

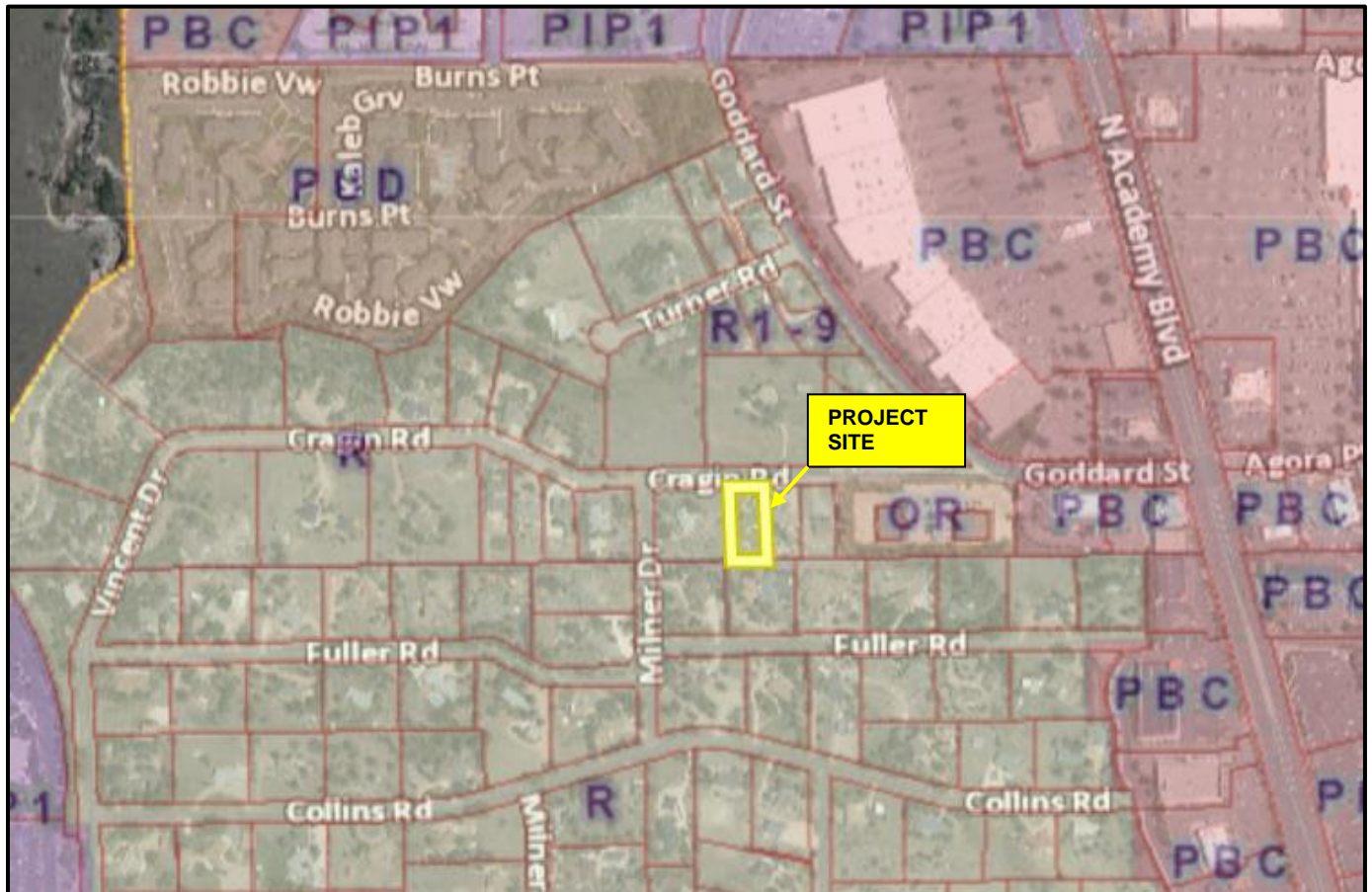
CITY PLANNING COMMISSION AGENDA  
JULY 13, 2022

STAFF: DREW FOXX

FILE NO(S):  
AR APR 22-00128 – QUASI-JUDICIAL

PROJECT: 1115 CRAGIN RD

OWNER: GREG BIANCHI



**PROJECT SUMMARY:**

- Project Description: This project is a request for an amendment to plat restriction of a seventy-five (75) foot “no-build” area on the southern property line of 1115 Cragin Road. The proposed project includes the placement of a 192 square-foot shed in this area, in an established residential neighborhood (see “Site Plan” attachment).
- Applicant’s Project Statement: (see “Project Statement” attachment).

- Planning and Development Department Recommendation: City Planning staff recommends denial of the appeal.

#### **BACKGROUND:**

- Site Address: The property address is 1115 Cragin Road.
- Existing Zoning/Land Use: The subject property is currently zoned R (Estate single-family residential) and includes a single-family dwelling unit.
- Surrounding Zoning/Land Use:
  - North: R1-9 (Single-Family Residential) and is residentially developed.
  - South: R (Estate Single-Family Residential) and is residentially developed.
  - East: OR (Office/Residential) and is developed for commercial uses.
  - West: R (Estate Single-Family Residential) and is residentially developed.
- PlanCOS Vision: According to the PlanCOS Vision Map (**see “PlanCOS Vision Map” attachment**), the project site is identified as an Established Suburban Neighborhood.
- Annexation: The subject property was annexed into the City on July 28<sup>th</sup>, 1992, under the Falcon Estates Refiling No. 2. plat (Ord. 92-88).
- Master Plan/Designated Master Plan Land Use: The project site is part of the Falcon Estates No. 2 West Master plan (Falcon Estates Neighborhood). The Master Planned Land Use designation is residential low (R-Estate, two (2) dwelling units per acre).
- Subdivision: The property was platted under Falcon Estates Filing No. 4 Subdivision No. 1
- Zoning Enforcement Action: None
- Physical Characteristics: The .49-acre property is located within an established single-family residential neighborhood and is residentially developed with a single-family dwelling unit. The property is adjacent to a residential street.

#### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public notification process occurred with the initial application for a preservation easement adjustment that had been submitted to accomplish approval of the same request; a 192-square-foot shed within the “no-build” area dedicated on the approved final plat. This public notice procedure was not repeated for the amendment to plat restriction as the Planning Staff found that, because the project information was relayed with the initial application, no additional notice was required. Staff also relayed all application type changes and the justifications for said change via email to all affected residents that submitted comments with the initial notification.

The public notice procedure consisted of providing notice to adjacent property owners within 500 feet of the site, including the mailing of postcards to 29 property owners on two occasions; during the internal review stage and prior to the Planning Commission hearing. The site was also posted during the two occasions noted above. Written correspondence in opposition to the proposal was received (**see “Public Comments” attached**). Comments received in opposition to the project include concerns about property value, view corridor, size, and compatibility with the residential neighborhood.

The applicant provided a written response to the received public comments, in an email dated January 26<sup>th</sup>, 2022, and again to the homeowner’s association (HOA) on March 24<sup>th</sup>, 2022 (**see “Public Response” attached**). Follow-up correspondence from the public was received citing concerns for size and compatibility.

Staff input is outlined in the following sections of this report. Staff sent the amendment to plat restriction to internal and external review agencies for comments per standard distribution. Agency reviews included

Colorado Springs Utilities, Engineering, Stormwater Engineering, Traffic Engineering, and the City Surveyor in the review process did not have any objecting comments on the proposed project.

## **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

### 1. Review Criteria / Design & Development Issues:

#### a. Background Information

On November 19<sup>th</sup>, 2021, the Applicant for 1115 Cragin Road applied for a preservation easement adjustment (PEA) in response to the direction issued by Planning staff during the pre-application meeting. Shortly after the public notice was issued for this request, the residents at lot 1125 & 1135 expressed their concerns for neighborhood compatibility and the protection of their view corridor. The PEA was determined to be the incorrect application type and eventually withdrawn. Staff directed the Applicant to apply for an amendment to plat restriction (APR) as the restriction imposed on the proposed shed is established on the final plat and is not designated as a preservation easement.

The request for an amendment to plat restriction was required by Planning staff due to an area on the most recent approved plat labeled as a “no-build area”. This language resulted in additional research for Planning staff to understand the intentions of the restricted area. Planning staff began with the initial master plan application from 1992 to better understand how the “no-build area” was ultimately brought forward on the final plat, how its existence is justified, and how to understand its purpose. The following sections will detail the master plan review history that staff finds will provide the necessary context to understand how staff arrived at the administrative decision for approval of the amendment to plat restriction.

On May 7<sup>th</sup>, 1992, City Planning Commission (CPC) denied the request by Falcon Estates Fil No 2 Trust (c/o David Krall), to approve the annexation, zone establishment, and master plan for Falcon Estates Fil No 2 West (**See Pg. 1 of “Master Plans\_Falcon Estates Refiling No 2” attached**). This request was denied by CPC with concerns over the compatibility between the proposed R5 (Multi-Family Residential) and OR (office/residential) proposed zone districts adjacent to the established R (Estate Single-Family Residential) zoning within Falcon Estates Filing No. 1 to the south. This CPC decision was appealed to City Council by the Applicant on May 13<sup>th</sup>, 1992. The proposed master plan was amended following the CPC hearing changing the proposed R5 zone to R zoning and brought forward to be heard by City Council on July 14<sup>th</sup>, 1992. The initial application package with the revisions as noted was ultimately approved unanimously by City Council with the condition that there will be a seventy-five (75) foot building setback between the homes in the designated R zone district and Falcon Estates Filing No. 1.

Throughout the 1992 meeting minutes, the seventy-five (75) foot area noted as a building setback on the approved plans was referred to as an “open space” or “landscape buffer”. However, the approved plans, which serve as the overall entitling document for the project area, note the area as a building setback. Per the initial request, which was denied by Planning Commission, the applicant indicated that one envisioned land use would allow for high-density residential development (R5). It appears that during the hearing where the applications were denied, it was requested that there be a physical setback or buffer from the existing large lot residential development of Falcon Estates Filing No. 1 and the proposed high-density residential development. Through several subsequent changes, the intensity of land use was modified from the proposed high-density residential to large-lot single-family residential development.

On September 9<sup>th</sup>, 1993, a request by Falcon Estates Fil No 2 Trust (c/o David Krall), to amend the master plan for Falcon Estates Fil No 2 West and approve the proposed Falcon Estates Fil No 4 preliminary plat was submitted to CPC. The master plan amendment was recommended to City Council for approval and the preliminary plat (**See “City File No. CPC S 93-159” attached**) was approved with the requirement to provide the seventy-five

(75) foot building setback as an open space buffer. The amended master plan was approved by City Council on consent. This 1993 amendment continued to implement the condition that there be a seventy-five (75) foot building setback between the R zone district and Falcon Estates Filing No. 1.

On April 25<sup>th</sup>, 1995, a request by Falcon Estates Fil No 2 Trust (c/o David Krall), to amend the master plan for Falcon Estates Fil No 2 West was approved by CC on consent (**See Pg. 5 of “Master Plans\_Falcon Estates Refiling No 2” attached**). This approved amendment is the final amendment to the Falcon Estates Fil No 2 West master plan affecting the subject lot. The 1995 amendment continued to implement the condition that there be a seventy-five (75) foot building setback between the R zone district and Falcon Estates Filing No. 1.

On August 30<sup>th</sup>, 1995, the final plat for Falcon Estates Fil. No. 4 was recorded with the El Paso County Clerk and Recorder's office. The plat identifies the restricted area along the southern property boundary as a seventy-five (75) foot “no-build area”. While the master plans continued to show a building setback, this final plat depicts the same area as a “no-build area” which is not defined within the City Zoning Code giving current City staff the responsibility of interpreting what this area allows (**See “City File No. DS S 95-192” attached**).

As noted above, meeting minutes from 1992 refer to this area as an open space or landscape buffer, which is in direct conflict with the approved documents which identify the area as a building setback. It is important to focus on the terminology as used on this plan for a few reasons, most importantly: how the language differs between the approved master plan and the final plat. Per the City Surveyor, setbacks are not delineated on plats. As such, staff interprets that this “no-build area” is intended to reflect the identified seventy-five (75) foot building setback. As previously stated, “no-build area” is not defined in the City Code. Staff finds that this further reinforces the interpretation that the area defined as a “no-build area” on the plat directly refers to the seventy-five (75) foot building setback on the master plan.

There is some precedent in this subdivision set for addressing requests to modify the “no-build area”. In 2003 Planning Staff approved an amendment to plat restriction (APR) at 1055 Cragin Road amending the seventy-five (75) foot “no-build” area to include a notation on the resolution reading “75’ no-build area for primary structures”, therefore allowing for the establishment of a 750 square foot garage and limiting construction in the seventy-five (75) “no-build area” to accessory structures only (**See “Approved Plan\_1055 Cragin Rd”**). City Planning at the time of approval was unable to find justification for the “no-build” and as a result, approved the request by the property owner. Public notice was issued at that time to the surrounding residents, including the appellant's address, and no public comments or appeals were received. The final reading for the APR at 1055 Cragin was heard by City Council and approved on September 23<sup>rd</sup>, 2003.

b. Amendment to Plat Restriction

The APR approval for this property allows for the construction of only the shed (accessory structure) within the designated seventy-five (75) foot “no-build area”. What this restriction means in practice is that, should the current or future property owners consider making additional changes that place other accessory structures or development within the seventy-five (75) foot area, a new APR to permit those elements will be required. This is a more restrictive standard than what was approved at the neighboring property in 2003, requested by staff to address residents' objections to the APR request for the proposed 192 square-foot shed ensuring that any future changes to the area in question would follow similar public notification procedures.

The APR review process is administrative only and requires review and approval by Colorado Springs Utilities and City Engineering determining that there are no objections to the request. City staff finds that the request to allow the 192 square-foot accessory structure is permissible in this area and that the “no-build area” is no longer applicable to accessory structures based on the determination that the area as called out on the plat refers to the building setback identified on the approved master plan.

In review of the documents from the initial applications staff found a direct correlation between the proposed zoning of the disapproved master plan showing R5 (multi-family) land uses adjacent to established large-lot residential development and the request for a setback between uses. Where a significant increase in intensity between two land uses occurs, staff may request that a setback or other buffer elements are implemented to ease the transition of uses. The later master plan revisions modified the land uses creating a more harmonious development pattern by decreasing the intensity of use. The 1995 approved plan that establishes identical zone districts and intensity in residential uses (large lot single-family detached residential), where a setback of this nature would not be applicable or typically requested. Staff finds that background supports the finding that the identified “no-build area” on the plat is no longer applicable.

In City Code, a building setback is defined as “a line within a lot that is parallel to and measured from a corresponding lot line, forming the boundary of a required yard and establishing the minimum distance that a structure, landscaping, parking, or other designated item must be from that lot line”. Since the latest approved master plan affecting the subject lot details a building setback as part of the conditions of approval and “no-build” is not defined by our code, it has been the planning staff’s determination that the proposed accessory structure meets all other code section requirements and the thus, proposed location of the accessory structure is supportive.

The standard setback for an accessory structure set by the established zone district, is ten (10) feet per City Code for R Estate (City Zoning Code Chapter 7.3.105.D.1), whereas a principal structure requires thirty-five (35) feet meaning that there is no violation per the building setback standards for the base zone as set forth in code. Additionally, the language established for this area on the approved master plan and the final plat is not consistent. According to meeting minutes by both City Planning Commission and City Council, there was a requirement to establish the seventy-five (75) foot setback established on the approved master plan to the preliminary plat, but the language became inconsistent over time causing there to be various ways to interpret the intent of the restricted area. City staff interprets this area as a primary building setback and supports the implementation of the proposed shed within the “no-build” area.

c. Public Comment

Staff received comments in opposition to the project, which include decreased property value, view corridors, size, and neighborhood compatibility. The planning staff provides the following responses to the above-referenced comments:

- **Neighborhood Compatibility:** The site is surrounded to the north, south, and west by single-family residential land uses within single-family residential (R1-9) and estate single-family (R) zone districts. Both zone districts accommodate low-density residential neighborhoods. The properties directly to the east are zoned estate single-family for two lots, followed by office/residential lots (OR) that have developed for offices. The proposed use is compatible with the surrounding single-family residential neighborhoods as it has little to no impact on surrounding residents considering the density and size of the proposed accessory structure.
- **Size:** The applicant has proposed a 192-square-foot shed at 12 feet in height. The structure is proposed to be set off the property lines further than what the standard city zoning code would require. The lot coverage on the one-half acre lot is changing by

.009 percent. The proposed accessory structure has no impact on the surrounding residential lots.

- Property Value: Per City Code Sections 7.3.105 (B) (2) and 7.5.502 (E), staff does not consider impacts on property values when reviewing land use applications.

Staff finds the proposed use to be consistent with the purpose for uses in residential zone districts, as set forth in City Code Section 7.3.101, and the findings for granting an amendment to plat restriction, as set forth in City Code Section 7.7.503.

2. Conformance with the City Comprehensive Plan:

The City Staff has evaluated the proposed application for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. According to PlanCOS, the project site is identified as an Established Suburban Neighborhood (**see "PlanCOS Vision Map" attachment**).

Allowing the use of a 192-square-foot shed within the single-family residence is supported by specific portions of PlanCOS such as Chapter 2: Vibrant Neighborhoods. It is stated within chapter two that "most established neighborhoods within the city should expect some degree of infill and redevelopment". While the proposed shed has no effect on the density of the lot itself or negatively influences the rural culture of the neighborhood, it is important to attempt a connection with the City's overall goals. The following are policies and strategies from Chapter Two of PlanCOS that are applicable to the proposed structure:

- **Strategy VN-1. A-2:** Amend zoning and subdivision regulations, as necessary, to implement Neighborhood Plans (e.g., redistricting, new zoning, or design overlays, and/or changes to dimensional requirements).
- **Policy VN-3. A:** Preserve and enhance the physical elements that define a neighborhood's character.
- **Strategy VN-3. E-3:** Through a combination of Zoning Code changes and development review decisions, encourage and support flexible site and building designs and residential densities that are adaptable to the specific site.

The intent of PlanCOS is to preserve and enhance existing and established neighborhoods and to evaluate land-use proposals in existing stable neighborhoods. The proposed amendment to plat restriction is supported by the above policies in that the dimensional requirement of the "no-build" area is an encumbrance to property owners in this area that wish to establish supportive accessory structures for their residential use with little-to-no impact on the surrounding neighborhood. City staff has been unable to locate any reasonable justification for the "no-build" area and has found no conclusive evidence that accessory structures are limited in this area due to the undefinable language ("no-build") set forth on the final plat. Therefore, the City staff finds it necessary to amend the plat restriction. However, with consideration of policy VN-3.A and E above, the proposed language amending the plat restriction preserves the rural elements and continues to support the desired residential density of the Falcon Estates Fil. No. 4 subdivision.

City Planning staff finds the project in question and its associated application to be in conformance with PlanCOS and its guidance.

3. Conformance with the Area's Master Plan:

The 1115 Cragin Road project is located within the Falcon Estates No 2 Master Planned area. The master-planned land use designation for the project site is residential (R-Estate). The Falcon Estates No 2 Master Plan was previously deemed "Implemented", according to City Code Section 7.5.402(B) (2) occurs when the area covered by a master plan is 85% or more built out. Based on the surrounding land use pattern, containing primarily single-family residential uses, and through staff's review of the amendment to plat restriction application and consideration of the review criteria for establishing an amendment to the plat restriction, as set forth in City Code Section 7.7.503, the overall area impacts of the project were analyzed. The 1995 approved master plan

**(See Pg. 5 of “Master Plans\_Falcon Estates Refiling No 2” attached)** defines the area the shed is proposed in as a “building setback”. Under this condition, the proposed accessory structure would not need any approved application or building permit for its establishment in the “no-build” area and due to the insufficient guidance of the previously approved master plans, it is difficult for City staff to conclude the intention of the established “no-build” area. Thus, City staff finds the “1115 Cragin Road” project to be in conformance with the neighborhood’s master plan.

**STAFF RECOMMENDATION:**

**AR APR 22-00128 – AMENDMENT TO PLAT RESTRICTION**

Affirm the administrative approval of the Amendment to Plat Restriction for 1115 Cragin Road to allow for the establishment of the proposed 192 square-foot shed and deny the appeal, based upon the finding that the application complies with the review criteria in City Code Section 7.7.503, and that the appeal criteria found in City Code Section 7.5.906.A.4. are not met.