THE PLANNING & DEVELOPMENT DEPARTMENT
APPEAL TO CITY COUNCIL

JUN 26 2023

CITY CLERKS OFFICE

*Complete this form if you are appealing **City Planning Commissions, Downtown Review Board's or the Historic Preservation Board's** decision to City Council.*

CITY CLERKS OFFICE
3:30 P

APPELLANT CONTACT INFORMATION:

Appellants Name: Tracey Bradford Telephone: 509 449 2202
Address: 1615 Manitou Blvd City Colorado Springs
State: CO Zip Code: 80904 E-mail: tabsprings@gmail.com

PROJECT INFORMATION:

Project Name: Launchpad Apts.
Site Address: 810 N. 19th St. Colorado Springs 80904
Type of Application being appealed: Development Plan
Include all file numbers associated with application: DEPN-23-0001 APPL-23-0002
Project Planner's Name: William Gray
Hearing Date: 6/14/23 Item Number on Agenda: 8A

YOUR APPEAL SUBMITTAL SHOULD INCLUDE:

1. Completed Application
2. $176 check payable to the City of Colorado Springs
3. Appeal Statement
   - See page 2 for appeal statement requirements. Your appeal statement should include the criteria listed under "Option 1" **or** "Option 2".

Submit **all** 3 items above to the **City Clerk's office (30 S Nevada, Suite 101, Colorado Springs, CO 80903)**. Appeals are accepted for 10 days after a decision has been made. Submittals must be received no later than 5pm on the due date of the appeal. Incomplete submittals, 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.
If you would like additional assistance with this application, please contact the Land Use Review offices at 385-5905.

APPELLANT AUTHORIZATION:

The signature(s) 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 issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Tracey Bradford 6/25/2023
Signature of Appellant Date

THE APPEAL STATEMENT SHOULD INCLUDE THE FOLLOWING

☒ **OPTION 1:** If you are appealing a decision made by City Planning Commission, Downtown Review Board, or the Historic Preservation Board that was **originally** an administrative decision the following should be included in your appeal statement:

1. Verbiage that includes justification of City Code 7.5.906.A.4
   i. Identify the explicit ordinance provisions which are in dispute.
   ii. 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.
   iii. 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.

☐ **OPTION 2:** If the appeal is an appeal of a City Planning Commission, Form Based Zoning Downtown Review Board, or Historic Preservation Board decision that was **not made administratively initially**, the appeal statement must identify the explicit ordinance provision(s) which are in dispute and provide justification to indicate how these sections were not met, see City Code 7.5.906.B. For example if this is an appeal of a development plan, the development plan review criteria must be reviewed.

Additional Appellants Attached

CITY AUTHORIZATION:

Payment: $_____ Date Application Accepted:_____

Receipt No: _____ Appeal Statement:_____

Intake Staff:_____ Completed Form:_____

Assigned to:_____

APPEAL STATEMENT

DESCRIPTION

File Number: DEPN-23-0001
Brief Summary of Facts: The appeal APPL-23- 0002 was denied by the Planning Commission on 6/14/23. The appellants believe the decision was made incorrectly based on the criteria below.

The application for DEPN-23-0001 was approved by an Administrative Decision on 05/10/23. Among other things, the appellants believe that the building height should be no more than 35 feet (per the Westside Master Plan) and the density should be no more than 16 DU/AC (per the Westside Master Plan).

The appellants are filing an Appeal to the City Council on 06/26/23 per the criteria set forth in City Code 7.5.906.

JUSTIFICATION

Criteria For Review Of An Appeal:
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.

Per the criteria outlined above, see below for the appellant response.

4a. *Identify the explicit ordinance provisions which are in dispute.*

#1 The application of **The Westside Plan (adopted by ordinance 80-3)**

#2 The application of **City Code 7.5.502 (DEVELOPMENT PLANS)**

#3 The application of **City Code 7.5.505: COMPLIANCE:**
All properties subject to an approved development plan shall be developed and maintained in accord with said plan. All new construction, alteration, enlargement or modification of existing structures and changes of land uses must substantially conform to the approved development plan or as amended or as modified. The concept and development plan is intended to be a planning document only. Approval of

this plan does not grant any variances to the adopted Zoning Code and Subdivision Code and does not waive any of the requirements of design as contained in the City of Colorado Springs Subdivision Policy Manual and Public Works Design Manual, including the Traffic Engineering Division Policy and Design Standards Manual. Concept plans and development plans are not to be considered construction drawings (CDs), which may alter the specific details of the plan. (Ord. 94-107; Ord. 01-42; Ord. 09-78; Ord. 12-72)

#4 City Code 7.2.102: INTENT AND PURPOSE OF ZONING CODE:
This Zoning Code is designed to ensure the most appropriate use of land throughout the City; to ensure a logical growth of the various physical elements of the City; to lessen congestion in the streets and to facilitate the adequate provision of transportation; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to improve housing standards; to conserve property values; to facilitate adequate provision of utilities, schools, parks and other public infrastructure services; to protect against flood conditions and poor geologic and topographic conditions; and in general to promote health, safety and general welfare. The regulations within this Zoning Code have been made with reasonable consideration to the character of each zone district and its peculiar suitability for particular uses and with a view to encouraging the most appropriate use of land throughout the City.
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. (1968 Code; Ord. 80-131; Ord. 81-149; Ord. 91-30; Ord. 94-107; Ord. 01-42)

#5 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. (Ord. 94-107; Ord. 01-42)

#6 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. (Ord. 94-107; Ord. 01-42; Ord. 10-107)

4b. *Show that the administrative decision is incorrect because of one or more of the following:*
- ***4b(1). It was against the express language of this zoning ordinance***
- ***4b(2). It was against the express intent of this zoning ordinance***
- ***4b(5). It is clearly contrary to law.***

<u>First, A Few Relevant Quotes</u>

Gabe Sevigny, Planning Supervisor, Land Use Review Division, City of Colorado Springs:
While staff agrees that the Westside Plan is more advisory than regulatory since many of the provisions are recommendations, the Plan was still adopted by ordinance. The ordinance language requires staff to "exercise our respective functions and powers in a manner consistent with the Westside Plan". (Michael Tassi, Assistant Director of the Planning Department, also conveyed this sentiment to Scott Hiller over the phone)

City Code 7.5.502

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. Alternate and/or additional development plan criteria may be included as a part of an FBZ regulating plan.

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.

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. (Ord. 94-107; Ord. 95-125; Ord. 01-42; Ord. 02-64; Ord. 03-74; Ord. 03-157; Ord. 09-50; Ord. 09-78; Ord. 12-72; Ord. 18-2)

In the case of DEPN-23-0001, a Master Plan does exist, and it is *The Westside Plan (Ord. 80-3*). A Comprehensive Plan exists and it is PlanCOS. DEPN-23-0001 is within the boundaries of both Old Colorado City (defined by PlanCOS) and within the boundaries/jurisdiction of The Westside Plan. *The Westside Plan* is a "Relevant Plan" identified in PlanCOS Chapter 2, Vibrant Neighborhoods.

DEPN-23-0001 is against the express language and intent contained within *The Westside Plan.* DEPN-23-0001 is against the express language and intent of Plan COS. Let's explore why.

See Next Page

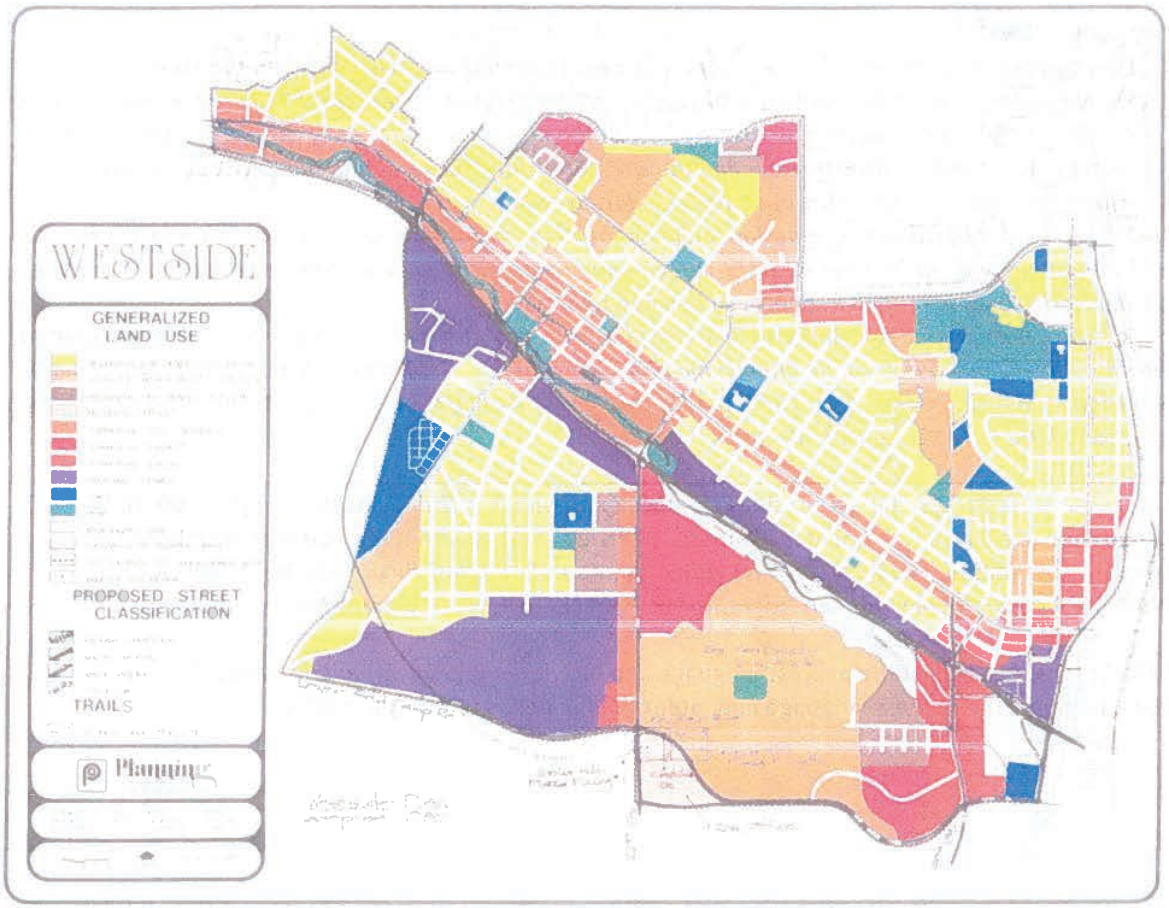

Figure 1: Generalized Land Use Map from *The Westside Plan*

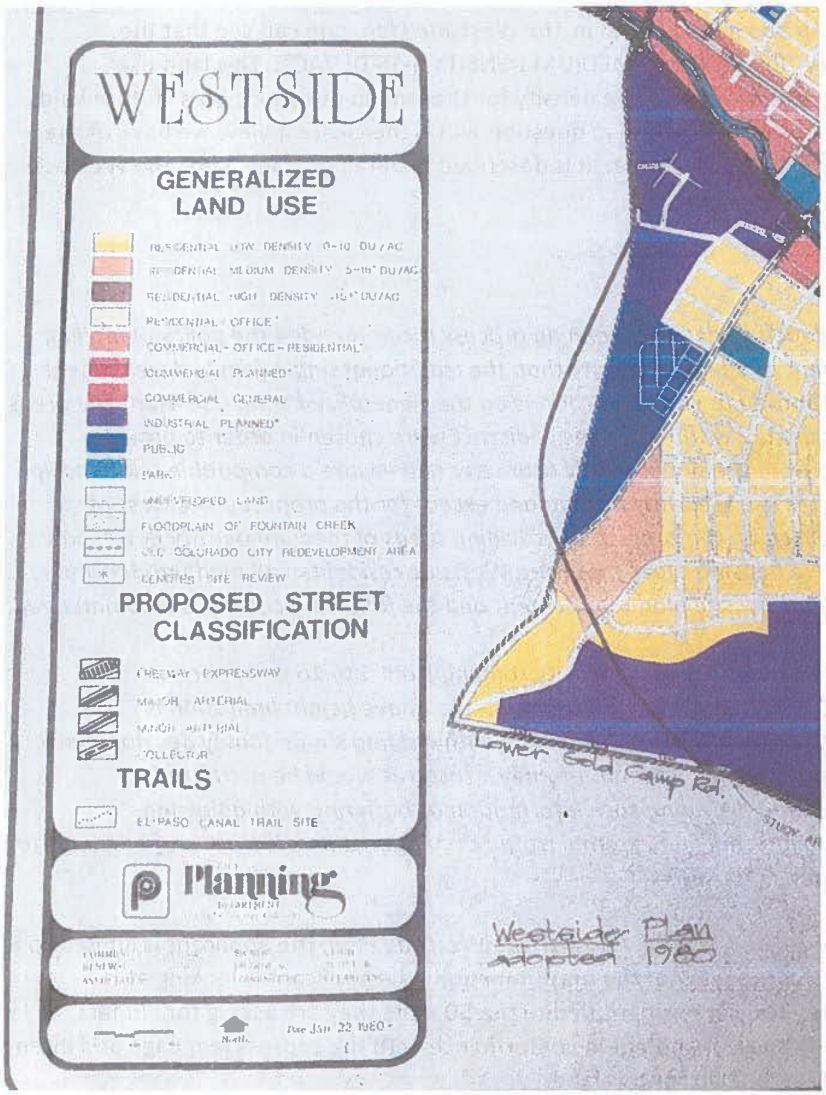

Figure 2: Zoom in of Key from Generalized Land Use Map in *The Westside Plan*

Figure 3: Zoom in of the applicant's land on the Generalized Land Use Map in *The Westside Plan*

On the Generalized Land Use Map above and found in *The Westside Plan*, one can see that the applicant's land is in the category "RESIDENTIAL MEDIUM DENSITY 5-16 DU/AC". This land use recommendation is meant to be a maximum future density for the land in question. This "future land use" map literally shows us the intent for the land in question and is the clearest view we have of the intent for the future development of the Westside. It is described in detail on page 27 of *The Westside Plan as follows:*

Medium-Density Residential

A number of the objectives developed during the planning process recommended the policy of infilling and where feasible encouragement of a higher density than the traditional single-family development. Medium-density residential is proposed at various locations on the Generalized Land Use Map. The areas selected for medium-density residential within the special district were chosen in order to provide development without detracting from the single-family character and ensure a compatible relationship with surrounding uses. All the sites are presently vacant land except for the proposed site west of Walnut. Selection of this site is based on the concept of providing areas of medium density development close to downtown and alternative housing types for future Westside residents. All medium-density residential would be developed under a site plan requirement and the following criteria is recommended:

- *Medium-density residential would allow a density ranging from 5 to 16 units per acre.*
- *A height limitation of 35 feet is recommended. (Note - the above height limitation is recommended in order to provide a compatible scale with existing single-family development).*
- *Detached, semi-detached, attached and multi-family structures would be permitted.*
- *A site plan should be required providing such information as buffering with adjoining development landscaping internal and external traffic circulation and orientation of buildings to each other and the surrounding uses*

The applicant's Total Development Site is 1.37 acres. Per *The Westside Plan*, the applicant is limited to a maximum of 16 units per acre. This means that the maximum units the applicant is looking at is approximately 21.92 TOTAL units. They are <u>not</u> entitled to the 50 units they are asking for. In fact, allowing 50 units here would be in spite of and not in conformance with the express language and intent voiced within the City-adopted Master Plan for this land.

The applicant's Building Height provided in their development plan is 45 feet. Per *The Westside Plan*, the applicant is limited to a maximum building height of 35 feet. They are <u>not</u> entitled to the building height of 45 feet that they are asking for. In fact, allowing a building height of 45 feet here would be in spite of and not in conformance with the express language and intent voiced within the City-adopted Master Plan for this land.

Now, let's see what PlanCOS has to say.

PlanCOS on the use of Master Plans:
Of particular importance will be publicly and privately initiated neighborhood-specific master plans. Used in conjunction with the overall themes and ideas in PlanCOS, these plans should be relied on to allow for and articulate land use and other area-specific recommendations for the neighborhoods they address. (Chapter 3)

PlanCOS on the precedence of adopted plans:
While PlanCOS provides overarching guidance, numerous City plans provide additional detail required for effective application and implementation of this Vibrant Neighborhoods Chapter. Of particular importance will be publicly and privately initiated neighborhood-specific master plans. Used in conjunction with the overall themes and ideas in PlanCOS, these plans should be relied on to allow for and articulate land use and other area-specific recommendations for the neighborhoods they address. As existing plans are updated and new plans created, these plans should support the themes of PlanCOS.

Where a discrepancy exists between small area plans and the City's Comprehensive Plan, the more specific plan should generally take precedence particularly if these plans are up-to-date and are reflective of the key elements of this theme. New and updated Neighborhood Plans should follow the guidelines and vision of PlanCOS and include its common desired elements. Links to relevant plans are found below. (The Westside Master Plan is listed.) (Chapter 2 and Appendix D)

Please note that the applicant's land is within the boundaries of Old Colorado City within the Neighborhood Framework Map (PlanCOS). This neighborhood is an Established, Historic Neighborhood (Typology 1a). As stated in PlanCOS:

1. ***Historic Neighborhoods*** *have an especially high value for preserving the legacy of existing design and architecture, although they may have to experience some amount of change especially in areas of transition with less historic uses. These Historic Neighborhoods may or may not have specially adopted City design guidelines or other publicly initiated master plans. These neighborhoods are also closely aligned with Historic Districts in Chapter 6. a. Examples: Old North End, parts of the Westside, and Old Colorado City* (Chapter 2)

DEPN-23-0001 sits on land within Typology 1a. Therefore, the applicant's special request to completely ignore the density and height limitations (*legacy of existing design and architecture*) is against the express language and intent of PlanCOS Chapter 2. It is also especially important within this PlanCOS-identified Historic Neighborhood to conform to the adopted Master Plan, The Westside Plan.

4b. Show that the administrative decision is incorrect because of one or more of the following:
4b(3). It is unreasonable
4b(4). It is erroneous

In approving DEPN-23-0001 by merely an Administrative Decision, the City is granting density and building heights that are against the express language and intent contained within the Zoning Code of Colorado Springs. These exceptions are unique and grant special rights to this development that are not afforded to others. The building height of 45ft will dwarf the single-family housing and the nursery school bordering it. The planned structure is a full story higher than any surrounding or nearby apartment complexes. This would be the tallest structure in the Old Colorado City Neighborhood!

Further, the amount of geologic work required to prepare this site will have an effect on the known risk of landslides and ground destabilization. The neighbors uphill of this planned grading are at risk of destabilization based on the scale of the slope removal.

To approve this controversial application (DEPN-23-0001) through an Administrative Decision without going through a public hearing process is unreasonable. This decision was made too hastily, with very little public commentary or input, and it is erroneous. Due to the extreme against-the-Plan requests the applicant is making, this never should have been allowed on the administrative track to begin with.

This high density, multi-family building will negatively affect not only the adjacent single-family housing but also the Ruth Washburn Cooperative Nursery School that is right next door. Placing a publicly subsidized facility for homeless adults next door to a nursery school is not reasonable.

4c. 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.

There are no tacit benefits of this proposed housing and the detriments are obvious: increased traffic, increased drug use and dealing, increased homeless population congregating around the property, unsavory characters interfacing with a young student population, etc. The area is mostly suited for multi-family, but the existing multi-family is lower density that conforms with the general intent of the neighborhood, which is to provide housing for the workforce.

This project does not benefit the community where it is being proposed. There are no benefits to "the community". This project promises to bring currently unhoused adults from outside the Westside area to reside on the west side of Colorado Springs.

How do we know they are adults? Hear it directly from the source. From the transcript of the neighborhood meeting on 09/26/22:

> *Shawna Kemppainen (CEO at The Place): We are working with young people who are primarily, some may be a little older but, 18 to 24 years old. Some can be older. It would be housing discrimination to say you're 25 you can't live here but in the other projects like this around the country it's typically the late 20s and then they move on.*

And, how do we know that these adults would be brought in from outside of the neighborhood? Hear it from the source. From the transcript of the neighborhood meeting on 09/26/22:

> *Shawna Kemppainen (CEO at The Place): What really matters is what's going on inside because you want to know what's going to be happening on your street, on your corner, right? Like, who are these people moving to your neighborhood?*
> *Neighbor #3: So, are these kids coming from other programs?*
> *Shawna Kemppainen (CEO at The Place): They will all be from this community.*
> *Neighbor #4: So it is Westsiders specifically?*
> *Shawna Kemppainen (CEO at The Place): Westsiders?*
> *Neighbor #4: Correct. We are on the west side of I-25.*
> *Shawna Kemppainen (CEO at The Place): No. Because "coordinated entry" is county-wide, it's El Paso County. So we can't discriminate by zip code or where they're from.*
> *Neighbor #5: So, applicants from El Paso County?*
> *Shawna Kemppainen (CEO at The Place): Yea.*

ADDITIONAL APPELLANTS - Launchpad Apartments

Project name: Launchpad Apartments
Project Address: 810 N. 19th Street, Colorado Springs, CO 80904
Type of Application: Development Plan
File Numbers: DEPN-23-0001 and APPL-23-0002
Hearing Date: 6/14/2023

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SIGNATURE Loretta Jacobs DATE 6/25/23
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NAME Mario R. Vasquez
SIGNATURE Mario R Vasquez DATE 6-25-23
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NAME Michael Greenwith
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File Numbers: DEPN-23-0001 and AAPL-23-0002
Hearing Date: 6/14/2023

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PHONE 719-331-3024 EMAIL grahamsnutrition@gmail.com

NAME Tyler Klocke
SIGNATURE DATE 6/26/2023
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Hearing Date: 6/14/2023

NAME MIKE PICKETT
SIGNATURE Michael H. Pickett DATE 6/26/2023
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PHONE 719 660 8216 EMAIL mpickett1947@gmail.com

NAME TRACY WATSON
SIGNATURE Tracy Lynne Watson DATE
ADDRESS 535 N. 17th street
PHONE 719-645-9437 EMAIL happy26momm3@aol.com

NAME
SIGNATURE DATE
ADDRESS
PHONE EMAIL

NAME
SIGNATURE DATE
ADDRESS
PHONE EMAIL

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NAME Donald Schumacher
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Hearing Date: 6/14/2023

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NAME TOM STRAND

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PHONE (719) 210-1607 EMAIL tomstrand19@yahoo.com

NAME Scott Hiller

SIGNATURE [signature] DATE 6/26/23

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PHONE 314 753 3261 EMAIL Scott.Hiller@riptidegeo.com

NAME

SIGNATURE DATE

ADDRESS

PHONE EMAIL

NAME

SIGNATURE DATE

ADDRESS

PHONE EMAIL

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NAME Kelly Hiller
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SIGNATURE JOHN A. MELLMAN DATE 6/26/23
ADDRESS 412 WILHELMIA AVE
PHONE 719 634 1170 EMAIL jamellman@verizon.net

NAME June A. Mellman
SIGNATURE June A. Mellman DATE 6/26/23
ADDRESS 412 Wilhelmia Ave.
PHONE 719-634-1170 EMAIL jamellman@verizon.net