the liability of a very large expense.

Mr. Schnabel stated the only violation was for a landside was due to hydraulic pressures behind a sandstone lens, the mine plan was written by a former DRMS employee, inspected quarterly, and the reason the mine plan was changed from Permit Amendment 3 to Permit Amendment 4 was due to sale of Transmix. He stated this project is safe and stable, the City does not have to acquire all three properties, and they have already been working on reclamation of the area.

Councilmember Geislinger asked when the Mayor will be able to accept or veto this donation. Mr. Schnabel stated approximately five years from now because of the amount of time it takes to revegetate the land.

Ms. Haley stated when the time comes, the City will evaluate the property and will have the right to accept or deny the donation. She highlighted that the opportunity to have the fill agreement is within the control of the Conservation Fund and the City and the bond is sufficient to protect the City.

Ben Bolinger, Senior Attorney, City Attorney's Office, stated the safeguard in this opportunity is to not close on the contract because there is no agreement in place until post reclamation and after slope stabilization. He identified there will be a requirement in each agreement that the all three properties close at the same time.

Councilmember Knight asked how the grading plan will be incorporated into the contract. Mr. Bolinger stated the intention is the grading plan for the bike park will be included in the fill agreement and Castle Concrete will have to follow the City's grading plan.

Citizen Becky Linwebber, Executive Director of the Pikes Peak Outdoor

Recreation Alliance, and Corey Sutela, Medicine Wheel Trail Advocates, and Ron Algin spoke in favor of the acquisition.

Citizens Lee Milnor and Donna Strom, spoke in opposition of the acquisition.

President Skorman stated acquiring open space for the City is very valuable and spoke in favor of the acquisition.

Councilmember Knight requested a condition be added to the motion that the Mayor has the right to refuse and any dirt removal is in accordance to the City's grading plan.

Councilmember Williams stated he will be supporting this item due to the opt-out provision protecting the City.

Councilmember Gaebler stated even though there are risks, this is an opportunity the City cannot pass up.

Motion by Councilmember Geislinger, seconded by President Pro Tem Strand, that the Resolution as amended to include the conditions that the Mayor has the right to refuse and any dirt removal is in accordance to the City's grading plan for the acquisition of 193.47 acres known as the Black Canyon Quarry parcels and acquisition of 148.02 acres in two phases from The Conservation Fund of the Pikeview Frontage property to include the purchase prices, the administrative settlement, and professional services fees for a total cost of \$8,991,515 with revenues from the TOPS Open Space Category be adopted. The motion passed by a vote of 8-0-0-1

Aye: 9 - Avila, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, Strand, and Williams

11.E. [20-151](#)

Ordinance No. 20-40 amending Ordinance No. 19-87 (2020 Appropriation Ordinance) for a Supplemental Appropriation to the Trails, Open Space and Parks Fund in the Amount of \$6,243,900 for the Phase I Acquisition of Approximately 193.47 Acres of Property at the Black Canyon Quarry and 89.85 Acres of Property Known as the Pikeview Frontage Property (of a total of 148.02 Acres) for the Purpose of Public Open Space and Trails in the Mountain Shadows Candidate Open Space Area.

Presenter:

Britt Haley, TOPS Program Manager, Parks, Recreation & Cultural Services Department

Attachments: [Appropriation Ordinance.MTNSHADOWS_PhaseI](#)

Please see comments in Agenda item 11.D.

Motion by President Pro Tem Strand, seconded by Councilmember Geislinger, that the Ordinance for a supplemental appropriation in the amount of \$6,243,900 to support the cost of the Phase I acquisitions identified for the Mountain Shadows Open Space acquisitions of the Black Canyon Quarry parcels and the 89.85 acres (of a total 148.02 acres) from The Conservation Fund of the Pikeview Frontage property to include the purchase prices, the administrative settlement, and professional services fees with revenues from the TOPS Open Space Category be approved on first reading. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, Strand, and Williams

12. Public Hearing

- 12.A. [CPC PUZ 19-00095](#) Ordinance No. 20-41 to amend the zoning map of the City of Colorado Springs pertaining to 59.52 acres from A (Agriculture) to PUD (Planned Unit Development: 35-foot maximum height, single-family detached units, 2-3.5 dwelling units per acre).

(Quasi-Judicial)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

Attachments: [ZC Ordinance](#)
[Exhibit A - Legal Description](#)
[Exhibit B - Legal Description Depicted](#)
[Vicinity Map](#)
[1 - Notice of Appeal & Appellant Narrative](#)
[2 - Palermo - Additional Public Comments](#)
[Palermo Presentation](#)
[CPC Minutes Palermo Filings 345 draft](#)
[CPC Staff Report - Palermo Filings 3, 4, and 5](#)
[Figure 1 - Development Plan](#)
[Figure 2 - Project Statement](#)
[Figure 3 - Public Comments \(Initial & Following Neighborhood Meeting\)](#)
[Figure 4 - Public Comments \(Following CPC Notification\)](#)
[Figure 5 - Flying Horse Master Plan](#)
[Figure 6 - Deer Creek at Northgate Staff Report](#)
[Item 6.D.E. - Palermo - Additional Public Comments](#)
[7.5.603.B Findings - ZC](#)
[7.3.603 Establishment & Development of a PUD Zone](#)
[7.5.906 \(B\) Planning Commission Appeal](#)
[Signed Ordinance 20-41.pdf](#)

Hannah Van Nimwegen, Senior Planner, Planning and Community Development, presented a vicinity map of Flying Horse Palermo Filings 3, 4, and 5, the requests under consideration, site details, public notification and involvement, and development plan. She gave an overview of the drainage, compliance with PlanCOS, and staff recommendation.

Councilmember Knight asked if the United States Air Force Academy (USAFA) provided any comments on drainage concerns. Ms. Van Nimwegen read a letter from the USAFA stating they would not be impacted in regards to stormwater drainage due to changes to this development.

Todd Frisbie, City Traffic Engineer, presented the estimate of trips, and gave an overview of the traffic and roadway design characteristics.

Councilmember Geislinger asked what is planned for the area south of Silver Creek and requested the street plans. Mr. Frisbie stated according to the development plan there is no additional access to the south. Ms. Van

Nimwegen stated the parcel to the south is Black Squirrel Creek which is undevelopable.

Councilmember Knight asked if City Code is being violated with the estimated number of cars per day. Mr. Frisbie stated the traffic criteria is not per City Code, they are guided by the Traffic Criteria Manual.

Councilmember Williams asked if the two accesses at Sliver Creek were intended for the undeveloped parcels. Mr. Frisbie confirmed they were.

Councilmember Williams requested the density of the Northgate neighborhood. Ms. Van Nimwegen stated she will provide that information.

John Maynard, N.E.S., LLC, representing the applicant, Classic Communities, presented a map of the vicinity and master plan, and gave an overview of their applications, site plan, trail exhibit, and Preble's meadow jumping mouse boundaries.

Rick White, Treasurer, Deer Creek Homeowners Association, representing the appellant, stated the Planning Commission's decision ignored City standards, violated City Code, and they object to the traffic impact on Deer Creek. He gave an overview of the Flying Horse arterial access, Palermo arterial access, City engineering standards, traffic analysis, traffic impact, City Code 7.5.408 review criteria. Mr. White presented an alternative solution and the conditions of the Flying Horse 2003 annexation agreement.

Councilmember Pico asked if they are going through the Powers Boulevard extension to get to Highway 83. Mr. White stated it is a planned bridge to go over Powers Boulevard.

Mike Thorn, President, Deer Creek Homeowners Association, representing the appellant, stated the traffic criteria for roads is a standard for the full length of the road, not just one end or the other, they have concerns regarding the testimonies regarding traffic volume in the area, and City Council should promote growth while abiding by the City's criteria and standards and provide for the residents' safety and quality of life.

Councilmember Geislinger asked how the traffic impact was calculated because if the number of homes were doubled, the traffic impact should

double as well. Mr. White explained the numbers were obtained from the City's calculations. Mr. Frisbie explained how the analysis reflects an estimate of the effect of the new homes on Silver Creek Drive and Snowflake Drive.

Councilmember Geislinger asked what the proposed solution to address the increase in traffic volume is. Mr. Maynard stated there are two collector roads on each side of Powers Boulevard between Ridgeline and Flying Horse Club Drive and Hawk Stone and Snowflake Drive also provide access.

Mr. White requested the proposed density be reduced and to relieve the traffic impact to the Deer Creek development.

Citizen Nancy Jones and Robin Thorn spoke in opposition to the project.

President Pro Tem Strand asked what the impact would be to the developer if this item was referred back to the Planning Commission due to the traffic impact analysis results being revised. Mr. Maynard stated the development plans for this subdivision are ready to begin immediately.

Councilmember Murray and Councilmember Pico stated they are concerned with the numbers from the traffic impact analysis being different than what was presented to the Planning Commission. Mr. Frisbie stated the difference was due to a more in depth traffic analysis being conducted.

Councilmember Geislinger stated he is struggling with the traffic impact issues, but the project meets the criteria. He requested a review of the annexation agreement in regards to completing the development plan and connecting Shoup Road to Highway 83.

Jeff Greene, Chief of Staff, asked if the original master plan projected higher density and the collector roads were established to meet that density. Mr. Maynard confirmed they have met the requirements of the annexation agreement with the two access points.

Councilmember Knight asked if the land on the other side of Highway 83 belonged to the same developer. Mr. Maynard identified the parcels owned by Classic Communities and the property owned by the Colorado Department of Transportation (CDOT).

Mr. Frisbie stated CDOT denied extending Ridgeline Road for access to Shoup Road due to the Preble's meadow jumping mouse habitat.

Councilmember Williams and Councilmember Gaebler stated the division of traffic between roads is appropriate.

Councilmember Geislinger stated the expectation was for Powers Boulevard to be accessible which will come at a later time, but the project meets the criteria.

Councilmember Avila spoke about quality of life and PlanCOS.

Motion by Councilmember Williams, seconded by Councilmember Gaebler, to deny the appeal and uphold the City Planning Commission's decision and adopt the Ordinance amending the zoning map of the City of Colorado Springs pertaining to 59.52 acres from A (Agriculture) to PUD (Planned Unit Development: 35-foot maximum height, single-family detached units, 2-3.5 dwelling units per acre), based upon the findings that the appellant has failed to meet the appeal criteria set forth in City Code Section 7.5.906.B, and 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) as well as the criteria for establishment of a PUD zone district as set for in City Code Section 7.3.603. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Knight, Pico, Skorman, and Williams

No: 2 - Murray, and Strand

- 12.B.** [CPC PUD 19-00096](#) An appeal of Planning Commission's recommendation to the City Council to approve the Palermo Filings 3, 4, and 5 Development Plan for 151 single-family detached residential units located north and east of the Voyager Parkway and Ridgeline Drive intersection.

(Quasi-Judicial)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development

Peter Wysocki, Planning and Community Development Director

Attachments: [Figure 1 - Development Plan](#)
[7.5.502.E Development Plan Review](#)
[7.3.606 PUD Development Plan](#)
[7.5.906 \(B\) Planning Commission Appeal](#)

Please see comments in Agenda item 12.A.

Motion by Councilmember Williams, seconded by Councilmember Geislinger, to deny the appeal and uphold the City Planning Commission's decision and approve the development plan for 151 single-family detached residential units based upon the findings that the Appellant has failed to meet the appeal requirements of City Code Section 7.5.906.B and that the proposal meets the review criteria for development plans as set forth in City Code Section 7.5.502(E) and criteria for PUD development plans set forth in City Code Section 7.3.606. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Knight, Pico, Skorman, and Williams

No: 2 - Murray, and Strand

13. Added Item Agenda

There were no items added to the Agenda.

14. Executive Session

14.A. [20-269](#)

In accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b) and (e), the City Council, in Open Session, is to determine whether it will hold an electronic Closed Executive Session. The issue to be discussed involves consultation with the City Attorney regarding matters that may be subject to negotiations pertaining to an economic development project.

The President of Council shall poll the City Councilmembers, and, upon consent of two-thirds of the members present, may conduct an electronic Closed Executive Session. Each City Councilmember participating in the electronic Closed Executive Session shall affirmatively state for the record that no other member of the public not authorized to participate in the electronic Closed Executive Session is present or able to hear the matters discussed as part of the electronic Closed Executive Session. If consent to the electronic Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

Presenter:

Wynetta Massey, City Attorney

Attachments: [06092020Open-Closed](#)

Wynetta Massey, City Attorney, stated that in accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b) and (e), the City Council, in Open Session, is to determine whether it will hold an electronic Closed Executive Session. The issues to be discussed involves consultation with the City Attorney regarding matters that may be subject to negotiations pertaining to an economic development project.

President Skorman polled City Council regarding the desire to proceed with an electronic Closed Executive Session. At least two-thirds of City Council agreed to proceed in an electronic Closed Executive Session. Each City Councilmember participating the electronic Closed Executive Session affirmatively stated for the record that no other member of the public not authorized to participate in the electronic Closed Executive Session was present or able to hear the matters discussed as part of the electronic Closed Executive.

15. Adjourn

Upon completion of the Closed Executive Session, there being no further business to come before City Council, Council adjourned.

Sarah B. Johnson, City Clerk