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Date	Ver.	Action By	Action	Result
7/8/2014	1	City Council	approved	Pass
6/24/2014	1	City Council	postpone to a date certain	

Creekside at Rockrimmon Conditional Use Development Plan

From:

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

Summary:

This item is a public hearing of an appeal of Planning Commissions action taken on May 15, 2014 to approve a concept plan amendment and a conditional use for a multi-family project located near Delmonico Drive and Rockrimmon Boulevard; the site is 24.08 acres in size.

The applicant is requesting a conditional use for multi-family in a PBC (Planned Business Center) zone district. Multi-family is permitted within the PBC zoning district as a conditional use, subject to Planning Commission approval. The conditional use is only for Lots 1-4 (5 acres). In addition, the applicant is requesting a concept plan amendment to change from commercial/office to multi-family. The concept plan covers the entire 24.08 acres.

Previous Council Action:

In 2008, the southeast portion of the property was rezoned to PBC/HS/SS/cr (Planned Business Center with hillside and streamside overlay and conditions of record) and the northwest portion of the property was rezoned to PUD/HS/SS/cr (Planned Unit Development with hillside and streamside overlay and conditions of record). The condition of record for both rezones required that all development plans be brought before City Planning Commission. The PUD zoning allowed single-family and multi-family residential with a density of 7.61 dwelling units per acre. The 2008 approval also approved a concept plan showing office, retail, multi-family, and single-family. The PBC zoned property contained 13.9 acres and proposed two fast food restaurants, a sit down restaurant, two office pad sites and a retail pad site. The PUD zoned property contained 30.2 acres and allowed 168

multi-family units and 62 single-family units.

Background:

The applicant is proposing a concept plan amendment to allow the PBC zoned property to be developed for multi-family. The PUD zoned property would be developed as was proposed previously, multi-family and single-family. The single-family lot layout would not change and the number of single-family units would still be 62. The total area developed for multi-family under the new concept plan would include 141 townhome units. Each unit would have four individual bedroom units and one common space for all four users to share.

The applicant is proposing a conditional use development plan to allow multi-family in the PBC zone district for Phase I (38 of the 141 units on lots 1-4). Development of the remaining units would require a conditional use development plan approval for the units in the PBC zone district and a PUD development plan approval for the units in the PUD zone district.

The appeal statement by Edmond Van Doren, Vice President of the Golden Hills Rockrimmon HOA, notes Planning Commission's failure to adequately address four issues.

The first issue is failure to meet the provisions of City Code 7.5.501. City Code requires that the proposed land uses are compatible with surrounding uses and minimize potential hazardous, adverse or objectionable effects. The appeal statement notes that safety factors due to the Wildland Urban Interface were ignored. During the review of the project staff took into consideration capacity of existing roadways and the additional traffic that was proposed to be added with the new development. The site has been proposed for development since the late 1960's, but has remained vacant. The proposed multi-family development is compatible with the surrounding multi-family and single-family homes and the traffic generated will not over burden the existing streets. Emergency evacuation procedures that address wildfires were taken into account during the review and the additional traffic generated from the multi-family development can be accommodated during an emergency.

The second issue is the geologic hazard concerns of the land. This site has potential geologic hazard concerns. The previously-approved concept plan required that at time of development plan a geologic hazard report be submitted showing that any geologic hazards could be mitigated. The conditional use development plan that was submitted included a geologic hazard report that was reviewed by City Engineering staff as well as Colorado Geological Survey. Both reviewers agreed that all geologic hazard concerns for Lots 1-4 could be mitigated and the structures as proposed were able to be built. All future development plans will be required to go through the same process prior to construction.

The third issue is drainage impacts from development that extend off the property. The increase in impervious surface created by new structures and parking lots was reviewed by City Engineering staff through the submittal of a drainage report. City Engineering has required that additional drainage structures be added to the creek. The majority of the drainage from the site will be directed to the creek. With the required additional structures the project meets the drainage requirements of the city.

The fourth issue is restriction on housing type. City staff has reviewed this application as a multi-family application. Due to the fact that the applicant noted the use as student housing and the units each have four bedrooms, additional parking was required to meet the parking demand on site. The

use of multi-family is a conditional use in the PBC zone district; therefore, the applicant is requesting a conditional use approval for the site. The Zoning Code does not include a definition of “student housing”; therefore, the proposed project best fits the definition of multi-family. Under the FHA, the City cannot restrict to who these units will be rented to.

Financial Implications:

Not applicable.

Board/Commission Recommendation:

At their meeting on May 15, 2014 the Planning Commission voted 5-2 (Commissioners Walkowski and Markewich opposed with Commissioners Henninger and Phillips excused) to approve the concept plan amendment, with technical modifications and the conditional use development plan with technical modifications. Commissioner Markewich was concerned with the egress and ingress to the site especially during a fire or other natural disaster, and felt the review criteria were not met. Commissioner Walkowski found this project did not meet the intent of the Zoning Code and felt the use would overburden the existing intersection at Delmonico Drive and Rockrimmon Boulevard. The attached CPC Record-of-Decision of the meeting provides the discussion on the applications.

Stakeholder Process:

The public process involved with the review of these applications included posting of the site and sending of postcards on two separate occasions. The first mailing went to 229 property owners within 1,000 feet. A neighborhood meeting was held on October 29, 2013. Forty-five (45) people attended the meeting. The second mailing for the City Planning Commission meeting, went to 245 property owners; this mailing included the property owners within 1,000 feet and the additional neighbors who wanted to be added to the mailing list. Comments from multiple neighbors were received after the neighborhood meeting. The main concerns heard from the neighborhood was traffic, wildfire evacuations with additional housing units, multiple apartment complexes in one area, and crime.

Alternatives:

1. Deny the appeal, thereby upholding the action of the City Planning Commission;
2. Approve the appeal, thereby reversing the action of the City Planning Commission;
3. Modify the decision of the City Planning Commission; or
4. Refer the matter back to Planning Commission for further consideration.

Proposed Motion:

CPC CU 13-00116

Move to deny the appeal by Edmond Van Doren, Vice President of the Golden Hills Rockrimmon HOA of Planning Commission’s approval of a conditional use permit.

Not applicable