

SUMMARY OF CASE IN SUPPORT OF GRANTING APPL-23-0002

WHEREAS,

- ❖ The Development Plan does not meet the requirements of approval in City Code 7.5.502 (see “**Appeal Statement**” attachment and below)
- ❖ The Development Plan does not match the intent and purpose of the zoning code stated in 7.2.102 (see “**Appeal Statement**” attachment and below)
- ❖ The Development Plan is not in accord with the application of the Comprehensive Plan 7.2.104 (see “**Appeal Statement**” attachment and below)
- ❖ City Staff did not apply the more stringent restriction or land use limitation to their decision-making as required by City Code 7.2.109 (see below)
- ❖ Staff did not exercise their respective functions and powers in a manner consistent with the Westside Plan as required by Ordinance 80-3 (see below)
- ❖ Staff used incorrect criteria and reference materials on more than one occasion in making the administrative decision. (see “**INACCURACY REPORT**” attachment)

THEREFORE,

When City Staff made the administrative decision to approve the Development Plan, the decision was made incorrectly.

THEREFORE,

The appeal (APPL-23-0002) has met the criteria (see “**Appeal Statement**” attachment and below) set forth in 7.5.906 and should be granted.

References

City Code 7.2.102: INTENT AND PURPOSE OF ZONING CODE:

***It is the intent and purpose of this Zoning Code to protect property values, to preserve neighborhoods and to protect private property from** adjacent nuisances such as noise, excessive traffic, incompatibility of uses, **inappropriate design of buildings**, and visual obstructions.*
7.2.102

City Code 7.5.502: DEVELOPMENT PLAN REVIEW CRITERIA

*E. Development Plan Review Criteria: A development plan shall be reviewed using the criteria listed below. **No development plan shall be approved unless the plan complies with all the requirements** of the zone district in which it is located, is consistent with the intent and purpose of this Zoning Code and is compatible with the land uses surrounding the site..*

REQUIREMENT 1: The details of the use, site design, building location, orientation and exterior building materials are compatible and harmonious with the surrounding neighborhood, buildings and uses, including not-yet-developed uses identified in approved development plans.

*REQUIREMENT 2: **The development plan substantially complies with any City- adopted plans that are applicable to the site, such as master plans, neighborhood plans**, corridor plans, facilities plans, urban renewal plans, or design manuals*

City Code 7.2.109: CONFLICTING PROVISIONS:

*Where any provision of this Zoning Code conflicts with any other provision of this City Code, or any other law or ordinance, **the more stringent requirement, regulation, restriction, or land use limitation shall apply***

City Code 7.2.104: CONSISTENCY WITH COMPREHENSIVE PLAN:

This Zoning Code is an important tool for implementing the goals, policies, and recommendations of the City's Comprehensive Plan, and it shall be consistent with that plan. All development within the City of Colorado Springs shall be in accord with the application of the Comprehensive Plan.

Ordinance 80-3: AN ORDINANCE ADOPTING THE WESTSIDE PLAN

WHEREAS, it is desirable and in the public interest that the City of Colorado Springs undertake and carry out the Westside Plan redevelopment program in accordance with the Westside Plan in that area as delineated by the attached map which comprises that area known as the Westside

WHEREAS, the Westside Plan has been prepared describing the specific public actions to be taken in order to achieve the redevelopment goals and objectives as stated in the Plan

It is hereby found and determined that the Westside Plan conforms to the general plan of the City of Colorado Springs

That it is hereby found and determined that the undertaking of the Westside Plan will further promote the public welfare and development of the community and will proceed in accordance with the Westside Plan thus providing, through the redevelopment of the Westside, a cohesive stable neighborhood environment

That it is hereby found and determined that the Westside Plan and attendant programs will afford the maximum opportunity, consistent with the needs of the City of Colorado Springs, for the rehabilitation and redevelopment of the Westside by private enterprise

The City Council of the City of Colorado Springs pledges its cooperation in carrying out the Westside Plan and requests that various officials, departments, boards and agencies of the City of Colorado Springs having responsibilities in the premises likewise cooperate to such end and exercise their respective functions and powers in a manner consistent with the Westside Plan

City Code 7.5.906: APPEALS

4. Criteria For Review Of An Appeal Of An Administrative Decision: In the written notice, the appellant must substantiate the following:

- a. Identify the explicit ordinance provisions which are in dispute.*
- b. Show that the administrative decision is incorrect because of one or more of the following:
 - (1) It was against the express language of this zoning ordinance, or*
 - (2) It was against the express intent of this zoning ordinance, or*
 - (3) It is unreasonable, or*
 - (4) It is erroneous, or*
 - (5) It is clearly contrary to law.**
- c. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.*