



City of Colorado Springs

Plaza of the Rockies
South Tower, 5th Floor
Blue River Board Room
121 S Tejon St, Colorado
Springs, CO 80901

Meeting Minutes - Final Planning Commission

Thursday, June 17, 2021

8:30 AM

Blue River Board Room

1. Call to Order

Rollcall

Present: 8 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks, Commissioner Almy and Griggs
Excused: 2 - Commissioner Rickett and Commissioner McMurray

2. Approval of the Minutes

2.A. [CPC 21-264](#) Minutes for the April 15, 2021 City Planning Commission Meeting

Presenter:

Reggie Graham, Chair of the City Planning Commission

Motion by Hente, seconded by Raughton, that the April 15, 2021 minutes be approved. The motion passed by a vote of 7:0:2:0

3. Communications

Peter Wysocki - Director of Planning and Community Development

4. CONSENT CALENDAR

These items will be acted upon as a whole, unless a specific item is called for discussion by a Commissioner/Board Member or a citizen wishing to address the Commission or Board. (Any items called up for separate consideration shall be acted upon following the Consent Vote.)

5805 Delmonico Apartments

4.A. [CPC CU 21-00034](#) A Conditional Use Development Plan for the 5805 Delmonico Apartments project to permit a multi-family residential development, located at 5805 Delmonico Drive.

(Quasi-Judicial)

Presenter:

William Gray, Senior Planner, Planning & Community Development Department

This Planning Case was approved on the Consent Calendar.

Marek COS Apartments

- 4.B. [CPC CU 21-00044](#) A Conditional Use Development Plan for The Marek COS project consisting of a multi-family residential development on 10.95 acres of land zoned PBC/AO (Planned Business Center with Airport Overlay), located on the corner of Tutt Boulevard and East Woodmen Road.

(Quasi-Judicial)

Presenter:
Andrew Bowen, Senior Planner, Planning & Community Development

This Planning Case was approved on the Consent Calendar.

- 4.C. [CPC R 21-00045](#) An Administrative Relief for The Marek COS project allowing an additional 5 feet of building height from the zone’s allowed 45 feet to 50 feet. The site is zoned PBC/AO (Planned Business Center with Airport Overlay) and is located on the corner of Tutt Boulevard and East Woodmen Road.

(Quasi-Judicial)

Presenter:
Andrew Bowen, Senior Planner, Planning & Community Development

This Planning Case was approved on the Consent Calendar.

Approval of the Consent Agenda

Motion by Vice Chair Hente, seconded by Commissioner Raughton, 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 7:0:2:0

Aye: 7 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

ITEMS CALLED OFF CONSENT

5. UNFINISHED BUSINESS

6. NEW BUSINESS CALENDAR

Carport Code Amendment

- 6.A. [CPC CA 21-00059](#) An ordinance amending Section 201 (Definitions Enumerated) of Part 2 (Definitions) of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications). Section 105 (Additional Standards for Specific Uses Allowed in Residential Zones) of Part 1 (Residential 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 front yard carports.

(Legislative)

Presenter:

Mitch Hammes, Neighborhood Services Manager

Peter Wysocki, Director of Planning and Community Development

Staff presentation:

Mitch Hammes, Neighborhood Services Manager, went over the changes to the ordinance that was presented to the Planning Commission in May.

Current City Code prohibits accessory structures, including carports, in the required front yard setback.

This ordinance defines a carport as: *“a permanent structure consisting of a roof and supported on posts with three or four open sides used as a minimal shelter for an automobile. It may be freestanding or attached to another structure on one side.”*

This ordinance permits carports to be erected in the required front yard setback provided that the proposed carport meets the following criteria:

- Carports are allowed in the front yard setback as an accessory use to a Single-family Dwelling, Detached or a Two-family Dwelling in the A, R, R-1 6000, R1-9000, R-2, R-4 and single-family PUD zone districts. The following review criteria shall apply to front yard carports, in addition to all other relevant standards of this chapter.
- The front yard carport shall comply with all applicable provisions of the Pikes Peak Regional Building Department's building code requirements.
- The front yard carport shall not exceed five hundred (500) square feet, or the maximum allowable parking and maneuvering area pursuant to section 7.4.206.E of this Code.
- The front yard carport shall be set back at least five (5) feet from the near edge of the adjacent sidewalk, if any, and at least ten (10) feet from the curb, or edge of roadway if no curb is present..

- The front yard carport shall meet the same side setbacks as the principal use.
- The front yard carport shall not have side panels or screens in the area between grade level and sixty (60) inches above grade level.
- The front yard carport may have one enclosed side only if the enclosed side is a shared wall with a principal or accessory structure.
- The front yard carport shall not interfere with sight distance requirements set forth in the City Engineering Traffic Criteria Manual.
- The front yard carport shall not be:
 - Clad in unpainted or galvanized metal.
 - Made of non-durable and/or flexible materials, including but not limited to, canvas, plastic, polyester or other tent-like materials.
- *The front yard carport may exceed the eight-foot (8') height limit set forth in this section, but shall comply with all other applicable height limitations.*
- *The area of the front yard carport shall not be less than two hundred (200) square feet. OR Pre-made carports that are exempt from building permits because they are less than two hundred (200) square feet shall be anchored according to the manufacturer's specifications. However, if the manufacturer provides no specifications for anchoring, the carport shall be anchored to concrete piers extending at least thirty (30) inches below grade.*
- The front yard carport shall not jeopardize the health and safety of adjacent property, people, and users of the City's rights-of-way, including but not limited to, public and private utility infrastructure, public works infrastructure, pedestrians, and drivers.

Changes from the previous version of the ordinance presented include:

- Change maximum carport size from 20 feet x 20 feet, to five hundred (500) square feet maximum (or the maximum allowable parking and maneuvering area pursuant to 7.4.206.E of this Code);
- Removed architectural compatibility requirements;
- Removed prohibition of carports in front of two car garages;
- Removed requirement of carports primary location in side or rear yards.

Questions:

Commissioner Hente asked why the portion of the ordinance that cited if you had a two car garage, a carport wasn't necessarily needed.

Mr. Hammes said the majority if the steak holders with carports had two car

garages and they wanted to keep them, but the other concern was if the city or government was overreaching by dictating how a garage should be used. Commissioner Wilson said she agreed with that because several people use garages as storage.

Commissioner Wilson asked about the setbacks and commented she has seen several carports on driveways and wanted to know if they were typically 10 feet from the near edge. Mr. Hammes said the majority of the carports that Code Enforcement is currently monitoring goes right up to the edge, or near the edge of the sidewalk. The problem with that is the City's rights of way or easements often extend a foot or two beyond the edge of the sidewalk. That is why the five-foot requirement is defined in order to give direction to people who are wanting to build a carport.

Commissioner Eubanks asked what the procedure would be for those who currently have carports that do not meet the requirements in the ordinance. Mr. Hammes explained if the carport is over 200 square feet, they would have to go through the regional building process to get it permitted. If there were elements of the carport that don't comply with this ordinance, then we would work with them just like we do in any other code enforcement case, to bring them into voluntary compliance. Mr. Hammes reiterated that carports are not currently permitted and never have been, so there would be no legal nonconforming or grandfathering in.

Supporters:

N/A

Opponents:

Dutch Shultz, current president of the Old North End Homeowners Association

- Allowing carports would be a disaster for the Old North End and older historic neighborhoods that do not have covenants that can protect them
- Once carports are allowed in the front yard setback, other structures will soon follow
- Other alternatives to saving vehicles from hail include a blanket

Questions of Staff:

Commissioner Hente asked if there was anything in the ordinance that would prevent an HOA or neighborhood association from implementing their own covenants that could or could not further restrict the ability to build a carport. Mr. Hammes said homeowners' associations could pass their own governance and that is a private contract between the homeowners' association and property owner.

Commissioner Raughton said he was concerned because the ordinance took out the section for architectural integration. Peter Wysocki, Director of Planning and Community Development, said there really was not a way to make an architectural compatible carport affordable and makes the ordinance almost pointless because of the expense of building one.

Rebuttal:

Peter Wysocki, Director of Planning and Community Development, said there really was not a way to make an architectural compatible carport affordable and makes the ordinance almost pointless because of the expense of building one.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Slattery said she was not in favor of changing this ordinance to allow carports and believed it would open a can of worms. This is a bit of a free for all with no architectural standards. There are safety concerns as well and should not be overlooked. This seems like too much vagueness and a big change in the character of the neighborhoods that we built. Commissioner Slattery said she would be voting against this ordinance.

Commissioner Almy said we need to somehow protect the individuals who do not have the resources to remove the carports. Rather than just telling them to take them down or fine them later on. Commissioner Almy said the other argument he is sensitive to is that this would be a citywide ordinance. Although there are some homeowners' associations in control where they exist, it does not take care of some of the older neighborhoods where there are none. Commissioner Almy said he is not in favor of this ordinance as written, but he is anxious to protect the citizens who this is putting a burden on to see if we can come to some better accommodation. He said the ordinance is basically fine and works, but it puts a burden on the citizens who have a carport in place and have to get rid of it.

Commissioner Hente said he was not a big fan of carports but could see where they work for people in the community. Carports have never been permitted but these carports historically have been there for a long time and he would not want to be in the position of telling people they can't do this anymore.

Motion by Vice Chair Hente, seconded by Commissioner Wilson, to recommend to the City Council this ordinance for approval as written. The motion passed by a vote of 4:3:2:0

Aye: 4 - Commissioner Wilson, Vice Chair Hente, Chair Graham and Commissioner Eubanks

No: 3 - Commissioner Raughton, Commissioner Slattery and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

205 Yale Appeal

6.B. [AR DP 20-00500](#)

An appeal of the administrative approval of the hillside development plan and subdivision plat for 205 Yale Avenue, for creation of a new lot and construction of a new single-family home, for non-compliance with City Code Chapter 7, Article 4, Site Development Standards, Part 5 Geological Hazard Study and Mitigation. The property is located at 205 Yale Avenue, is 17,100 square feet in size, and is in an R1-6 HS (Single-Family Residential with Hillside Overlay) zone district.

(QUASI-JUDICIAL)

Presenter:

Tasha Brackin, Senior Planner, Planning & Community Development

Staff presentation:

Tasha Brackin, City Planning, presented a PowerPoint with the scope and intent of this project.

Hillside Development Plan

- Required in accordance with city code section 7.3.504 et al prior to approval of the subdivision plat
- initially submitted to the City in July of 2020, with no Geologic Hazard Study
- Staff noted a geologic hazards study would be needed as part of DP and FP review.

Subdivision Plat

- Required to create new lot; initially submitted in July of 2020
- The subdivision plat was reviewed for compliance with city code section 7.7.303.

Geologic Hazard Study

- A geologic hazard report is required with the plat and development plan
- Geologic hazard report prepared by Rocky Mountain Group (RMG), dated September 15, 2020
- Geologic hazard studies are reviewed by City Engineering staff and the Colorado Geological Survey ("CGS")
- When no building footprint and elevation drawing is provided, staff must require a site-specific GH study be submitted for further review prior to building permit; this condition was placed on the approved DP.
- The geologic hazard study was found to meet code requirements and is attached to staff report.

Other Entitlements

All other aspects of the proposed DP and FP were reviewed and found in compliance with all site development standards (building height, lot coverage, and setbacks, etc.); no variances were requested.

Appellant Presentation:

See Appeal Statement

Applicant Presentation:

Andrea Barlow, N.E.S

- 2 lot subdivision - dividing the current 17,344 sf lot into 2 lots of 11,337 sf (accessed off Yale) and 6,007 sf (accessed off Red Rock).
- Demolition of existing 3-car garage with 2nd story office.
- Construction of new 2-story home with garage on the new lot accessed off Red Rock Avenue.
- A Hillside Development Plan that meets R1-6000 zoning standards:
 - minimum lot size (6,000 sf)
 - lot coverage (30%)
 - building height (30')
 - Setbacks (25' front and rear, 5' side).

Summary of appeal statement:

- The Geologic Hazard Study does not meet the Scope of Study requirements set out in Section 7.4.505 of the City Code
 - The required site reconnaissance was not undertaken for the Geohazard Study
 - As a result, the conclusions about potential impacts are flawed.
 - As a result, there is a lack of adequate mitigation measures to address impacts on surrounding properties.
 - As a result, the report has failed to address Appellants concern that construction activity will negatively impact the rock outcropping due to proximity of construction site to the base of the fin.
- The City's decision is a violation of the law to protect real or personal property from intentional, knowing, or reckless harm based on the claim that the rock fin is on the appellants property.
- The rock fin is part of the neighborhood and should be protected and preserved.

Response:**Adequacy of Site Reconnaissance:**

- The site reconnaissance meets the requirements of the Code as the purpose is to identify the geologic features of the site and surrounding property.
- There is no requirement to go on to the neighboring property as the rock outcropping is evident as a geologic feature from viewpoints on the subject property.
- The engineer has since performed a drone flyover of the rock fin and has not found anything new of concern to change their original conclusions.
- A lot specific geologic hazard report with a slope stability analysis will be required for Lot 2 prior to building permit approval.

Assessment of potential impacts:

- The proposed new home will be approximately 30' away from the base of the rock fin.
- The existing garage is much closer to the base of the fin, as is the Brand's home and garage (built in 1990's).
- All the existing buildings have been constructed for many years without harm to the stability of the rock fin.
- Section 7.4.505 of the Code requires the Report to "analyze potential impacts the proposed project will have on surrounding properties."
- The RMG Report concludes that the rock fin does not show imminent risk of rockfall.
- This conclusion is supported by CGS, the City's appointed Geohazard expert.

Proposed mitigation measures:

- Section 7.4.505 of the Code requires the Geohazard Report to provide mitigation techniques that will "reduce to acceptable standards the risk posed to the development by any identified geologic hazards".
- The existing garage is to be removed. This will be achieved in manner that will not disturb the fin.
 - The block wall will be cut above grade and will be left in

place to act as a retaining wall.

- RMG will survey the wall to see if it is sufficient or requires reinforcement.
- Originally proposed a shallow 30" foundation for slab and crawlspace to minimize site impacts.
- Now proposing shallower 12" frost-protected foundation, which will require building up the site to ensure driveway fall and will involve limited dig activities.
- For utility construction, rubber-tired equipment such as a skid steer, which will have limited vibrations.
- The vibrations from construction equipment will be less than general everyday vehicles.

The rock fin is the Appellant's property:

- The rock fin is partially on the Appellants property, but the majority of the rock outcropping is on the 205 Yale property.

The rock fin should be protected and preserved:

- The plat includes a preservation easement to protect and preserve that part of the rock outcropping that is sited on Lot 1.
- No part of the rock outcropping is within Lot 2, which is where the new home is proposed to be located at a much greater setback from the rock than the existing buildings.

City Code Section 7.5.906.A.4.b states that a successful appeal of an administrative decision must be found to meet the following criteria:

It was against the express language of this zoning ordinance, or

1. It was against the express intent of this zoning ordinance, or
2. It is unreasonable, or
3. It is erroneous, or
4. It is clearly contrary to law.

The Appellant has failed to demonstrate that any of the above criteria have been met and, therefore, this appeal should be denied.

Questions:

Commissioner Raughton asked if the preservation easement was entirely on the west property, and Ms. Barlow said that was correct. The purpose of the preservation easement was from the Hillside Planner, Kerri Schott, and is a standard request.

Supporters:

None

Opponents:

None

Questions of Staff:

None

Rebuttal:

The appellant, Mr. Brandt, said according to the engineering tech, there is a greater risk of rock fall when there is an active construction site. The neighborhood meeting was only a phone call session in which few people were

able to express their opinions. The other concern is insurance does not cover the rock falling. Fire trucks or any moving trucks has had to pull way up into his driveway to make that turn, so basically that intersection would be closed to traffic.

Ms. Barlow commented that the engineering tech who said it would be a 100% increase for rockfall with construction activity is standard construction activity. The measures Mr. Robertson has committed to for the construction of this is well below the standards, meaning he has improved the standards of regular construction activity and is using less impactful equipment and methods. The other concern was overdevelopment and the applicant is meeting the requirements for the R1-6000 zoning, and there is no justification for claims of overdevelopment in the area.

Ms. Brandt asked who they needed to contact if during the construction there is a shifting of rock or fractures. Mr. Wysocki, Director of Planning & Community Development, advised if there were issues during construction, the proper agency to contact first would be the Pikes Peak Regional Building Department, and then the City, as well as the property owner.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

None

Motion by Commissioner Eubanks, seconded by Commissioner Raughton, to Deny the appeal, thus upholding staff's approval of the hillside development plan for construction of a single-family home based on the finding that the appellant's request does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.4, and the application complies with the hillside development plan review criteria in City Code Section 7.3.504.D.3 and the development plan review criteria in City Code Section 7.5.502.E. The motion passed by a vote of 7:0:2:0

Aye: 7 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

6.C. [AR FP 20-00501](#)

An appeal of the administrative approval of the subdivision plat for 205 Yale Avenue, for creation of a new lot and construction of a new single-family home, for non-compliance with City Code Chapter 7, Article 4, Site Development Standards, Part 5 Geological Hazard Study and Mitigation. The property is located at 205 Yale Avenue, is 17,100 square feet in size, and is in an R1-6 HS (Single-Family Residential with Hillside Overlay) zone district.

(QUASI-JUDICIAL)

Presenter:

Tasha Brackin, Senior Planner, Planning & Community Development

Meeting went into Recess

Meeting Reconvened

Motion by Commissioner Slattery, seconded by Vice Chair Hente, to Deny the appeal, thus upholding staff's approval of the subdivision plat based upon the finding that the appellant's request does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.4, and does comply with the criteria for final plats in City Code Section 7.7.303. The motion passed by a vote of 7:0:2:0

Aye: 7 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

Aspen Meadows No. 4

6.D. [CPC MPA 06-00206-A1 3MJ21](#) A Resolution of the City Council of the City of Colorado Springs approving a Major Amendment to the Woodmen Heights Master Plan illustrating changes to convert the previously identified school site to residential consisting of 22.65 acres located southeast of Forest Meadows Avenue and Cowpoke Road.
(Legislative)

Related Files: CPC PUZ 21-00023, CPC PUP 21-00024

Presenter:

Katie Carleo, Planning Supervisor, Planning & Community Development

Peter Wysocki, Director of Planning & Community Development

Disclosure:

Commissioner Hente shared he was a previous property owner within the Woodman heights Metro district, as well as a previous board member of the Woodman Heights Metro District Board. Neither of those conditions has applied for several years, and he has no financial interest in this area anymore. Commissioner Hente said he would not be recusing himself because he has no interest in this area.

Staff presentation:

Katie Carleo, City Planning, presented a PowerPoint with the scope and intent of this project.

Applicant Presentation:

Jason Alwine, Matrix Design Group representing COLA LLC, presented a PowerPoint with the scope and intent of this project.

Questions:

None

Supporters:

None

Opponents:

None

Questions of Staff:

None

Rebuttal:

None

DISCUSSION AND DECISION OF PLANNING COMMISSION:

None

Motion by Commissioner Eubanks, seconded by Commissioner Almy, recommend approval to the City Council the Woodmen Heights Master Plan amendment from school to residential use based on the findings that the master plan amendment request complies with the review criteria for master plans as set forth in City Code Section 7.5.408. The motion passed by a vote of 7:0:2:0

Aye: 7 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

- 6.E. [CPC PUZ 21-00023](#) Ordinance No. 21-63 amending the zoning map of the City of Colorado Springs from A (Agricultural) to PUD/AO/SS (Planned Unit Development; single-family residential, 3.5-7.99 DU/AC, 45-foot maximum building height with Airport and Streamside overlay) consisting of 22.65 acres located southeast of Forest Meadows Avenue and Cowpoke Road.
(Quasi-judicial)

Related Files: CPC MPA 06-00206-A13MJ21, CPC PUP 21-00024

Presenter:

Katie Carleo, Planning Supervisor, Planning & Community Development

Peter Wysocki, Director of Planning & Community Development

Motion by Commissioner Eubanks, seconded by Commissioner Almy, to recommend approval to City Council the rezone of 22.65 acres from A (Agricultural) to PUD/AO/SS (Planned Unit Development; single-family residential, 3.5-7.99 DU/AC, 45-foot maximum building height with Airport and Streamside overlay) based upon the findings that the change of zone 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 7:0:2:0

Aye: 7 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

- 6.F. [CPC PUP 21-00024](#) Aspen Meadows No. 4 PUD Concept Plan for single-family residential development consisting of 22.65 acres located southeast of Forest Meadows Avenue and Cowpoke Road. (Quasi-judicial)

Related Files: CPC MPA 06-00206-A13MJ21, CPC PUZ 21-00023

Presenter:
 Katie Carleo, Planning Supervisor, Planning & Community Development
 Peter Wysocki, Director of Planning & Community Development

Motion by Commissioner Eubanks, seconded by Commissioner Almy, to recommend approval to the City Council the PUD concept plan for Aspen Meadows No.4, based upon the findings the proposal meets 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. The motion passed by a vote of 7:0:2:0

Aye: 7 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

1830 Palmer Park Appeal

- 6.G. [CPC AP 21-00064](#) Postpone an appeal of a Notice and Order to Abate Zoning Violation for the property located at 1830 Palmer Park Boulevard to the September 16, 2021 Planning Commission Hearing. (Quasi-Judicial)

Presenter:
 Kurt Arnoldussen, Senior Code Enforcement Officer, Planning and Community Development

Staff presentation:
 Kurt Arnoldussen, Code Enforcement, presented a PowerPoint explaining the intent of the Notice and Order to Abate.

Appellant:
 Mr. John Rogers addressed the Planning Commission explaining why he was

not violating the code.

See Mr. Rogers statement.

Jay Wrangler, part owner of 1830 Palmer Park, wanted to know exactly how many parking spaces were required and what is required in the maintenance of parking and maneuverability. He also wanted to know if there were any complaints made.

Questions:

Commissioner Slattery asked Mr. Arnoldussen based on the email, where Mr. Rogers gave him the timeline of when everything would be completed, were those timelines met? And then prior to it being completed, did he issue the notice. Mr. Arnoldussen said ultimately, the violation needed to be met with a plan in order to figure out the use of the parking lot and how it changed from parking to outdoor storage and Mr. Rogers was told that.

Commissioner Raughton wanted to know if it was permitted under C5 to have a retail outlet. Mr. Arnoldussen explained a retail outlet is permissible, but a contractor yard is why the owner needed to meet with the planner to determine if it is a contractor yard with industrial supplies.

Supporters:

Jay Wrangler, part owner of 1830 Palmer Park

Opponents:

Lita Kish

- Lot is affecting the street adjacent to the lot.
- The fencing is a walkability hindrance
- Noise disturbance from the dumpsters

Questions of Staff:

Commissioner Slattery asked Mr. Arnoldussen based on the email, where Mr. Rogers gave him the timeline of when everything would be completed, were those timelines met? And then prior to it being completed, did he issue the notice. Mr. Arnoldussen said ultimately, the violation needed to be met with a plan in order to figure out the use of the parking lot and how it changed from parking to outdoor storage and Mr. Rogers was told that.

Commissioner Raughton wanted to know if it was permitted under C5 to have a retail outlet. Mr. Arnoldussen explained a retail outlet is permissible, but a contractor yard is why the owner needed to meet with the planner to determine if it is a contractor yard with industrial supplies.

Ben Bolinger, City Attorney's office, noted the notice an order was written specific to 7.4.202.D Maintaining Parking Spaces, which is maintaining a certain number of parking spaces. The key question is, how many spaces does the use need and how many do they have?

Dan Sexton, Planning Supervisor, answered that based on the fact there has

been no conversation with the owner of the property, or any of the tenants within the property, the Planning staff is unsure of what that ultimate user is, there's been a lot of discussion of whether that is more similar to a retail construction business similar to a Home Depot or Lowe's, whether it's a contract or storage yard. What staff is focused on is the fact that with the site, changing the parameters of how it was operating, it goes beyond what the intended maintenance originally was envisioned as of an already approved entitlement. After changing the use, they are no longer maintaining the programming of the property. Without knowing what the ultimate use is within the building and how it is functioning, it would not be appropriate to encourage code enforcement to issue additional citations without clear information. There has been no applications submitted to change that use and without a site plan, not knowing what the use is, there is no way to do the calculations on what parking is required.

Commissioner Hente said it seemed if Mr. Rogers would meet with the planner then this could move forward.

Mr. Rogers said he would meet with the planner if the violation is withdrawn but feared he would be asked to do different studies that has not been budgeted.

Commissioner Almy said the letter sent March 8 requested the owner bring the site into compliance of contact the City Planning Department and told Mr. Rogers he had done neither of those.

Mr. Rogers said he brought everything into compliance except for installing screening on the fence.

Commissioner Raughton asked if 30 days would be sufficient for Mr. Rogers to meet with a City planner to get this resolved. Mr. Rogers said it was sufficient time, but his hesitancy on the resolution part is if planning says to hire a bunch of engineers, but a site plan that shows adequate parking spaces are available in closed screens, storage, he said he could get that done in 30 days.

An agreement was made to postpone the appeal until the August 19, 2021 Planning Commission meeting to allow Mr. Rogers to meet with a City Planner on this issue.

Motion by Commissioner Raughton, seconded by Vice Chair Hente, that the appeal be postponed until the August 19, 2021 Planning Commission hearing in order for the appellant to meet with City Planning Staff. The motion passed by a vote of 7:0:2:0

Aye: 7 - Commissioner Raughton, Commissioner Wilson, Vice Chair Hente, Chair Graham, Commissioner Slattery, Commissioner Eubanks and Commissioner Almy

Absent: 2 - Commissioner Rickett and Commissioner McMurray

7. PRESENTATIONS/UPDATES - None

8. Adjourn

