

**CITY PLANNING COMMISSION AGENDA  
JUNE 14, 2023**

**STAFF: PETER LANGE**

**FILE NO(S):**

**A. – ZONE-23-0003 – QUASI-JUDICIAL**

**B. – COPN-23-0002 – QUASI-JUDICIAL**

**PROJECT: KUM & GO CONVENIENCE STORE AND GAS STATION**

**OWNER: FRED AND BARBARA GARCIA**

**DEVELOPER: KUM & GO, L.C.**

**CONSULTANT: ENTITLEMENT AND ENGINEERING SOLUTIONS, INC.**



## **PROJECT SUMMARY:**

1. Project Description: The project proposes concurrent applications for a Zone Change and Concept Plan. The Zone Change proposes to remove Condition No. 2 of City Ordinance No. 12-92 which stipulates “all activities shall be conducted entirely within a building” while retaining the current Zoning Classification of PBC CR (Planned Business Center (to become MX-M (Mixed-Use Medium Scale)) with Condition of Record) (**see “Zone Change” attachment**). All other conditions placed on the project site will remain unaltered. The Concept Plan proposed the future development of a Kum and Go convenience store and ancillary fuel sales canopy (**see “Concept Plan exhibit” attachment**). The project site is located at the southwest corner of North Circle Drive and East San Miguel Street and is approximately 1.82-acres in size.

A development plan application, which was separately submitted, is being administratively reviewed.

2. Applicant’s Project Statement: (**see “Project Statement” attachment**)
3. Planning and Development Team’s Recommendation: Approval of the requested Zone Change and Concept Plan applications.

## **BACKGROUND:**

1. Site Address: The project site is addressed as 1216 North Circle Drive and 2725 East San Miguel Street.
2. Existing Zoning/Land Use: The property is currently zoned PBC/cr (Planned Business Center with Condition of Record) and is currently vacant.
3. Surrounding Zoning/Land Use: (**see “Context Map” attachment**)
  - North: R-5 (Multi-Family Residential) and R1-6 (Single-Family Residential) and currently developed with a multi-family development and single-family residential homes.
  - South: C-5 (Intermediate Business) and is developed with a commercial shopping center.
  - East: R-1 6000 (Single-Family Residential) and is developed with single-family residential homes.
  - West: R-5/cr (Multi-Family Residential with Conditions of Record) and is developed with a multi-family residential use.
4. PlanCOS Vision: According to the PlanCOS Vision Map (**see “PlanCOS Vision Map” attachment**), the project site is identified as part of an Changing Neighborhood.
5. Annexation: The property was annexed into the City under the Palmer Park District in 1951 (Ordinance unknown).
6. Master Plan/Designated Master Plan Land Use: The project site is not within a master plan area.
7. Subdivisions: The 2725 East San Miguel Street property was platted under the B&J Garcia Subdivision. The remaining portion of the project site, specifically located at 1216 North Circle Drive, is currently unplatted.
8. Zoning Enforcement Action: None
9. Physical Characteristics: The site is currently undeveloped, with sloping topography along the northern and western portions of the lot.
10. Applicable Code: This request was submitted prior to the Unified Development Code (UDC) effective date of June 5, 2023, and as such was processed and reviewed under Chapter 7 standards. All established requirements in Chapter 7 have been met and therefore should be reviewed by this body under those standards.

## **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public notification process consisted of providing notice to surrounding homeowners associations and adjacent property owners within 1,000 feet of the site, which included the mailing of postcards to 214 property owners on three occasions, during the internal review, prior to the community meeting which was held on March 22, 2023, and prior to the Planning Commission hearing. The site was posted during the three separate occasions noted above.

Comments received during the public noticing cycles pertained to traffic, homelessness, land use compatibility, light and noise pollution, an overabundance of gas stations within the area, and traffic impacts along East San Miguel Street. The public comments received during the public noticing period generally pertained to site design and development related details that would be evaluated with the future development plan application and not the application requests (**See “Public Comment” attachment**) currently being considered. **The applicant provided a** response to the comments received, which was distributed to the community members who provided written and verbal feedback during the public comment period and during the March 22, 2023, community meeting. (**See Response to Public Comment Letter**)

Staff sent copies of the plan set and supporting documentation to the standard internal review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City SWENT, Landscaping, and Development Review Enterprises. All reviewers support the applications and all comments pertaining to the development plan will be addressed during the administrative review of the development plan application.

#### **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

1. Review Criteria / Design & Development Issues:

a. Background Information:

The City recently adopted the Unified Development Code (UDC), which is the City’s new Zoning Code. The UDC will go into effect on June 5, 2023. Per Section 7.3.303.3 of the UDC:

“Fuel Dispensing Stations” Fuel Dispensing Stations shall maintain a two hundred and fifty (250) separation from residential zone districts including R-E, R1-9, R1-6, R-2, R-4, R-5, R-Flex Low, R-Flex Medium, and R-Flex High.” The properties located directly to the west and southwest of the site are zoned R-5 (Multi-Family Residential) and are less than two hundred and fifty (250) feet from the project site. The Applicant submitted a development plan application prior to the June 5, 2023 UDC effective date and, as such, the application will be reviewed under the Chapter 7 of the Municipal Code. The use-based development standards for the envisioned convenience store and ancillary fuel sales canopy does not have a buffering requirement for neighboring residential uses.

b. Application Summaries:

1. Zone Change:

The proposed change of zone will retain the current zoning of PBC/cr (Planned Business Commercial with Conditions of Record) all be it remove Condition No. 2. The condition of record was established per City Ordinance No. 12-92 (see “Ordinance” attachment). and requires that “All activities shall be conducted entirely within a building.” (see “Zone Change” attachment). The proposal to remove Condition No. 2 from the project site is an appropriate request as this condition significantly limits the types of uses which could be developed on the property and in the 20-years since the condition was imposed the site has remained vacant. The retained zone district of PBC (Planned Business Center) is consistent with the surrounding commercial zoning districts and land uses found all along North Circle Drive. The future proposed use, a convenience store with ancillary fuel sales canopy, as depicted in the Concept Plan exhibit, is not a prohibited use identified in Ordinance No. 12-92. The proposed PBC/cr zoning has been evaluated by City Planning staff and found not to impact the health, safety, welfare, or convenience to the community and surrounding area.

2. Concept Plan:

The proposed concept plan depicts the future development of a convenience store with ancillary fuel sales canopy and has been designed to be consistent with surrounding commercial developments in terms of building layout and orientation. **(See “Concept Plan” attachment)** Further analysis of the development will be conducted during the administrative review of the development plan application. The project site is located adjacent to existing commercial land uses, primarily to the east and south of the boundaries of the project site. The proposed use is a permitted by right land use in the PBC (Planned Business Center) zone districts. While the City Ordinance No. 12-92 does prohibit the development of certain land uses (i.e. auto service, automotive wash, bar, sexually oriented business, medical marijuana facilities, and liquor stores), convenience stores with ancillary fuel sales is not listed.

Based on received public comments, there appears to be some confusion within the community regarding what an “Automotive Service” use entails. Per City Code, an automotive service use is defined as:

*“An establishment which provides fuel and/or minor maintenance or repair to motor vehicles. Typical uses include muffler shops, tire sales and installation, wheel and brake shops and other similar repair service activities.”*

The project does not propose an automotive service use which would involve maintenance or repair services nor oil change services. As previously indicated, the envisioned land use is a permitted by right use and City Planning staff will evaluate the final site design and layout under future development application to ensure compatibility with the surrounding residential and commercial land uses.

2. Conformance with the City Comprehensive Plan:

Staff has evaluated the proposed application for conformance with the City’s current comprehensive plan (herein referred to as “PlanCOS”), adopted in January 2019. According to PlanCOS, the project reinforces the importance of infill development proposals, which are emphasized by the following goals and strategies:

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

Strategy UP-2.A-1: Encourage the development or redevelopment of vacant properties in the core area of the City by using a combination of incentives, rezoning, and creative design solutions.

Strategy UP-2.A-4: Activity support ongoing and potential infill projects, employ problem-solving approaches and continue to implement process improvements in support of infill and redevelopment.

The request to remove the condition of record to support the eventual development of the site with a convenience store with ancillary fuel sales canopy will be compatible with the neighboring commercial developments is a reasonable request knowing that the parcel has been vacant for the past 20 years. The project is consistent with the PlanCOS Comprehensive plan and specifically the infill policy and strategies listed above.

3. Conformance with the Area’s Master Plan:

The project site is not located within a master planned area. The neighborhood surrounding the project site are developed with a mix of residential and commercial land uses. The retained zoning classification of PBC/cr (Planned Business Commercial with Conditions of Record) and the future development of a convenience store ancillary fuel sales canopy, as depicted in the

proposed Concept Plan, is complementary and supportive of the current land use patterns bordering the project site.

**STAFF RECOMMENDATIONS:**

**ZONE-23-0003**

Recommend approval to City Council the Zone Change for 1.82-acres to remove Condition No. 2, which stipulates "All activities shall be conducted entirely within a building," associated with the Kum and Go Convenience Store and Gas Station project and retain the current zoning classification of PBC/cr (Planned Business Center with Conditions of Record) based upon the review criteria for a zone change, as set forth in City Code Section 7.5.603.

**COPN-23-0002**

Recommend approval to City Council a Concept Plan for the Kum and Go Convenience Store and Gas Station project, based upon the findings that the plan meets the review criteria for establishing a concept plan, as set forth in City Code Section 7.5.501(E).