

CITY OF COLORADO SPRINGS

**INTEROFFICE MEMORANDUM**

DATE: June 23, 2022

TO: Peter Wysocki, Director of Planning

FROM: Sarah Johnson, City Clerk

SUBJECT: Notice of Appeal

ITEM NO. 7.G. AR DP 21-00813(AP); ITEM NO. 7.H. AR FP 21-00814(AP)

An appeal has been filed by Bruce Wright of Flynn & Wright LLC regarding the Planning Commission action of June 17, 2022.

I am scheduling the public hearing on this appeal for the City Council meeting of July 26, 2022. Please provide me a vicinity map.

CC: Elena Lobato

Matthew Alcuran

Flynn & Wright LLC  
Bruce Wright, Attorney  
111 S. Tejon, Suite 202  
Colorado Springs CO 80903

Sterling Wolf, Inc. and Kosgove Metal  
1501 S. 8<sup>th</sup> St.  
Colorado Springs, CO 80905



# THE PLANNING & DEVELOPMENT DEPARTMENT APPEAL TO CITY COUNCIL

Complete this form if you are appealing **City Planning Commission's, Downtown Review Board's or the Historic Preservation Board's** decision to City Council.

CITY CLERK'S OFFICE  
2022 JUN 23 A 8:07

### APPELLANT CONTACT INFORMATION:

Appellants Name: Kum & Go, L.C., Robert Fiebig III Telephone: 630-640-8157

Address: 1459 Grand Avenue City: Des Moines

State: Iowa Zip Code: 50309 E-mail: Robert.fiebig@kumandgo.com

### PROJECT INFORMATION:

Project Name: Kum & Go at 8<sup>th</sup> and Brookside

Site Address: Southeast Corner of South 8th Street and West Brookside Street

Type of Application being appealed: Development Plan and Plat

Include all file numbers associated with application: AR DP 21-00813 and AF FP 21-00814

Project Planner's Name: Matthew Alcuran

Hearing Date: June 16, 2022 Item Number on Agenda: 7.G and 7.H

### YOUR APPEAL SUBMITTAL SHOULD INCLUDE:

1. Completed Application
2. \$176 check payable to the City of Colorado Springs
3. Appeal Statement
  - See page 2 for appeal statement requirements. Your appeal statement should include the criteria listed under "Option 1" or "Option 2".

Submit **all** 3 items above to the **City Clerk's office (30 S Nevada, Suite 101, Colorado Springs, CO 80903)**. Appeals are accepted for 10 days after a decision has been made. Submittals must be received **no later than 5pm on the due date of the appeal**. Incomplete submittals, submittals received after 5pm or outside of the 10 day window will not be accepted. If the due date for the submittal falls on a weekend or federal holiday, the deadline is extended to the following business day.

*If you would like additional assistance with this application, please contact the Land Use Review offices at 385-5905.*

### APPELLANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Applicant, Kum & Go, L.C.

6.22.22

By: Robert Fiebig III, RDM Kum & Go

Date

**THE APPEAL STATEMENT SHOULD INCLUDE THE FOLLOWING**

- OPTION 1:** If you are appealing a decision made by City Planning Commission, Downtown Review Board, or the Historic Preservation Board that was **originally** an administrative decision the following should be included in your appeal statement:
  - 1. Verbiage that includes justification of City Code 7.5.906.A.4
    - i. Identify the explicit ordinance provisions which are in dispute.
    - ii. Show that the administrative decision is incorrect because of one or more of the following:
      - 1. It was against the express language of this zoning ordinance, or
      - 2. It was against the express intent of this zoning ordinance, or
      - 3. It is unreasonable, or
      - 4. It is erroneous, or
      - 5. It is clearly contrary to law.
    - iii. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.
- OPTION 2:** If the appeal is an appeal of a City Planning Commission, Form Based Zoning Downtown Review Board, or Historic Preservation Board decision that was **not made administratively initially**, the appeal statement must identify the explicit ordinance provision(s) which are in dispute and provide justification to indicate how these sections were not met, see City Code 7.5.906.B. For example if this is an appeal of a development plan, the development plan review criteria must be reviewed.

**CITY AUTHORIZATION:**

Payment: \$ 176.00

Date Application Accepted: 6/23/22

Receipt No: 73685

Appeal Statement: ✓

Intake Staff: \_\_\_\_\_

Completed Form: ✓

Assigned to: \_\_\_\_\_

**Appeal Statement**  
**Kum & Go – South 8<sup>th</sup> Street and Brookside**

The decision of the Colorado Springs Planning Commission is being appealed because it was against the express language of the Colorado Springs zoning ordinances. A gas station / convenience store is a principal permitted use under the existing C-5 zone and is consistent with the established land use patterns along the South 8<sup>th</sup> Street corridor. Thus, denial of that use is erroneous and clearly contrary to law.

The proposed use and development plan will alleviate existing problems and deficiencies at this site, including the attraction for vagrant/homeless people at the rear of the site, and uncontrolled, untreated drainage of stormwater onto residential areas to the east/southeast.

Additionally, the proposed development will provide a much needed amenity to the overall South 8<sup>th</sup> Street community.



**CITY OF COLORADO SPRINGS**

OFFICE OF THE CITY CLERK  
30 S. NEVADA AVE., SUITE 101  
COLORADO SPRINGS, CO 80903  
719-385-5901

**RECEIPT**

DATE: 6/23/2022

**Receipt #: 73685**

License Type: PER\_SUB\_TYPE

Payment Type: Business Check

Reference #: 1821

LICENSE NO: 10FDD-00000-#0001

Post Date: 6/23/2022

**Receipt Total: \$176.00**

PAYEE:

**Flynn & Wright, LLC**

For the Licensed Premises at:

Comments: Planning Appeal for Kum & Go at 8th St. and W. Brookside St.

PAYMENT DETAILS:

**Description**

**Quantity**

**Amount**

Planning Appeal Fee

1

\$176.00