



Legislation Text

File #: APPL-23-0006, **Version:** 1

An appeal of City Planning Commission's approval with conditions of a Conditional Use to allow a carwash in the MX-M (Mixed-Use Medium Scale) zone district consisting of 1.91 acres located at 3924 Pony Tracks Drive.

Quasi-Judicial

Presenter:

Tamara Baxter, Senior Planner, Planning + Neighborhood Services
Peter Wysocki, Director, Planning + Neighborhood Services

Owner: Krause+ LLC

Developer: Autowash Companies

Representative: Battista Design Group

Location: 3924 Pony Tracks Drive

City Planning Commission, at a regularly scheduled public hearing on October 11, 2023, approved a Conditional Use request for Autowash at 3924 Pony Tracks Drive to allow a self-service car wash facility to include three enclosed self-service car wash bays, three in-bay automatic wash bays with air dryers and overhead doors, and two dedicated enclosed dog wash stations, enclosed equipment room, enclosed vending/office room with associated parking and vacuum islands. Planning Commission's action included a number of conditions of approval, including limiting the facility's hours of operation from 6:00AM to 11:00PM. The limitation on hours of operation was intended to lessen the potential noise impacts on existing homes across the street (Pony Tracks).

On October 11, 2023, the Appellants, filed an appeal of the City Planning Commission's decision to approve the above-referenced project within the 10-day appeal window.

Background:

Please see the attached City Planning Commission Staff Report for a complete analysis of the proposed application.

Review Criteria:

The review criteria for granting a Conditional Use as set forth in City Code Section 7.5.601.C.2 are noted below.

- a. The application complies with any use-specific standards for the use in Part 7.3.3 (Use-Specific Standards),
- b. The size, scale, height, density, multimodal traffic impacts, and other impacts of the use are compatible with existing and planned uses in the surrounding area, and any potential adverse impacts are mitigated to the extent feasible; and
- c. The City's existing infrastructure and public improvements, including but not limited to its

street, trail, and sidewalk systems, have adequate capacity to serve the proposed development and any burdens on those systems have been mitigated to the maximum extent feasible.

The City Planning Commission found the application to be consistent with all applicable review criteria for a Conditional Use and supported staff's recommendations to add the following conditions of approval:

- Limit hours of operation between 6:00 am to 11:00 pm
- Illuminated signage shall not be visible to the residential development along Pony Tracks Drive.
- Year-around landscape screening, such as evergreens a minimum of 8 feet in height, shall be provided along Pony Tracks Drive. If site utilities along Pony Tracks limit tree plantings, other screening methods will be required, such as a screen wall and robust shrub planting. This shall be determined at the time of the development plan review.
- Permissible noise levels between residential and commercial zones shall not exceed City Code Section 9.8.104.
- Exterior structure and site lighting shall be directed inward to the site and away from the resident development along the south of Pony Tracks Drive.
- A development plan application is necessary to be submitted for the future car wash which will be reviewed administratively.

On October 21, 2023, an appeal of the City Planning Commission's approval of the above-referenced project was filed, within the 10-day appeal window. The Appellant cited in the appeal statement that they are not appealing the approval of the Conditional Use but are appealing the City Planning Commission error in limiting the hours of operation for this proposed project.

As set forth in the Unified Development Code Section 7.5.415.A.2.a.(2), the criteria for reversal or modification of the decision include:

- a) The decision is contrary to the express language of this UDC;
- b) The decision is erroneous; or
- c) The decision is clearly contrary to law; and

The Appellant indicated that the City Planning Commission's decision to limit the hours of operation was erroneous, as there are many examples of car washes in Colorado Springs that are open twenty-four hours per day, seven days a week in neighborhoods similar to the project site where residential development is adjacent to commercial centers that include a car wash facility.

Previous Council Action:

City Council approved a zone change (Ordinance 99-13) and accompanying concept plan for this property on January 26, 1999.

Financial Implications:

NA

City Council Appointed Board/Commission/Committee Recommendation:

At the City Planning Commission on October 11, 2023, the project application was pulled from the Consent portion of the agenda by the Appellant to discuss the hour operation limitation

recommended by Planning Staff. Formal presentations of the project were provided by City Planning staff, the applicant, and public comment against the project. The Appellant spoke at the Commission hearing expressing concerns of limiting hours of operation due to vandalism when not in operation and setting precedence as other car washes like this project do not have limited hours imposed on their operation. City Planning Commission voted 7:2:0 (Briggs and Slattery in denial) to approve the Conditional Use with conditions of approval at the October 11, 2023, meeting.

1. Affirm the decision of Planning Commission and deny the appeal;
2. Modify the decision of the City Planning Commission and approve the appeal; or
3. Refer the matter back to the City Planning Commission for further consideration.

Should the City Council wish deny the appeal and affirm the decision of Planning Commission to approve the Conditional Use with the limited hours of operation, the following motion is suggested:

Deny the appeal, thereby upholding the action of the City Planning Commission to approve the Autowash at 3924 Pony Tracks Drive Conditional Use, based on the findings that the application complies with the review criteria set forth in City Code Section 7.5.601, with the following conditions of approval, and that the appeal criteria found in City Code Section 7.5.416 are not met:

- Limit hours of operation between 6:00 am to 11:00 pm
- Illuminated signage shall not be visible to the residential development along Pony Tracks Drive.
- Year-around landscape screening, such as evergreens a minimum of 8 feet in height, shall be provided along Pony Tracks Drive. If site utilities along Pony Tracks limit tree plantings, other screening methods will be required, such as a screen wall and robust shrub planting. This shall be determined at the time of the development plan review.
- Permissible noise levels between residential and commercial zones shall not exceed City Code Section 9.8.104.
- Exterior structure and site lighting shall be directed inward to the site and away from the resident development along the south of Pony Tracks Drive.
- A development plan application is necessary to be submitted for the future car wash which will be reviewed administratively.

Should the City Council wish to approve the appeal and modify the conditions of the Planning Commission to approve the Conditional Use, the following motion is suggested:

Uphold the appeal, and modify the action of the City Planning Commission to approve the Autowash at 3924 Pony Tracks Drive Conditional Use, based on the findings that the application complies with the review criteria set forth in City Code Section 7.5.601 are met with amendment or revisions to the recommended conditions refer to recommended conditions in the motion above), the addition of conditions, or the deletion of conditions:

Should the City Council wish to remand the matter back to the City Planning Commission for further consideration, the following motion is suggested:

Remand the matter back to the City Planning Commission for further consideration of the conditions of approval and the limitation of the hours of operation.