



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, November 18, 2021

8:30 AM

Hybrid Meeting - Open to Public
Call 720-617-3426 Conf ID: 815 137 01#

1. Call to Order

- Present:** 8 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy, Commissioner Eubanks and Alternate Griggs
- Absent:** 1 - Commissioner Raughton
- Excused:** 1 - Commissioner Wilson

2. Approval of the Minutes

- 2.A.** [CPC 21-694](#) Minutes for the September 16, 2021 City Planning Commission meeting.

Presenter:

Scott Hente, Chair of the City Planning Commission

Motion by Commissioner Almy, seconded by Chair Graham, to approve the September 16, 2021 City Planning Commission minutes. The motion passed by a vote of 6:0:3:0

- Aye:** 6 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Almy and Commissioner Eubanks
- Absent:** 2 - Commissioner Raughton and Commissioner Wilson
- Abstain:** 1 - Commissioner Rickett

3. Communications

Peter Wysocki - Director of Planning and Community Development

Mike Tassi, Assistant Director of Planning

4. CONSENT

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.)

AVANTERRA

- 4.A. [CPC MP 03-00279-A2 MJ21](#) A resolution of the City Council of the City of Colorado Springs, Colorado approving a major amendment to the Woodmen Heights Master Plan changing 11.7 acres from Community Commercial/Office land use designation to Residential located southwest of East Woodmen Road and Black Forest Road. (Legislative)

Presenter:
 Katie Carleo, Land Use Planning Manager, Planning & Community Development Department
 Peter Wysocki, Planning Director, Planning & Community Development Department

Related Files: CPC V 21-00170, CPC ZC 21-00135, CPC CP 21-00136

- Attachments:** [RES WoodmenHeights Avanterra MPA](#)
[Exhibit A - WOODMEN HEIGHTS MASTER PLAN AMENDMENT](#)
[Staff Avanterra PowerPoint Presentation](#)
[Applicant Avanterra PowerPoint Presentation](#)
[CPC Staff Report Avanterra KAC](#)
[AVANTERRA PROJECT STATEMENT](#)
[AVANTERRA CONCEPT PLAN](#)
[CPC ConsentCalendar minutes](#)
[7.5.408 Master Plan](#)
[Signed Resolution 01-22](#)

This Resolution was recommended for approval on the Consent Calendar to the City Council.

- 4.B. [CPC ZC 21-00135](#) Ordinance No. 22-02 amending the zoning map of the City of Colorado Springs relating to 11.7 acres located southwest of East Woodmen Road and Black Forest Road from A/AO (Agricultural with Airport Overlay) to PBC/AO (Planned Business Center with Airport Overlay) (Quasi-judicial)

Related Files: CPC MP 03-00279-A2MJ21, CPC V 21-00170, CPC CP 21-00136

Presenter:
 Katie Carleo, Land Use Planning Manager, Planning & Community Development Department
 Peter Wysocki, Planning Director, Planning & Community Development Department

- Attachments:** [ORD AvanterraZoneChange](#)
[Exhibit A - Avanterra_ZoneChange_LegalDescription](#)
[Exhibit B - Avanterra REZONE](#)

This Ordinance was recommended for approval on the Consent Calendar to the City Council.

- 4.C.** [CPC CP 21-00136](#) Establishment of the Avanterra Concept Plan for single unit horizontal multi-family residential development consisting of 11.7 acres located southwest of East Woodmen Road and Black Forest Road. (Quasi-judicial)

Related Files: CPC MP 03-00279-A2MJ21, CPC V 21-00170, CPC ZC 21-00135

Presenter:
 Katie Carleo, Land Use Planning Manager, Planning & Community Development Department
 Peter Wysocki, Planning Director, Planning & Community Development Department

- Attachments:** [AVANTERRA CONCEPT PLAN](#)
[7.5.501.E Concept Plans](#)

This Planning Case was recommended for approval on the Consent Calendar.

Approval of the Consent Agenda

Motion by Commissioner Rickett, seconded by Commissioner McMurray, 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 6:0:3:0

Aye: 7 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 2 - Commissioner Raughton and Commissioner Wilson

ITEMS CALLED OFF CONSENT

5. UNFINISHED BUSINESS

POSTPONEMENTS

- 5.A.** [CPC AP 20-00178](#) Postpone an appeal of a Notice and Order to Abate for violation of a carport for the property located at 1325 Challenger Drive to the February 17, 2022, Planning Commission hearing.

(Quasi-Judicial)

Presenter:

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

Motion by Commissioner Rickett, seconded by Commissioner McMurray, to postpone the appeal for the Notice and Order to Abate violation to the January 20, 2022, Planning Commission hearing. The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 2 - Commissioner Raughton and Commissioner Wilson

- 5.B.** [CPC AP 21-00001](#) Postpone an appeal of a Notice and Order to Abate for violation of a carport for the property located at 1315 Challenger Drive until the February 17, 2022, Planning Commission hearing.

(Quasi-Judicial)

Presenter:

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

Attachments: [Appeal of Notice and Order - 1315 Challenger Ave - Kurt Arnoldussen - Received January 5, 2021](#)
[Notice and Order - Arnoldussen - dated 12-22-20 - case number 2009754](#)

Motion by Commissioner Rickett, seconded by Commissioner McMurray, to postpone the appeal for the Notice and Order to Abate violation issued against 1315 Challenger Avenue to the January 20, 2022, Planning Commission hearing. The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 2 - Commissioner Raughton and Commissioner Wilson

- 5.C.** [CPC AP 21-00064](#) Withdraw an appeal of a Notice and Order to Abate Zoning Violation for the property located at 1830 Palmer Park Boulevard.

Presenter:

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

Attachments: [Withdraw of appeal request](#)

Motion by Commissioner Rickett, seconded by Commissioner McMurray, to postpone the appeal to the December 16, 2021 City Planning Commission Hearing. The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 2 - Commissioner Raughton and Commissioner Wilson

CREEKSIDE AT ROCKRIMMON

Rollcall

Present: 9 - Commissioner Raughton, Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy, Commissioner Eubanks and Alternate Griggs

Excused: 1 - Commissioner Wilson

- 5.D.** [CPC PUD 20-00109](#) An appeal of the Planning Commission's decision to approve a PUD development plan for Creekside at Rockrimmon, subdividing 17.47 acres into 43 single-family residential lots and open space areas, located at 252 Heavy Stone View.

(Quasi-Judicial)

Presenter:

Kerri Schott, Planner II, Planning & Community Development
Peter Wysocki, Director, Planning & Community Development

Attachments: [Appeal statement](#)
[Appeal statement supplement](#)
[CPC_Minutes_CreeksideAtRockrimmon_draft](#)
[CC Creekside at Rockrimmon Presentation-KLS](#)
[CPC Report_Creekside at Rockrimmon](#)
[PUD Development Plan](#)
[Project Statement](#)
[Physical Characteristics](#)
[Public Comments](#)
[CreeksideAtRockrimmon Re-review Public Comments](#)
[Context Map](#)
[Emergency Evacuation Letter](#)
[Auckland Environmental Analysis for ACOE](#)
[Wetland Mapping](#)
[NWP 29 Verification](#)
[Approved Jurisdictional Determination](#)
[CGS Final Review Letter GeoHazard](#)
[Environmental Consultant Letter](#)
[Plan COS Vibrant Neighborhood Map](#)
[7.3.606 PUD Development Plan](#)
[7.5.502.E Development Plan Review](#)
[Postponment Request](#)

Staff presentation:

Kerri Schott, City Planning, presented a PowerPoint with the scope and intent of this project.

Applicant Presentation:

Tim McConnel with Drexel Barrell, along with Paul Broussard with Premier Homes, presented a PowerPoint with the scope and intent of this project.

Additional speakers:

Joe Good, Entech Engineering

Julie Auckland, Auckland Environmental Consulting

Questions:

Commissioner Graham asked after the water is capped off, where does it go? What happens to it? How is it diverted? Commissioner Graham said he would just like to get an understanding of that. Mr. McConnell said there would not be any capping of any water and introduced Mr. Joe Good with Entech Engineering who would explain the valley drain that will be installed.

Mr. Good said they performed the geologic hazard study and preliminary geotechnical study for the property with respect to the question on water. There will be no capping. Instead, a valley drain will be installed, which is a gravel

drain that will be wrapped and protected with fill over the top. The water will continue to flow and drain the way it is currently draining.

Mr. Broussard said the water will be redirected into the wetlands to sustain the wetlands, and the erosion control will limit the storm surges. The full detention pond will capture the storm flows and release them at a controlled rate while also redirecting the continual water that is there into the wetlands and down the stream. Mr. McConnell noted that this development is downstream or downhill from all the existing developments, so any of the water that comes off the existing developments is being collected by this proposed development. This plan will not dump any new stormwater runoff onto the existing developments.

Commissioner Rickett asked if they were developing just the lots or if they were building the homes as well. Mr. Broussard said they are only doing the lots right now.

Commissioner Rickett asked if the builders would be required to notify the homebuyers that the homes sit on active expansive soils. Mr. Broussard said yes, it is a state law, and they are required to give them a booklet at the time of contract. It is also identified on the final plat for the property.

Commissioner Almy said it seemed the best experts have been consulted and have given a clean bill of health. He asked the applicants if they felt all the risks have been mitigated and if not, what ones were outstanding. Mr. Broussard said he believed every identified risk had been addressed. Mr. McConnell said there would be more risks or issues identified when it gets to the individual lot permitting and drilling, but for the overall development, the issues and risks have been addressed.

Commissioner Almy asked about the evacuation planning and said the two access point satisfied him that they have done as well as they could. Mr. McConnell said that the Colorado Spring Fire Department reviewed the plan package as well as City traffic and the comments were that this property is within the wildland interface. There were some notes on the development plan and final plat which are standard notes that must be covered and that has been addressed as best they can at this point. Mr. Broussard said with the city specs on building houses on the hillside overlay it makes them more resistant to fire spread.

Supporters:

N/A

Opponents:

David Ingle, resident to the west of the project

- The mitigation plan does not preserve the spring/wetland area that supports wildlife and the health of the community
- Capping the spring is asking for issues
 - There are properties in this community where capping has been done and are in constant repair
- The plan for the easternmost section is a lot of cut and fills

- Mr. Ingle's residence lies on a hillside that has long been stabilized
- There are extreme expansive soils at this location and the mitigation is to primarily have ground cover to prevent any kind of shift in the soil
- The actions of the expansive soils are just asking for erosion of properties
- Shearing off the hillside without proper mitigation for full retaining walls will mean the collapse of those properties on the westernmost portion of the project
- The report recommends subsidence insurance for the properties that are being developed but that doesn't address the already existing properties surrounding it

Jill Alvarado, resident in the area for 7 years

- What are the plans to help and support some of the environmental aspects around the wildlife that we protect and value on the west side?
- These are not sustainable plots of land as they are mining grounds
- Several of the residents in the area have had damage to their homes due to flooding and adding these homes is going to be a huge impact
- Why not develop in downtown where businesses are booming, and walkability is sought

Daniela Roberts, owns property directly west of the development

- Has lived directly west of the development for 17 years
- Others have tried this type of building out of that area and have failed
- As a homeowner that backs up to this development, she has rights to a quiet enjoyment of her property
- This development will interfere with her property rights as development will cause a lot of dust and noise
- Concerned about landscaping and direct impact to her property as far as damage from the machinery
- Flooding and drainage are a concern, as she has spent thousands of dollars on her property to enhance drainage to keep her property from flooding
- Concerned about insurance costs
- Concerned about the environmental impact to the wetlands and open spaces
- What about traffic and an evacuation plan?

Ashley Reed, owns property on the northwest side of the development

- Same concerns as the other speakers
 - Impact to wildlife
 - Expansive soil
 - Insurance
 - Flooding (has already dealt with flooding in the basement)

Jane Reed, property owner in the area

- Has had problems with expansive soil and had to do repairs to property

- Wanted to know if the 42 new homes will have open backyards to not interfere with wildlife

Mary Taylor, property backs up to the proposed development

- Has lived there for 23 years and has seen all the settling and issues with expansive soils, with the mines, with the underwater tributaries, and the shifting that has occurred
- Concerned about cutting into the tributary in that waterway and not knowing what they are going to get into and then it will be too late
- Very concerned about the wildlife and wants to know what the developer will be doing about that
- There is too much overbuilding
- Concerned about the drainage

Questions of Staff:

N/A

Rebuttal:

Open Space and Wildlife:

Mr. McConnell said this development has less density than what was on the previously approved plan with the zoning for the property by almost 20 units. Additional open space and trail connectivity has been added, and an analysis was completed regarding threatening endangered species; none were identified by the Army Corp of Engineers. Mr. Broussard added they are aware of the wildlife that uses the stream as a corridor and that is why they have made most of the open space contiguous with that stream side and the adjacent Rockrimmon open space.

Fencing:

Mr. Broussard said the initial plan is for limited fencing; however, there might be some privacy fencing due to people having dogs or play sets. Mr. McConnell said the property was brought forth to the City TOPS program for potential purchase and they passed on that option to keep this as open space. This development proposal has less density and more open space than what was previously approved on the prior PUD.

Expansive Soil:

Mr. Good explained if you live on the west side you will be dealing with expansive soils in Colorado Spring. Individual houses are designed today to mitigate that whether it is an over excavation, drilled piers, or stiffer foundations. The homebuilder will be dealing with the expansive soil mitigation.

Subsidence:

Mr. Good said the entire Rockrimmon area is undermined and the main issues with undermining have been shafts; however, there are no shafts on this site. The recommendation for the insurance is there because of the subsidence, but not because it is going to happen, and it has nothing to do with expansive soils.

Slopes:

Mr. Good said the slopes on the site that will be graded are generally a 3 to 1

ratio or flatter. Mr. Broussard from Premier Homes said they preferred the 3 to 1 or flatter slopes because they are more stable than retaining walls and much more appealing with landscaping and grass.

Wetland:

Mr. Broussard said partly why the project has been delayed so many times was because of the wetlands. An environmental consultant, Julia Auckland, looked at all the flora and fauna. Ms. Auckland has been working nonstop with the Army Corp of Engineers to ensure the process was very thorough.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Slattery said normally she would be in favor of a developable piece of private land; however, understanding the area, the water and how valuable it is to the westside into Colorado Springs, she did not think this was the best use of the land or that it would be positive for the city.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to approve the Creekside at Rockrimmon PUD development plan based on the findings that the development plan meets the review criteria for PUD development plans as set forth in City Code Section 7.3.606, and the development plan review criteria as set forth in Section 7.5.502.E. The motion passed by a vote of 7:1:1:0

Aye: 7 - Commissioner Raughton, Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

No: 1 - Commissioner Slattery

Absent: 1 - Commissioner Wilson

STR APPEAL - 1046 MONROE ST

5.E. [CPC AP 21-00124](#) An appeal of the administrative denial of the Short Term Rental permit for 1046 E Monroe Street for an ownership change, pursuant to City Code Sections 7.5.1702.B and 7.5.1704.D.

(Quasi-Judicial)

Presenter:

Carli Hiben, Program Coordinator, Planning and Community Development

Attachments: [Staff Report - 1046 E Monroe St STR Denial](#)
[1046 E Monroe Continuance Request](#)
[1046 E Monroe St Appeal Submittal](#)
[Public Comments E MonroeSTR](#)
[PlanCOS Vision Map](#)
[7.5.906 \(A\)\(4\) Administrative Appeal](#)
[7.5.1702.B ShortTermRentalPermitRequired](#)
[7.5.1704.D. ShortTermRentalPermitReviewCriteria](#)
[AdditionalPublic Comments E MonroeSTR](#)

Staff presentation:

Carly Hiben, City Planning, presented a PowerPoint with the scope and intent of this project.

- Ordinance 18-122 - established STR Program
 - Permit transfer not permitted
- Ordinance 19-101 (went into effect December 26, 2019)
 - Established the 500' non-owner occupied buffer.
- Permit Issued
 - August 2019 to M. Irene Verstraete (STR-0950)
- Ownership Transfer
 - August 13, 2020, to Happy Places II, LLC
- Denial (July 22, 2021)
 - Ownership transfer
 - Located in a single-family zone district (R1-6000)

Appellant Presentation:

Mary Irene Verstraete, owner of single member Happy Places LLC.

- The administrative decision to not renew permit is unreasonable
- Lawyer recommended to place investment property into an LLC to limit liability as well as protect the investment property if for any reason the appellant was sued personally
- While an LLC is an entity in the code and an LLC can be transferred to another individual or individuals, the Airbnb account cannot be transferred
 - For Example: if an LLC was sold or transferred to another entity and that entity wanted to keep the property as an Airbnb, the new entity would have to create its own Airbnb account
 - An Airbnb account includes personal background information, a recent photo, rules of the property, banking about information to deposit funds, which means the new entity would need to apply for its own new permit
- A decision not to allow an individual to protect their assets is denying the individual's rights to legally protect themselves from any unforeseen litigation
 - Minutes from the Planning Commission meeting on August 19, 2021, the commissioners agreed to a work session that should be scheduled with City Council on revising this section of the code

- A quote from the minutes said, "This technicality of the code is harming residents on an unreasonable manner."
- October 2021, City Council upheld an appeal of a short term rental for 1950 & 1952 Woodburn where the appellant had several changes in LLC's and the appellant was allowed to keep her property as an LLC
- Majority of the public comments that were received did not even know the property was a short term rental

Questions:

Commissioner Raughton asked what assurances were given to staff in terms of the ownership and that the appellant was the sole proprietor of the LLC as well as the house. Ms. Verstraete said it was on record that it is a single owner LLC and if she had transferred the LLC to a third party, that third party would have to apply for a new permit, and it would be denied because it would not be grandfathered in.

Commissioner Rickett asked if we allowed transfers of property when dealing with a change of marriage status. Ms. Hiben said if someone changed their name through marriage or divorce and provided the proper documentation, they would still be granted their renewal. Commissioner Rickett asked if that was stated in the code or if it was just an understanding. Ms. Hiben said it was just an understanding.

Supporters:

Matt Wingert, appellant for STR Permit denial for CPC AP 21-00169

- Believed LLC ownership could be researched on the Secretary of State website
 - Articles of incorporation are filed there, and it should show current owner
 - If the signatory on the LLC is still the signatory on the permit, i.e., operating manager, the owner is still the same

Opponents:

N/A

Questions of Staff:

Commissioner Slattery asked if there was a way to verify the ownership of the LLC and include that as an alternate line item, or how would you verify the ownership of the LLC. Ms. Hiben explained that she does ask for the Articles of Incorporation and operating agreement. Mr. Ben Bolinger, City Attorney's office, said there really was no way to verify the ownership of an LLC through the public records and the articles would not necessarily reveal that. LLCs don't necessarily have to name the members either. The only somewhat reliable mechanism would be to have the member sign an affidavit disclosing who the members are; affidavits are sworn documents you swear to before a notary under penalty of perjury.

Rebuttal:

N/A

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Almy commented that one of the aspects of the ordinance as written was to limit the density of short term rentals in a particular neighborhood, which has activated all this discussion because of there were no problems with density, the LLC could then reapply or apply for a new permit to continue the short term rental. Commissioner Almy said he believed the intent of the ordinance was to minimize how many STRs could be had in a particular neighborhood. That is the Catch-22 that we're getting caught in and it really has nothing to do with the ownership.

Morgan Hester, City Planning, explained that the changing of ownership between people or entities was established since the ordinance was adopted and was not focusing on the density. Commissioner Almy said he understood that, but the City grandfathered in higher density than the ordinance was looking to establish in the long run, so when the renewal was denied, it was denied based on the density factor.

Commissioner Slattery said she was having a bit of a change of heart. She said she understood the idea of changing the ownership into an LLC for liability purposes, but what she does not like about that is that the LLC can be changed and sold again and again, so if there was a way to verify the original person is still the sole owner through an affidavit, that could be an option.

Commissioner Hente said the commissioners do have some leeway in granting appeals, but the commission does not have the authority to rewrite code. This matter is for the body for this city that can change the code. Everyone is making good points on how to interpret what a change of ownership is, but until there is direction from City Council, Commissioner Hente said he would remain consistent with his prior votes and not be in support of the appeal. The best way to show Council that direction is needed is by showing the division between the planning commissioners.

Commissioner Raughton agreed with Commissioner Hente that the show of division will prompt change, but he will be supporting the appeal. This is a Catch-22 situation where no matter the decision it will be wrong. Commissioner Raughton said he believed if the ownership can be certified as the same owner, then it should be allowed.

Commissioner McMurray said the commissioners were not being tasked with rewriting code, but to interpret the four standards of the appeal criteria, which is well within the bounds to say that this is not what was intended. The ordinance's intention was not to create a bureaucratic snare for our own residents, and the fact that the person appealing is not some faceless entity but someone in our community. Commissioner McMurray said it was not intended to place an unreasonable burden on property owners that are part of our own community, and he would continue stating this each time. If the City has a mechanism to verify ownership of the LLC through an affidavit, it was good enough for him and to get it done.

Commissioner Rickett apologized to those he had voted against prior. This time he would vote in favor of the appeal to proceed based on the City Council

decision to allow an appeal based on the arrangement it could be proven there were no other owners. He also had a change of heart once knowing it was allowed to add or subtract a name due to a marriage which is not stated in code and was more of an understanding.

Commissioner Slattery asked based off council's decision, would the commissioners be allowed to approve the appeal with added strings of the affidavit on LLC ownership. Ben Bolinger, City Attorney's office, said that conditions can be placed and cited City Code Section 7.5.1705: Conditions of Approval - *In the permitting of such use, or in the renewal of a permit, the Manager, Planning Commission or City Council shall have authority to require such reasonable conditions as necessary to protect the public health, safety and general welfare and to ensure that the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected.*

Commissioner Almy said the ordinance has a certain end state that is envisioned whether it be the zoning district of the home, the density, or the allowable distance between places. Granting the appeal is forestalling that end state. It is not like this property is useless in any other way. The appellant has other options like leasing on a long term or selling it. Commissioner Almy said he was split on this and said even though the commission can put conditions on this, it would be nicer if the ordinance could be cleaned up a bit. Commissioner Almy said if the commission does grant the appeal, that there be a condition that says they are still the owner of the LLC.

Assistant Planning Director Mike Tassi clarified that City Council's condition that was added was the appellant had to prove sole ownership of the property. The appellant was unable to do so, and the short term vacation rental was revoked.

Commissioner Graham said if this body was willing to place a condition of record on this case, he would be willing to support the appeal.

Commissioner Hente said for him the question comes down to is the Planning Commission interpreting the code more liberal than the way it should be. He commented he does not want to overstep the role and responsibility of the planning commission. He hoped the appellant would appeal this to City Council if the Planning Commission does not approve the appeal.

Commissioner Raughton said there has been a Catch-22 built into this ordinance which is trying to cause attrition in the number of short term rentals in the city, and he did not feel that was the best way to address it. We should deal with these things reasonable conditions rather than building in a kind of way of amortizing or causing attrition of the number of short term rentals in our city.

Commissioner Rickett said he agreed with Commissioner Raughton and had the same thought process. At some point, the planning commission needs to recommend to City Council that the LLC can own properties and there needs to be a process to confirm ownership each year during that permit process. Secondly, if a single LLC or group LLC can prove that the group didn't change or the owner did not change, then the process should allow that. This would be no different than name changes in marriage. If you can prove sole ownership

through the permitting process, then we need to provide that guidance to the public.

Commissioner Slattery said one of the differences in this case is the saturation level is not there. There is no 500 foot buffer in this case that have been seen in other cases. Also, If folks who have to enter an LLC after the original permit needs to maintain control, do the owners of the LLC who are not grandfathered into this cause need to maintain consistency with ownership as well, just something to think about down the road as we're addressing council with this issue.

Mr. Ben Bolinger said an affidavit was a superior mechanism for verifying ownership going forward.

Motion by Commissioner Rickett, seconded by Commissioner Raughton, to approve the appeal of the administrative denial of the Short Term Rental renewal application as the appellant has substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906.A.4. with the following condition:

- The appellant must provide satisfactory proof to City Staff that she has maintained ownership of the property. The motion passed by a vote of 6:2:1:0

Aye: 6 - Commissioner Raughton, Vice Chair McMurray, Commissioner Graham, Commissioner Slattery, Commissioner Rickett and Commissioner Eubanks

No: 2 - Chair Hente and Commissioner Almy

Absent: 1 - Commissioner Wilson

6. NEW BUSINESS CALENDAR

BLOOM HOUSE

6.A. [CPC UV 21-00102](#) A Use Variance Development Plan for the Bloom House project illustrating a change of use to a Human Service Establishment - Drug and Alcohol Treatment Facility and ancillary site upgrades, located at 701 East Boulder Street and 325 North El Paso Street.

(Quasi-Judicial)

Presenter:
Daniel Sexton, Planning Supervisor, Planning & Community Development

Attachments: [CPC Report BloomHouse](#)
[Use Variance Development Plan](#)
[Project Statement](#)
[Vision Map](#)
[Public Comments](#)
[PublicComments Combined 11172021](#)
[Context Map](#)
[7.5.801 Purpose - Variance](#)
[7.5.803.B Use Variance Review Criteria](#)
[7.5.502.E Development Plan Review](#)
[Homeward Pikes Peak BloomHouse Questions&Responses](#)

Staff presentation:

Daniel Sexton, City Planning, presented a PowerPoint with the scope and intent of this project.

Site Details:

- Zoned PF (Public Facilities)
- The project site is part of the Shooks Run Redevelopment Plan (Operative)
- The project site is vacant and slopes down to the northwest towards the intersection of East Boulder Street and North El Paso Street

Public Notification and Involvement:

- Public notice was mailed to 315 property owners, on three occasions: internal review and prior to a neighborhood meeting held on June 29, 2021, and the Planning Commission hearing
- The site was also posted on the three occasions above
- City Planning staff received comments supporting and objecting to the project. Staff also received several inquiries from interested residents just looking for information.

Per City Code Section 7.3.402(A), the use approval parameters for uses within PF (Public Facilities) zone district must consider:

Does a Public Need Exist and the Use and Location are Compatible with Adjacent Land Uses

- Focused programming for women with child or baby - which does not exist in Colorado Springs or El Paso County
- Low client limit (8 persons maximum)
- Minimal building and site changes
- Facility programming is similar to a small multi-family residence - which is less-intensive than the previous adult counselling center

The reasonings outlined above reinforce why the use is needed and it's compatible with the surrounding neighborhood.

Applicant Presentation:

John Olson with Urban Landscapes and Beth Roalstad with Homeward Pikes Peak presented a PowerPoint with the scope and intent of this project.

Questions:

Commissioner Raughton asked how long the building had been vacant, and Mr.

Sexton said it was two years.

Commissioner Slattery asked Ms. Roalstad about the process for accepting women and what their commitment to the program would be, how long would they stay, would the children be offsite. Ms. Roalstad explained the referral process and the assessments to make sure the program would be suitable for the individual.

Supporters:

N/A

Opponents:

Amy McCray, lives adjacent to the site

- Objects to the drug and alcohol treatment because it is the wrong location for this use
- Will be too transient with 40 to 50 women a year
- This will bring a lot of unnecessary activity to the neighborhood

Questions of Staff:

Commissioner Almy said this is an ideal use and the setting looks very conducive to the program. Commissioner Almy asked staff why keep the zoning as is rather than change it to something more appropriate for this kind of treatment facility. Mr. Sexton said some of the consideration was due to funding sources, as they are government entities. Additionally, the time frame that Homeward Pikes Peak was working under was very tight. It was determined the use variance would be appropriate in this instance. By adding a zone change, it would extend the length of time to get operational, as zone changes have to go through City Council.

Rebuttal:

Ms. Roalstad said there will be a medical assessment of need every 14 days, there might be some women who exit earlier and there may be women who need a higher level of care, and so they would be discharged, and they would go elsewhere. But the average stay is planned at 90 days based on the program design.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Graham said he would be supporting this project and that the applicant had done an excellent job of putting procedures and policies in place that not only ensures the safety and welfare of the kids, but also the surrounding neighbors. Commissioner Graham added he was in favor of the program, and he believed staff used the correct methods for this application.

Commissioner Rickett agreed with Commissioner Graham's comments and approved of the project. He understood the neighbors concern, but believed with the 24-hour monitoring, it should eliminate some of those concerns.

Commissioner Raughton was in support of this project and part of it is kind of a philosophical point that the genius of this community is the partnerships of public, private and nonprofit entities. If this were operated by a government

entity, this could have been converted and without any recognition or participation by the neighborhood. Because it's shifting their nonprofit corporation, It requires some of these steps that we're now going through, but it strengthens that overall character of Colorado Springs in that we represent partnerships that don't rely on the government to do everything.

Motion by Commissioner Rickett, seconded by Commissioner Raughton, that this Planning Case be approved Approve the Use Variance Development Plan for the Bloom House project, based upon the findings that the request meets the review criteria for establishing a development plan, as set forth in City Code Section 7.5.502(E), and the criteria for authorizing a use variance, as set forth in City Code Section 7.5.803(B). The motion passed by a vote of 8:0:1:0

Aye: 8 - Commissioner Raughton, Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 1 - Commissioner Wilson

STR APPEALS

6.B. [CPC AP 21-00169](#) An appeal of the administrative denial of the Short Term Rental permit for 118 & 120 N Corona Street for an ownership change, pursuant to City Code Sections 7.5.1702.B and 7.5.1704.C.

(Quasi-Judicial)

Presenter:
Carli Hiben, Program Coordinator, Planning and Community Development

- Attachments:** [Staff Report - 118&120 N Corona St STR Denial](#)
[118 & 120 N Corona St STR Appeal](#)
[118 & 120 N Corona St - 500' Buffer](#)
[Public Comments 118&120 N Corona](#)
[PlanCOS Vision Map](#)
[7.5.1702.B ShortTermRentalPermitRequired](#)
[7.5.1704.C ShortTermRentalPermitReviewCriteria](#)
[7.5.906 \(A\)\(4\) Administrative Appeal](#)

Staff presentation:
Carly Hiben, City Planning, presented a PowerPoint with the scope and intent of this project.

- Ordinance 18-122 - established STR Program
 - Permit transfer not permitted
- Ordinance 19-101 (went into effect December 26, 2019)
 - Established the 500' non-owner occupied buffer.
- Permit Issued
 - October 2019 to Matthew M. Wingert (STR-1187 & STR-1188)

- November 2019 to Matthew M. Wingert (STR-1317)
- Ownership Transfer
 - December 14, 2020, to Corona Property Holding LLC
- Denial (October 15, 2021)
 - Ownership transfer
 - Within 500' buffer of several other established non-owner occupied STRs

Appellant Presentation:

Matthew Wingert/Corona Property Holdings LLC

- The transfer of ownership was solely to himself
- Has articles of incorporation and operation agreement to indicate the same
- Did not add wife to the owner of the LLC because he was trying to uphold the spirit of the ordinance
- Transferring of this property from Mr. Wingert was done with a single signature on a quick claim deed into the LLC that is solely owned by Mr. Wingert, so it hasn't changed ownership
- With that rationale, Mr. Wingert requested his appeal be granted

Questions:

N/A

Supporters:

N/A

Opponents:

N/A

Questions of Staff:

Commissioner McMurray asked if the affidavit was going to be used as proof of the single ownership, and Mr. Bolinger confirmed that the affidavit would be used as proof.

Commissioner Almy asked if the duplex which has two separate permits count with the 500 foot buffer. Ms. Hiben said if they are on the same parcel, they do not count in the 500-foot buffer.

Rebuttal:

N/A

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Almy said this neighborhood is packed with short term rentals and if the vision of the council when they approved the ordinance was to limit that, we are not helping that at all.

Commissioner Rickett said he understood and agreed with trying to thin out short term rentals as possible and specially in locations like this. Unfortunately, there is the grandfather piece of this that is creating this problem.

Motion by Commissioner Rickett, seconded by Commissioner Raughton, to

approve the appeal and reverse the denial of the Short Term Rental renewal application as the appellant has substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906.A.4. with the following condition:

- The appellant must provide satisfactory proof to City Staff that he has maintained ownership of the property. The motion passed by a vote of 6:2:1:0

Aye: 6 - Commissioner Raughton, Vice Chair McMurray, Commissioner Graham, Commissioner Slattery, Commissioner Rickett and Commissioner Eubanks

No: 2 - Chair Hente and Commissioner Almy

Absent: 1 - Commissioner Wilson

6.C. [CPC AP 21-00162](#) An appeal of the administrative denial of the Short Term Rental permit for 309 N 28th Street for an ownership change, pursuant to City Code Sections 7.5.1702.B and 7.5.1704.C.

(Quasi-Judicial)

Presenter:

Carli Hiben, Program Coordinator, Planning and Community Development

Attachments: [Staff Report - 309 N 28th St STR Denial](#)

[309 N. 28th - STR Appeal](#)

[309 N 28th St - 500' Buffer](#)

[PlanCOS Vision Map](#)

[Operating Agreement -309 N. 28th St, LLC 201113](#)

[Operating Agreement for ET Investments Group, LLC a limited liability company 130729m](#)

[Public Comments 309 N 28th St](#)

[7.5.1702.B ShortTermRentalPermitRequired](#)

[7.5.1704.C ShortTermRentalPermitReviewCriteria](#)

[7.5.906 \(A\)\(4\) Administrative Appeal](#)

Motion by Commissioner Raughton, seconded by Commissioner Almy, to postpone the appeal to the December 16, 2021, Planning Commissioner Hearing. The motion passed by a vote of 8:0:1:0

Aye: 8 - Commissioner Raughton, Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 1 - Commissioner Wilson

6.D. [CPC AP 21-00163](#) An appeal of the administrative denial of the Short Term Rental permit for 2223 W Uintah Street for an ownership change, pursuant to City Code Sections 7.5.1702.B and 7.5.1704.C.

(Quasi-Judicial)

Presenter:

Carli Hiben, Program Coordinator, Planning and Community Development

- Attachments:** [Staff Report - 2223 W Uintah St STR Denial](#)
[2223 W. Uintah - STR Appeal](#)
[2223 W Uintah St - 500' Buffer](#)
[PlanCOS Vision Map](#)
[Operating Agreement -2223 W. Uintah St., LLC 201113](#)
[Operating Agreement for ET Investments Group, LLC a limited liability company 130729m](#)
[Public Comments 2223 W Uintah](#)
[7.5.906 \(A\)\(4\) Administrative Appeal](#)
[7.5.1702.B ShortTermRentalPermitRequired](#)
[7.5.1704.C ShortTermRentalPermitReviewCriteria](#)

Motion by Commissioner Rickett, seconded by Commissioner McMurray, to postpone the appeal to the December 16, 2021, Planning Commission Hearing. The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 2 - Commissioner Raughton and Commissioner Wilson

- 6.E.** [CPC AP 21-00164](#) An appeal of the administrative denial of the Short Term Rental permit for 2309 & 2307 N 7th Street for an ownership change, pursuant to City Code Sections 7.5.1702.B and 7.5.1704.C.

(Quasi-Judicial)

Presenter:

Carli Hiben, Program Coordinator, Planning and Community Development

- Attachments:** [Staff Report - 2309 & 2307 N 7th St STR Denial](#)
[2309 & 2307 N. 7th St - STR Appeal](#)
[2307 & 2309 N 7th St - 500' Buffer](#)
[PlanCOS Vision Map](#)
[Operating Agreement -2309 N. 7th St., LLC 201113](#)
[Operating Agreement for ET Investments Group, LLC a limited liability company 130729m](#)
[Public Comments 2309&2307 N 7th](#)
[7.5.1702.B ShortTermRentalPermitRequired](#)
[7.5.1704.C ShortTermRentalPermitReviewCriteria](#)
[7.5.906 \(A\)\(4\) Administrative Appeal](#)

Motion by Commissioner Rickett, seconded by Commissioner McMurray, to postpone the appeal to the December 16, 2021, Planning Commission Hearing. The motion passed by a vote of 7:0:2:0

Aye: 7 - Vice Chair McMurray, Chair Hente, Commissioner Graham, Commissioner Slattery, Commissioner Rickett, Commissioner Almy and Commissioner Eubanks

Absent: 2 - Commissioner Raughton and Commissioner Wilson

7. PRESENTATIONS/UPDATES

7.A. [21-471](#) Affordable Rental Housing Fee Offset Program

Presenter:
 Steve Posey, Community Development Division Manager
 Charae McDaniel, Chief Financial Officer
 Peter Wysocki, Director, Planning & Community Development

- Attachments:** [Task Force Report Final September 2019](#)
[Dev Incentives](#)

7.B. [21-458](#) Downtown Development and Parking Update

Presenters:
 Ryan Tefertiller, Urban Planning Manager, Planning and Development Department
 Scott Lee, Parking Enterprise Director, Office of the Mayor
 Peter Wysocki, Planning Director, Planning and Development Department

- Attachments:** [Downtown Development Presentation CPC 111821](#)

8. Adjourn