



COLORADO SPRINGS PLANNING

Land Use Review

Appeal of a City Planning Commission Decision to City Council

Appeal of a City Planning Commission Decision to City Council

Complete this form if you are appealing a **City Planning Commission, Historic Preservation Board or Downtown Review Board Decision** to City Council.

Appellant Contact Information

AMENDED: Steve Parrish, Manager Preserve Pine Creek Village, LLC	720-902-4016
Name of Appellant	Phone Number
4236 Apple Hill Court, Colorado Springs, CO 80920	
Address (include City, State, ZIP)	
joseph@jbakerlawgroup.com	
Email	

Project Information

The Market at Pine Creek Subdivision a/k/a Royal Pine Apartments		
Project Name		
62263-04-034, 62263-04-035, 62263-04-036, 62263-04-037		
Site Address (TSN if not yet addressed)		
COPN-15-0023/DPEN-23-0141		
Type of Application Being Appealed		
All File Numbers Associated with the Application		
Logan Hubble/Katelynn Wintz	01/10/2024	
Project Planner's Name	Hearing Date	Item Number on Agenda

Appellant Authorization

The signat, rest) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is based on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other appeal permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Stephen M. Parrish Sr.	19/01/2024
Signature of Appellant	Date



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Appeal Submittal Should Include:

All Items Are Required

- Completed Appeal Form (this document).
- Evidence of "Affected Party" Status – check the box below and provide justification for the chosen box.
- Notice of Appeal Statement (see requirements on page 3 of this document).
- \$176 fee payable to the City of Colorado Springs.

Submit all 4 items above to into the City Clerk's Office at 30 South Nevada, Colorado Springs, Colorado. Appeals are accepted for 10 days after a decision has been made. Submittals must be received no later than 5pm MST on the due date of the appeal. Incomplete submittals and / or submittals received after 5pm or outside of the 10-day window will not be accepted. If the due date for the submittal falls on a weekend or federal holiday, the deadline is extended to the following business day no later than 5 pm MST.

If you need additional assistance with this application, please call the Land Use Review front desk at (719) 385-5955.

Affected Party Status

Please indicate, per UDC Subsection 7.5.415.A(1)(a) (Right to Appeal), which of the definitions of "Affected Party" that applies to the Appellant.

- (1) The applicant for the decision being appealed;
- (2) The owner or tenant of a lot or parcel of land located within one thousand (1,000) feet of the subject lot; or
- (3) Any owner or tenant of a lot or parcel of land located within three (3) miles of the subject property who has preserved standing by:
 - (a) Testifying at the public hearing on the application;
 - (b) Submitting written comments prior to the public hearing on the application; or
 - (c) In the case of applications approved by the Manager or an administrative official, submitting written comments to the Manager or administrative official during the comment period before the Manager or administrative official's action.



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Notice of Appeal

UDC 7.5.415.A.2 (Notice of Appeal):

- (1) The specific provision(s) of this UDC that is the basis of the appeal;
- (2) Which of the following criteria for reversal or modification of the decision is applicable to the appeal:
 - (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
- (3) Describe how the criteria for the relevant application have or have not been met.



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I write to appeal the 1.10.24 Planning Commission approval of the above plan on behalf of Preserve Pine Creek Village, LLC. ("PPCV") - a single purpose LLC whose members are immediately affected residents living near the subject site.

PPCV has timely participated in each phase of these proceedings, starting with its 7.17.23 comment letter lodged to COPN-23-0015 (Exhibit A), and including timely submissions to the Planning Commission for consideration at the 1.10.24 meeting itself (Exhibit B https://coloradosprings.granicus.com/player/clip/2128?view_id=1&redirect=true&h=122722eaf4099b5443931a733ece23f)

First, I point out the unequal treatment PPCV and its members have received at the hands of the Planning Commission. The developer, DBG Properties, and Ms. Katelynn Wintz (COS Planning Department) each had more than three (3) minutes to present in support of the proposed project, they were allowed to rebut opposition presentations, and – more concerning, they received deference from Commission members who were plainly biased in favor of the project and palpably hostile to its opposition. Refusal to allow PPCV and its members to cede time to other presenters is counter to historic practices, thereby disadvantaging those in opposition to this development.

Next, Section 7.5.603.B of the Code of the City of Colorado Springs provides, in pertinent part:

A proposal for the establishment or change of zone district boundaries may be approved by the City Council only if the following findings are made:

1. *The action will not be detrimental to the public interest, health, safety, convenience, or general welfare.*

Id. Yet, despite an outright admission from the developer that it did not even consider how the intended residents would get to safety in the event of an emergency because:

"...evacuation plans are not our responsibility, it's the City's."

Moreover, Commission Members themselves acknowledged that (1) it regularly takes "fifteen to twenty minutes" to get through several "choke points" that are the only arteries to and for emergency services, and (2) that overcrowding has children in the D-20 School District (a) subjected to the same said same "choke points," (b) learning out of trailers, (c) crossing dangerous intersections that are already taxed to the designed limitations, and (d) learning in classes that are a third larger than the statewide average (20/1 vs 15/1), the opposition was not just ignored but actually criticized for conducting its own – staged, emergency evacuation drill with just one hundred and fifty (150) residents immediately adjacent to the site, sharing the only means of

ingress and egress therefrom that showed complete gridlock in less than two minutes.¹ Moreover, as to the rest of the articulated, documented health, safety, and welfare objections, *in pre-written comments*, Commission members told objectors – *in the face of objective evidence*, that their remaining concerns regarding such were “*subjectively*” unfounded.

It is the City’s duty to protect the safety of its citizens. The last evacuation modeling study by the City was the 2010 Pike’s Peak Area Council of Governments (PPACG) study <https://safe.menlosecurity.com/doc/docview/viewer/docNDA5576042507bc4fff029ed615346d549fcfa0a609c03c1ed6479e574741793fc613757e02fb>. With 12 years of growth and expansion that has led to an exponential increase in “choke points,” there is no way to ensure evacuation times and chokepoints have been adequately identified and risks mitigated.

The planned development uses two driveways as exits; however, these both go to the same location (the single lane roundabout), which means they do not have adequate egress routes, which City Code requires (7.5.515.D.1.i; 7.5.603.B).

A VILLAGE OUT OF BALANCE

PPCV submitted documentation and presented comment that the subject area – *as has been recognized by several comprehensive studies* – cannot assimilate anymore high-density housing. The infrastructure and services were not designed or built to handle the increased population, displaced wildlife has already become a significant concern, the proposed project fails to consider its impact on existing uses in the surrounding community, and the project will put a severe strain on the community’s already stretched emergency services². And, because of this, they also failed to consider the impact this project will have on quality of life and property values over submissions and commentary:

A. Inconvenience/Safety (City Code 7.1.103)

- Nuisance

- 630+ new residents will create additional noise, light, and air pollution and will create a nuisance to those living nearby and impact the wildlife that depend on the habitat area for their survival.
- For those with PTSD, the additional noise and traffic congestion will increase their stress and greatly affect their mental health.

- Schools

- Students will have to navigate increased traffic and parked cars blocking visibility as they make their way to bus stops and as student drivers are getting to/from school.
- School buses will have to navigate through increased traffic delays.

¹ One of the main criticisms is that said drill was not “professional” or “controlled.” No one considered that the individual behind said drill is a FEMA-trained and experienced Emergency Manager or that his findings were the only ones in the room as it “isn’t [the developer’s] problem.”

² One affected resident testified that her child has significant medical issues that often require emergency services and that the response time since she moved into her home has tripled -- and the time it takes thereafter to get to the hospital has quadrupled due to the “choke points” that already exist.

- The schools will have to accommodate more students, in already over-crowded, under-staffed area schools.
- *Quality of Life*
 - The area has a poor walking score and the closest shopping location is a 15-minute walk across six lanes of heavy traffic.
 - The single city bus line (38) in the area has a stop almost ½ mile away, and only runs on Union BLVD, whereby riders must transfer to other buses to reach any destination, taking significant time.
- *Privacy*
 - The great height of these apartments (50+ feet) will create privacy issues for the medical offices and residences adjacent to it. The developer states he will plant vegetation to block the apartments, yet no vegetation will block 3- and 4-story buildings or prevent their residents from being able to look directly into doctor's offices while they care for patients or into the backyards of those near these buildings.
- *Parking*
 - Inadequate parking for this development will mean that apartment residents will take up spaces at the four businesses, along Purple Plum Drive, and onto Pine Manor.
 - Vue 21 apartments (across Powers next to Target) do not have adequate parking similar to the plans of the Pine Creek Apartments. As a result, there are cars parked outside of the apartments along every connecting road. In our case, that would happen within our neighborhood and the adjacent businesses.
- *Common Area Maintenance and Liability*
 - The Pine Creek Village Association pays for maintenance (landscaping, irrigation, and snow removal) of several common areas, to include the sidewalks on Royal Pine, Union, and Briargate. It also pays for dog waste station maintenance throughout the neighborhood and a private park. PCVA's insurance rates have already increased.
 - The developer claims the development has access to Pirate's Cove Park, within ½ mile of the apartments. However, this park is a private PCVA park, not open to the public or these residents considering PCVA residents pay monthly dues to maintain this park and provide insurance for it.
 - When asked to help cover the costs of common area maintenance, the developer dismissed PCV resident concerns and said he would NOT support equal proportional costs.
- *Snow*
 - The 50+ building adjacent to the road within the proposed site will create icy conditions for most of the winter season due to shading. This increases safety

concerns for those using the road and sidewalks and if the apartment maintenance includes chemically treating the road, that will runoff into the wildlife habitat area.

- Here is an example of shading and icing (taken 2JAN2023 at the Monument Goodwill, 15821 Jackson Creek Pkwy, Monument, CO 80132). Due to shading, icy conditions exist for weeks after the last snow (~24DEC2023, 2.4 inches).
- No secondary building exits and icy conditions due to sun shading - same outcome would happen with proposed high-rise apartments on the road between buildings and along the Power off-ramp, that will now be shaded during winter months by the two U-shaped buildings.



PPCV member Omar Wyman submitted documentation and made comment showing:

B. Property Value Impact, Apartment Overbuilding, and Crime (City Code 7.1.103):

- *Crime:*
 - 5 officers
 - COS crime data: <https://policedata.coloradosprings.gov/Crime/Colorado-Springs-Crime-Map/ar6u-b83m>
- The assessment of DBG's full dataset revealed that 70% of ZIP Codes with a DBG development experienced a decline in annual home value relative to their respective cities, with an average annual decrease of 0.03% and a total average reduction of 3.80% since the introduction of a DBG development. For comparable ZIP Codes to 80920, 80% of ZIP Codes saw a 5x faster decline in yearly home values as compared to the city that ZIP Code is in, resulting in an average total reduction in home value of 7.33% since the establishment of a DBG development.
- Developer has not provided any data in developer-submitted documents to LDRS to indicate that proposed apartments would not negatively impact neighborhood property values. **In fact, the developer provided a spreadsheet that showed property values actually decreased during a time when the housing market was in a boom and rising faster than at any time in history. This was in his virtual meeting with residents.**
- For some backing research, it's clear that impact to property values is highly regionally dependent:

- In California, LIHTC-funded housing reduces home prices by almost 10%.
- Link: <https://www.csus.edu/college/social-sciences-interdisciplinary-studies/public-policy-administration/internal/documents/thesis-bank/thesis-bank-2018-wahid.pdf>
- In South Africa, property values were negatively impacted for 9 years and it took an additional 6 years for them to recover from subsidized housing.
- Link: <https://www.ajol.info/index.php/actas/article/view/208206>
- In Charlotte, NC, LIHTC-funded negatively impacted the property values for middle and high income neighborhoods. In high-income neighborhoods larger developments had even greater negative impact.
- Link: <https://journals.sagepub.com/doi/10.1177/0042098015593448>
- https://www.nber.org/system/files/working_papers/w22204/w22204.pdf
- <https://www.gsb.stanford.edu/insights/affordable-housing-good-neighborhood>
- There is an abundance of apartments being built in Colorado Springs, yet no increases in infrastructure capacity.
- We have an overbuilt apartment market:
- Quote: “The overall Colorado Springs vacancy rate, which includes new construction, was 13 percent in the first quarter of 2023. “That’s a very high number,” Rathbun says. “That’s up 342 basis points [from 9.6 percent] year over year, and it’s the highest it has ever been in the 16 years of our survey.”
- Currently 12,000 apartments are under construction, with 8,100 not broken ground yet. This is a 40% (20,000) increase in apartments in just two years.
- Link: https://www.csbj.com/news/colorado-springs-apartment-market-likely-to-be-overbuilt/article_2d377372-f346-11ed-924d-abb6039b19e8.html

Density and Crime Rates:

- <https://nycdatascience.com/blog/student-works/data-study-on-high-population-densities-and-increase-crime/>
- <https://newsinfo.iu.edu/news/page/normal/13030.html>
- <https://www.vox.com/2016/5/2/11568262/low-income-housing-impact>

C. Business Concerns:

PPCV member Dr. Cristy Fisher presented documentation and commentary that was totally ignored:

- This is a fundamental change to our covenant agreement with LaPlata and the city. We, the dental office, the medical office, and my veterinary hospital, all purchased our land and built our family-owned small businesses in this area because of the covenant guarantee of it being commercial only. Residential use, much less high-density residential use, is NOT what we signed up for. We have been paying city taxes for years and have been serving this city for years!

- The sheer volume of residential units and subsequent vehicles (reference Holly and Eddie Lawrence's concerns above) planned for this very small area is going to create extreme parking overflow onto our business parking lots and therein cause a daily hindrance to our clients and staff. During the traffic study alone within 20 minutes 15 of my clients could not access medical care because of the backlog and volume of vehicles in the one lane round-a-bout!
- Intermixing medical offices with residential units, especially the volume of residents, is never going to be a sound development plan. We all have significant safety concerns for our businesses. The volume of "desirable" drugs (Fentanyl) we have on premises, if compromised, will lead to serious safety concerns for the community and city. We already have homeless individuals sleeping at our front door which has set off our alarm systems, requiring the Colorado Springs police department to be called. Their response time was over 45 minutes because of the lack of first responders in the community.
- The increased number of pets in such a small area will significantly increase the risk of zoonotic disease spread among all residents of the low-income housing, the business's clients and to my patients as they walk the grounds to "do their business" before they enter the building. Such diseases as but not limited to Leptospirosis (40% mortality rate, 60 % morbidity rate in humans), Roundworm, Hookworm, and Whipworm.
- The road between the OB/GYN and Dental office will become an ice sheet as the 50 ft+ high x 300 ft long building will shade it all winter. They'll need to clear it every snow.
- Since the community center entrance is across from the OB/GYN clinic and the parking is behind the community center, residents will park on that road to run in and get their mail, even with signs that state "no parking."
- The four-story building next to the Dental Office is going to contrast significantly with the existing structure and create a privacy issue.
- Foot traffic in/around the apartment buildings will increase risk to pedestrians and business patrons. More cars and people equal a higher chance for accidents.

Also ignored or "subjectively" written off were submissions and commentary:

D. Pine Creek HOA Impacts:

- The Royal Pine Apartments have deliberately ignored the HOA's requests to financially support their impact on our managed spaces.
- Considering they're marketing this as a walkable area, it is safe to discern they would use our sidewalks, dog bins, and landscaping. Due to them using our amenities, including the park, the Royal Pine Apartments should assist with the financial impact of their residents the same as the other apartment adjacent to our community.
- Sagebrook Apartments, with 314 units, is slated to pay \$74,105 to the PCVA in 2024 which makes it roughly \$236 per unit.
- The Royal Pine Apartments, for 232 units, would be responsible for roughly \$54,752 in future years depending on the rising costs of maintenance due to inflation.
- In the last two years, HOA dues for the core part of PCVA have risen by an average of 11% each year due to additional use and maintenance costs. The financial burden of the

residents of the Royal Pine Apartments could cause that increase to double once the apartments are at full capacity.

E. A School District in Crisis

More concerningly, the Planning Commission also failed to consider the impact it will have on a school district that is already struggling with over-enrollment, teacher shortages, and unfunded mandates. On November 8, 2016, *after* a long-term study on the future needs of the community, Academy School District No. 20 residents passed ballot measure 3A. By approving 3A, residents approved a \$230 million dollar bond initiative to make capital improvements to the schools, and to build two new elementary schools, a new middle school, and permanent homes for the School in the Woods and the Center for Modern Learning. <https://www.asd20.org/bond-information/>. Nowhere within any of that was there consideration for the high-density housing that was subsequently approved. The June 2, 2023 Project Statement admits that additional students are going to be added to the already-overwhelmed school district, but it does not consider any way to decrease the burden it will place on those schools. Academy School District No. 20 already spends more than it receives in revenue each year. https://nces.ed.gov/ccd/districtsearch/district_detail.asp?ID2=0801920.

YET, despite acknowledging they had concerns that nobody from the district has ever explained how they can purportedly assimilate more students, it was determined that district students can get “a fine education” in overcrowded trailers. This is over PPCV member Lexie Borg’s submitted materials and comments that as to D20 Schools

- Students walking to bus stops (2 are on Royal Pine) and driving to school will have to deal with increased traffic & likely overflow parking.
- School buses will have to navigate through increased traffic delays.
- The schools will have to accommodate more students, in an already over-crowded, under-staffed school district.
- Speak to misleading comments by the Planning Department on how D20 participates in development.
 - Time-stamp 44:55 - Ms. Wintz speaks about their D20 contact's ability to assess capacity at the LOCAL school and at the district level
 - Time-stamp 45:27 - Ms. Wintz says, “What the school district has told us, is that they have capacity.”
 - Email from Don Smith (D20 contact): The only comment provided to City Planning regarding the subdivision request for The Market at Pine Creek was that the district is requesting fees in lieu of land dedication per the City Code and it is attached.
 - Fees district asks for - **\$368/unit**.
- PC & MVE are already overcrowded - District aims for 85% of architectural capacity (numbers below are for building not including portable classrooms, which do not increase space in hallway width, gym, auditorium, parking, etc.
- Pine Creek High School: Architectural Capacity: **1,871** (85% would be 1,590)

- 2023: 1,925 students as of August PTP meeting – per Tracie Cormany – 504 Freshman, 506 Sophomores, 487 Juniors, 432 Seniors – Notes from PTP Secretary, Kari Tandberg
- Mountain View Elementary: Architectural Capacity: 600 (85% would be 510) Enrollment 5/18/2023: 594

Facility	Capacity	2023-2024	2022-2023	2021-2022	2020-2021	2018-2019
Pine Creek	1871	1925 (102%)	1776 (95%)	1808 (97%)	1644 (88%)	1641 (88%)
MVE	600	590+ (98%+)	594 (99%)	558 (93%)	599 (100%)	620 (103%)

- There are great schools in the other areas of town that would greatly benefit from the revitalization of a new apartment complex. This will also increase
 - the traffic going through the neighborhood on the way to school and place children at increased risk walking to school. The walk from the proposed apartments to the middle school and high school would be approximately 35 minutes at a steady pace...would this also then create the need for a bus for these apartments.
 - (Refer to the footage on the submitted thumb drive of Pine Creek High School at the end of the school day overcrowded traffic congestion.)
 - Picture of a morning car accident (2023) in front of Pine Creek High School.



F. Impact on Endangered Wildlife & the Environment

The Commission also failed to consider submissions showing the project is being proposed in a critical environmental area. Wildlife in the area includes the Preble's meadow jumping mouse, elk, deer, black bear, Canadian Lynx, and mountain lions. The Preble's meadow jumping mouse, in particular, is a threatened species in this part of Colorado. <https://ecos.fws.gov/ecp/species/4090>. The subject plan fails to address the negative impact this project will have on these animals due to the new development and increased noise. The plan also

fails to consider how the area's various birds of prey will be affected. And the Commission totally ignored submissions and commentary showing the effect this will have on the nature park next door:

- Increased traffic will increase risks to the animals from the Wildlife Habitat Area as they try to cross the road.
- The several endangered species living here will suffer additional displacement, as the city continues to use up and dissect every available plot of land.
- The chemicals the apartments will use to maintain vegetation and remove ice/snow will runoff into the wildlife area, placing all the animals there at risk of disease and death, and flow into the Monument Creek watershed. The developer acknowledges this with their own design which makes 85% of the land impervious. The claim that they will reduce water quality control by 30% contradicts their own plans. The City's management of homeless camps, illegal drugs, crime, vandalism, and trash within our park system warrants concern about their effectiveness as a steward of such a fragile habitat.
- City Planning's decision to further this project fails to protect the unique and fragile ecosystems of the Pine Creek Wildlife Preserve which provides an important habitat for the Preble's Meadow Jumping Mouse, lynx, bobcat, bear, and other wildlife large and small that require a safe, undisturbed habitat.
- La Plata withdrew from its 25-year commitment to maintain the habitat by donating the land to the City. Prior to this, the preserve was under the management of US Fish and Wildlife Service and had a trained wildlife field agent overseeing it.
- City Planning never conducted a wildlife impact study - especially prior to the parcel being rezoned to high-density residential.
- City Planning did not have US Fish and Wildlife review the plans - especially drainage considerations and impact on the Preserve area- again there are regulations not being followed.
- High-density housing with reduced parking developed next to a wildlife refuge is reckless and unsafe for humans and wildlife.
- This development is receiving funding from a federal agency and must comply with federal regulations.
 - Federal Wildlife that mandates a wild life study for any federal funded project <https://cpw.state.co.us/learn/Pages/LivingwithWildlifeDeveloping.aspx>
 - In December 2023 someone authorized the habitat area to be bulldozed and cleared. This is a potential violation of the transfer agreement from the Federal government. Who authorized this clearing of vegetation and for what purpose? During this process, endangered and threatened species may have been harmed.
 - According to the USFWS (U.S. Fish & Wildlife Service) environmental review process, potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.
 - Areas of Influence (AOI) include areas outside of the species range if the species could be indirectly affected by activities in that area because species can move, and

site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

- “Section 7 of the Endangered Species Act requires Federal agencies to “request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action” for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can only be obtained by requesting an official species list from either the Regulatory Review section in IPaC or from the local field office directly.”

G. The Ripple Effect Creates a Tsunami

Another main concern that the Commissioners subjectively wrote off is that the infrastructure purportedly able to handle the additional traffic this project will generate is already so severely taxed that residents are already held hostage in their neighborhoods by traffic congestion. There was submission and commentary documenting that local retail businesses are bursting at the seams. Traffic congestion in the area often spills over onto the highway, and the intersections around the proposed project are subject to some of the highest accident rates in Colorado Springs. The plan acknowledges that it will increase the average daily flow of traffic by 2,257 vehicle trips per weekday. It also acknowledges that 92.5% of this traffic will flow directly onto Union Boulevard, thereby using the single lane roundabout used in the neighborhood evacuation study.

Commissioners also entirely failed to consider submissions showing that the subject plan is insufficient because it does not consider the impact it will have on surrounding uses. For example, when the United States Air Force Academy was founded, it was located far away from communities to reduce potential compatibility issues. The last twenty years of growth that occurred near the installation resulted in incompatible zoning adjacent to flight training and field training areas as well as stormwater issues from upstream development. In 2018, a Colorado Springs Regional Joint Land Use Study was completed that discussed these issues and more. In particular:

... The main land use concern is the potential for certain areas in the vicinity of the Air Force Academy to experience a high volume of overflights, especially in the safety zones (clear zones [CZs] and accident potential zones [APZs]) and the areas under the flight tracks. The Academy has recommended that the City of Colorado Springs, El Paso County, and the Town of Monument planning departments develop a means of notifying landowners in certain areas near the Air Force Academy that they live in areas that may experience numerous overflights.” In addition, the AICUZ study provided recommended land use guidelines. ...

The Air Force Academy regularly hosts public events that generate traffic on transportation corridors that lead to the installation including sporting events, concerts, graduation, and D-20 schools on the installation. The Air Force Academy is one of the most visited tourist attractions in the state so adequate roadway capacity is an important issue that requires ongoing coordination with transportation planners from CDOT, El Paso County, and the City of Colorado Springs.

<https://oldcc.gov/sites/default/files/mis-studies/United%20States%20Air%20Force%20Academy%20Region.pdf>

The subject project falls squarely within the area that the Joint Land Use Study found to be incompatible with the activities of nearby USAFA. This project will not only negatively affect the traffic and resources near USAFA, but USAFA's flight routes will also negatively affect each of the residents of the new apartment complex but "subjectively" the Commissioners held it was consistent with the master plan.

They did so over PPCV submissions and commentary showing the roadways are already overtaxed.

Traffic Congestion (Holly Lawrence)

- Without the additional apartments, traffic in/around Pine Creek is congested, especially near Pine Creek High School, where 2x/day traffic gridlocks.
- With 630+ new residents using a single lane roundabout the congestion demonstrated in the evac study would be a daily occurrence, especially at high traffic times, again proving the developer wrong on queueing estimates.
- The two-lane roads and single lane roundabouts did not account for additional residents using the street infrastructure and La Plata did not plan the development for this.
- Accident rates in Pine Creek are higher than in other neighborhoods likely due to street size and speeds. As more drivers use the roads, accidents will likely increase.
- A neighbor in Pine Creek owns several apartment units in the U.S. and sees typically 2-3 cars/unit. This development is only providing 339 parking spots for 232 units. The U.S. national average for car ownership is 1.8 cars/person, so even if there is only 1 person renting each apartment unit you would need ~420 parking spots. The overflow will utilize the commercial business parking and flow into the neighborhood. Who is going to police the # of cars each unit has?

Traffic Study Inaccuracies/Issues (Eddie Lawrence)

- Traffic study has no documentation on impact to evacuation.
 - City of Colorado Springs' Engineering Criteria Manual for traffic impact does not have any guidelines for evacuation.
 - Traffic Study merely states that several exits are available from the neighborhood, yet does not mention each "exit" has multiple intersections within the Pine Creek neighborhood. Additionally, these intersections' right-of-way do not belong to the residential roads, so all residents would have to wait and burn in fire evacuation.
- Developer has provided gross inaccuracies with traffic count and knowledge of roads.
 - Initial traffic "study" was conducted without school traffic.
 - To account for "increase" in school traffic, the developer increased their traffic estimate by 10%.
 - Subsequent traffic "study" adjusted the numbers to show a decrease in traffic queueing times in 2024, then a dramatic increase in 2045. However, at PC, they traffic engineer estimated only two additional vehicles in 2045.

- Developer lists the speed on Pine Manor as 25 mph, but it is posted as 30 mph - they did not conduct a study and only estimated counts to fit their narrative. If they can't get a posted speed limit correct, how can their "study" be trusted?
- City provided city-captured traffic data, how was this allowed for a for-profit developer?
 - Additionally, city/developer's traffic engineer omitted that significant road repaving was happening on Old Ranch and Pine Manor, reducing traffic thru Royal Pine during the time that the city's traffic study was conducted.
- Pine Creek neighbors put up cameras and counted cars from August 19 - Sept 17, 2023.
 - Traffic "study" grossly underestimates background traffic count as 4,378 cars/day when we recorded an average of 7,327 cars/day when road work was not present and without the additional 400+ vehicles from the apartments. Traffic drop is able to be seen in the daily vehicle count when road work occurred.
- Traffic Engineers underestimate the amount of traffic created by the businesses ([Trip Generated by Businesses - 1JAN2024.xlsx](#))
 - Traffic Engineer assuming 664 trips generated every weekday by businesses when business-provided data show weekday average as 751.
 - This data only shows client-side visits and only one business provided information on employees to determine employee trip generation.

Business	Weekday Employee Generated Trips	Avg. Trip Generated Per Weekday by Clients	Weekday Total Trips Generated
North Springs OB/Gyn	34	238.3578947	272.3578947
Vet Clinic		260	260
Classic Dental		102.6315789	102.6315789
Alligator Allrgy		116.0421053	116.0421053
Totals	34	717.0315789	751.0315789
Assuming			
All visits consist of 2 trips, ingress and egress			
Assuming 21 business days/month on average (range is 20-22)			

H. This Area is Already a Mass Catastrophe Waiting to Happen

Lastly, and most concerningly, the proposed high-density property is in close proximity to the Black Forest region and will negatively impact emergency resources in the event of a disaster such as a wildfire. There are currently few major avenues into the Black Forest, and this proposed project is along the route of one of those major avenues. The additional traffic caused by the apartment complex would not only impede an evacuation of the Black Forest in the event of a disaster, but it would also burden the ability of emergency resources to travel into the area. Further, police and fire services, and their available resources, are already spread dangerously thin. Residents living northeast of East Woodmen Road and North Powers Boulevard in developments including Cumbre Vista I and II, Forest Meadows, Lodges at Black Forest, and the Woodmen Vistas neighborhood have historically paid about \$300 to \$400 annually to the Black Forest Fire District – in addition to city taxes. In return for this increased expense, these taxpayers receive lightly resourced emergency services that are going to become even more limited as a result of this proposal. The subject plans do not address this inequality.

This plan does not address the increased burden on any municipal service due to the conversion from commercial to high density residential use. Additionally, it does not specify how the community will be compensated for the increased burdens on schools and emergency resources,

nor does it consider traffic flow redesigns to address roads and patterns that are already overstressed. https://gazette.com/news/residents-implore-colorado-springs-fire-district-to-resolve-double-billing/article_28412104-bc87-11ea-8264-0327954f02cc.html.

Therefore, Steve Parrish - PCVA Resident within 1000 feet of the site, and a FEMA-trained Emergency Manager with real world experience, organized a staged evacuation that recorded total gridlock in one minute, five seconds. (<https://drive.google.com/file/d/1L8Juju6ZOBviv6LBFbmqbE4a43dmi4E5/view>).

And, in response, the Commissioners not only dismissed said concerns but actually criticized the demonstration, claiming their real-world experiences lead them to conclude otherwise. In doing so, “subjectively” the Commissioners ignored the following findings of fact:

- Pine Creek Village has 4 exits (Old Ranch/Powers-NE; Royal Pine/Union-SE; Pine Manor/Briargate-S; Chapel Hills/Briargate-SW). A wildfire moving west to east would force all residents to use the NE and SE exits. Of the 1,424 homes, roughly half would go NE and the other SE. A wildfire moving north to south would force residents to use exits at Pine Manor and Briargate and Royal Pine and Union. Adding 232 new apartments, the neighborhood estimates approximately 6,000 vehicles will try to escape (3,000 NE and 3,000 SE).
- On 16 December 2023, the neighborhood conducted a study to determine if traffic congestion during an emergency would result in traffic delays. They determined the delays were far greater than what the developer claims.
 - Using a sample of only 5% (150) of vehicles attempting to escape from an eastward moving fire and approaching the single lane roundabout from four points of egress (Proposed Site; Purple Plum; Royal Pine; Pine Manor), traffic gridlocked at 1 minute, 5 seconds, and it took 30 minutes to move all 150 cars through the light at Union/Royal Pine. At this rate, it would take 8-10 hours to evacuate all vehicles.
 - Conditions were clear, people were courteous, there were no breakdowns or accidents, and fear of death was not a factor.
 - All participants who filled out a post study survey report they view the evacuation conditions as ‘**Dangerous**’ or ‘**Concerning**’. Many left additional comments that could be used to prove this is a general sentiment of the neighborhood. [See complete results here.](#)
 - Additional details are in the [Evacuation Study Powerpoint.](#)
- A wildfire moving at 55 mph could sweep through Pine Creek in approximately 5-10 minutes.
- See video/pics of the study and overlay with pictures of Paradise, Boulder, Black Forest, Maui, and Waldo Canyon fire, burned out cars, and burned down homes/businesses.



Paradise



Boulder



Black Forest

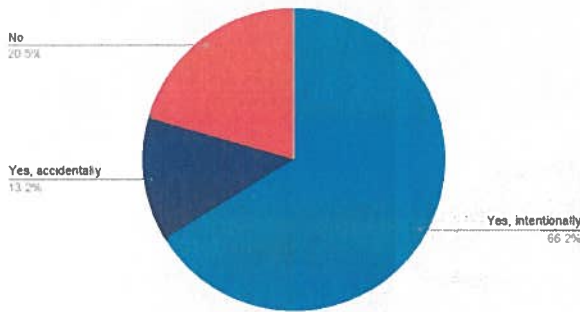


Maui

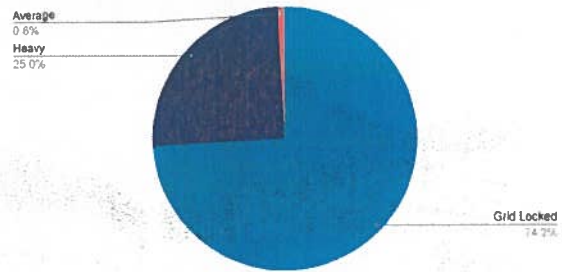


Waldo Canyon

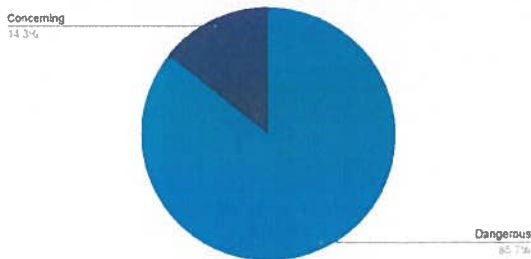
Q1. Did you participate in the traffic study?



Q2. If you participated, how would you describe the traffic you encountered during the traffic study from 9:30am to 10:00am?



Q3. After the traffic study, what is your opinion about the safety of adding the Royal Pine Apartments in regards to evacuation?



And, in response, he was told “subjectively” that his work was unprofessional, does not comport with “real world” experience, and, therefore, properly written off.

WHEREFORE, it is respectfully requested that the subject project be DENIED

Baker Law Group, LLC

/s/ Joseph A. O’Keefe
Joseph O’Keefe, Esq., Counsel for Appellants



CITY OF COLORADO SPRINGS

OFFICE OF THE CITY CLERK
30 S. NEVADA AVE., SUITE 101
COLORADO SPRINGS, CO 80903
719-385-5901

RECEIPT

DATE: 1/18/2024

Receipt #: 113413

License Type: PER_SUB_TYPE

Payment Type: Check

Reference #: 5486

LICENSE NO: 10FDD-00000-#0001

Post Date: 1/18/2024

Receipt Total: \$176.00

PAYEE:

PRESERVE PINE CREEK VILLAGE, LLC

For the Licensed Premises at:

Comments: PRESERVE PINE CREEK VILLAGE, LLC
C/O BAKER LAW GROUP
7035 CAMPUS DR STE 702
COLORADO SPRINGS, CO 80921
720-902-4016
JOSEPH@JBAKERLAWGROUP.COM

COLORADO
SPRINGS

PAYMENT DETAILS:

Description	Quantity	Amount
Planning Appeal Fee	1	\$176.00