



Legislation Text

File #: AR NV 22-00481, **Version:** 3

An appeal of City Planning Commission's decision to approve a nonuse variance to City Code Section 7.4.204(B) for the Polaris Pointe South Filing No. 4 project to increase the distance to allow on-street parking to half (1/2) mile of the subject property boundary. The site is zoned PUD (Planned Unit Development) and is located at the southwest bend of Spectrum Loop, west of Voyager Parkway, consisting of 18-acres.

(Quasi-Judicial)

Related Files: AR PUD 22-00062; AR NV 22-00480

Presenter:

Tamara Baxter, Senior Planner, Planning & Community Development Department
Peter Wysocki, Director, Planning and Community Development Department

Summary:

Owner: Cooper Ridge Development LLC

Operator: Notes Live

Representative: NES, Inc

Location: Southeast corner of Voyager Parkway and Spectrum Loop intersection

City Planning Commission, at a regularly scheduled public hearing on November 9, 2022, approved a PUD development plan and two non-use variance requests for the Polaris Pointe South Filing #4 (Sunset Amphitheater) to allow an 8,000-seat outdoor entertainment amphitheater with ancillary site improvements, allow for shared parking on properties within 2 miles of the site and increase the maximum reduction of the minimum on-site parking requirements to eight-five percent (85%), and increase the distance to allow on-street parking to half (1/2) mile of the subject property boundary. The property is zoned PUD (Planned Unit Development) and consists of 18 acres.

On November 18, 2022, the Appellants, Mr. Jayson Campbell, and Mr. Jeb Fuqua, who live at 966 Fire Rock Place and 853 Spectrum Loop, filed an appeal of the City Planning Commission's decision to approve the above-referenced project within the 10-day appeal window.

It should be noted that if the appeal of PUD development plan approval is granted (meaning the project is denied) the appeals of the two related non-use variances must also be granted.

Background:

The project proposal includes concurrent applications for a PUD development plan and two non-use variance requests to support a proposed 8,000-seat outdoor entertainment amphitheater and ancillary improvements. The concurrent non-use variance requests are for off-site and on-site

parking reductions to support the amphitheater project. The PUD development plan encompasses 18-acres which includes Lot 1 (amphitheater including private surface parking lot), Lots 2,3, and 4 (future restaurants), and two tracts capturing the private roads. Forthcoming restaurant developments are proposed for Lots 2, 3, and 4; these future developments will require independent PUD development plans.

The 8,000-seat, 100,629 square-foot, outdoor entertainment amphitheater complex which is comprised of: two primary buildings, a stage, covered suites, fireplace suites, interior guest and venue support facilities, outdoor stadium-style seating, lawn seating, a box office building, three entry gates, and loading area west of the stage. Lot 1 also includes a private 216-space surface parking lot which consists of 30 ADA parking spaces. The 8,000-seat amphitheater will employ approximately 200-250 people.

Access to the amphitheater venue will be off Spectrum Loop in four locations. On the west side of the amphitheater, there are two access points on either side of the stage. These access points will serve 20 parking spaces, loading, and service areas for the exclusive use of the venue operators. Spectrum Sun View, a private drive that runs north to south, will provide access to the private 216-space surface parking lot and access to the future restaurants. There are shuttle drop-off/pick-up locations identified along the west side of Spectrum Sun View. A private drive located north of the amphitheater (Tract A) will provide access to the venue, future restaurants, an interim 500-space parking area, and future commercial businesses along this road.

The primary concert season will be May through September, with no more than 60 concert events annually. Concerts will occur mainly Thursday, Friday, and Saturday nights. Secondary events such as local graduations, cultural events, and family-oriented community events such as movie nights will occur periodically from October through April. The amphitheater venue will operate less than 100 days per year.

Outdoor entertainment is a permitted use in the Polaris Pointe PUD zoning, meaning that the project could have been acted upon administratively. However, based on this project's scope and the level of public interest, Planning staff had decided, per City Code Section 7.5.105, to refer this project to the Planning Commission for consideration at a public hearing. City Planning staff did recommend approval of the applications.

The project is located within the "Northgate Master Plan" which was originally adopted in 1984. The Northgate Master Plan is a fully implemented master which means that eighty-five percent (85%) of the area within the master plan has been built out and the remaining undeveloped areas have been zoned to conform with the master plan. In 2009, the property designation was changed to "Regional Commercial" on the Master Plan to better align with the City's Comprehensive plan. City Code Section 7.5.410 provides the definitions for the land uses in a master plan. Regional Commercial is defined as *"...primarily retail land uses intended to provide some of the functions of the other commercial centers, plus the sale of general merchandise and may include some office uses. Sites generally exceed thirty (30) acres and tend to be located at the intersection of two (2) major arterials. The service area is a radius of about five (5) miles or at least one hundred thousand (100,000) people. Hours of operation include evenings and weekends. Traffic generation is constant, and volumes are high relative to other commercial types."* The project is within the Copper Ridge at Northgate Urban Renewal Plan which was established in 2010 to stimulate growth investment within the renewal area's boundaries. 'Entertainment' is identified in the plan as one of the proposed uses.

Per Ordinance 09-01, 192.34 acres, which encompasses the Polaris Pointe at Northgate development, was rezoned to PUD (Planned Unit Development). An accompanying Polaris Pointe at Northgate PUD Plan, a concept plan, was approved. This PUD Plan has had several amendments since 2009. The current PUD Plan identifies the project area as 'mixed-use'. The mixed-use land designation is further defined to include land uses like an entertainment center, restaurants, commercial, and a mall with a possible underground parking structure. The proposed amphitheater use is consistent with the PUD Plan; staff determined that the development is a 'use by right', which follows an administrative review process.

City Code allows administrative applications to be deferred to Planning Commission for decision-making. Per City Code Section 7.5.105, "any application reviewed administratively by the Department may be referred to the Planning Commission at the discretion of the Manager". In consideration of both the scope of the project and the level of public interest surrounding this project, the Director determined that this project would be referred to Planning Commission for a public hearing. City Planning staff did recommend approval of this application.

City Planning staff found that the proposed project addressed the applicable review criteria set forth in City Code for a PUD development plan and development plan.

Traffic: LSC Transportation Consultants, Inc. (LSC) prepared a Traffic Technical Memorandum (Memorandum) dated October 14, 2022, for the project which makes specific recommendations for traffic circulation on existing roadways within and surrounding the development. LSC recommends a special event traffic control plan with an event-day-specific traffic signal timing plan for the entire Voyager Parkway Corridor. LSC also recommends event-plan laneage, and assistance by traffic control officers (likely private) during peak event arrival and departure times, as well as real-time, messaging on CDOT or other changeable message signs.

City Traffic Engineering is in general agreement with the analysis and recommendations of the Memorandum. The Memorandum shows areas of queuing and delay at intersections along Voyager and recommends event-specific traffic control solutions to ease this queuing and delay. Nonetheless, as with any entertainment venue, delays and queuing are to be expected at key access points to designated venue parking areas. In the review of the Traffic Technical Memorandum, the City Traffic Engineering has requested LSC to modify the technical analysis for consistency with the information provided by Kimley-Horn's Parking and Access Plan dated October 14, 2022. These required modifications and analysis are not expected to impact the findings, conclusions, and recommendations of the Memorandum.

Noise: An outdoor concert venue will have amplified sound as part of the operation. Three types of noise mitigation are recommended in the *Environmental Noise Emissions* report dated September 13, 2022, prepared by LSTN Consultants, LLC (LSTN) which includes physical mitigation, electroacoustic mitigation, and operational mitigation. With these three strategies employed, the noise study finds that overall noise decibels levels will be 47 dB(A). This is within the allowable noise levels of 55 dB(A) and 50 dB(A) for adjacent residential uses from 7:00 am to 7:00 pm and 7:00 pm to 7:00 am. To monitor sound output, two sound detection monitors will be installed at 7 Spectrum Loop and 13491 Bass Pro Drive. Should the decibels levels exceed 47 dB(A), these sound detection monitors will notify the venue operator and the venue sound will be reduced.

The venue operator acknowledges that it will not be possible to mitigate music event sound at the residential apartment development south of the venue. The developer has met with the owner of this community, who support the venue, and will inform all potential residents of the nature of the venue's operation and sound impact, including a clause reflecting such in the lease. The Noise Study does not incorporate the impact of the recently approved apartment complex to the east.

Compatibility: The PUD (Planned Unit Development) zoning, PUD Plan, and the Northgate Master Plan identify and allows this type of use at this location. Polaris Pointe is a regional commercial center for the north end of Colorado Springs. The area has a mix-use of residential, commercial, and office uses. Similar types of venues in Colorado Springs, i.e. Robson Arena and Weidner Field, have had similar compatibility concerns in addition to parking, traffic, and noise. Although different in location (urban verse suburban) these two venues have illustrated that with mitigation measures in place, venues like the amphitheater can successfully be part of the surrounding environment.

Off-Street/On-Street Parking/Remote Parking: Kimley Horn (a traffic, parking and transportation planning consultancy) prepared a Parking and Access Plan (Plan) for the amphitheater which identified that for a sell-out event, the venue would need 2,648 parking spaces to accommodate guests as well as operations and venue staff. A combination of on-site parking, on-street parking along Spectrum Loop, and off-site shared parking in existing parking lots that have extra capacity during event times. With this proposed Plan, a total of 3,039 parking spaces are provided, including 30 on-street Spectrum Loop ride-share drop-off and pick-up spaces.

Per City Code Section 7.4.203, Parking Space Requirements by Use, required off-street parking spaces for the amphitheater is 1 space per 4 seats, thus 2,000 off-street parking spaces are required for an 8,000-seat amphitheater. The project proposes a combination of on-site, on-street, and remote parking to accommodate parking needs for this project. Kimley Horn has prepared the *Sunset Amphitheater-Parking & Access Plan* dated October 14, 2022, to assess the venue parking needs and provide strategies to accommodate parking needs for the venue. With this plan, a total of 2,536 parking spaces will be permanently provided, along with 500 interim spaces (on undeveloped Polaris Pointe property) with a plan to contract for replacement and augmentation of these 500 interim spaces. The venue operator is committed to provide a minimum of 70% of the required parking (1,400) within a ½ mile radius of the Sunset Amphitheater and for parking resources identified as part of the plan beyond roughly ¼ mile (or 1,200 feet) walking distance, complimentary shuttle services will be offered for those that wish not to walk with maximum wait times of 5-11 minutes.

On-site parking (Lot 1) will be provided by a private 216-space surface parking lot east of Spectrum Sun View private drive and 20 spaces on the west side of the amphitheater behind the stage area. On-street parking is proposed along both sides of Spectrum Loop from Voyager Parkway to Voyager Parkway. The plan identifies 469 parking spaces, with 30 spaces to be used for TCN (Transportation Network Company), or rideshare such as Lyft/Uber, immediately west of the stage area along the east side of Spectrum Loop. The developer is responsible for restriping Spectrum Loop to three lanes to accommodate parking on both sides of Spectrum Loop. In addition, the developer is responsible for providing sidewalks along both sides of Spectrum Loop to provide safe, dedicated walking paths for pedestrians walking to and from the venue. Weed barriers and rock/cobble are required to be installed in the tree lawn areas adjacent to all sidewalks that are currently not landscaped. The installation of the sidewalks and required landscaping is to be installed prior to the opening of the venue.

Shared parking agreements are in place for remote parking at Bass Pro Shop (0.28 miles from the venue, providing 195 spaces), the Classical Academy (1.2 miles from the venue, providing 475 spaces), and Compassion International Lot 1 (1.3 miles from the venue) and Lot 2 (1.9 miles from the venue, providing a total of 1,164 spaces).

Two nonuse variances requesting deviations to the City parking requirements are addressed below.

Per City Code Section 7.4.204, Alternative Parking Options, adjustments to the minimum off-street parking requirements may be requested. These alternative options can be through on-street parking credit and shared parking arrangements.

- On-Street Parking Credit: Pursuant to City Code Section 7.4.204(B), the Land Use Review Manager may count certain on-street parking spaces immediately adjacent to the subject property as off-street parking spaces. On-street parking for the amphitheater is being requested beyond the property boundary on both sides of Spectrum Loop to accommodate 469 on-street parking spaces. A nonuse variance to increase the distance to allow on-street parking to half ($\frac{1}{2}$) mile of the property boundary is requested concurrently with the PUD development plan to address parking for the amphitheater. The intent of parking along Spectrum Loop is to bring parking closer to the venue and provide for a minimum of 70% of the required parking within a $\frac{1}{2}$ mile of the amphitheater.
- Shared parking: Pursuant to City Code Section 7.4.204(C)(1)(d), parking requirements can be satisfied by a shared parking agreement. Shared parking shall be on a parcel or parcels adjacent to the subject property within four hundred (400') feet by direct pedestrian access. The venue operator has entered into agreements with Bass Pro Shops, The Classical Academy, and Compassion International to utilize parking at these locations. The maximum reduction of the on-site parking requirements allowed under City Code Section 7.4.204(C) is thirty-five percent (35%), which equates to 700 parking spaces where 2,000 parking spaces are required for an 8,000-seat venue. The project requests to increase the maximum reduction of the on-site parking requirement to eighty-five percent (85%). Shared parking agreements shall be recorded in the office of the county clerk and recorder and noted on the development plan prior to final approval.

The criteria for granting nonuse variance requests include the following:

1. *The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district; and*

The property is being developed as an outdoor concert venue which will likely be used less than 100 days per year. To avoid excessive pavement and parking facilities that would sit vacant for approximately 265-days per year, the project proposes a combination of on-site parking, on-street Spectrum Loop parking, and shared parking in existing parking lots that have excess parking capacity during event times. Off-site parking provides traffic advantages because the impact on traffic is less than if it would be dispersed from one large parking lot on-site.

2. *That the extraordinary or exceptional physical condition of the property will not allow a*

reasonable use of the property in its current zone in the absence of relief; and

Since the venue will not be in use for over 70% of the year, requiring one hundred (100%) percent parking on-site is not a reasonable use of existing resources. On-street and off-site parking, installation of sidewalks on both sides of Spectrum Loop, providing shuttle service to and from parking lots, and the implementation of the Park and Access Plan and the Traffic Technical Memorandum allows reasonable use of the venue and the property.

3. *That the granting of the variance will not have an adverse impact upon surrounding properties.*

Allowing on-street parking immediately adjacent to the site, with the installation of a sidewalk along both sides of Spectrum Loop, and the implementation of the Parking and Access Plan and Traffic Technical Memorandum should not have an adverse effect on surrounding properties. Retentions of bicycle lanes on both sides of Spectrum Loop will continue to provide an alternative transportation option. Traffic will be managed in several ways as provided in the Traffic Technical Memorandum.

Development Requirements between Venue Operator and City of Colorado Springs

A condition of approval by City Planning Commission stipulated that an agreement between the venue operator and the City of Colorado Springs must be executed prior to the plan approval and that the agreement would outline operational parameters, including but not limited to parking, noise, traffic movement, and requirements for annual reporting. After further discussion with the City Attorney's Office, it was determined that an agreement is not the best mechanism to achieve continuous monitoring of this venue. Staff, consistent with direction of the City Attorney's Office, requested minor modifications to the general notes on the cover sheet of the development plan would achieve the same outcome. The revised general notes are documented and included in the packet as "Development Requirements".

City Planning staff has evaluated the proposed application for conformance with the City's current comprehensive plan ("PlanCOS"), adopted in January 2019. According to PlanCOS 'Vision Map' the project site is identified as a 'New/Developing Area'.

To achieve the 'Vision' of PlanCOS, the plan is organized around six (6) powerful vision themes which are supported by 'Big Ideas' which are intended to shape the City. These themes include Vibrant Neighborhoods; Unique Places; Thriving Economy; Strong Connections; Renowned Culture; and Majestic Landscapes. The following "Big Ideas" from PlanCOS which provided the basis of the goals/vision themes of the PlanCOS pertain to the proposed project.

- **Unique Places** is strengthened by reinvestment in magnetic activity centers that are located in new and reinvented areas throughout the city. The 'Unique Places Framework Map' identifies this area as 'Regional Employment and Activity Centers'. The goal of this typology is to *"encourage the continuing adaptation and development of regional centers as more complete and well-functioning places, each with an increase of diverse elements and unique place within them"*. Regional centers are major concentrations of employment and commercial activity.
- **Thriving Economy** fosters an environment of inclusivity and economic diversity by attracting an innovative and adaptive workforce. The 'Thriving Economy Framework Map' identifies this area as 'Spinoffs and Startups'. The goal of this typology is *"to become increasingly competitive at business and worker attraction in medium and high-wage jobs by supporting the*

creation of environments that attract them and allow them to thrive.”

- **Renowned Culture** promotes and embraces arts, culture, and education as an essential part of the lives and identity of the city. The ‘Renowned Culture Framework Map’ identified this area as a “Cultural and Tourist Attraction (Future)”. The goal of this cultural topography is “*to recognize, protect, and enhance the values associated with special places in our community, including those most important to our tourism industry.*” PlanCOS is intended to provide a framework and impetus for a variety of implementation initiatives throughout the city organization and intended to be undertaken collaboratively. Strategies outlined in PlanCOS are approaches to further the identified goals and policies in PlanCOS such as “**Strategy RC-3.D-2: Build one or more outdoor amphitheatres in locations such as parks and redeveloping or newly developing areas of the city.**” This supports “**Goal RC-3: Ensure the accessibility and diversity of arts and culture opportunities throughout the city.**”

The project site is part of the Northgate Master Plan, which is a fully implemented master plan, but designates the property as ‘Regional Commercial’. Per City Code Section 7.5.402, an implemented master plan is a “*master plan that is eighty-five percent (85%) or more built out and the remaining vacant land is zoned in conformance with the master plan.*”

The project is located within the Copper Ridge at Northgate Urban Renewal Plan which was accepted by the City of Colorado Springs Urban Renewal Authority. According to this plan, “*all development in the area shall conform to the Zoning Code and any site-specific zoning regulations or policies which might impact properties...*” The plan identifies entertainment as one of the proposed uses in the district.

The City Planning Commission found the application to be consistent with all applicable review criteria for a PUD development plan and the applicable review criteria for the requested nonuse variances. As such, the City Planning Commission approved the requested PUD development plan and two non-use variances for the 8,000-seat outdoor entertainment amphitheater and concurrent nonuse variance requests for off-site and on-street parking reductions to support the amphitheater project with the following and conditions of approval:

1. The LSC Transportation Consultants, Inc. Traffic Technical Memorandum dated October 14, 2022, shall be updated to include the traffic counts adjustments and split ratio; additional analysis for Powers off-ramp/Voyage Parkway intersection; and include the project queue analysis in Table 5 of the memorandum which shall be approved by City Traffic Engineering.
2. An agreement between the venue operator and the City of Colorado Springs shall be executed prior to plan approval. The agreement will outline operational parameters, including but not limited to parking, noise, traffic movement, and requirements for annual reporting. This agreement must be executed prior to approval of the project. *(as noted above, the operational parameters are being included as notes on the development plan instead of an agreement)*

On November 18, 2022, an appeal of City Planning Commissions approval of the above-referenced project was filed, within the 10-day appeal window. The Appellant cited in the appeal statement that they are appealing the following:

- Error by Planning Commission to approve the project as it violates three existing city ordinances.
 - Violation of City Code Section 9.8.101: Noise Prohibited.

- Violation of City Code Section 7.4.204: Alternative Parking Options.
- Violations of City Code Section 7.5.802(3): Nonuse Variance criteria.

Previous Council Action:

Council has taken previous action to this property on July 28, 2009, for a zone change (Ordinance No. 09-191) and accompanying concept plan.

Financial Implications:

N/A

City Council Appointed Board/Commission/Committee Recommendation:

At the City Planning Commission on November 9, 2022, the project application was heard under the New Business Calendar portion of the hearing. Formal presentations of the project were provided by City Planning staff, the applicant, and public comments in favor and against the project were taken from members of the public in person and virtually. The Appellants spoke at the Commission hearing expressing concerns about the amphitheater use, noise levels, traffic congestion, and off-site parking with respect to the impact to adjacent residential neighborhoods and devaluing of property. The Appellants and others also provided written public comments which were provided to the Commission prior to the hearing. City staff addressed questions from the Commission related to the project. The City Planning Commission approved the PUD development plan application by a vote of 6:3:0 (Rickett, McMurray and Foos voted against) and approved both nonuse variances by a vote of 5:4:0 (Rickett, McMurray, Foos and Briggs voted against) with the following conditions of approval:

1. The LSC Transportation Consultants, Inc. Traffic Technical Memorandum dated October 14, 2022, shall be updated to include the traffic counts adjustments and split ratio; additional analysis for Powers off-ramp/Voyage Parkway intersection; and include the project queue analysis in Table 5 of the memorandum which shall be approved by City Traffic Engineering prior to the approval of the project.
2. An agreement between the venue operator and the City of Colorado Springs shall be executed prior to plan approval. The agreement will outline operational parameters, including but not limited to parking, noise, traffic movement, and requirements for annual reporting. This agreement must be executed prior to the approval of the project. *(as noted above, the operational parameters are being included as notes on the development plan instead of an agreement)*

Stakeholder Process:

The Appellants spoke at the November 9, 2022, Commission hearing for the PUD development plan and two non-use variances. Despite the concerns that Messrs, Campbell and Fuqua raised at that time along with other numerous public comments received during the hearing, the Planning Commission voted to approve the application as presented. City staff sent out an email to all interested stakeholders that had contacted staff during the review processes, including the Appellants, notifying them of the approval of the PUD development plan and the two non-use variances, and provided information on the appeal process which was presented at the Commission hearing. Shortly thereafter, the Appellants contacted the planning office to notify of their appeal. The Appellants submitted the appeal application on Friday, November 18, 2022, within the 10-day appeal window. Subsequently, a formal request by the Appellants was made for the automatic one-time postponement of their appeal from the December 13, 2022 Council meeting to the next regular

Council hearing (January 10, 2023) per City Code Section 7.5.906.B.3.

In accordance with City Code Section 7.5.901, public notice was provided during the internal review of the project, for the two neighborhood meetings (February 17, 2022, and September 13, 2022), and the Planning Commission public hearing. CONO (Council of Neighborhood Organizations) was notified during the public notice stages. CONO's intent is to share information to homeowners' associations and neighborhood organizations. As required by City Code, the public notification process consisted of providing notice to property owners within 1,000 feet of the subject site. For this project, 26 property owners were sent notifications. The site was also posted on seven separate occasions with two to three posters each time (one poster at the site adjacent to Spectrum Loop and two to three along Voyager Parkway).

Based on public comments received during the review process, and from the September neighborhood meeting, more than 400 individuals have received notification of this project on several occasions. Throughout the public notice period, City Planning staff received letters of support and opposition to this project. At the neighborhood meeting in September 2022, FAQs on the project were provided by the Applicant Team to address the public comments that were received prior to this neighborhood meeting. The primary expressed concerns are noise, parking, traffic, and compatibility.

City Planning staff also sent the PUD development plan and the two nonuse variances to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Bike Program, Colorado Springs Fire Department, City Engineering, Stormwater Enterprise (SWENT), City Traffic Engineering, United States Air Force Academy (USFA), and Colorado Springs Police Department (CSPD). City Planning staff notes that the following review agencies provided project-specific comments:

- City Traffic: - The City's Traffic Engineering Division (Traffic Engineering) has reviewed the *Polaris Pointe South Filing No. 4 Traffic Technical Memorandum* dated October 14, 2022. City Traffic is in general agreement with the analysis and recommendations of the memorandum. Required modifications have been requested to the memorandum, these are not expected to impact the findings, conclusions, and recommendations of the LSC Transportation Consultants, Inc. (LSC) and are technical modifications that will need to be addressed in the memorandum to the satisfaction of Traffic Engineering before issuing a stamped approved PUD development plan and approval letter.
- CSPD: Colorado Springs Police Department provided details regarding their Extra Duty Solutions service, a private vendor that schedules off-duty police officers to work events on a voluntary basis. Further discussion is necessary with CSPD regarding the number of off-duty officers needed during primary concerts in conjunction with contracted private security.
- CSFD: The Colorado Springs Fire Department comments were addressed during the review of this project. Due to the proximity of Fire Station 22 off Copper Center Parkway, according to the Fire Marshall, fire services are available for the venue. Operation of the venue will not substantially impact service to surrounding residential neighborhoods and commercial/office businesses. Prior to the Certificate of Occupancy for the venue, the venue operators must have a 'Fire Safety Evacuation Plan' in place. The plan will include a 'Crowd Manager Training' portion which is a requirement for public assemblies.

- SWENT -Stormwater Enterprise (SWENT) had no comments for this project. The FDR for this development was approved on 03/18/2022.

Alternatives:

City Council may choose to deny, amend, or uphold the appeal or refer the item back to staff or City Planning Commission.

Proposed Motion:

Deny the appeal and uphold the non-use variance approval based upon the finding that the appeal does not meet the requirements of City Code Section 7.5.906.B, thereby upholding Planning Commission's action to approve the Nonuse Variance to City Code Section 7.4.204(C)(1)(d)(2) for the Polaris Pointe South Filing No. 4 project to allow shared parking on properties within 2 miles where 400' is the maximum distance and to increase the maximum reduction of the minimum on-site parking requirements to 85 percent (85%) where thirty-five percent (35%) is allowed, based upon the findings that the request meets the review criteria for granting a Nonuse Variance as set forth in City Code Section 7.5.802, with the following conditions of approval:

1. The LSC Transportation Consultants, Inc. Traffic Technical Memorandum dated October 14, 2022, shall be updated to include the traffic counts adjustments and split ratio; additional analysis for Powers off-ramp/Voyage Parkway intersection; and include the project queue analysis in Table 5 of the memorandum which shall be approved by City Traffic Engineering.

NA