



## Legislation Text

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An appeal of the Planning Commission's denial of the Spectrum Loop Multi-Family project for a PUD Concept Plan graphically representing a future multi-family development.

(Quasi-Judicial)

Related Files: CPC PUZ 20-00057 and CPC PUP 20-00058

**Presenter:**

William Gray, Senior Planner, Planning & Community Development  
Peter Wysocki, Director, Planning & Community Development

**Summary:**

Owner: Chapter Two Investments, LLC  
Developer: Morgan Group  
Representative: NES, Inc  
Location: Southeast corner of Voyager Parkway and Spectrum Loop intersection

Planning Commission, at a regularly scheduled public hearing on August 10, 2022, voted four (4) to three (3) to deny the PUD Zone Change and PUD Concept Plan applications associated with the Spectrum Loop Multi-Family project. The zone change request would have allowed 11.925 acres to be rezoned from A (Agricultural) to PUD (Planned Unit Development: Residential, 35 dwelling units per acre, and 40 feet to 60 feet maximum building height). The concept plan graphically represents a proposed multi-family development on the site that is consistent with the proposed PUD zone change in terms of use, density and building height. Maximum building height being established by the zone change includes sub-zones delineated across the site to ensure there is a transition of intensity. The transition is accomplished by limiting maximum building height to 40-feet in the easterly portion of the development, 45-feet in the southwest area of the site, and 60-feet across the remainder of the development.

The Planning Commission found that the proposal did not meet the criteria required for granting a Zone Change, as set forth in City Code Section 7.5.603(B), and the establishment and development of a PUD zone, as set forth in City Code Section 7.3.603, and review criteria for establishing a PUD concept plan, as set forth in City Code Section 7.3.605, and the review criteria for establishing a concept plan, as set forth in City Code Section 7.5.501(E). The basis for this decision was because of insufficient information regarding traffic impacts associated with the project in the Traffic Impact Study, the Traffic Impact Study did not adequately account for the traffic, both current and future, in the Northgate area, an inconsistent use with an approved master plan, and a density that did not provide an appropriate transition between uses of differing intensities. A more detailed overview of the Planning Commission's decision is provided below under the City Council Appointed Board/Commission/Committee Recommendation section of this memo.

An appeal to this decision was filed by NES, Inc, on behalf of Morgan Group, on August 22, 2022, and it meets the requirement for the filing of an appeal pursuant to City Code Section 7.5.906.1...,"Notice Of Appeal: Any person may appeal to the City Council any action of the Planning Commission or an FBZ Review Board or Historic Preservation Board in relation to this Zoning Code, where the action was adverse to the person by filing with the City Clerk a written notice of appeal. The notice of appeal shall be filed with the City Clerk no later than ten (10) days after the action from which appeal is taken and shall briefly state the grounds upon which the appeal is based."

The appeal specifically requests that City Council reverse the decision of Planning Commission and approve the proposed zone change and PUD Concept Plan. The appellant contends that the Planning Commission erred in its decision to deny the proposal because the project does meet the criteria for a PUD Zone Change and Concept Plan. More particularly, the project is consistent with PlanCOS which provides current land use policy guidance for this area, and its approach calls for a variety of housing types and sizes, serving a range of demographic sectors; encourages higher density residential development in activity centers. The project is within the Polars Point Regional Activity Center. A zone change is not required to be consistent with a master plan that is implemented. The 1984 Northgate Master Plan is an implemented plan. The multi-family proposed provides a transition between the single-family neighborhood to the east and the more intense commercial uses to the north and west, and future Power Boulevard to the south. That there is adequate street capacity on the surrounding road network as determined in the Traffic Impact Study and at the Spectrum Loop and Voyager Parkway intersection with the proposed improvements.

In response to the Planning Commission's recommendation and neighborhood concerns the Appellant has submitted changes to the zone change request and the concept plan, and the traffic impact study. The zone change request has been revised, reducing maximum density to 29 dwelling units per acre, building height to 38 feet in subzone A and 43 feet in subzone B and eliminating subzone C. Subzone C as presented at Planning Commission's review allowed a 60 feet maximum building height. The concept plan changes reflect the reduced building heights by the two (2) subzones as described above. By changing the maximum building height standard, the bulk and mass has been further reduced to have more useable open space within the development. The traffic impact study revisions reflect the reduced density, an expanded scope of three (3) additional intersections, more and extended time periods of traffic counts, additional analysis and design options for the west project access, and the inclusion of traffic volumes associated with the proposed amphitheater, Polaris Junction multi-family, and Springs at Northgate multi-family.

**Background:**

The Appellant proposed to change the zoning from A (Agricultural) to PUD (Planned Unit Development). The requested PUD zoning is for residential uses at a density of 35 units per acres. Also, proposed with the zone change request are subzones that establish maximum building height for delineated area across the property from east to west. The proposed building heights range from 40 feet to 60 feet.

The PUD zone is intended to encompass all residential use types (to include single-family detached, single family attached, multi-family dwellings and all other residential use types) to allow a mix of uses to match the intended purpose of PUD (Planned Unit Development) zoning. The broader residential use types afford flexibility for future land development and decisions. The proposed uses are compatible with the surrounding mix of zones and uses, which consists of regional commercial, office, single-family and multi-family. To guide the application of the Applicant's proposed maximum

building height range, which ranges from 40-60 feet, is clarified by the subzones incorporated into the zoning of this property to better address compatibility. Compatibility can also be influenced or effected by intensity of uses, and bulk and mass of buildings. This is particularly important where this property adjoins the single-family residential neighborhood to the east. It is not so important for the surrounding zoning to the west and north as these districts permit maximum building heights of 45' to 120'. Per City Code Section 7.3.601(A), PUD zone districts are intended to promote development with "...a variety of mutually supportive and integrated residential and nonresidential land uses", which this project does through a subzone mechanism to ensure there is a transition from the lower density single family residential on the east and the higher density commercial to the west and north of the site. Therefore, the transition of height subzones was proposed and is accomplished by limiting maximum building height to 40-feet in the easterly portion of the development, 45-feet in the southwest area of the site, and 60-feet across the remainder of the development.

To conclude, the proposed uses, maximum density and building height subzones are what contribute to making the requested zone change fit with surrounding zoning and land uses. The mix of uses are what primarily allows the application to comply with the adopted Comprehensive Plan of the City.

The Appellant's concurrent proposal is for a PUD Concept Plan that envisions multi-family development on 11.9-acres of land with a maximum density of 35-acres and three (3) maximum building height subzones. Residential uses are not being limited within the project. Other dimensional standards that are being applied through the concept plan for this project are building and landscape setbacks. For example, the building and landscape setback on the east boundary is 15 feet. This, along with the building height limits being created will help to minimize impact, especially on the east side of the development where existing development is less intense. The layout of the concept plan also considers site topography, which works in concert with the height transitions as the grade falls from east to west.

Access to the proposed new development is from two (2) access points from Spectrum Loop that are aligned with the accesses to the retail center to the north. All the proposed street and intersection improvements have been designed to substantially comply with the City Traffic Criteria Manual and promote safety, convenience and ease of traffic flow and pedestrian movement both on- and off-site.

The City's Traffic Engineering Division of Public Works (herein referenced as "Traffic") reviewed the PUD concept plan and accompanying Traffic Impact Analysis (TIA); prepared by Kimley-Horn and Associates, Inc. Traffic accepted the analysis and recommendations set forth in the TIA prepared by the applicant's consultant. Traffic is requiring that new, westbound left-in turn lanes be added at both access points to the development on Spectrum Loop. These improvements will be implemented at time of development plan. In addition, the city will address the signal phases changes that are recommended in the TIA for the signal at the Voyager Parkway and Spectrum Loop intersection.

No parkland or school lands are planned for the site. Both City Parks and School District requested fees in lieu of land dedication. The property is close to undeveloped Greyhawk Park and adjacent to the Skyline urban trail along the western boundary of the property, adjacent to Voyager Parkway.

Overall, the development is also located proximate to places of employment, schools, parks, groceries, services, and entertainment. All are characteristics that make it a good fit for residential development as proposed. These are similar reasons as to why the Northgate neighborhood is a desirable place to live within the city. This site is a good fit for multi-family development.

City Planning staff found that the proposed project addresses the applicable review criteria set forth in City Code for a zone change request and PUD Concept Plan. Staff notes that all future development of the project site will require the review and approval of PUD development plan and final subdivision plat applications.

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 and Vibrant Neighborhood Framework Map, the project site is identified as a 'Newer Developing Neighborhood'. PlanCOS recommends the incorporation of higher density and mix of housing types on remaining parcels and the creation of additional trails and pedestrian connections and connecting neighborhoods to major trail systems.

The Spectrum Loop Multi-Family project is consistent with three (3) PlanCOS vision themes, as follows:

- Vibrant Neighborhood - Housing for All

**GOAL VN-2:** Strive for a diversity of housing types, styles, and price points distributed throughout our city through a combination of supportive development standards, community partnerships, and appropriate zoning and density that is adaptable to market demands and housing needs.

*Policy VN-2.A:* Promote neighborhoods that incorporate common desire neighborhood elements.

*Strategy VN-2.A-3: Support land use decision and projects that provide a variety of housing types and sizes, service a range of demographic sectors, and meeting the needs of residents and families through various life stages and income levels.*

*Policy VN-3.F:* Enhance mobility and connectivity between neighborhoods across Colorado Springs and with surrounding jurisdictions.

*Strategy VN-3.F-1: Increase transportation recreation choices for all neighborhoods by improving or adding bike lanes, sidewalks, off-street neighborhood trails, and greenways that connects to larger system trails...*

- Unique Place Typologies and Framework

The site is in a Regional Employee and Activity Center (Polaris Pointe). These centers typically include a mix of supporting uses, such as higher density residential, office, service, medical and civic use. Recommendations for these areas include expanding diversity of land uses, connection to sidewalks and trails, increased connectivity to region and surrounding neighborhoods, and design buildings and site to appropriate scale.

- Unique Places - Embrace Creative Infill, Adaptation, and Land Use Change

**GOAL UP-2:** Embrace thoughtful, targeted, and forward-thinking changes in land use, infill, reinvestment, and redevelopment to respond to shifts in demographics, technology, and the market.

*Policy UP-2.A: Support infill and land use investment throughout mature and developed areas of the city.*

City planning staff finds the project in question and its associated applications to be substantially in conformance with PlanCOS and its guidance.

The project site is part of the Northgate master planned area (“Northgate Master Plan”). Northgate Master Plan totals approximately 1,500-acres and consists of a mix of commercial, industrial, research and development, office, multi-family, and single-family residential and park land uses. The project site is identified as office/industrial in the master plan. While this land use may be complimentary and supportive to portions of the land use pattern for the area, it may not work well with the adjacent single family residential. The proposed project better diversifies land uses and is a better fit to Plan COS. The master plan is considered implemented pursuant to City Code as it is more than 85% built out. Through staff’s review of this project, it has been found to be in general conformance with the long-range vision of the Northgate Master Plan as it is consistent with the mix of uses that the plan initially laid out for this area and is a better fit with the land developed and developing land patterns and uses of today.

The Appellant has continued to adjust the proposed plan and information that was presented and considered by Planning Commission in its review of the project. This has resulted in changes to the project that have improved the transition from the adjacent neighborhood by reducing density and maximum building heights. The maximum proposed density has been decreased to 29 dwelling units per acre. The proposed maximum building height range is now 38-43 feet and is clarified by subzones that are incorporated into the proposed PUD zoning. In addition, the Traffic Impact Study has been expanded in scope to better address the traffic impacts of this project, the conclusions, and its recommendations. The traffic impact study revisions reflect the reduced density, an expanded scope of three (3) additional intersections, more and extended time periods of traffic counts, additional analysis and design options for the west project access, and the inclusion of traffic volumes associated with the proposed amphitheater, Polaris Junction multi-family, and Springs at Northgate multi-family. This revised Traffic Impact Study has been reviewed by City Traffic Engineering and they agree with its conclusion and recommendations, which are the same as the original traffic study apart from identifying improvement options for Spectrum Loop adjacent to the site. The options increase the length of the westbound left turn lane at Voyager Parkway and Spectrum Loop intersection. City Traffic Engineering is recommending deferring the decision on a preferred alternative for Spectrum Loop to the time of development plan review for this project.

**Previous Council Action:**

City Council previously acted on this property in 1985 when the property was annexed and zoned.

**Financial Implications:**

N/A

**City Council Appointed Board/Commission/Committee Recommendation:**

At the City Planning Commission meeting held on August 10, 2022, the project applications were considered under the New Business. Testimony, discussion, and deliberation was extensive for the proposed project. The pertinent issues associated with this project’s review were traffic impacts, insufficient information in the Traffic Impact Study, consistency with approved master plan, high

density, proposed maximum building heights, park space and school capacity. A Planning Commission motion to approve both the zone change and PUD Concept Plan failed on a 3:4:2:0 vote, resulting in a denial of the project applications (Planning Commissioner James McMurray and Colby Foos were absent).

A more details discussion of Planning Commission's deliberations, as it relates to the applicable review criteria, is provided below.

### **ZONE CHANGE REQUESTS AND ZONE CHANGE AMENDMENTS - 7.5.603: FINDINGS:**

*Section 7.5.603.B.1* requires that the action will not be detrimental to the public interest, health, safety, convenience, or general welfare. The Planning Commission cited concerns that the traffic study did not sufficiently address the traffic impacts associated with this project with existing background and future traffic of the Northgate area. At the same time, they also acknowledged the proposed project would create a lesser traffic impact than an office/industrial use as illustrated by the Traffic Impact Study.

*Section 7.5.603.B.2* requires that where a master plan exists, the proposal is consistent with such plan or an approved amendment to such plan. The Planning Commission referenced the Northgate Master Plan that specifically identified the project site for office/industrial use. It was also acknowledged by Planning Commission that the proposed use is appropriate for the location and surrounding uses. Furthermore, they concluded that the proposed project met or adhered to the vision, goals, and policies of PlanCOS.

### **PLANNED UNIT DEVELOPMENT DISTRICTS - 7.3.605: REVIEW CRITERIA FOR PUD CONCEPT PLANS:**

*Section 7.5.605.C* requires the proposed development be consistent with any City approved master plan that applies to the site. The Planning Commission stated that the Northgate Master Plan that applies to the project site intended to be used for office/industrial. As stated previously, the Planning Commission also agreed that the proposed use was appropriate for the site and that it complied with PlanCOS.

*Section 7.5.605.F* requires the development pattern proposed within the PUD concept plan provide an appropriate transition or buffering between uses of differing intensities both on site and off site. Planning Commission raised concern regarding the proposed density of 35 dwelling units per acre for the project, which was not an appropriate transition between uses of differing intensities, specifically citing the Greyhawk neighborhood immediately east of the site. On the other hand, they also generally felt that the proposed multi-family use and building height subzones did provide an appropriate transition between uses.

*Section 7.5.605.P* requires that the proposed development not overburden the capacities of existing or planned streets, utilities, and other public facilities. The Planning Commission concluded that the Traffic Impact Study did not sufficiently address the traffic impacts associated with this project with existing background and future traffic of the Northgate area. The notion of insufficient information was also expressed by Planning Commission for the recommended westbound left-in turn lanes at both access points to the development on Spectrum Loop and the signal phase change to the signal at the Voyager Parkway and

Spectrum Loop intersection. Raising the question, are these recommendations sufficient to ensure that the development does not overburden the capacity of Spectrum Loop?

To recap, the Planning Commission's review illustrates that both the positive and negative aspects of the proposal were considered carefully in their deliberations. However, by a narrow margin the Planning Commission ultimately determined after considering all evidence and testimony presented at the hearing that the project did not conform to the required review criteria for a zone change and PUD concept plan and denied the applications.

### **Stakeholder Process:**

The public notification process consisted of providing notice to adjacent property owners within 1,000 feet of the site, which included the mailing of postcards to 205 property owners on three (3) occasions; during the internal review stage and prior to the Planning Commission hearing. The site was also posted during the two occasions noted above. City Planning staff received 28 written comments for the project. All comments received were generally opposed to the project citing concerns over traffic, density, building height, park space, and schools, emergency evacuation. The Applicant provided a response letter to address the public comment.

Staff input is outlined in the following sections of this report. Staff sent the conditional use development application plan to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Fire Department, City Engineering, Stormwater Enterprise, and City Traffic Engineering. City Planning staff notes that the following review agencies provided project specific comments:

- City Traffic - The City's Traffic Engineering Division required an update to the submitted Traffic Impact Analysis (TIA) using existing city signal time for all the signalized intersections. The update was completed by the Applicant's Traffic Engineer. City Traffic Engineering, after recommended changes were made, agrees with the finding and recommendations in the TIA. In addition, with any future development west bound left turn lanes will be added on Spectrum Loop for the two (2) access points and the developer will be required to remit \$75,000 for the traffic signal at the intersection of Voyager Parkway and Spectrum Loop.
- City Fire - The City's Fire Department (CSFD) had no comments on the proposed project.
- City Engineering - The City Engineering Development Review (EDR) had no comments on the proposed project.
- SWENT -Stormwater Enterprise (SWENT) had no major review comments for this project. They did provide informational comments related to future development application. An amended Master Development Drainage Plan is required to be completed. In addition, site disturbance with any future project will be greater than one (1).
- CSU - Colorado Springs Utilities (CSU) had no comments on the proposed project.

### **Alternatives:**

1. Uphold the action of the City Planning Commission; or
2. Modify the decision of the City Planning Commission; or

3. Reverse the action the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration.

**Proposed Motion:**

Reverse the action of the City Planning Commission and approve the Spectrum Loop Multi-Family project, based upon the findings that the request meets the review criteria for establishing a PUD concept plan, as set forth in City Code Section 7.3.605, and the review criteria for establishing a concept plan, as set forth in City Code Section 7.5.501(E).

N/A