



City of Colorado Springs

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

Meeting Minutes - Final Planning Commission

Thursday, February 18, 2016

8:30 AM

Council Chambers

CITY PLANNING COMMISSION MEETING - ROLL CALL

Present 9 - Vice Chair Charles Donley Sherrie Gibson Rhonda McDonald Chairperson Eric Phillips Robert Shonkwiler Carl Smith John Henninger Jeff Markewich Ray Walkowski

1. Approval of the Record of Decision (minutes) for the January 21, 2016 City Planning Commission Meeting.

Motion by Henninger, seconded by Smith, to approve the Record of Decision (minutes) for the January 21, 2016 City Planning Commission Meeting.. The motion passed by a vote of

Aye 9 - Donley, Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Henninger, Markewich and Walkowski

2. COMMUNICATIONS

3. CONSENT CALENDAR

- 3.A.1** [CPC MP](#) A minor amendment to the Flying Horse Master Plan amending the land use of 1.44-acre Parcel 25A from Residential to Office. -
[06-00219-A6](#) Quasi-Judicial
[MN15](#)

Presenter:

Meggan Herington, Planning Manager LUR/DRE
Peter Wysocki, Director, Planning and Community Development

This Planning Case was recommended for approval to City Council

- 3.A.2** [CPC ZC](#) An ordinance amending the zoning map of the City of Colorado Springs pertaining to 1.44 acres located south of Flying Horse Club Drive and west Highway 83 from PUD to OC. Quasi-Judicial
[15-00136](#)

Presenter:

Meggan Herington, Planning Manager LUR/DRE
Peter Wysocki, Director, Planning and Community Development

This Planning Case was recommended for approval to City Council

- 3.A.3** [CPC CP 15-00137](#) A concept plan for Flying Horse Parcel 25A on a 1.44-acre parcel associated with the Master Plan Amendment and zone change located south of Flying Horse Club Drive and west of Highway 83. Quasi-Judicial

This Planning Case was recommended for approval to City Council

- 3.B.** [CPC ZC 16-00004](#) An ordinance amending the zoning map of the City of Colorado Springs pertaining to 4.29 acres located one mile north of Drennan Road and one mile east of Marksheffel Road from R1-6000 to PF (Public Facility) Quasi-Judicial

Presenter:
Meggan Herington, Planning Manager LUR/DRE
Peter Wysocki, Director, Planning and Community Development

This Planning Case was recommended for approval to City Council

3.C. [CPC CU
15-00129](#)

A request by Assisted Living at the Spring, LLC for approval of a conditional use development plan to allow a Human Service Facility in a PBC/AO (Planned Business Center with Airport Overlay) zone district. The project is for a 30 bed assisted living facility. The site is zoned PBC/AO (Planned Business Center with Airport Overlay), contains 0.61 acres and is located at 1605 Jet Wing Drive. (Quasi-Judicial)

Presenter:

Lonna Thelen, Principal Planner, Planning and Community Development

Motion by Commission Henninger seconded by Commissioner Smith to recommend approval of CPC CU 15-00129 - conditional use for Assisted Living at the Spring, based upon the finding that the plan complies with the conditional use and development plan review criteria in City Code Sections 7.5.704 and 7.5.502.E, subject to compliance with the following technical and/or informational plan modifications:

Technical and Informational Modifications to the Conditional Use
Development Plan:

1. Show the accessible space and the accessible aisle as 8', not 10'.
2. Since the required access is being shown to start in parking stalls, those parking stalls need to be converted to a fire lane so apparatus can pull into those spots. Required 150-ft measurements are taken where the apparatus is able to drive to and from there, where they reach around the building. If removing the parking is not desired, access from another location must be provided or if the building is/will be equipped with an approved fire sprinkler system, indicate such on the plans.
3. Identify ground level treatments on the landscape plan.
4. Include in the landscape chart which 'Provided' plants are "existing to remain" and which are "new" plantings.
5. Include the Irrigation Plan as it exists today or include a note stating when the irrigation plan will be submitted.

This item was approved on the Consent Calendar

3.D.1 [CPC PUZ
15-00092](#)

An ordinance amending the zoning map of the City of Colorado Springs pertaining to 14.44 acres located northwest of South Rockrimmon Boulevard and Delmonico Drive from OC/CR/PUD/HS/SS to PUD/SS. Quasi-Judicial

Presenter:

Rachel Teixeira, Planner, Land Use Review
Peter Wysocki, Director, Planning and Community Development

This Planning Case was recommended for approval to City Council

3.D.2 [CPC PUD
15-00093](#)

The Wildgrass Development Plan associated with the change of zone to develop the vacant site into single-family attached (duplexes) residential development located at the northwest corner of South Rockrimmon Boulevard and Delmonico Drive. Quasi-Judicial

Presenter:

Rachel Teixeira, Planner, Land Use Review
Peter Wysocki, Director, Planning and Community Development

This Planning Case was recommended for approval to City Council

Approval of the Consent Agenda

These items will be acted upon as a whole, unless a specific item is called for any discussion by Commissioner, Staff, or citizen.

- 3.A.1 - 3.A.3 - Flying Horse Master Amendment; A Zone Change; A Concept Plan
- 3.B - A Zone Change for Geesen Substation
- 3.C - A Conditional Use for Assisted Living at the Spring
- 3.D.1 - 3.D.2 - A PUD Zone Change and PUD Concept Plan for Wildgrass

Motion by Henninger, seconded by Smith, 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

Aye 9 - Donley, Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Henninger, Markewich and Walkowski

4. UNFINISHED BUSINESS

- 4.A [CPC CA 15-00145](#) Ordinances pertaining to marijuana consumption clubs and other matters pertaining thereto.

Presenter:

Peter Wysocki, Director, Planning and Community Development

STAFF PRESENTATION:

Peter Wysocki, Planning Director gave a Power Point Presentation, handed out a map of M-1 and M-2 zone districts within the city. Stated they want to be in harmony with the county and not conflict and be as compatible as possible with them; the county restricts clubs and has stricter rules for medical marijuana.

Questions of Staff:

Questions were asked by commissioners about mental health facility being in the 1,000 foot buffer; what the amortization would look like; how many clubs currently exist; are there licenses for other type of social clubs; if density had been considered; why the choice of M-1/M-2 zoning; locations of clubs throughout the city; if military bases had given options; how the county has banned clubs

Councilman Don Knight gave an update to Mr. Wysocki's presentation

- History, moratorium and possible conditional use and how clubs are permitted use in various areas with no notification to neighbors and zones for possible uses.
- Regarding the ban - 2 questions - ban new ones and what is done about existing ones - this will be handled by Council as 2 separate questions.
- Amortization of 5 years (Sundown Clause).
- Clubs have sales in order to make a profit. Council has opted out and sales in the city. Not ready for sales, do not have the regulations in place for it. Want clubs to conform with the law and why they are looking at a ban.
- Item will be heard at the work session on 2/22/16 - no public comment is allowed at work sessions, but to give citizens opportunity to voice concerns there will be a town hall after the regular meeting on 2/23/16; First reading of the ordinance will be March 8, 2016, second reading March 22, 2016 - this date is the end of the 6 month moratorium.

Commissioners had follow up questions for Councilman Knight

- Studio 64 model was no sales; other clubs after that had sales;
- Licensing will have to monitor for no sales or trading; if infused products are present, they can be shared as there is nothing given in return.

- Licensing could inspect at any time.
- What are other municipalities doing about clubs - most are banned.
- Possible support for a conditional use process.
- Questions to how clubs can sell when illegal and why it isn't enforced
- Clubs deny selling, called something else like enumeration
- Code needs to be clear of what is allowed to help police have arrest power and attorneys prosecution power
- As a city we can do more restrictive rules than the State Constitution, but not less restrictive.
- Has Sundown Clause been applied to any other type of business
- Examples were cited of amortization in Boulder so it could be possible to have 5-10 year amortization since there could be a precedent
- Information about Club 64 is the only club that followed the rules
- Questions raised if company that are industrial would move to Colorado Springs if the clubs were restricted to M-1/M-2 zone
- M-1/M-2 zone were thoroughly looked at along with other zones as what would be best zone district for this type of use

Supporters of the application:

None

Opponents of the application:

None

Additional Questions of Staff:

- Question is this type of use could be in Form-Based Zone - it would not be permitted in this zone district due to not FBZ not allowing any industrial type uses but ultimately it's a council decision
- With regard to amortization - what was the allowable number of years deemed by the courts; research indicated the longer you go the more opportunity you give the business owner to amortize that investment over time. Amortization has not been done on this type of use. Ultimately the number of years will be council's decision.
- Since M-1/M-2 zones are generally located away from residential areas, would this use encourage club guests to drive much further distances and risk more impaired drivers on our roads?

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Smith said if in an M-1/M-2 and employees in these industrial areas would be more likely to use the marijuana is not a valid. The more valid reason is if not in M-1/M-2 then where. This leaves the only option available is Option 3. The economic benefit of it is outweighed by other companies that want to come to here as well as the military institutions, so economic benefit is invalid. Taking of property is

perhaps a valid reason but council will deal with that. He believes there will be selling and trading going on in the clubs no matter what is done. He will be ready to make a motion for Option 3.

Commissioner Henninger said he sees this as a very specific situation. They are being asked to fit an item in a zone where all of items have not been enacted or are not in place. So that makes it hard for to him to have a discussion or decision on it. M-1/M-2 are not appropriate and neither are other zones; there is not a zone that is compatible with type of use and do not have the regulations in place to manage this type of use. So he is leaning and encouraging everyone to select Option 3.

Commissioner McDonald said she is going to vote in favor of Option 3. Since we've opted out of recreational sales the clubs are not appropriate and there is no way for them to be sustainable without the sales. The zoning it a nice idea but it comes back to with no recreational sales allowed in our city she didn't see how the clubs have a functioning place here. So she will vote for Option 3.

Commissioner Walkowski said he would be in support of Option 3. There are too many uncertainties regarding the entire issue - licensing, medical marijuana task force is still working on their agenda; conditional use permit for public input would be good but there would be continual conditional use permits coming in if they voted for Option 2 and would become problematic; the business model of the consumption clubs has problems with it; the enforcement of it as well as good points were raised regarding the M-1/M-2 zoning. So due to all these uncertainties he would be voting for Option 3.

Commissioner Markewich said that none of the 3 Options before us were good from a land use perspective and will vote No for Option 1, 2 and 3. He didn't feel any of the options were acceptable. If it came before them with a C-5/C-6 with conditional use and strong licensing requirements he could be amenable to something like that. The land use process is not the best way to handle this; the licensing process would be a better way to do it. He cannot support any of the options at this time.

Commissioner Donley said his thoughts were similar to Commissioner Markewich. This is a process where we are supposed to find similar uses and assure compatibility He firmly supports a conditional use process to get it approved. He strongly opposes putting it in M-2 zone. There is a severe shortage of land for heavy industry. The 1,000 foot buffer is excessive making most of the City ineligible. The building may need to be free-standing to prevent odors and other impacts from affecting adjacent uses. Bottom line this is a licensing issue and it has to be enforced. He is opposed to Option 1, 2, and 3.

Commissioner Shonkwiler said it seemed most everyone is for Option 3 and if so he will vote for that. He didn't feel licensing was the complete answer and Amendment 64 has not been the answer either it comes down to the federal government has chosen not to enforce federal laws in Colorado. His concern is if Option 3 is chosen the 5 years would not be enforceable by the courts he thinks 8 years would be for enforceability and asked for direction from Mr. Marc Smith. Mr. Smith said if the commission offered 8 or 10 years to council that would be appropriate. Commissioner Shonkwiler asked if there was severability. Mr. Smith said there was severability in the code. Also the licensing part is proposed either way so there is some control over the property. Mr. Smith also said as drafted there is a requirement in the zoning code that these things need to be licensed prior to May 31, 2016. This may not be enough time to process the application so as this goes through the process the Clerk may offer a little different recommendation as far as that goes in the zoning code when it gets in front of Council. But the way it's drafted all those unlawful things will apply during the application process.

Commissioner Gibson said she would be looking at Option 3 as well. After hearing information provided today Option 3 is probably the best. She would like to add mental health facilities and treatment centers to it.

Commissioner Phillips said he heard Studio 64 worked that they were following the rules and the other clubs were the ones that didn't want to follow the rules so the regulations are the biggest piece of it. Regarding the land use and putting them in these zones which are primarily in the south end of town, we are trying to build up that area and put more businesses in that area, so that could be a hindrance in this area. He agrees with Commissioner Donley and Markewich that we have don't have good options out of any of the options presented.

Mr. Marc Smith added regarding Commissioner Gibson's comments, under the ban ordinance there is no 1,000 foot separation because these things will be legal non-conforming and the proposal for the ban is not to grant and additional licenses except for those that meet the requirements and lawfully exist. We can provide the input to Council that under the M-1/M-2 that, that is something they should consider. But under Option 3 that really doesn't apply because there would be no buffer but on 1 and 2 they could offer her suggestion.

Mr. Wysocki said before there is a motion and vote he asked for their input on what's lawful and what's unlawful and how we process the licensing.

Commissioner Phillips said medical marijuana can help veterans and if they have some place they can go that would be ideal. But with what is presented before them, they do not have any good options.

Commissioner Markewich asked for clarification for Options A and B regarding lawfulness - Option A was the more restrictive and require them to meet more requirements and Option B gave more flexibility. So if Option 3 were to pass then would encourage Council to choose the less restrictive Option B for those businesses on an ongoing basis.

Commissioner Shonkwiler stated he respected the service records of all present and he wanted it noted there was nothing in the ordinance that prohibited people from accessing medical marijuana.

Commissioner Donley said with reference to Options A and B he sees his role as dealing with land use and offering opinions on the licensing part is outside his purview.

Motion by Henninger, seconded by McDonald, to recommend a ban on the establishment of new marijuana consumption clubs, staff recommends approval of the ordinance contained in Option 3, amending Section 302 (Definitions of Use Types) of Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions) and Section 205 (Additional Standards for Specific Land Uses) of Part 2 (Commercial 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 marijuana consumption club facilities. The motion passed by a vote of 6-3

Aye 6 - Gibson, McDonald, Shonkwiler, Smith, Henninger and Walkowski

No 3 - Donley, Chairperson Phillips and Markewich

4.B.1 [16-00063](#)

Ordinance No. 16-30 amending the zoning map of the City of Colorado Springs relating to 25.615 acres located immediately south of Grand Vista Circle. Quasi-Judicial

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Applicant:

Applicant gave an updated Power Point presentation. Presentation is addressing 3 main points: 1. Neighborhood involvement; 2. Addressing Chapter 6 of the Comprehensive Plan; 3. Project Height.

Neighborhood involvement has been very helpful and they've incorporated their concerns. Meetings held February 9th, February 10th, and February 17th. They want to have continued further involvement and conversations with the neighbors going further. Gave an updated handout this morning that addresses how they feel they are addressing Chapter 6 of the Comprehensive Plan. With regard to height issue, their current plan shows the maximum height of any building will now be 57-feet with iteration of lower heights.

Changed the design of the building to be fading so that the building follows the mesa; show a project design site that has different zones of what the maximum heights will be in zones 1-5.

Supporters of the application:

James Kin was part of the group that appealed due to not considering Chapter 6 of the Comprehensive Plan but now because of all the meetings with the developer and changes they've made by including the neighbors he's in support of the project.

Tad Foster was also part of the group that appealed to City Council. He is now in support of the project due to communication with the developer and their willingness to listen to the neighborhood. He is in full support of the project and looks forward to continued communication as this the project moves forward.

Alan Strass recommends approval of the project due to the changes the developer has made. They have made efforts to make changes based on communication with the neighbors which they've done as shown by their new design. He supports the project wholeheartedly.

Richard Serby in support of the project; last two meetings with the developer have been a positive dialog and have brought forward a good design and have made changes based on continued communication.

Opponents of the application:

None

Questions of staff or additional comments:

Commissioner Markewich asked if a condition was previously to have the development plan come back for them to review. There was vote and it failed so there is no condition to bring back the development plan.

Mr. Schultz stated when the motion is made he suggested the maximum height be 57-feet and add a condition that the height zone diagram be implemented in the concept plan and be followed when the development plan is submitted.

Rebuttal:

None

DECISION OF THE PLANNING COMMISSION

Commissioner Gibson originally voted against the project size and scale and height were all overwhelming. Pleased with the changes and the cooperation with the neighbors and is in full support.

Commissioner Markewich originally opposed to the project because of the scale and bulk. Please that dialog happened and neighbors were involved and cooperation has happened. With the coloration that has happen he is in support of the project. Would like to see if the development plan needs to come back

Commissioner Shonkwiler originally voted to approve the project previously but he's pleased with what has been changed and is in support of the project.

Commissioner Donley is in support. He originally expressed concern about issues included in Chapter 6 and these are addressed in the revised proposal. He does not feel the development plan needs to come back. The proposed heights are within the height standard.

Commissioner Walkowski he originally was concerned with the bulk and the mass and scaling of the project. He's pleased it's been reduced. He was also very pleased with all the communication between neighbors and the developers. He previously was looking for the development plan coming back to the Planning Commission but including the zone diagram will take care of that so the development plan will not having to come back. He is in support of the project.

Mr. Marc Smith stated that the Council sent it back specifically to make sure that some type of conversation was said about if Chapter 6 of the Comprehensive Plan has been met.

Commissioner Walkowski added as they review the Comprehensive

Plan, specifically Chapter 6 it's in substantial compliance with the Comprehensive Plan having looked at it before and looking at it in more detail it works well as a project.

Commissioner Smith said he was in support of the plan. He felt it was great work together between the neighbors and the developers.

Commissioner McDonald is in support of the project. She stated felt it was in conformance with Chapter 6 and with the new design elements it will meet those requirements. Initially when approved the criteria was met for sending out notifications but it didn't reach enough people, but she was glad that everyone got to have a say and is in support.

Commissioner Phillips verified there was no support to bring the development plan back but there is agreement for change of the height zone graphic.

Motion by Vice Chair Commissioner Donley, seconded Commissioner Markewich to recommend approval of CPC ZC 15-00107, zone change from R-5/HS (Residential Estate with Hillside Overlay) to PUD/HS (Planned Unit Development with Hillside Overlay) to allow a maximum of 266 independent living units, 40 memory care units, 66 assisted living units and 56 beds for skilled nursing care; a maximum building height of 57-feet consisting of 25.62 acres based on the finding the request complies with the review criteria in City Code Section 7.5.603.B (Establishment or Change of Zone District Boundaries).

Motion by Vice Chair Commissioner Donley, seconded Commissioner Markewich to recommend approval of CPC CP 15-00108, Concept Plan for Sentinel Ridge Senior Living facility based on the finding the plan complies with the review criteria in City Code Section 7.3.605 (Review Criteria for PUD Concept Plans) subject to compliance with the following significant and technical and/or informational modifications to the concept plan:

Significant Modifications

1. Continue coordination with the Colorado Geologic Survey and City staff regarding acceptance of the geologic hazard report. Place a note on the Concept Plan stating "Site design and layout may be altered based on the conclusions and outcome of the geologic hazard report".

Technical and Informational Modifications to the Concept Plan:

1. Finalize an agreement with the City Parks Department on parkland dedication and to the requirement to rezone land dedicated to the PK (Public Park) zone.
2. Provide a note on the plan stating "Off-site signage not approved with this plan".

3. Show and callout the speed line of sight with the adequate sight distance length (footage) for the proposed accesses off of Grand Vista Circle.
4. Show and callout the appropriate location(s) of the proposed gate(s) for each access.
5. Add the anticipated plat name to the Concept Plan.
6. Show and call out the detached sidewalk and entrances along Grand Vista Circle (note: public improvement easement will be necessary where the sidewalk goes outside the ROW).
7. Label all streets as either private or public.
8. Label and identify Grand Vista Circle, the right-of-way width, classification, and clarify the property boundaries.
9. Pull back the median, at the eastern entrance, behind the City's R.O.W. and assure it does not obstruct the pedestrian crossing.
10. Label existing storm sewer pipes and structures.
11. Assure the concept plan reflects any changes made to the drainage report.
12. The Geologic Hazard Report was missing a few details. Contacted the Engineering Consultant who is waiting on the revised Geologic Hazard Report.
13. CSU acceptance of the Wastewater Master Facility Report is required prior to development plan approval.
14. Vacation of the existing utility easement for the 20-inch water main will be required after relocation is complete.

Motion by Vice Chair Donley, seconded by Markewich, to recommend approval of the zone change from R-5/HS (Multi-Family Residential with Hillside Overlay) and R/HS (Residential Estate with Hillside Overlay) to PUD/HS (Planned Unit Development with Hillside Overlay) to allow a maximum of 266 independent living units, 40 memory care units, 66 assisted living units and 56 beds for skilled nursing care; a maximum building height of 57-feet consisting of 25.62 acres. This recommendation is based on the finding the request complies with the review criteria in City Code Section 7.5.603.B (Establishment or Change of Zone District Boundaries). The motion passed by a vote of 8-0-1

Aye 8 - Donley, Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Markewich and Walkowski

Absent 1 - Henninger

4.B.2 [16-00075](#) A concept plan for the Sentinel Ridge Senior Living facility which includes 266 independent living units, 40 memory care units, 66 assisted living units and 56 beds for skilled nursing care; the site is located south of Grand Vista Circle and Fillmore Road. Quasi-Judicial

Presenter:

Mike Schultz, Principal Planner, Land Use Review

See Action Notes on Item 4.B.1

Motion by Vice Chair Donley, seconded by Markewich, to recommend approval of the concept plan for Sentinel Ridge Senior Living facility based on the finding the plan complies with the review criteria in City Code Section 7.3.605 (Review Criteria for PUD Concept Plans) subject to compliance with the significant and technical and/or informational modifications to the concept plan listed in the Staff Report. The motion passed by a vote of 8-0-1.

Aye 8 - Donley, Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Markewich and Walkowski

Absent 1 - Henninger

5. NEW BUSINESS CALENDAR

- 5.A. [CPC CU 15-00132](#) A request by Patrick Meade for Iron Mountain Demolition and Roll-Off for an approval of the following application:

A conditional use to allow a construction and demolition debris transfer facility within the M-1 (Light Industrial) zone district.

The subject property consists of 1.2 acres and is located at 3310 and 3320 North Cascade Avenue.

Presenter:

Hannah Van Nimwegen, Planner II, Planning and Community Development

Applicant Presentation:

Patrick Meade with Iron Mountain. They are licensed throughout Colorado they provide the service of construction debris handing at this site.

Benefits: 1.) able to handle customers' requests more efficiently; 2.) less fuel consumption per roll out request; 3.) less commercial motor vehicle exposure on the roads; 4.) a smaller carbon footprint; 5.) diversion of waste from the landfill; 6.) able to pull out reusable materials; 7.) created job opportunities; 8.) A construction material debris only handling facility; 9.) Central to the Colorado Springs area

Concerns: 1.) Pedestrian safety - Rerouted trucks to use dedicated truck routes; 2.) Dust emissions - provisions in place to manage dust; 3.) Debris migration; 4.) Water run-off; 5.) Hazardous materials

Products Accepted: Construction debris ONLY; Products NOT accepted at the site: All liquids and paints; asbestos; batteries; concrete, dirt; electronics; household waste; rock sod; tires

Questions

Who could use this facility? What was the majority of product brought to the site? How long is storage? What was used for dust mitigation? Since this is more heavier industrial use an M-2 (Heavy Industrial) it should be located in M-2 but none available farther north. Was there a filtration facility for water runoff from debris?

Supporters of the application

Michael Merriweather said he was in support of water.

Ken Manzel is in support. Mr. Meade is in compliance with what the state and county expects. There's very little truck traffic at site, they keep the public out of the site, keeps product out of landfill, and rollout boxes set up efficiently. There is asphalt milling at the site to keep dust

down. They have concreted an area with the barriers which helps with any stormwater problems. They have to follow the state plan with the stormwater and the SPCC which is done at all these types of facilities.

Opponents of the application

Zanie Penley represented Evergreen Senior Mobile Home Community at the corner of Fillmore and Cascade. When concerns were raised Iron Mountain responded and addressed those concerns. However if you have container within container it's extremely loud. When diesel trucks or tractors started and idled it was difficult for the seniors. He felt the Light Industrial zone was being violated. The code states heavy industrial would include noticeable noise, smoke, odor and vibration which is what is happening; Light Industrial is soft goods, bakeries, apparel, and book publishing is what the zone is where this project is located. We need a place for construction material debris but not here. Traffic can be a problem. Trucks can't make the turn on Fillmore and Cascade. Cascade will have significant bike route coming soon. This is also a Metro bus stop and children's bus stop. He felt the code should be upheld and not have this in the area.

Patrick Bray with Manstone LLC located directly west of the facility. He is opposed but wanted them to know the mitigation actions the company completed when issues were brought up made improvements, however, it cannot eliminate all of them. The main concern is the business is not complementary to other businesses in the district. There is dust, debris, noise and vibration from the construction equipment. He is asking the project not be approved for a M-1 (Light Industrial) area and should be located in an M-2 district.

Questions of Staff:

Steve Kuehster addressed the question of a water filter feature treatment system. The area of disturbance is less than 1 acre so it did not kick in for a stormwater quality feature. In Public Works they have to manage their stormwater discharge by a permit with the state therefore engineering requested a drainage report to address the wash water. We are not the regulatory authority for this type of use; they must get an industrial discharge permit through the state which they've talked about. Commissioner McDonald pointed out that in the staff's report under technical modification #4 they've required Iron Mountain to provide a drainage statement and address how the wash water from the discarded material is collected, treated and disposed. So it's already in as a condition which they have to comply with which Ms. Van Nimwegen confirmed.

Commissioner Walkowski liked the idea of a one year review but how would it be done. Ms. Van Nimwegen said a notice would be done when the year is up, they'd see who responds and what their concerns were. During the year site inspections would be completed regarding compliance. This one year opportunity would give the applicant time to

implement these strategies without investing in site that may not be approved. Commissioner Walkowski asked what happens if they were not compliant. Ms. Van Nimwegen said if there continue to be outstanding issues the conditional use could be revoked and it also would come back to Planning Commission for further review. Peter Wysocki Planning Director stated that comments were made this may not be a permissible use in the M-1 zoning district but it is subject to a conditional use permit because this is being classified as a transfer station. Transfer stations are permissible upon approval of the conditional use permit. If you look at the general industrial/heavy industrial definitions it doesn't fall under those categories it falls under the specific land use definitions of a transfer station which is allowed by a conditional use permit under and M-1 zone.

Rebuttal:

Patrick Meade stated yes there has been dust, noise activity but there are a lot of facilities in the area that have just as much truck traffic. To the north Waste Management has a facility that has many more trucks identical to the ones they have that go up and down Cascade next to the mobile home park. We've been as proactive as we can trying to pay attention to our neighbors concerns and continue to do so. We know we can improve in this area and felt there were things they could do to help address the neighbors' concerns.

Commissioner Shonkwiler asked what they were going to do to meet the stormwater requirement. Mr. Meade stated his understanding is the water is to be maintained on the property and ensure the water doesn't leave with any contaminants. Commissioner Shonkwiler asked what specific plan they had. Mr. Meade said the plan is addressed in the engineer's operation plan that complies with the state. The plan was designed by a state licensed engineer and in that plan is the water migration plan. Those practices are a burm to ensure the water stays on the property, a 15-foot landscape buffer zone either one is acceptable and we have decided to do both. Having the concrete dump pad was another opportunity to ensure the water doesn't infiltrate through the soil and enter into the storm system.

Commissioner Donley asked if they were getting a state permit for industrial discharge. Mr. Meade stated no they do not have to have a state permit. The operations plan they have complies with the state rules; it's an inspection that is performed and we had that done and they had no deficiencies. Commissioner Donley asked if they performed an inspection. Mr. Meade said yes they did. Commissioner Donley said isn't something the state gives you some type of permit or paperwork because to him it appears this is a state matter. There are land use issues we review and then there are water quality issues but they are state related. Mr. Meade said it is mandated they do these things by the

state.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Markewich stated according to the code an M-1 allows light industrial uses that are complementary and compatible to the industrial uses, nothing more so there is latitude and therefore why we are seeing the conditional use on the property, is that correct. Mr. Marc Smith said they should be reviewing under the Conditional Use Review Criteria. Commissioner Markewich said he was just looking at the definition of a M-1 zone. Peter Wysocki said they also needed to look at the use tables that specifically list what is a permissible use by right, what's permitted and what is conditionally permitted. This falls under the conditionally permitted. Commissioner Markewich wanted to clarify because it'd been stated this wasn't allowed in an M-1 zone by one of the opponents. However, the staff has given a one year time frame to get it done correctly and if it's not done according to state and city standards it will be shut down. So there is incentive for the owner to comply and he felt comfortable approving this.

Commissioner Donley said he likes the idea of reusing and recycling materials so they do not go to the landfill, those are positive. His concern is the intent in the M-1 of having a conditional use is to identify if this is the right site to do it. This area is more like PIP - light industrial office/warehouse activity. However we are getting a more heavy use type of activity, dust, truck traffic and other impacts. He wished we had the right place, especially on the north side of the City for this activity. He was also concerned about the impacts of the residential area immediately to the south however they are also zoned M-1. The medical waste transfer facilities where the activities occurred indoors were appropriate examples of the M-1 conditional use. He will not be in favor of the application and will oppose it.

Commissioner McDonald said she heard during discussion that Waste Management is right down Cascade to the north of this site. She felt this site was much smaller than Waste Management's site which in very close proximity and staff has done a good job putting together the conditional use criteria requirements they will have to modify and the follow up on this in one year to ensure this isn't an impact on the neighborhood beyond what this conditional use has provided. Therefore she is in favor of supporting this based on the other businesses in the surrounding area and it meets 7.5.704 - Conditional Use Criteria.

Commissioner Shonkwiler said he would not be in support he's not comfortable with it. There have been a couple of violations already and he's not satisfied the long-term problems will be solved and will be voting against it.

Motion by Smith, seconded by Markewich, to recommend approval of the Conditional Use to allow a transfer station within the M-1 zone district at 3310 and 3320 North Cascade Avenue, based upon the finding that the request complies with the Conditional Use review criteria in City Code Section 7.5.704, subject to compliance with the following condition and technical modifications listed in the Staff Report. The motion failed by a vote of 4-4-1.

Aye 4 - McDonald, Chairperson Phillips, Smith and Markewich

No 4 - Donley, Gibson, Shonkwiler and Walkowski

Excused 1 - Henninger

5.B.1 [CPC ZC
16-00002](#)

An ordinance amending the zoning map of the City of Colorado Springs pertaining to 1.28 acres located northwest of Shrider Road and Academy Boulevard from PBC/CR (Planned Business Center with Conditions of Record) to PBC/CR (Planned Business Center with Conditions of Record). - Quasi-Judicial

Presenter:

Katie Carleo, Principal Planner, Planning and Community Development Department

Peter Wysocki, Director, Planning and Community Development

Applicant

David Meyer with Equity Ventures Commercial Development. The project is to relocate the current store in the same area. Site changes will be minimal and access will remain the same, deliveries will remain the same. Sufficient parking at the site.

Concerns from neighbors were traffic, delivery times and congestion. As a result they will limit the change to strictly the specialty grocer type of project. No use of the driveway to the west for delivery.

Questions of applicant:

Commissioner Shonkwiler asked about parking and how much they had. 1 parking space per 300 general business. They have enough to meet the standard for their type of use.

Commissioner Markewich clarified they had what they need to meet the requirement; correct.

Supporters of the application:

David De-Coco from the Mountain Estates. In support but they are concerned about parking and the higher amount of traffic. Shrider is the only access across Academy Blvd. Changes were made when the signal light was put in and it causes back up in the shopping.

Opponents of the application:

None

Questions for Staff:

Kathleen Krager City Transportation Manger explained the history of the light at Shrider and Academy. They are monitoring the intersection due to limited access at this intersection. Looking at possibly having a light north of Shrider to spread the traffic out.

Commissioner Shonkwiler confirmed they were looking at this area to try and help with the traffic and Ms. Krager agreed they were.

REBUTTAL:

They agree they would have more traffic than Ethan Allen and they want their customers to have good access so they will be glad to help with issues regarding traffic.

Discussion DECISION OF THE PLANNING COMMISSION

Commissioner Walkowski said that the application fits within the review criteria for zone change and minor amendment. He was in support

Commissioner Markewich said it complies with all the review criteria.

Motion by Markewich, seconded by Shonkwiler, to recommend approval of the zone change from PBC/CR (Planned Business Center with Conditions of Record) to PBC/CR (Planned Business Center with Conditions of Record) based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603. The motion passed by a vote of 8-0-1.

Aye 8 - Donley, Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Markewich and Walkowski

Absent 1 - Henninger

- 5.B.2** [CPC DP 98-00346-A7 MN16](#) A minor amendment to the Shoppes at Academy Development Plan associated with the change of zoning of 1.28 acres located at Shrider Road and Academy Boulevard. Quasi-Judicial

Presenter:

Katie Carleo, Principal Planner, Planning and Community Development Department

Peter Wysocki, Director, Planning and Community Development

See Action Notes on Item 5.B.1

Motion by Markewich, seconded by Shonkwiler, to recommend approval of the minor amendment to the Shoppes on Academy Development Plan, based upon the finding that the amendment complies with the review criteria in City Code Section 7.5.502.E.. The motion passed by a vote of 8-0-1.

Aye 8 - Donley, Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Markewich and Walkowski

Absent 1 - Henninger

5.C.1 [CPC DP
15-00104](#)

A development plan for a Kum and Go convenience store and gas station on a 2.47-acre site located directly west of the Platte Business Center concept plan. Quasi-Judicial

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Peter Wysocki, Planning and Development Director, Planning and Development Department

STAFF PRESENTATION

Mike Schultz, Principal Planner gave a Power Point presentation.

Kathleen Krager City Transportation Manager discussed the history of Platte/US24 history in this area. The road is no longer a US highway; it is a principle arterial within the city.

The goal is to remove the frontage road as far back as possible and to open a right in/ right out onto Platte Ave. It makes for simpler movement.

Questions of Staff:

Commissioner Walkowski asked about a deceleration/acceleration lane on Platte. He was also concerned about stacking onto Platte and had she considered moving the entrance farther to the east possibly 200 yards.

Ms. Krager said there was a shoulder and they would use for the deceleration/acceleration lane for stacking issues there could be a sign that says, "Incoming Traffic Does Not Stop". Ms. Krager said she felt leaving it in the center of the Asian Pacific Market was the best so people could see it and if it was right after the bridge at Sand Creek, it could come up too quickly and be a surprise to people.

Commissioner Walkowski asked if the applicant will be constructing the entrance onto Platte Ave, Ms. Krager said they would but for the median the applicant will provide an escrow account to the city so the city can do that.

Commissioner Markewich discussed the function of a principle arterial in the city; if the acceleration lane will also become a right turn lane. Ms. Krager said it would become a right turn lane but acceleration lane aren't required on less that 45 mph roads and are meant for on ramps of freeways. But most people will wait for a gap to get through and not use the acceleration lane to turn into traffic. Commissioner Markewich asked how many cars could fit into that lane. Ms. Krager said only a couple. She feels more comfortable with this access than the current access at Platte/Wooten/Edison where there are major problems.

Applicant

Josh with Olsen and Associates. The Kum and Go will be their new market place store, first of this type in Colorado Springs. The store is bigger with 10 fueling stations.

Commissioner Walkowski asked about when the sidewalk would be built and where it would be located.

Supporters of the application:

None

Opponents of the application:

None

Questions for Staff:

None

REBUTTAL:

None

Discussion AND DECISION OF THE PLANNING COMMISSION

Commissioner Donley has concerns about proximity of the acceleration/deceleration lanes, he would prefer it to be moved further east, he would prefer it proceed further into the site before it take a left or right turn to have an intersection. He's very supportive of the Edison elimination. He doesn't have a problem with the land uses but he will oppose it based upon access. He will support the right-of-way vacation, opposing the development plan for the Kum and Go, supporting the zone change. He would like to see reasonable traffic designs that are safe and efficient

Commissioner Walkowski said it was an appropriate land use; realignment of Edison is a good safety issue for the public and meets the vacation criteria, the development plan for Kum and Go is appropriate; he's in support of the zone change but feels the 3-way stop will be an issue.

Commissioner Gibson will be in support of all the parts of the project; she would like to see the access to Edison push further as well.

Commissioner Smith has no issues with any of the projects; they meet the criteria and will be in support of all the applications.

Commissioner Markewich said the vacation will improve Edison so he's in support, he wasn't sure about the development plan, the zone change meets the review criteria and will be in support of that.

Commissioner Shonkwiler said he would be in support of all the items. Everything isn't ideal but it makes enough improvements. Access will improve for all the business that are currently there and what is planned to go in. So he will support all of the items in the project because it will have a positive impact and improve the city.

Commissioner Smith asked for clarification why some are opposing the development plan. Commissioner Donley said he was opposed because of the traffic layout. His hope would be for the right-in/right-out would be shifted further to the east, the divergence of Edison would happen further east and there would be a distance after the right-in/right-out that you could drive before you have to make an intersection change or turn those are the only reasons he is opposing it.

Commissioner McDonald will vote in favor of all the items. The Kum and Go is a good use. Traffic has looked at these and made a determination what will work so she will be in support.

Motion by Smith, seconded by Shonkwiler, to recommend approval of the Kum & Go Development Plan, based upon the finding that development plan complies with the development plan review criteria in City Code Section 7.5.502.E, subject to compliance with the technical and/or informational plan modifications listed in the Staff Report. The motion passed by a vote of 5-3-1.

Aye 5 - Gibson, McDonald, Chairperson Phillips, Shonkwiler and Smith

No 3 - Donley, Markewich and Walkowski

Absent 1 - Henninger

5.C.2 [CPC V](#)
[15-00106](#)

An ordinance to vacate .384 acres (16,727 square feet) of Edison Avenue right-of-way located just east of Wooten Road; Legislative

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Peter Wysocki, Planning and Development Director, Planning and Development Department

See Action Notes on Item 5.C.1

Motion by Smith, seconded by Shonkwiler, to recommend approval of the vacation of right-of-way based upon the finding that the vacation request complies with the vacation of right of way review criteria in City Code Section 7.7.402.C, contingent upon the technical and/or informational modifications to the plat listed in the Staff Report. The motion passed by a vote of 8-0-1.

Aye 8 - Donley, Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Markewich and Walkowski

Absent 1 - Henninger

5.D.1 [CPC ZC 15-00130](#) An ordinance to change the zoning of 4.75 acres located at the northeast corner of Platte Avenue and Wooten Road from PIP-1/AO to C-5/AO. Quasi-Judicial

Presenter:
Mike Schultz, Principal Planner, Land Use Review
Peter Wysocki, Planning and Development Director, Planning and Development Department

See Action Notes on Item 5.C.1

Motion by Smith, seconded by Shonkwiler, to recommend approval of the zone change request from PIP-1/AO (Planned Industrial Park with Airport Overlay) to C-5/AO (Intermediate Business with Airport Overlay) based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603.. The motion passed by a vote of 7-1-1.

Aye 7 - Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith, Markewich and Walkowski

No 1 - Donley

Absent 1 - Henninger

5.D.2 [CPC CP 15-00131](#) A concept plan for Platte Business Center on 4.75 acres for a commercial shopping center located at the northeast corner of Platte Avenue and Wooten Road. Quasi-Judicial

Presenter:
Mike Schultz, Principal Planner, Land Use Review
Peter Wysocki, Planning and Development Director, Planning and Development Department

See Action Notes on 5.C.1

Motion by Smith, seconded by Shonkwiler, to recommend the approval of the Platte Business Center Filing 2B concept plan complies with the concept plan review criteria in City Code Section 7.5.501.E. contingent upon addressing the technical and informational modifications listed in the Staff Report. The motion passed by a vote of 6-2-1.

Aye 6 - Gibson, McDonald, Chairperson Phillips, Shonkwiler, Smith and Walkowski

No 2 - Donley and Markewich

Absent 1 - Henninger