

# City of Colorado Springs

*Regional Development Center  
2880 International Circle  
Colorado Springs, CO 80910*



## **Meeting Minutes - Final**

**Friday, November 17, 2023**

**9:00 AM**

**Regional Development Center (Hearing Room)  
2880 International Circle**

## **Planning Commission**

**1. Call to Order and Roll Call**

- Present:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery
- Absent:** 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

**2.A Approval of the Minutes**

**2.A.A. [CPC-23-585](#) Minutes for the October 11, 2023, Planning Commission Meeting**

Presenter:  
Scott Hente, Chair of the City Planning Commission

**Attachments:** [CPC Minutes 10.11.23 draft](#)

**Motion by Commissioner Rickett, seconded by Commissioner Almy, that approval of the minutes for the October 11, 2023, Planning Commission meeting be postponed until the December meeting. The motion passed by a vote of 5-0.**

- Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery
- Absent:** 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

**2.B. Changes to Agenda/Postponements**

Peter Wysocki, Planning and Neighborhood Services Director, announced that items related to the Banning Lewis Ranch were being postponed to the January 10, 2024, Planning Commission Meeting. These items on the agenda were 7.A. through 7.F.

**Banning Lewis Ranch Village B2**

- 7.A. [MAPN-23-0001](#) A major amendment to the Banning Lewis Ranch Village B2 Master Plan changing the existing land use classifications of R, RL, RM, RH, R, NR, ES to the following land use classifications PRO, RES-M and COM consisting of 511.20 acres located north of Tamlin Road and east of Dublin Boulevard and Banning Lewis Parkway.  
(Quasi-judicial)

Presenter:  
Tamara Baxter, Senior Planner, Planning + Neighborhood Services

- Attachments:** [Staff Rpt BLR Village B2](#)  
[Project Statement](#)  
[Master Plan Major Amendment](#)  
[Public Comment Response](#)  
[Public Comments](#)  
[District 49 Letter](#)  
[CONTEXT MAP](#)  
[7.5.408 Master Plan](#)

- 7.B. [ZONE-23-0008](#) A zone change consisting of 9.2 acres located at the northeast corner of Dublin Boulevard and Banning Lewis Parkway from PDZ/R5/AP-O/SS-O (Planned Development Zone District and Multi-Family Residential with Airport and Streamside Overlays) to MX-M/AP-O/SS-O (Mixed-Use Medium Scale with Airport and Streamside Overlays).  
(Quasi-Judicial)

Presenter:  
Tamara Baxter, Senior Planner, Planning + Neighborhood Services

- Attachments:** [Rezone Commercial](#)  
[7.5.603.B Findings - ZC](#)

- 7.C. [COPN-23-0010](#) Establishment of the Banning Lewis Ranch Village B2 Concept Plan for proposed commercial consisting of 9.2 acres located at the northeast corner of Dublin Boulevard and Banning Lewis Parkway.  
(Quasi-judicial)

Presenter:  
Tamara Baxter, Senior Planner, Planning + Neighborhood Services

- Attachments:** [Concept Plan and PDZ Concept Plan](#)  
[7.5.501.E Concept Plans](#)

- 7.D. [PUDZ-23-0002](#) A zone change consisting of 502 acres located at the northeast corner of Dublin Boulevard and Banning Lewis Parkway from PDZ/R-5-cr/R-1 6/MX-M-cr/AP-O/SS-O (Planned Development Zone District, Multi-Family High Residential with Conditions of Record, Single Family-Medium Residential, Mixed-Use Medium Scale with Conditions of Record, and Airport and Streamside Overlays) to PDZ/AP-O/SS-O (Planned Development Zone District with Airport and Streamside Overlays: single-family and/or two-family residential; density of 3.5-7.99 du/ac; and a maximum building height of 35 feet). (Quasi-Judicial)

Presenter:  
 Tamara Baxter, Senior Planner, Planning + Neighborhood Services

- Attachments:** [PDZ Rezone](#)  
[7.5.603.B Findings - ZC](#)  
[7.3.603 Establishment & Development of a PUD Zone](#)

- 7.E. [PUDC-23-0002](#) Establishment of the Banning Lewis Ranch Village B2 PDZ Concept Plan consisting of 502 acres to allow for single-family and/or two-family residential with medium residential density (3.5-7.99 du/ac and a maximum building height of 35 feet) consisting of 502 acres located north of Tamlin Road and East of Dublin Boulevard and Banning Lewis Parkway extension. (Quasi-judicial)

Presenter:  
 Tamara Baxter, Senior Planner, Planning + Neighborhood Services

- Attachments:** [Concept Plan and PDZ Concept Plan](#)  
[7.5.501.E Concept Plans](#)  
[7.3.605 PUD Concept Plan](#)

- 7.F. [SUBD-23-00](#)  
[52](#) A Vacation of Public Right-of-Way of Vista Del Oro Boulevard and portions of public right-of-way of Dublin Boulevard and Banning Lewis Parkway consisting of 35.856 acres located north of Tamlin Road and east of Dublin Boulevard and Banning Lewis Parkway. (Legislative)

Presenter:

Tamara Baxter, Senior Planner, Planning + Neighborhood Services

Attachments: [Vacation Plat](#)  
[7.7.402.C Vacation Procedures](#)

### **3. Communications**

Peter Wysocki, Planning and Neighborhood Services Director, invited Jim Raughton to the podium. Mr. Raughton served on the Planning Commission for six years and his term recently expired. Mr. Wysocki thanked him for his service and Mr. Raughton spoke about his experience quite fondly.

### **4. Consent Calendar**

**Motion by Commissioner Rickett, seconded by Commissioner Hensler, to approve the Consent Calendar. The motion passed by a vote of 5-0.**

**Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

**Absent:** 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

These items will be acted upon as a whole, unless a specific item is called for discussion by a Commissioner/Board Member or a citizen wishing to address the Commission or Board. (Any items called up for separate consideration shall be acted upon following the Consent Vote.)

#### **Guidepost Montessori School**

- 4.C. [CUDP-22-00](#)  
[17](#) A Conditional Use to allow a children’s daycare facility in the Office Residential (OR) zone district consisting of approximately 1.4 acres located at 6575 Oakwood Boulevard.  
(Quasi-judicial)

Presenter:

Allison Stocker AICP, Planner II, Planning + Neighborhood Services

- Attachments:** [Montessori School CU Staff Report Final ADS](#)  
[Project Statement Guidepost Montessori ADS](#)  
[Public Comments Guidepost Montessori ADS](#)  
[Vicinity Map Guidepost Montessori ADS](#)  
[CUDP Guidepost Montessori 20231101 ADS](#)  
[PlanCOS Vision Map](#)  
[7.5.704 Conditional Use Review](#)  
[7.5.502.E Development Plan Review](#)

**5. Items Called Off Consent Calendar**

**1713 Hercules Drive**

- 4.A. [NVAR-23-0040](#) A Nonuse Variance to allow a front yard setback of 13-feet where 25-feet is required in the R1-9 (Single-Family Large) zone district, located at 1713 Hercules Drive.  
(Quasi-judicial)

Presenter:

Molly O'Brien, Planner I, Planning & Neighborhood Services

- Attachments:** [CPC Staff Report - 1713 Hercules Dr](#)  
[Project Statement - 1713 Hercules Dr](#)  
[Site Plan and Elevations - 1713 Hercules Dr](#)  
[Public Comment - 1713 Hercules Dr](#)  
[PlanCOS Vision Map](#)  
[7.5.526 NON-USE VARIANCE](#)  
[7.2.203 R-1 9 SINGLE-FAMILY - LARGE](#)

Molly O'Brien, Planner I, presented the scope of project. It was determined that this application meets the review criteria.

The applicant and homeowner, Stephen Uveges, then presented. The proposed addition would allow he and his wife to care for an aging parent.

Questions from Commissioners:

Commissioner Rickett asked if the project request had been based on the geohazard report, to which the applicant confirmed it had been. Commissioner Rickett inquired if there were other homes in the potential slide zone, to which the applicant replied there had been at least three homes that have had issues. Commissioner Rickett asked if the addition could be built in the back instead. The applicant said that they could put helical piers into the bedrock below, but that egress into the house would require costly major interior renovations. Lastly, Commissioner Rickett added he was afraid that allowing these encroachments into the front setbacks would open the floodgate for others who would like to do the same. He wanted to keep the neighborhood conducive and believed the request was not the only option possible.

The applicant added there had been two other homes that had their helical piers repaired. One had a completely separated footer and the foundation fractured and slid. The other one had potentially sheered the foundation horizontally. This had worried the applicant because there had only been three homes away on the same side of the street.

Commissioner Almy had similar concerns and questioned whether this project had met the approval criteria in B and C, with B being the one that said the property had extraordinary exceptional physical conditions that were not generally seen in the same zone district. He had believed this project did not meet the approval criteria.

He added he was not totally against the project, but this had been the first UDC issue that had come up against a nonuse variance, and he had believed this project did not meet the approval criteria.

Vice Chair McMurray agreed the west side geologic hazard conditions had existed pretty broadly in the area. Commissioner Slattery found herself agreeing with Commissioner Rickett about neighborhood characteristics and setbacks while setting a precedent. She also agreed with Commissioner Rickett that this had not been the only viable option. Lastly, it had not been the Commission's prerogative to design, but she wanted to uphold the setbacks to set a precedent.

Attorney Trevor Gloss, City Attorney, made a clarification that variances were dealt with on a case-by-case basis. He understood there had been concerns of opening the floodgates, but legally there had not been a requirement to do so.

**Motion by Commissioner Rickett, seconded by Commissioner Slattery, to deny the Nonuse Variance to City Code Section 7.2.203 to allow a front yard setback of 13-feet where 25-feet is required in the R1-9 (Single-Family Large) zone district located at 1713 Hercules Dr based on the findings that the application does not conform to City Code Section 7.5.526. The motion passed by a vote of 3-2.**

**Aye:** 3 - Commissioner Almy, Commissioner Rickett and Commissioner Slattery

**No:** 2 - Commissioner Hensler and Vice Chair McMurray

**Absent:** 4 - Commissioner Briggs, Commissioner Foons, Chair Hente and Commissioner Cecil

**305 Old West Broadmoor Road**



- 4.B. [NVAR-23-0052](#) A Nonuse Variance to allow a reduced front yard setback of 10.2 feet where 20 feet is required for a garage in the R-E (Single-Family Estate) zone district, located at 305 W Old Broadmoor Rd (Quasi-judicial).

Presenter:

Molly O'Brien, Planner I, Planning + Neighborhood Services

**Attachments:** [Staff Report - NVAR-23-0052](#)  
[Project Statement - 305 W Old Broadmoor Rd](#)  
[Site Plan and Elevations - 305 W Old Broadmoor Rd](#)  
[Public Comment - 305 W Old Broadmoor Rd](#)  
[PlanCOS Vision Map](#)  
[7.2.202 R-E SINGLE-FAMILY - ESTATE](#)  
[7.5.526 NON-USE VARIANCE](#)

Molly O'Brien, Planner I, presented the scope of project. It was determined that this application meets the review criteria.

The applicant's representative, Chuck Crum with MVE Civil Engineering, then summarized the project statement. He said construction of this garage will help address drainage issues on the property. They will be including additional parking space on the property, so as not to have parking on the street.

Questions from Commissioners:

Commissioner Hensler said she is not opposed to this project and they've done a great job with the design, but she asked how the new design would help with drainage, given the slope of the property. She also asked if they considered putting the garage where the carport is now and was there a reason for not putting it there. Mr. Crum answered that grades will be rearranged and they are adding collection pipes and drainage basins. He said the ingress and egress would not work with putting the garage in a different place.

Commissioner Rickett said he worried about the characteristic of the neighborhood and encroachment. He said his interpretation of the code says it should be 25 feet from the property line. He didn't believe that the applicant had met the review criteria. Mr. Crum said he respectfully disagreed. Code allows that it be 20 feet from the back of the sidewalk. There is no sidewalk, but the garage would be 28.2 feet from the edge of the street. He added that the property owners hired an architect to make sure it blends with the characteristic of the house and with the surrounding landscaping.

One of the applicants, Timothy Pool, spoke about how they have drainage issues with water flowing onto the property. He said they are planning on building a courtyard where they currently park their vehicles that will have a floodgate. After

their first flooding incident, they contacted the City and were told it was an issue caused when the City raised the elevation of Old Broadmoor Road. Stormwater came in quickly and put in a raised asphalt curb. Because of slope and drainage issues, there is no other place on the property where they could build a garage.

Commissioner Rickett asked if the drainage issue could be handled without a garage, to which the applicant replied yes. The applicant added he could also look for more help with the city, but is willing to forgo that expense by getting a garage.

Commissioner Slattery wanted to add on the record that she views this project differently based on the topography and how it would fit it because one would not see it from the road. She believed this would not negatively affect the characteristics of the neighborhood.

**Motion by Commissioner Rickett, seconded by Commissioner Almy, to deny the Nonuse Variance to City Code Section 7.2.202 to allow a front yard setback of 10.2-feet where 20-feet is required for a garage in the R-E (Single-Family Estate) zone district located at 305 W Old Broadmoor Rd based on the findings that the application does not conform to City Code Section 7.5.526. The motion failed by a vote of 2-3.**

**Aye:** 2 - Commissioner Almy and Commissioner Rickett

**No:** 3 - Commissioner Hensler, Vice Chair McMurray and Commissioner Slattery

**Absent:** 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

**Motion by Commissioner Hensler, seconded by Commissioner Slattery, to approve the Nonuse Variance to City Code Section 7.2.202 to allow a front yard setback of 10.2-feet where 20-feet is required for a garage in the R-E (Single-Family Estate) zone district located at 305 W Old Broadmoor Rd based on the application's conformance with City Code Section 7.5.526. The motion passed by a vote of 3-2.**

**Aye:** 3 - Commissioner Hensler, Vice Chair McMurray and Commissioner Slattery

**No:** 2 - Commissioner Almy and Commissioner Rickett

**Absent:** 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

### Point of the Pines Gardens

- 4.D. [ZONE-23-00](#) [23](#) First reading of an ordinance amending the zoning map of the City of Colorado Springs relating to 9.62 acres located in the northwest corner of Elkton Drive and Rusina Road from MX-N/HS-O/WUI-O (Mixed Use Neighborhood Scale with Hillside and Wildland Urban Interface Overlays) to MX-M/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlays) for the purpose of setting a public hearing date for January 9, 2024, and providing notice of the ordinance.

Presenter:

Tamara Baxter, Senior Planner, Planning and Community Development Department

Peter Wysocki, Planning Director, Planning and Community Development Department

**Attachments:** [ORD\\_ZC\\_Point of the Pines Garden Assisted Living](#)

[Staff Rpt\\_Point of Pines Villas](#)

[Project Statement\\_Land Use Statement](#)

[Project Statement\\_Zone Change](#)

[CONTEXT MAP](#)

[Zone Change Exhibit](#)

[Public Comment](#)

[Public Comment Response](#)

[7.5.704 ZONING MAP AMENDMENT \(REZONING\)](#)

Tamara Baxter, Senior Planner, presented the scope of the project. After evaluation of the zone map amendment, it has been determined that the application meets the review criteria.

A representative for the applicant, Luanne Ducett with Terra Nova Engineering, also gave a presentation. With the recent approval of the new code, the existing assisted living facility is no longer in compliance. The zone change is being requested to correct that. The current use has low impact on traffic, since residents of the assisted living facility do not own vehicles. This use is consistent with neighboring lots with the same zoning.

Public Comment:

Dorothy Macnak, a resident of Pinecliff, spoke in opposition of the project. She recalled the evacuation during the Waldo Canyon Fire and the difficulty of being able to leave the neighborhood. She said that traffic is now much worse. With Pinecliff being such a uniquely evacuation-challenged area, nothing should be done to increase density along the egress route. She suggested making the property a park. She also had concern with how the project was posted.

Julia Owens, a citizen, spoke in opposition of the project. She requested the Commission look into the evacuation of this area, as there are minimal roads to enter and leave the neighborhood. She was concerned that rezoning this property would allow for a large development. She also expressed concern with how the project was posted.

Mike Jansen, the applicant, said they are requesting a zone change to basically fix the nonconforming use of the existing facility and to potentially permit a small development next to it. Furthermore, he added the HOA board supports the rezoning request. The new development only uses about 5% of the land and keeps all of the existing landscaping. He said the poster was put up on the street at the entry to the development and was visible from the street.

Questions from Commissioners:

Commissioner Almy asked if existing projects were grandfathered in the transition from Chapter 7 to UDC. Mike Tassi, Assistant Planning Director, confirmed the existing use was considered a nonconforming use so, yes, they are protected under UDC.

Vice Chair McMurray asked if this would have been a permitted use prior to the adoption to the UDC. Tamara confirmed that is correct and also before the rezoning.

Commissioner Slattery said she drives past this property almost daily and hardly ever sees any traffic in or out. Approving this rezoning would be appropriate to bring the property into conformance with current code.

Commissioner Rickett acknowledged the concerns of the neighbors in such a unique area. Looking at the code, he said the MX-M and MX-N have very few differences. This request is not for new zoning.

Vice Chair McMurray added given the zoning prior to changing from Chapter 7 to UDC, it would have been a permitted use under the old code, so he would be in support of this project.

**Motion by Commissioner Rickett, seconded by Commissioner Almy, to recommend approval to City Council the zone change of 9.62 acres from MX-N/HS-O-/WUI-O (Mixed-Use Neighborhood Scale with Hillside and Wildland Urban Interface Overlays) to MX-M/HS-O/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlay) based on the findings that the request complies with the criteria for a Zoning Map Amendment as set forth in City Code Section 7.5.704. The motion passed by a vote of 5-0.**

**Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

**Absent:** 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

**6. Unfinished Business**

**7. New Business**

**Autowash 5795 Tutt Center Point**

- 7.G. [CUDP-23-00](#) A Conditional Use to allow a carwash in the MX-M (Mixed-Use  
[17A](#) Medium Scale) zone district consisting of 1.08 acres located at 5975  
Tutt Center Point.  
(Quasi-Judicial)

Presenter:

Austin Cooper Planner II, Planning + Neighborhood Services

**Attachments:** [CPC Staff Report Autowash 5975 Tutt Center Pt](#)

[Project Statement](#)

[Context Map](#)

[Public Comment Response](#)

[Public Comments](#)

[7.5.601 CONDITIONAL USE](#)

Austin Cooper, Planner II, presented the scope of project. It has been determined that the project meets all review criteria with conditions for approval.

Vice Chair McMurray asked staff to note that one of the criteria was the Commission needs to be able to speak to the capacity and availability of the infrastructure, so not having the traffic study in advance does not help the committee help address certain criteria.

The applicant, Dennis Dreeszen, and architect, Paul Battista, then made a presentation. Mr. Battista said that due to noise concerns, they have redesigned the site to turn the wash bays away from the nearby residential area. One of the proposed conditions for approval is to restrict business hours. Mr. Battista said they would like to change that to being open 24 hours. They can program the bay doors to be closed during wash and dry cycles and they can have the exterior vacuums turned off during certain hours. Mr. Dreeszen said they feel this is a reasonable compromise to address the concerns of neighbors.

Public comment:

Kevin Bradford, a citizen, spoke in opposition to the project. He discussed his concern with the noise level of the project with the proximity to neighborhoods. He also said there are already too many car washes nearby.

Applicant rebuttal:

Mr. Dreeszen said that Kevin Bradford is a carwash owner as well and a competitor. He said he would be able to run his carwash in a nice and quiet way.

Questions from Commissioners:

Commissioner Rickett mentioned that, as the applicant had wanted a modified approval request, he asked what the applicant would have liked to see different from the original motion.

Mr. Dreeszen replied that outside activities would have had limited hours from 11 p.m. to 6 a.m., but the inside car wash activities would be allowed to operate during those hours. Commissioner Rickett added if the modification were granted, could the hours could be adjusted, to which the applicant confirmed they were open to that. They agreed to 9 p.m. to 7 a.m.

Vice Chair McMurray asked what the noise ordinance was within the city. Commissioner Rickett added that if the business were to exceed the noise level, they could be shut down anyway. The applicant responded they were familiar with the reduction of noise levels and zoning repercussions.

Commissioner Almy stated the bottom line was not the hours, but more of the noise level made by the customers outside. All these restrictions will affect their business model, as the applicant had already articulated.

Commissioner Slattery requested to look through the car wash examples that were nearby neighborhoods. The applicant went over car washes that were close in proximity to neighborhood homes.

Commissioner Rickett stated he understood the public had seen multiple car washes lately; however, by code, there is not really anything to restrict that unless it was truly by code. From the Commission's perspective, they have to look at the code and wanted the public to understand that.

Trevor Gloss, City Attorney, clarified per code 9.8.104, for commercial zone districts between the hours of 7 a.m. to 7 p.m., it is 60 decibels during the day, and under 55 decibels throughout the night.

Commissioner Rickett said he struggled with the review criteria stating the size, scale, height, density, and multimodal traffic impacts being compatible with the existing planned uses in the surrounding area. He said this could be questionable, but that any potential adverse impacts are being mitigated to the extent feasible and he stated he would be in favor of the modified proposal, which was unrestricted hours with auto bay doors programmed to be closed and external vacuums to be turned off from 9 pm to 7 am.

**Motion by Commissioner Rickett, seconded by Commissioner Almy, to approve the Conditional Use based upon the finding that the request complies with the criteria as set forth in City Code Section 7.5.601, with the following conditions of approval: 1) Unrestricted hours with auto-bay doors programmed to be closed and external vacuums off between 9 p.m. and 7 a.m.; 2) Illuminated signage shall not be visible to the residential development along Tutt Boulevard; 3) Year-around landscape screening, such as evergreens a minimum of 8 feet in height, shall be provided along Tutt Boulevard. If site utilities along Tutt Boulevard limit tree plantings, other screening methods will be required, such as a screen wall and robust shrub planting. This shall be determined at the time of the development plan review; 4) Permissible noise levels between residential and commercial**

zones shall not exceed City Code Section 9.8.104; 5) Exterior structure and site lighting shall be directed inward to the site and away from the resident development along the south of Tutt Boulevard; 6) A development plan application is necessary to be submitted for the future car wash which will be reviewed administratively. The motion passed by a vote of 5-0.

**Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

**Absent:** 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

**Autowash 1245 Space Center Drive**



- 7.H. [CUDP-23-00](#)  
[16](#) A Conditional Use to allow a carwash in the MX-M (Mixed-Use Medium Scale) zone district consisting of .86 acres located at 1245 Space Center Drive. (Quasi-Judicial)

Presenter: William Gray, Senior Planner, Planning + Neighborhood Services

**Attachments:** [CPC Staff Report Space Center Drive Autowash 11072023](#)

[Context Map](#)

[County Zone Map](#)

[Vicinity Map](#)

[Final Plat](#)

[Land Use Statement](#)

[Development Plan](#)

[Concept Plan](#)

[Ordinance No 87-175](#)

[7.5.601 CONDITIONAL USE](#)

Bill Gray, Senior Planner, presented the scope of project. It has been determined that this application meets all review criteria with conditions for approval.

The applicant, Dennis Dreeszen, and architect, Paul Battista, then made a presentation. They proposed the same conditions from the previous application for this project. This site will have additional noise-reducing features, including landscaping and concrete walls.

Public comment:

John Harvey, a citizen and car wash owner, spoke in opposition to the project. He said his own car washes create considerable noise with complaints from neighbors.

Kevin Bradford, car wash owner, spoke in opposition to the project. He said there are already too many car washes in the area.

Applicant Rebuttal:

Mr. Dreeszen said that they can meet the noise requirements.

Vice-Chair McMurray reiterated that it is not within the scope of this body to decide how many car washes there are in the city.

Commissioner Rickett said one of the conditions in the staff report addresses compliance with the city code noise ordinance.

Vice-Chair Murray confirmed that the first condition for approval in the motion is being changed to mirror that of the previous item.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to approve the Conditional Use based upon the findings that the request complies with the review criteria as set forth in City Code Section 7.5.601 with the following conditions: 1) Unrestricted hours with auto-bay doors programmed to be closed and external vacuums off between 9 p.m. and 7 a.m.; 2) Illuminated signage shall not be visible to the residential development located immediately North of the lot; 3) Year-around landscape screening, such as evergreens a minimum of 8 feet in height, shall be provided along the North property line and Powers Boulevard. If site utilities limit tree plantings, other screening methods will be required, such as a screen wall and robust shrub planting. This shall be determined at time of the development plan review; 4) Permissible noise levels between residential and commercial zones shall not exceed City Code Section 9.8.104; 5) Exterior structure and site lighting shall be directed inward to the site and away from the resident development along the south of Pony Tracks Drive; 6) A development plan application is necessary to be submitted which will be reviewed administratively. The development plan application must demonstrate compliance with Ordinance No. 87-155. The motion passed by a vote of 5-0.

**Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

**Absent:** 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil

## Humble Paws

- 7.I. [UVAR-23-0005](#) A Use Variance to allow the Humble Paws Animal Care Facility use within the MX-L/cr (Mixed-Use Large with prior conditions of record) zone district consisting of 7,500 square feet located at 925 W. Cucharras St.

Presenter:  
 Ryan Tefertiller, Urban Planning Manager, Planning + Neighborhood Services  
 Peter Wysocki, Director, Planning + Neighborhood Services

- Attachments:** [Humble Paws CPC Staff Report RBT](#)  
[Humble Paws Aerial Photo 1](#)  
[Humble Paws Aerial Photo 2](#)  
[Humble Paws Lower Floor of building site plan](#)  
[Humble Paws Main Floor of building site plan](#)  
[Humble Paws Project Statement and Justification](#)  
[Humble Paws Legal Description](#)  
[All Stakeholder Communications as of 102423](#)  
[Consolidated PACFA Documents](#)  
[7.5.527 USE VARIANCE](#)

Ryan Tefertiller, Urban Planning Manager, presented the scope of project. This is a use variance to allow an animal care facility at 925 W. Cucharras Street. The use of this facility is prohibited in this zone and it was established without gaining the proper approvals. A code enforcement case was initiated shortly after the business opened. It was determined that this application does not meet review criteria.

The applicant, Manuel Martinez, could not attend today, but his father, Manny Martinez, gave a presentation. He acknowledged that his son should have looked at the zoning before establishing the business at this location. The lease does say that it is the tenant's responsibility to comply with zoning requirements. Mr. Martinez said his son started this business at a different location and became successful enough that he needed a larger facility. Mr. Martinez did express his apologies to the neighbors for making a bad impression. He then addressed each of the complaints from neighbors and also shared positive feedback from their customers.

Public comment:  
 David Seeley, a neighbor, spoke in opposition of the project. He said while he appreciates the intent of the business, his concerns are with the noise and the impact on the neighborhood.

Wade Harper, a citizen, spoke in opposition of the project. He spoke on the increased noise and traffic since Humble Paws has moved in nearby.

Bill Tibbit, a citizen, owns the building next door and spoke in opposition of the project. He spoke about how this operation was not allowed in this zone.

Shelby Marcus, a citizen, spoke in opposition of the project. She mentioned her concern on this variance as it does not fit the current criteria.

Joanna Bean, a citizen and wife of Wade Harper, spoke on her appreciation on what Humble Paws was trying to accomplish, but that it is not appropriate in this neighborhood.

Applicant rebuttal:

Mr. Martinez said he asked Mr. Tefertiller that if this use variance does not get approved, where would they be able to move. The only zone that allows such a facility is Agricultural, which is not in the city. He questioned whether other similar facilities are located in this zone. He said this use type was forgotten in the new zoning code.

Mr. Tefertiller explained that the old zoning code had a definition for an indoor-only kennel, which included outdoor uses. However, the UDC did not incorporate those defined uses; instead, it introduced the term "animal care facilities." Under the old code, the kennel use correlated with the C6 zone, which is now MX-L. While it was not a permitted or prohibited use on the property, it did require a conditional use, a major application requiring a public hearing in front of the commission. This use was not initiated until late June, after the UDC became effective. At that point, it became a prohibited use, requiring a use variance in the MX-L zone. An animal care facility is permitted in the A zone, which is scarce in the city. In LI or GI industrial zones, an animal care facility can be established via a conditional use permit. While these zones do not permit such uses outright, they can be legally established with a conditional use permit.

Mr. Tefertiller added that the UDC is undergoing review and the plan is to propose code updates to Planning Commission and City Council within the next four to six months. The proposal aims to reintroduce the definitions of an indoor-only kennel and a kennel with outdoor use, correlating these uses with appropriate zones. However, there is no guarantee that these uses will be re-established as they were under the old code, as any proposed changes will undergo a public process through the Planning Commission and City Council.

Questions from Commissioners:

Commissioner Almy stated commissioners were there to look at the use variance, not the need for the business or how they conduct business. He added they heard plenty of public comments on the disruption this community had on their lives, and that swayed him quite a bit.

Commissioner Rickett echoed Commissioner Almy's statements regarding the code

perspective. Unfortunately, the Commission has to look at the code with the six criteria that were required. Furthermore, he added small animal clinics were permitted in this zone area, so that may be an option in the future.

Commissioner Hensler concurred with other Commissioners and appreciated the applicant for telling the back story of the business. She also appreciated the presentation having a lot of information on what to do to amend complaints, but it felt like with all the work one would have to do to amend the complaints, maybe it would be more successful in another area where one did not have to make all of those adjustments.

Commissioner Slattery stated it came down to a code issue. She loved the business and what they were doing, but stated it was in the wrong location. She inquired if there was a grace period to assist with finding a new location.

Mr. Tefertiller clarified this project would be going to City Council next, and there is a grace period given to businesses. It is usually around 30 - 90 days. He also clarified the business had been given plenty of notice to look at other locations just in case.

Vice-Chair McMurray echoed what other Commissioners said and he believed this was a straightforward case as it pertained to the code, but he recognized the good faith of the applicant and the good service they were providing. He hoped he would see the applicant with a new application in an appropriate zone.

**Motion by Commissioner Rickett, seconded by Commissioner Almy, to recommend denial to City Council of UVAR-23-0005 based on the findings that the required Use Variance Criteria found in Section 7.5.527 are not met. The motion passed by a vote of 5-0.**

**Aye:** 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

**Absent:** 4 - Commissioner Briggs, Commissioner Foos, Chair Hente and Commissioner Cecil

**8. Updates/Presentations**

**9. Adjourn**