



Legislation Text

File #: APPL-22-0003, **Version:** 2

An appeal of the Planning Commission decision to deny an appeal of the administrative approval of the development plan amendment for 1756 Silversmith Apartments, located at 1756 Silversmith Road.

Presenter:

Katelynn Wintz, Planning Supervisor, Planning and Community Development
Peter Wysocki, Planning Director, Planning and Community Development

Summary:

Owner: Silversmith Road LLC
Developer: AIMCO - Alexandra Ong
Representative: AIR Communities - Barbara Frommel
Appellant: Michael Ford
Location: 1756 Silversmith Road

This application is an appeal of an administrative approval of a major development plan amendment located at 1756 Silversmith Road. Planning Staff administratively approved the application on November 7, 2022, to modify the approved development plan (previously Fairways at Flying Horse, approved 2019) for multi-family residential development. The 2019 approved development plan allows for construction of one, 4-story, apartment style building consisting of 108 residential units. The plan amendment reconfigures the site layout to include one 3-story building to the east and a series of townhouse-style units that step down the topography of the site consisting of 95 residential units. An appeal was filed on November 17, 2022, by Mr. Michael Ford to Planning Commission. The hearing was held at the December 14, 2022 where Planning Commission denied the appeal and upheld staff's decision. The appellant, Mr. Ford, submitted to appeal Planning Commission's decision on December 22, 2022.

Background:

The subject property obtained a zone change to PUD (Planned Unit Development) allowing for residential uses in 2019. The zone change request, and subsequent approved development plan, were submitted as complete applications in 2018 under the previous Comprehensive Plan. It is important to note this fact because the previous plan, prior to adoption of PlanCOS, included a land use map with similar use determinations and permitted uses for proposed developments that reduced the number of times master plan amendments were required. In this case, a major master plan amendment was not required for this PUD rezone because the previous Comprehensive Plan identified that multi-family development was permitted for lands designated as Office use in the master plan. PlanCOS removed this land use map and permitted uses requiring major master plan amendments for all operative master plans when a development proposal does not exactly match the approved land use category. This parcel of the Flying Horse Master Plan was amended consistent with the requirements of PlanCOS and approved by City Council on August 9, 2022. The amendment

rectifies and brings into conformance the proposed land uses consistent with the approved zoning allowing residential uses.

In 2019, the Fairways at Flying Horse PUD Development Plan (**see “2019 Approval - Fairways at Flying Horse” attachment**) was administratively approved; a permissible multi-family development under the established PUD zoning. The approved plans illustrate a one building layout in a ‘V’ shape, where the opening faces west, with a proposed cul-de-sac in the building courtyard area created by the building layout. The site design included an underground parking garage and a surface parking lot to the east consistent with the requirements of City Code. The approved building elevations show the proposed building consistent with the maximum building height of the PUD at 45-feet. Notably, this approval and, the subject building elevations illustrate a significant retaining wall at the northwest corner of the site. At its highest point, the retaining wall is an estimated 16-feet tall to support the apartment building. The northwest corner of the site is the area closest to single-family residential development to the north and townhouse development to the west. The retaining wall as approved in the 2019 plans builds up the area of the site with the lowest grade and closest to adjacent residential uses. No public comments were received when staff processed and approved the Fairways At Flying Horse PUD development plan. All standard city notification procedures were properly executed throughout the review of that 2019 application.

Per City Code Section 7.5.504.C.2a, development plan approvals are valid for a period of six years from the date of approval. The approval for Fairways at Flying Horse was granted on September 10, 2019. The plan will expire on that date in 2025 if no building permit is issued or no use has commenced as illustrated by that date, excluding the codified right of the developer to request two 2-year extensions prior to the expiration date. The current plan amendment will replace the 2019 approval maintaining multi-family residential but establishing the new configuration. If the appeal is granted, the site will revert to the entitlement applications approved in 2019 which still allows multi-family residential with the previously established building layout.

a. Administrative Approval

Planning Staff received the submittal documents for the 1756 Silversmith Development Plan amendment in May of 2022. The application was reviewed by all relevant internal and external review agencies, including Planning Staff for conformance with city standards, guidelines and criteria following all standard city procedures. The application went through several rounds of review and plan changes prior to approval on November 7, 2022 (**see “Approval Letter” attachment**).

The proposed application is consistent with the PUD zoning, the city standards for establishing a PUD development plan amendment and all requirements including parking, landscaping, grading, and building height. Throughout the review process the public was involved in the project review. The public provided feedback and wrote letters voicing concerns around the proposed development. The feedback given by the public was taken into consideration and several changes were made to the proposed design and site layout. For example, PUD development plans generally require a preliminary grading plan. As a result of the concerns of several members of the public regarding building heights and finished grade of the development, Planning Staff requested the applicant provide a final grading plan and include notes on the plan requiring a plan amendment should the final grade at any point increase by more than 12 inches. The applicant agreed to the conditions requested by Planning Staff. The final grading sheet is included as part of the approved plan set as well as a note on the cover sheet establishing the parameters requiring the future of plan amendments should grading at

construction not match the grading approved through this plan review.

The proposed residential use is permitted by right in the PUD zone district. This district, established in 2019, allows for residential development with a density of 16 dwelling units per acre and the maximum building height of 45 feet. The proposed plan amendment significantly alters the site layout. The amendment illustrates nine total residential buildings and reduces the total unit count to 95 dwelling units. These site alterations reduce density from 14.5 dwelling units per acre (approved in 2019) to 12.8 dwelling units per acre. The amended site layout illustrated a main 'V' shaped building (with the opening of the V facing east) and eight townhouse style buildings. The design changes are intentional to create a more harmonious development with the surrounding community by reducing the massing of the single building and retaining wall noted as part of the 2019 approval.

The eight townhouse buildings are proposed to step down the significant grade changes to the west of the site. These units are also intentionally oriented with the shorter side of the building facing closest to the residential development to the north to create visual corridors of the foothills to the southwest. The townhouses vary in height from 3-stories in the middle of each building with 2-story units bookending each of the eight buildings. Each townhouse unit includes a tuck-under 2-car garage. The townhouse units range from 2-, 3- and 4-bedroom offerings. This section of the development is served by one full movement access point from Silversmith Road. The units are served by a series of private streets. A secondary gated emergency access is depicted along the southern edge of the property. Dedicated off-street guest parking is identified toward the western edge of the development next to a fenced dog run.

The main building is a 3-story apartment style building containing 53 units. The building, shaped like a 'V', is designed to create a usable space, obscured by the building itself, to contain nearly all required surface parking. This is accomplished using a 2-story, one way parking structure. This section of the development is also served by one full movement access along Silversmith Road. The internal access includes a bank of 7 parking stalls along the Silversmith frontage, with the remainder contained in the parking structure. The private street leading to the parking structure extends an estimated 30 feet beyond the parking garage egress, where it is gated leading to the emergency access fire lane to the south also serving the townhouse development.

The City's Stormwater staff reviewed and approved the development plan, plat, and drainage report for compliance with the drainage criteria manual and other relevant requirements. The City's Traffic Engineers reviewed and accepted the proposed access points and associated public improvements as indicated in the Traffic Impact Analysis. Colorado Springs Utilities has accepted the project's public facilities to adequately serve the building with water, wastewater, gas, and electric services. Other agency reviewers including the Parks Department and School District 20 also provided comments on the application. The Parks Department confirmed that fees in lieu of land dedication will be required for the subject development. Despite concerns from residents that there is inadequate capacity at the District, representatives of the District continue to affirm that District schools have available seats to accommodate the students from the residential development.

The application is consistent with the City development standards for approval of a PUD Development Plan and a development plan amendment. The administrative approval of the requested plan amendment will replace the 2019 approval. Upholding the appeal as presented

will nullify the plan amendment and revert to the 2019 approval. Staff finds that approval of the PUD Development Plan amendment is a betterment to the previously approved entitlement thus supporting the recommendation to deny the appeal and uphold the administrative approval of the plan amendment.

b. Appeal

City Code Section 7.5.906.A.4 includes the criteria to be used to evaluate an appeal of an administrative decision. The appellant must identify the ordinance provisions which are in dispute, must show how the administrative decision was incorrect (e.g. against zoning provisions, unreasonable, erroneous, contrary to law), and must identify the benefits and impacts of the decision and show that the burdens on the appellant outweigh the benefits accrued by the community.

The appeal statement provided by the appellant cites that project approval is a direct violation of the intent and purpose of the City Zoning Code.

2. Conformance with the City Comprehensive Plan:

Staff has evaluated the proposed project for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. According to the PlanCOS Vision Map, the project site is identified as a Newer Developing Neighborhood (see "**PlanCOS Vision Map**" attachment). The project fits within the emerging neighborhood typology as defined in Chapter 2, Vibrant Neighborhoods, and this typology encourages a variety of housing and density types and ensure that careful attention is paid to the amenities the development may offer to enhance the neighborhood's livability. Chapter 2 also identifies in Goal VN-2 to:

"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."

Provision of newly constructed residential units is a direct response to the market needs for housing in the City. The project aligns with PlanCOS Chapter 4 Goal TE-4, which states:

"Focus on productively developing and redeveloping areas already in, nearby, or surrounded by the city in order to preserve open spaces, maximize investments in existing infrastructure, limit future maintenance costs, and reduce the impacts of disinvestment in blighted areas."

Policy TE-4.A encourages prioritization of development within the existing City boundaries and built environment (not in the periphery) and is further supported by Strategy TE.4-A-3 which supports greenfield development that includes mixed-use, higher density clusters, and quality design. Staff finds the project conforms to the intent of the Policy as stated because the project site is within the existing City boundaries and is located adjacent to existing development which further reinforces the ability to maximize investments in existing infrastructure.

3. Conformance with the Area's Master Plan:

The project site is part of the Flying Horse Master Planned area, which is identified as parcel 22 and designated for office, commercial and residential uses. The master plan, as amended, envisions a variety of residential land uses throughout the planned area with pockets of commercial developments and higher density residential developments in strategic locations adjacent to higher classification roadways. The project site lies just north of the future Powers Boulevard extension and is situated between the privately developed Flying Horse Golf Courses. The project area introduces a medium density of residential development than previously realized in the master planned area but and follows similar patterns of situating higher intensity uses within proximity to roadways with increased capacity. Staff finds the Flying Horse Parcel 22 project to be consistent and in substantial compliance with the Master Plan, as amended.

This master plan was presented to Planning Commission on January 11, 2023, recommending City Council consider the Flying Horse Master Plan implemented, based on the finding that the planned area meets the 85% buildout threshold as required in City Code. Planning Commission unanimously approved the recommendation of approval to City Council. This item will be referred to City Council at the February 14, 2023, City Council regular meeting.

Previous Council Action:

City Council acted on the subject property at annexation in 2003 and a subsequent rezoning approval in 2018 allowing residential development on the subject development.

Financial Implications:

N/A

City Council Appointed Board/Commission/Committee Recommendation:

City Planning Commission heard this item at the December 14, 2022, meeting. Discussion among the Commissioners after hearing testimony from Staff, the appellant, and the applicant, centered on the foundational elements of the staff approval that the proposed site design amendment is a betterment to the existing approved development plan and layout. The Commissioners indicated general agreement with Staff that the proposed amendment creates less visual impact, slightly less density, a logical transitional use, and provides excellent buffering to the future extension of Powers Boulevard. The Planning Commission voted unanimously to deny the appeal, upholding Staff's administrative decision to approve the major development plan amendment.

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 118 property owners on four occasions: during the internal review stage including meeting information for a neighborhood meeting on June 1, 2022, prior to a second neighborhood meeting in-person on July 27, 2022, and prior to the Planning Commission and City Council appeal hearings. The site was also posted during the four occasions noted above. City Planning staff received public comments from several concerned residents regarding the proposed development amendment. Concerns focused on establishing residential uses

at this location, density, traffic, site topography, school capacity, and impacts to views.

Staff input is outlined in the following sections of this report. Staff sent copies of the plan set and supporting documentation to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, Council of Neighbors and Organizations (CONO), School District #20, Police and E-911, and the United States Air Force Academy (USAFA). All comments received from the review agencies have been addressed.

Alternatives:

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

Proposed Motion:

Deny the appeal, upholding Planning Commission's denial of the appeal and approval of the 1756 Silversmith Apartments major development plan amendment, based upon the finding that the application complies with the review criteria in City Code Section 7.5.502.E, and that the appeal criteria found in City Code Section 7.5.906.B are not met.

N/A