



Legislation Details (With Text)

File #: DS DP 95-25- A2MJ17 **Version:** 2 **Name:** 7585 North Academy Blvd
Type: Planning Case **Status:** Passed
File created: 10/9/2017 **In control:** City Council
On agenda: 11/28/2017 **Final action:** 11/28/2017

Title: An appeal of the City Planning Commission's decision to recommend approval to the City Council of a major development plan amendment application DS DP 95-00025-A2MJ17, located at 7585 North Academy Boulevard.

(Quasi-Judicial)

A major development plan amendment for the redevelopment of a 2.13-acre property into two commercial lots including a coffee shop with a drive-thru and a multi-tenant commercial building with drive-thru located at 7585 North Academy Boulevard.

(Quasi-Judicial)

Related File: CPC ZC 17-00103

Presenter:
Peter Wysocki, Director Planning and Community Development
Daniel Sexton, Senior Planner, Planning and Community Development

Sponsors:

Indexes:

Code sections:

Attachments: 1. FIGURE 2 - Development Plan, 2. 7.5.502.E Development Plan Review

Date	Ver.	Action By	Action	Result
11/28/2017	2	City Council	approved	Pass
10/19/2017	1	City Planning Commission	referred	Pass

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Peter Wysocki, Director Planning and Community Development
Daniel Sexton, Senior Planner, Planning and Community Development

Summary:

Applicant: Confluent Development, LLC
Owner: Jack & Doris Boland
Location: 7585 North Academy Boulevard

An appeal was filed by Mr. Thomas Bonomo and Ms. Steele Bonomo regarding the City Planning Commission's decision to recommend approval to City Council of the proposed zone change and major development plan amendment applications associated with the 7585 North Academy Boulevard project.

Zone changes (along with any associated applications) that are recommended for approval by the Planning Commission are automatically heard by the City Council, as such, the appeal was not necessary. However, since an appeal was filed, the Council must act on the appeal and the underlying applications.

The project includes concurrent applications for a zone change from OC (Office Complex) to PBC/cr (Planned Business Center with Conditions of Record) and a major development plan amendment for the 7585 North Academy Boulevard project, which illustrates the detailed layout for developing the 2.13 acres of land with two commercial lots containing a coffee café with drive-thru and a multi-tenant commercial building with drive-thru, and other associated site improvements.

Previous Council Action:

City Council previously took action on this property in October, 1994 during the review of the Falcon Estates Annexation Plat Number 2 (Ord. 94-183).

Background:

The subject property is located within the Chapel Hills Center Master Planned area. Per the current master plan, the project site is designated as commercial. The property was annexed into the City under the Falcon Estates Annexation Plat Number 2 (Ord. 94-183). In 1994, a development plan was administratively approved for the development of Grady's American Grill, which later became the Elephant Bar. In 2016, this Elephant Bar restaurant closed as part of a nation-wide closure of the restaurant chain. Over the past year, the property has sat vacant and fallen into disrepair.

The property is currently zoned OC (Office Complex) and contains a vacant restaurant building. The applicant's proposed PBC/cr (Planned Business Center with Conditions of Record) zone district establishes a set of use controls to govern the development of the 7585 North Academy Boulevard project. Per feedback received from the surrounding residents and Falcon Estates HOA (HOA), the applicant has agreed to self-impose conditions of record to the requested zone change that would preclude certain land uses. The following land uses are proposed as prohibited within this PBC zone:

1. Sexually oriented businesses;
2. Methadone clinics;
3. Pawn shops; and
4. Medical marijuana facilities, including: Medical marijuana centers, Medical marijuana infused product manufacturer, and Cultivation operations.

The amended development plan for the 7585 North Academy Boulevard project illustrates the envisioned layout for the redevelopment of the project site with two commercial lots. The lot configuration allows for the development of a 2,200 square foot coffee café with drive-thru on the western parcel and an 8,000 square foot multi-tenant commercial building with drive-thru ATM on the eastern lot. Associated with the proposed commercial buildings, the applicant will install other site improvements including new parking facilities, landscaping, and stormwater facility. The site will be accessed via the two current access points, which are located off of Agora Point to the north and a private access drive to the east.

To mitigate any physical or visual impacts on the adjacent residential properties, most notably owners of 1503 Cragin Road, and the concerns raised by the HOA, the applicant has voluntarily applied a restriction to the development plan precluding loading and unloading of service vehicles within the private access drive to the east. The applicant intends to install signage speaking to this prohibition along the private access drive, and has incorporated a stipulation on the development plan and within tenant leases to ensure future owners/tenants abide by this restriction. Additionally, the applicant has minimized any visual effect of the multi-tenant commercial building proposed on the eastern lot by treating the building exterior with different façade materials, planting a robust landscape regime, and minimizing lighting fixtures to those required by code for emergency egress.

The subject property, which contains a vacant restaurant building, is prime for redevelopment as nearby commercial properties are undergoing change and reinvestment. The applicant did consider redeveloping the site with another site-down restaurant; however, the market for this area is not conducive to this type of commercial activity, which is reinforced by the also vacant My Big Fat Greek restaurant to the north.

The attached Planning Commission staff report summarizes the project details. The section titled Analysis of Review Criteria specifically discusses the site design and layout, traffic impacts, and screening.

The appellants are opposed to the applications associated with the redevelopment proposal for 7585 North Academy Boulevard based on the opinion that the applications are insufficient in their execution and do not adequately meet established zoning goals and City Code Sections 7.1.103(B), (C), (D), (E), and (F); City Code Sections 7.1.104 (B) and (G); City Code Sections 7.1.105 (E), (G), (H), and (J); City Code Sections 7.1.106 (A) and (B); City Code Section 7.1.108 (A); City Code Sections 7.3.101(A)(1) and (A)(3); and City Code Section 7.9.101(A). The attached appellant's appeal request denotes in 'bold' each of the specific portions of the above referenced City Code sections that they believe have not been adequately addressed. After holding a public hearing, the Planning Commission found that the project meet the applicable criteria set forth in City Code Chapter 7.

Although an appeal has been filed, the zone change and concurrent major development plan amendment applications would be reviewed by City Council regardless, as the affirmative decision made by Planning Commission was a recommendation to City Council, not a final action. In light of the appeal, the City Council must vote on the appeal and vote on the subject applications.

The project supports the City's Strategic plan of building community and collaborative relationships by providing a well-designed commercial development that respects the adjacent residential uses. The project also promotes a mutually supportive development pattern in the neighborhood through the continued development of commercial land uses along the Academy Boulevard corridor. To

overcome the current conditions of blight or underutilization, the applicant has engaged the surrounding neighborhood throughout the permitting process to ensure this proposal integrates well into the existing context of the area and adequately addresses and mitigates all concerns raised. This project will support the future creation of employment opportunities and maintain prospects for strengthening the Colorado Springs economy through the orderly redevelopment of the corridor. The proposal also integrates commercial variety into the neighborhood that generates opportunities and choices for consumers.

Financial Implications:

N/A

Board/Commission Recommendation:

At the Planning Commission meeting held on October 19, 2017, these items were discussed under the new business calendar. The Planning Commission discussed whether the proposed site design and layout provided an adequate buffer to the adjacent residential properties to the east and the entitlement process. One member of the public spoke in opposition to this item, and focused on the adequacy of the buffer/screening between the commercial and residential properties, envisioned land uses, and traffic. The Planning Commission ultimately voted unanimously in favor of the items.

Please reference the minutes from the hearing for a detailed record.

Stakeholder Process:

The public process included public notice provided to 65 property owners within 1,000 feet of the site on two occasions: once during the internal review stage and prior to the Planning Commission hearing. The site was also posted on those two occasions. A neighborhood meeting was held on August 14, 2017, with approximately eight citizens in attendance. In response to the solicitation for comments and citizen input provided at the neighborhood meeting, comments received focused on site design, traffic, visual impacts, and the compatibility of future land uses.

Staff sent copies of the plans and supporting documentation to the standard internal and external review agencies for comments. All comments received from the review agencies have been addressed. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire Prevention, CONO, Enumerations, School District #20, Police and E-911, and USAFA. While no comments from the USAFA were provided for this project, the applicant has included the standard USAFA notice, which includes notification that a given property may be impacted by noise and other similar incidental sensory effects of flight caused by aircraft used in the USAFA's Airmanship Program.

Please see the Planning Commission staff report for more details.

Alternatives:

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

Proposed Motion:

Deny the appeal and approve the development plan major amendment application DS DP 95-00025-A2MJ17 based on the finding that the application meets the review criteria contained in City Code

Section 7.5.502(E) (Review Criteria for Development Plans).