

FLATS AT SAND CREEK DEVELOPMENT PLAN APPEAL

Planning Commission April 9, 2025

Staff Report by Case Planner: Austin Cooper, Senior Planner



Project Summary

Quick Facts

Appellant

Jeremy Hoffman

Applicant

NES Inc.

Property Owner

Carefree Landowner LLC

Address / Location

Northeast of Peterson Rd and N
Carefree Cir

TSN(s)

5330400035

Zoning and Overlays

R-5/AP-O (Multi-Family High with
Airport Overlay)

Site Area

6.94 acres

Proposed Land Use

Dwelling, Multi-family

Applicable Code

UDC

Council District No. 6

Appeal of an administratively approved development plan for the Flats at Sand Creek multi-family residential dwelling project.

File Number

APPL-25-0003

Application Type

Appeal

Decision Type

Quasi-Judicial

Background

Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Springs Ranch Addition (Ordinance 84-187)	October 1, 1984
Subdivision	N/A	N/A
Master Plan	Springs Ranch Master Plan	1997
Recent Entitlement	Flats at Sand Creek Development Plan (DEPN-24-0133)	February 24, 2025
	Flats at Sand Creek Administrative Relief (ADRF-24-0073)	

Site History

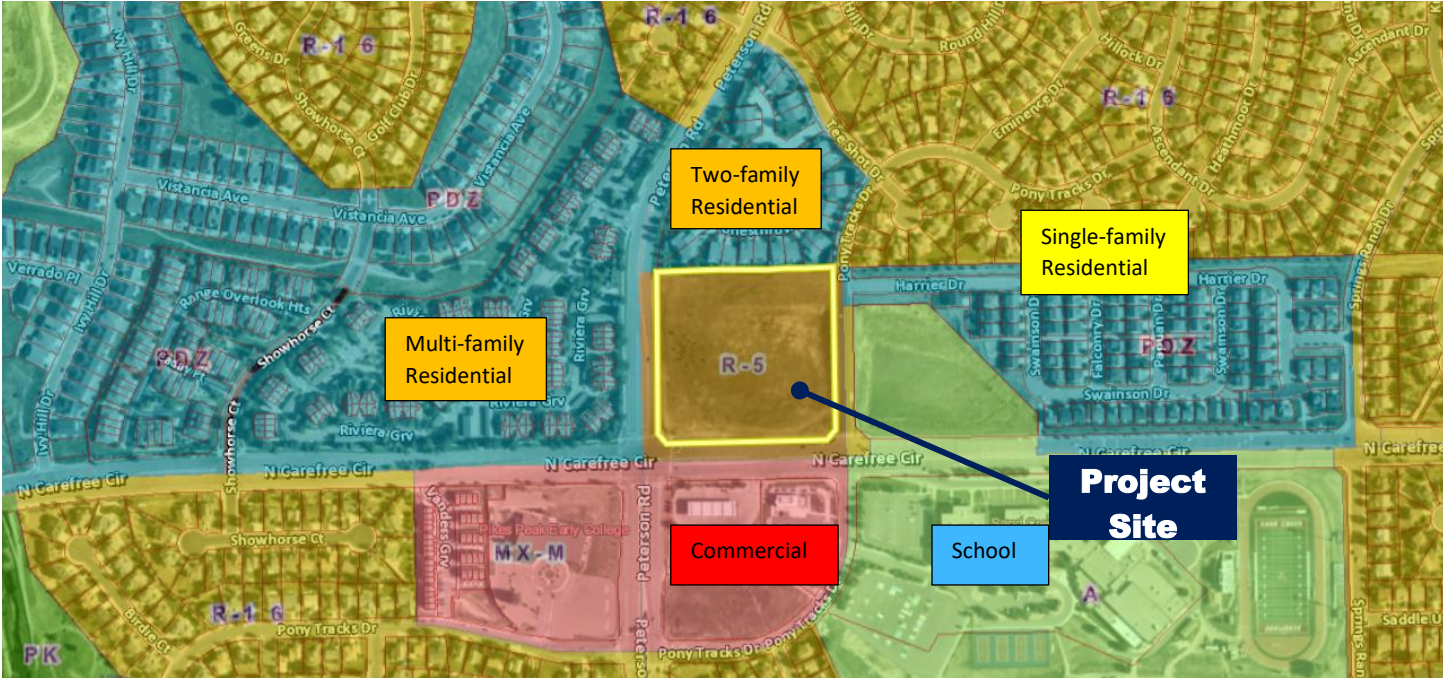
- In 2002, conditions of record were added to the property limiting the land use of the site to a religious institution. The development of the site as a religious institution was never completed.
- On October 12, 2021, City Council approved a rezoning of the site from R-5/cr/AP-O (Multi-Family Residential with Conditions of Record and Airport Overlay) to R-5 (Multi-Family Residential with Airport Overlay) to remove the conditions of record in order to develop the site as a multifamily residential property outlined in the accompanying Concept Plan. There was a development plan which was also approved administratively following the approval of the zone change to allow for 72 townhomes to be developed on the site. This development never received permits and an accompanying plat was approved but was never recorded.
- City Planning Staff approved the Flats at Sand Creek Development Plan on February 24, 2025 [DEPN-24-0133] (See Attachment 2 – Development Plan) based on the application meeting the review criteria in UDC Section 5.5.515 (further discussed in this report). The project statement submitted with the development plan application has been provided for reference (see Attachment 1 – Project Statement).
 - City Staff also approved an Administrative Adjustment [ADRF-24-0073] in conjunction with the Development Plan application to allow for an 8' tall stone wall at the northern edge of the property where 7' is allowed on the property line per city code section 7.5.524. The increase in the wall height was to address neighborhood comments. That decision is not being appealed.

Surrounding Zoning and Land Use

Adjacent Property Existing Conditions

	<i>Zoning</i>	<i>Existing Use</i>	<i>Special Conditions</i>
North	PDZ/AP-O: Planned Development Zone District with Airport Overlay	Dwelling, Two-family	N/A
West	PDZ/AP-O: Planned Development Zone District	Detention and Dwelling, Multi-family	N/A

South	MX-M/Ap-O: Mixed-Use Medium Scale with Airport Overlay	Gas Station and Starbucks	N/A
East	A/AP-O: Agriculture with Airport Overlay and PDZ/AP-O: Planned Development Zone District with Airport Overlay	Vacant (Detention Pond)	N/A



Zoning Map

Timeline

Public Notice

Public Notice Occurrences (Poster / Postcards)	Planning Commission Public Hearing (for appeal)
Postcard Mailing Radius	1,000'
Number of Postcards Mailed	458

Development Plan

The development plan for this project was reviewed under the UDC (Unified Development Code). After evaluation of the development plan by planning staff and review agencies, planning staff determined that the application met the review criteria which was administratively approved the development plan on February 24, 2025.

The review criteria for granting a development plan as set forth in UDC Section 5.5.515 are noted below:

- a. *The decision-making criteria in Section 7.5.409 (General Criteria for Approval) apply unless modified by this Subsection 4;*
- b. *The application complies with all applicable Use-specific standards in Part 7.3.3 related to the proposed use(s);*
- c. *The details of the 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;*
- d. *Significant off-site impacts reasonably anticipated as a result of the project are mitigated or offset to the extent proportional and practicable;*
- e. *The Development Plan substantially complies with any City-adopted plans that are applicable to the site, such as Land Use Plans, approved master plans for a specific development, neighborhood plans, corridor plans, facilities plans, urban renewal plans, or design manuals;*
- f. *The project meets dimensional standards applicable to the zone district, or any applicable requirement in an FBZ or PDZ district;*
- g. *The project grading, drainage, flood protection, stormwater quality, and stormwater mitigation comply with the City's Engineering Criteria, the drainage report prepared for the project on file with the Stormwater Enterprise Manager, and other federal, state, and City regulations;*
- h. *The project complies with all the development standards of Article 7.4 (Development Standards and Incentives), including access and connectivity requirements in Part 7.4.4 (Access and Connectivity), the landscaping and green space requirements in Part 7.4.9 (Landscaping and Green Space), and the parking and loading requirements in Part 7.4.10 (Parking and Loading);*
- i. *The project complies with all applicable requirements of any Overlay District in which the property is located, as listed in Part 7.2.6 (Overlay Districts);*
- j. *The project preserves, protects, integrates, or mitigates impacts to any identified sensitive or hazardous natural features associated with the site;*
- k. *The project connects to or extends adequate public utilities to the site. As required by Colorado Springs Utilities, the project will extend the utilities to connect to surrounding properties; and*
- l. *If necessary to address increased impacts on existing roadways and intersections, the project includes roadway and intersection improvements to provide for safe and efficient movement of multi-modal traffic, pedestrians, and emergency vehicles in accordance with the Engineering Criteria, public safety needs for ingress and egress, and a City accepted traffic impact study, if required, prepared for the project.*

Staff received public comments during the review of the development plan (See Attachment 4 – Public Comments). The Applicant provided a response letter to the public comments (See Attachment 5 – Public Comment Response). A neighborhood meeting on October 22, 2024, at Sand Creek High School to allow for additional discussion between the applicant and neighbors regarding the application.

Appeal

Summary of Appeal

On March 4, 2025, the Appellant filed an appeal of the administrative decision. This appeal request was received within the 10-day appeal window in accordance with UDC Section 7.5.415.A.4 (see Attachment 3 – Appeal Letter).

Per City Code Section (UDC) 7.5.415.A (Appeals), an affected party aggrieved by a decision on an application may appeal this decision. The review criteria for a decision on an appeal is set forth in City Code Section (UDC) 7.5.415.A.2, as follows (following directly pulled from UDC):

2. *Notice of Appeal*
 - a. *The notice of appeal shall state:*

- (1) *The specific provision(s) of this UDC that is the basis of the appeal; and*
- (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; or*
 - (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.*
- b. *A recommendation to City Council to approve an application shall not be the basis for an appeal.*
- c. *As a preliminary matter, the body hearing the appeal may choose to vote on the sufficiency of the appeal to determine if the appeal has met the requirements of this Subsection. Upon a finding of insufficiency by a majority of the body hearing the appeal, the appeal shall be rejected, and no hearing held.*

In the appeal statement, the appellant argued that four development plan review criteria were not met with this application. The criteria are mentioned below with staff's response to each. The appellant's statements regarding each criterion can be viewed on Attachment 3 – Appeal Letter.

- 1. The details of the 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.

Staff Response:

- a. The applicant added an 8' stone wall at the northern property line to add further privacy for the northern neighborhood where there is only an existing split rail fence that runs the length of the property at the request of the HOA representing the subdivision to the north. The applicant also placed parallel parking to the north to decrease the impact of lights shining into the adjacent property.
 - b. The use of residential multifamily is compatible with the surrounding residential in the area with residential multifamily being immediately to the west as well as provides a transition of housing types to the major arterial roadway and commercial development to the south.
 - c. The building materials consist of a base of cultured stone, horizontal fiber cement siding and shingled roof which is consistent with the siding and roofing used in the development immediately to the north.
- 2. Significant off-site impacts reasonably anticipated as a result of the project are mitigated or offset to the extent proportional and practicable.

Staff Response:

- a. Off-site impacts have been mitigated through the review of this application.
 - i. Traffic related issues have been accounted for and addressed through the review and approval of the traffic impact study (See Attachment 6 – Traffic Impact Study) which was reviewed by City Traffic Engineering.
 - ii. The applicant will need to pay Park Land Dedication fees in lieu of donating land to the parks department to mitigate for the impact on public parks as well as fees due to School District 49 in lieu of land dedication.
 - iii. CSPD and reviewed this application through their Crime Prevention unit and did not have any objections or concerns about this application. The applicant will also be required to pay Community Development Impact fees to police and fire with this development. Comments made by CSFD were addressed through the review of this application.
- 3. The project complies with all the development standards of Article 7.4 (Development Standards and Incentives), including access and connectivity requirements in Part 7.4.4 (Access and Connectivity), the landscaping and green space requirements in Part 7.4.9 (Landscaping and Green Space), and the parking and loading requirements in Part 7.4.10 (Parking and Loading)

Staff Response:

- a. To address the appellants concerns specifically regarding this section;

- i. Following the UDC's parking formulas and requirements, the applicant was required to provide 239 parking spaces and has provided 249 parking spaces. The applicant utilized a Bike Route or Trail Proximity Reduction of 5% which is permitted by code section 7.4.1005.H due to the applications proximity to a bike route along Pony Tracks Dr. The applicant is also utilizing compact spaces which is permitted to be up to 40% of the required off-street parking spaces. The applicant has 30% of their required parking as compact spaces.
 - ii. Following the guidance of both the previously approved concept plan and City Traffic Engineering department, the applicant has ingress and egress placed as far as possible away from the existing intersections along N Carefree Circle while matching the existing intersection of Pony Tracks Drive and Harrier Drive to the east of the site.
 - iii. Following the guidelines of the City's Stormwater Enterprise (SWENT), a preliminary drainage report was reviewed and accepted by SWENT and were permitted to move forward with Development Plan approval. The applicant will need to submit and have a Final Drainage Report prior to Construction Drawing approval.
- 4. If necessary to address increased impacts on existing roadways and intersections, the project includes roadway and intersection improvements to provide for safe and efficient movement of multi-modal traffic, pedestrians, and emergency vehicles in accordance with the Engineering Criteria, public safety needs for ingress and egress and a City accepted traffic impact study, if required, prepared for the project.
 - a. As mentioned above, City Traffic Engineering reviewed and approved the Traffic Impact Study for the project.

Optional Actions - Motions

APPL-25-0003 – Flats at Sand Creek Development Plan Appeal

1. Affirm the decision of the City Planning Department and deny the appeal; or
2. Reverse the decision of the City Planning Department and approve the appeal; or
3. Reject the appeal due to insufficiency.

Motion to Deny

Deny the appeal and affirm the administrative approval of the development plan application, based on the provisions of the City Code (UDC), and that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code (UDC) Section 7.5.415.A(2).

Motion to Approve

Uphold the appeal and deny the administrative approval of the development plan application, based on the provisions of the City Code (UDC), and that the appellant has substantiated that the appeal satisfies the review criteria outlined in City Code (UDC) Section 7.5.415.A(2).

Motion to Reject

Reject the appeal and affirm the administrative approval of the development plan application, based on the insufficiency of the request to meet the requirements of City Code (UDC) Section 7.5.415.A(2)(a) and City Code (UDC) Section 7.5.415.A(2)(c).