



Meeting Minutes - Draft Planning Commission

Wednesday, August 14, 2024

9:00 AM

2880 International Cir., 2nd Floor, Hearing Room

1. Call to Order and Roll Call

Present: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Excused: 1 - Commissioner Hensler

2. Changes to Agenda/Postponements

Brass-Oliver Additions No. 1-2

- 2.A. [ANEX-23-00](#) The annexation of property known as Brass-Oliver Addition No. 1 located at 7830 Black Forest Road Annexation has been withdrawn.
[54](#) (Legislative)

Presenter:

Tamara Baxter, Planning Supervisor, Planning + Neighborhood Services

Kevin Walker, Interim Planning Director, Planning + Neighborhood Services

Attachments: [Staff Report Brass-Oliver](#)

[Attachment 1 - Petition for Annexation No. 1](#)

[Attachment 2 - Project Statement Addition No. 1](#)

[Attachment 3 - Land Use Statement Project Statement](#)

[Attachment 4 - Public Comments](#)

[Attachment 5 - Public Comment Response](#)

[Attachment 6 - Annexation Plat Addition No. 1](#)

[Attachment 7 - Legal Descriptions Addition No. 1-2](#)

[Attachment 8 - Draft Annexation Agreement 6.23.24](#)

[Attachment 9 - FIA Memo](#)

[Attachment 10 - Zone Change Exhibit A](#)

[Attachment 10a - Zone Change Exhibit B](#)

[Attachment 11 - Mineral Rights Notification](#)

Motion by Commissioner Rickett, seconded by Vice Chair Foos, to withdraw the Brass-Oliver Addition No. 1 annexation. The motion passed by a vote of

7-0. Commissioner Sipilovic was late arriving to the meeting and not present for this vote.

Aye: 7 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins and Commissioner Casey

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

2.B. [ANEX-23-00](#) The annexation of property known as Brass-Oliver Addition No. 2
[16](#) Annexation located at 7830 Black Forest Road has been withdrawn.
(Legislative)

Presenter:

Tamara Baxter, Planning Supervisor, Planning + Neighborhood Services

Kevin Walker, Interim Planning Director, Planning + Neighborhood Services

Attachments: [Attachment 1a - Petitions for Annexation No. 2](#)
[Attachment 2a - Project Statement Addition No. 2](#)
[Attachment 6a - Annexation Plat Addition No. 2](#)
[Attachment 7 - Legal Descriptions Addition No. 1-2](#)

Motion by Commissioner Rickett, seconded by Vice Chair Foos, to withdraw the Brass-Oliver Addition No. 2 annexation. The motion passed by a vote of 7-0. Commissioner Sipilovic was late arriving to the meeting and not present for this vote.

Aye: 7 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins and Commissioner Casey

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

2.C [ZONE-24-00](#) The establishment of an MX-N/AP-O (Mixed-Use Neighborhood
[01](#) Scale with Airport Overlay) zone district in association with the Brass-Oliver Addition No. 2 Annexation located at 7830 Black Forest Road has been withdrawn.
(Legislative)

Presenter:

Tamara Baxter, Planning Supervisor, Planning + Neighborhood Services

Kevin Walker, Interim Planning Director, Planning + Neighborhood Services

Motion by Commissioner Rickett, seconded by Vice Chair Foos, to withdraw the Brass-Oliver Addition No. 2 zone district. The motion passed by a vote of 7-0. Commissioner Sipilovic was late arriving to the meeting and not present for this vote.

Aye: 7 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins and Commissioner Casey

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

Humble Paws

2.D. [CUDP-24-0003](#) A Conditional Use to allow an Animal Care Facility use in the LI (Light Industrial) zone district consisting of 20,800 square feet located at 1516 Dustry Drive. (Quasi-Judicial)

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

- Attachments:** [Staff Report Humble Paws](#)
[Attachment 1-Zoning Map](#)
[Attachment 2- Context Map](#)
[Attachment 3-Project Statement](#)
[Attachment 4-Vicinity Map](#)
[7.5.601 CONDITIONAL USE](#)

Motion by Commissioner Rickett, seconded by Commissioner Briggs, to postpone to the September 11, 2024 Planning Commission Meeting. The motion passed by a vote of 8-0.

Aye: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Excused: 1 - Commissioner Hensler

2.E. [NVAR-24-0008](#) A Non-Use Variance to City Code Section 7.3.303.A.1.a to allow an Animal Care Facility to be zero feet (existing conditions) to any property line where fifty-five feet (55') is required, located at 1516 Dustry Drive. (Quasi-Judicial)

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

Attachments: [7.5.526 NON-USE VARIANCE](#)

Motion by Commissioner Rickett, seconded by Commissioner Briggs, to postpone to the September 11, 2024 Planning Commission Meeting. The motion passed by a vote of 8-0.

Aye: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cedil, Commissioner Rickett, Chair Slattery, Commissioner Robbins,

Commissioner Sipilovic and Commissioner Casey

Excused: 1 - Commissioner Hensler

3. Communications

Kevin Walker - Interim Planning Director + Neighborhood Services

Mr. Walker stated that City Council denied the annexation of Amara on a 5-4 vote. He also stated that City Council voted to form the Downtown Development Authority for the Old Colorado City area, including the Colorado Avenue corridor. This will move to a second reading and then to a vote from the property owners to form the Downtown Development Authority.

Mr. Walker spoke about the opening of the Ford Amphitheater last weekend and the cooperation from the venue operator relative to the parking and noise requirements. There were complaints and concerns about the noise. Staff was present and is working with the venue operator to analyze the data.

Mr. Walker spoke about the discussion at City Council regarding the request to have the referendum placed on the ballot regarding the height of the buildings downtown. These were citizen comments and not on the agenda and will not be moving forward.

4. Approval of the Minutes

[CPC 2354](#) Minutes for the July 10, 2024, Planning Commission Meeting

Presenter:
Andrea Slattery, City Planning Commission Chair

Attachments: [CPC minutes 7.10.24 DRAFT revised](#)

Motion by Commissioner Rickett, seconded by Commissioner Briggs, to approve the minutes for the July 10, 2024, Planning Commission Meeting. The motion passed by a vote of 6-0.

Aye: 6 - Commissioner Briggs, Commissioner Cecil, Commissioner Rickett, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Absent: 1 - Commissioner Hensler

Recused: 2 - Vice Chair Foos and Chair Slattery

5. Consent Calendar

6. Items Called Off Consent Calendar

7. Unfinished Business

8. New Business

Short Term Rental Appeal 6060 Briarcliff Road

- 8.A. [APPL-24-0004](#) An appeal of the administrative approval of the Short Term Rental permit application for 6060 Briarcliff Road.
(Quasi-Judicial)

Presenter:

Carli Hiben, Program Administrator, Planning + Neighborhood Services

Attachments: [Staff Report 6060 Briarcliff Rd V2](#)

[Attachment No. 1 - Public Comments](#)

[Attachment No. 2 - Code Enforcement Case](#)

[Attachment No. 3 - Appeal Submittal Form](#)

[Attachment No. 4 - Appeal Statement](#)

[Attachment No. 5 - Easement](#)

[Attachment No. 6 - Appeal Response](#)

[Attachment No. 7 - 2024 Renewal Application](#)

[7.5.415 APPEALS](#)

[Public Comments](#)

Carli Hiben, Program Administrator I, presented the appeal. This is a request to appeal the administrative approval of an owner-occupied short-term rental renewal application. This property is zoned PDZ and located in the hillside overlay. The appellant and STR permit holder had presentations. There are concerns over the safety of the shared driveway and trespassing. Staff researched the issue with the driveway with Public Works and there is no permit on file. There are no notes on the plat related to the shared driveway. The STR permit is in good standing with the city. Commissioner Casey asked if there were any appeals from prior STR permit renewals. Ms. Hiben said there have not been any.

Randy Knize, appellant and owner of 6070 Briarcliff Road, gave a presentation. He stated that the STR does not conform to the language of Ordinance 18-112, and it also violates Colorado state law. He presented pictures of the shared driveway showing the boundary lines. Mr. Knize referenced Ordinance 18-112 stating that it uses the verbiage "property" and not "properties". He claimed that the STR is operating on two properties, which is contrary to the ordinance and that guests should not be allowed to traverse onto 6070 Briarcliff. However, if the STR occupies both properties, then he would like a say whether the STR

permit should be approved. Mr. Knize stated that he does not have STR insurance for his property or driveway. He spoke on various safety concerns with guests and the driveway. A copy of an easement from 1992 was provided. Mr. Knize said that police have been called to the property for repeated trespassing.

Donna Robin Gregory, applicant and owner of 6060 Briarcliff Road, gave her presentation. She discussed her favorable Airbnb status, community involvement and neighbor interactions. Mrs. Gregory stated a complaint was issued in October 2023 by the appellant that she was serving chocolate croissants to guests, there was no outside signage for the Airbnb and there are blind spots in the driveway. She no longer serves food and they have added signage in the driveway. She provided pictures of the driveway and parking spots for their Airbnb. She stated that the appellant can only see the driveway through their cameras. Mrs. Gregory gave history on the construction of their home and, in that time, no one had complained about the blind spots or parking in the driveway. She stated that the appellant's wife has confronted some of their guests and visitors. A video of one of the instances was provided, however, the sound was not available due to technical difficulties. Mrs. Gregory purchased traffic cones to help alleviate trespassing issues. Mrs. Gregory responded to Mr. Knize's claim about an Airbnb guest shouting at his daughter. Mrs. Gregory stated that it was highly unlikely. She gave history about three other owner-occupied Airbnb's on their street with no incidents along with letters of support from neighbors. Their neighborhood does not have an active HOA.

Public Comment in Support: None

Public Comment in Opposition:

Kevin Gregory, property owner, spoke on his interactions with Mr. Knize. They have had friendly interactions while shoveling snow and Mr. Knize never complained about the Airbnb. Mr. Gregory has taken proactive measures to address Mr. Knize's concerns with signage and parking. Mr. Gregory feels that they have been good neighbors but have not felt the same reciprocity.

Rick Peine, neighbor located at 6050 Briarcliff, stated that he was not aware of the Gregory's Airbnb and he has had no issues with guests. He has had issues with Mr. Knize's children and dog. Mr. Peine would

like to know how often the Knize's live at their residence. He feels that his is a one-sided issue.

Sandy Anderson, neighbor of 25 years, said she agrees with Mr. and Mrs. Gregory that she does not have interactions with the Knize's. She stated that there has been no noise, parking or safety issues with the Airbnb. Ms. Anderson has had positive relations with the other neighbors. She believes that Mr. Knize is trying to sell his house and that is why there are now issues.

Brenda Pina, neighbor, said she has had no issues with Mr. and Mrs. Gregory's Airbnb guests.

Viola Horn, joint community Airbnb leader with Mrs. Gregory, stated that the Gregory's Airbnb is exemplary. When she visits, she receives text messages on the driveway and parking instructions.

Appellant Rebuttal:

Mr. Knize referred to the picture of the driveway with the traffic cones and a truck had driven over them. He said the property was not designed for a short-term rental. Commissioner Slattery asked that the 1992 easement language be shown and put into the record. Mr. Knize stated that there were no STR's in 1992. Commissioner Slattery asked if there was an agreement about maintaining the easement. Commissioner Casey said there is a version of it in the presentation, but it is missing the second page.

Commissioner Comments:

Commissioner Cecil asked if any citations or arrests have been made on the property. Mr. Knize said no. Commissioner Cecil said both the prior version of Chapter 7 and the current UDC 7.6.17 states that the singular shall include the plural in the code language. She finds the argument that the two properties are contrary to the singular limiting against guidance the code possesses for its own interpretation. Commissioner Cecil added that there may be a larger question regarding insurance requirements, the language in code 7.5.1704 allows property owners not to possess their own insurance but to default to the insurance of the platform through which they are renting. There is not sufficient criteria to require insurance on both properties. Impacts on property value, where the appellant cites 7.5.1705 referring to safety and value but not individual property, but of the entire neighborhood. She finds that police

department has found no evidence of trespassing across the easement. Commissioner Cecil recommended that this be resolved in civil court. She will be voting to deny the appeal.

Commissioner Rickett stated that he agrees on the code related items as well as the easement. He thinks the easement runs through the entire property, but unrelated to Chapter 7. He will be voting to deny the appeal.

Commissioner Briggs asked City Attorney Gloss if the parking issue would apply with the new UDC. Mr. Gloss said it would not. Commissioner Briggs then asked, regarding the easement, if both entities could have 100% ownership. Mr. Gloss said it is complicated but yes, depending on the language of the easement. Commissioner Briggs asked if this still applies, even though the two current owners are not on the original easement. Mr. Gloss said that assuming the transfer documents are all good, that is correct. Mr. Gloss stated that he didn't have access to all the documents so he can't speak to that. Commissioner Briggs asked Mrs. Gregory if Airbnb has a standard policy on easements. Mrs. Gregory said no, not that she is aware.

Commissioner Foos stated that this matter is more of a neighborhood dispute and isn't under their purview. The permit meets all the criteria and the Gregorys have been good neighbors and he will be voting to deny the appeal.

Commissioner Slattery asked Mr. Gloss if there needed to be an additional insurer to cover the easement for the shared properties. Mr. Gloss stated that it depends on what their policy says and the insurance company will only give them insurance for land they control. The policy would need to be reviewed to check that.

Commissioner Robbins asked Mr. Gloss about the insurance on the properties. Mr. Gloss said they would need to review the policy. Commissioner Robbins asked Mrs. Gregory if the STR was their only source of income. Mrs. Gregory stated that her husband works full time and that this was her source of income. Commissioner Robbins stated safety was still an issue, but it meets code. He agrees with the other commissioners. He also stated that this was a waste of police time and city dollars. Mrs. Gregory said the police did not make an incident report. Mrs. Gregory stated that the photograph Mr. Knize showed was

not accurate.

Motion by Commissioner Rickett, seconded by Commissioner Cecil, to deny the appeal and affirm the administrative approval of the Short Term Rental renewal application based on City Code Section 7.5.510(C)(1) and 7.3.301(C)(3), and on the findings that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.415.A(2). The motion passed by a vote of 8-0.

Aye: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Absent: 1 - Commissioner Hensler

Colorado Ave Tire Sales

- 8.B. [CUDP-24-0005](#) A Conditional Use to allow a Minor Automotive and Light Vehicle Repair and Accessory Outdoor Display of Goods use in the MX-M (Mixed-Use Medium Scale) zone district consisting of 13,100 square feet located at 822 West Colorado Avenue. (Quasi-Judicial)
 Presenter:
 William Gray, Senior Planner, Planning + Neighborhood Services

- Attachments:** [Staff Report Colorado Ave Tire Shop](#)
[Attachment 1-Violation Notice](#)
[Attachment 2-7.3 Written Interpretation](#)
[Attachment 3-Notice and Order](#)
[Attachment 4-Zoning Map](#)
[Attachment 5-Context Map](#)
[Attachment 6-Project Statment](#)
[Attachment 7-Review Criteria Statement](#)
[Attachment 8-Vicinity Map](#)
[Attachment 9-Site Plan](#)
[7.5.601 CONDITIONAL USE](#)
[Public Comment CPC Review](#)

Bill Gray, Senior Planner, gave a presentation on the applications located at 822 W. Colorado Ave. The tire shop sells and services used tires, and the zoning is Mixed-Use Medium Scale. A code enforcement case was received in the fall of 2023, citing parking of commercial vehicles in the street. This was due to a U-haul rental business being run by the applicant. The U-haul business has been stopped by the owner; however, they would like to continue operating the tire shop outside. Both applications must operate under use-specific standards.

Staff made recommendations that could allow the use to meet the criteria for the outdoor display. Postcards and notifications were sent out and no neighborhood meetings were conducted. Five letters of opposition were received citing noise, parking and hours of operation. One letter of support was received stating that they have helped the neighborhood stay operational. Fire department found the Conditional Use would be acceptable. Staff finds the approval criteria for the Conditional Use are not met. Staff finds the application does not meet the Non-Use Variance criteria.

Commissioner Rickett asked if the business was open during the use of Chapter 7. Mr. Gray said yes. Commissioner Rickett then asked if it was a permitted use and not a conditional use and asked what changed between Chapter 7 and the UDC. Mr. Gray did not have an answer for that. Commissioner Rickett asked why they are here today if they were permitted. Mr. Gray answered that they were permitted, however, it did not meet use specific standards under Chapter 7. It can not be considered a legal, non-conforming use of the property. Commissioner Rickett asked for the standard that they didn't meet. Mr. Gray stated that the previous code and the current code both required that the area of the building where the service activity occurs must be 100 feet from any residential zone district. Commissioner Rickett said that through the duration of this business, it has never actually met the zoning code, whether it was Chapter 7 or UDC. Mr. Gray said that was correct.

Applicants Johnny Nolan, property owner, and Jared Ikola, business owner, gave a presentation. Mr. Nolan stated that the business is a positive aspect of the neighborhood and he takes the complaints seriously. He believes the parking has been rectified with the U-haul business stopped. Parking is open on the west side of the business for residents. The back alley is not used for the business. Mr. Nolan is working on reducing weekend hours and speaking with neighbors for special events. He will adhere to the code with any new tenants of no light automotive uses and stay in compliance with zoning regulations. Mr. Nolan would like Mr. Ikola to finish his lease. Mr. Ikola stated that, since the U-haul situation, he has reached out to neighbors to continue positive relationships. Mr. Nolan stated that the business is not as busy as a commercialized business.

Commissioner Briggs asked if there were plans to restart the U-haul business. Mr. Ikola said no. Commissioner Briggs asked Mr. Gray if the

100-foot rule applies to both inside and outside use. Mr. Gray said it is wherever the service activity is taking place. Commissioner Briggs asked if the conditional requirement was no external storage of the tires. Mr. Gray said yes, that is a use-specific standard that applies to the use, but displays are allowed within the outlined area on the map provided. Commissioner Briggs asked Mr. Nolan if he has storage for the storage tires versus the displayed tires. Mr. Nolan stated the majority of them are display tires. Mr. Ikola disposes of the tires not in use. He also maintains the fenced area. Commissioner Briggs asked if the County Board of Health has checked the stacked tires. Mr. Nolan said he was unsure.

Commissioner Robbins asked if the applicant had spoken to the neighbors about the complaints. Mr. Nolan said no, but they intend to. They would be changing the types of tools used to help with the noise complaints. Mr. Robbins asked if the same types of tenants would be on the property once the lease is up. Mr. Nolan said he would find a new tenant with work that falls under compliance with the code.

Commissioner Cecil asked the legal name of the business and asked if the business was registered with the State Health Department. Mr. Ikola said the business name is South Co Tire LLC and he was registered with the State Health Department. Commissioner Cecil stated that the registration does not show on the website. Commissioner Cecil then asked Mr. Ikola how many tires are stored on the lot and how many of those were waste tires. Mr. Ikola stated that roughly between 400-600 tires could be on the lot and roughly 75 of those are waste tires which are removed. Commissioner Cecil asked if they have had any issues with enforcement around their disposal user manifests and they said no. She then asked what they are doing to mitigate the accumulation of water in the tires with the recent rains. Mr. Ikola said the tires are barrel stacked and they will shake the tires and that removes most of the water.

Commissioner Cecil asked Mr. Gray if the total display area in the map would not exceed the area of the built structure. Mr. Gray said that is correct. Commissioner Cecil asked how many bays there are and is the work done inside the bay. Mr. Ikola said currently they have one bay, however the work is done outside the bay. He also stated that they are considering adding a covered structure for the work. Commissioner Cecil then asked if it would be a permanent structure or a temporary

structure. Mr. Nolan said both, then elaborated stating they would make it solid enough to block noise and meet criteria to reduce noise.

Commissioner Cecil asked if they are aware that the structure would need a building permit. She asked if there was a traffic plan. Mr. Ikola stated he would ensure customers would wait in their cars and stated that only the tire is removed outside the building and the work was done inside the building done with a pneumatic gun, but they will be changing to a battery powered drill. Mr. Nolan stated that there is ample parking.

Commissioner Foos asked if the tire stacking meets the fire code. Steven Smith, Fire Protection Engineer II, stated when the plans were reviewed, he looked at access, not existing conditions, but he could have the site inspected for the tire stacking.

Commissioner Rickett asked if the waste tires would be stored outside. He asked Mr. Smith if the number of tires falls within the fire code. Mr. Smith said he would need to refer to the fire code. Commissioner Rickett asked Mr. Gray if there is a definition between display tires and stored tires. Mr. Gray said there is not a definition of those products. He pointed to the site plan to show where the tires could be located as display tires. All others would need to be stored inside. Commissioner Slattery asked if there was enough space to store the tires in the displayed area given the number of tires. Mr. Ikola said yes.

Commissioner Rickett and Commissioner Slattery both said they struggle with the issue of the existing business in operation that has not been operating legally from possible lack of knowledge.

Commissioner Briggs stated the path to make it legal would be to approve the conditional use. He is in favor of approval.

Commissioner Robbins stated that he is concerned with the safety of the neighborhood regarding a possible fire with the tires. He would like to know if a condition could be added that the fire department could find a recourse for safety. City Attorney Gloss stated that the packet states that it is required to comply with the fire code. Acting Planning Director Katie Carleo said the motion on item number six was adjusted to read inside and outside.

Commissioner Slattery asked if a condition could be made to adjust all work be done inside the building. Mr. Ikola said yes. She also asked

about the business hours and Mr. Ikola said those could be adjusted.

Commissioner Foos stated he agrees that it is a needed business but can't get past the 16-foot variance and can not support the item.

Commissioner Slattery stated the business practices have not been in line with the code and will be voting no.

Public Comment: None

Motion by Commissioner Rickett, seconded by Commissioner Briggs, to approve the Conditional Use to allow a Minor Automotive and Light Vehicle Repair and Accessory Outdoor Display of Goods use in the MX-M (Mixed-Use Medium Scale) zone district consisting of 13,100 square feet located at 822 West Colorado Avenue, based upon the findings that the request complies with the criteria for a Conditional Use as set forth in City Code Section 7.5.601.C.2, with the following conditions: A final landscape plan that addresses landscaping, screening, fencing, and parking improvements as illustrated in Attachment 9-Site Plan and which are necessary to comply with City Code Section 7.5.601.C.2 is submitted within 60 days of the Planning Commission hearing date. The approved final landscape plan is implemented not later than June 15, 2025, and the improvements will be guaranteed through a Financial Assurance Agreement. No exterior storage of automotive parts, tires, equipment and/or materials. All work is required to be done within the building. All work is limited to tire sales, installation and repair. No other auto repair services or body and fender work are allowed. The inside and outside storage of tires is required to comply with Chapter 34, Tire Rebuilding and Tire Storage, Fire Code of the City of Colorado Springs. The motion passed by a vote of 5-3.

Aye: 5 - Commissioner Briggs, Commissioner Cecil, Commissioner Rickett, Commissioner Robbins and Commissioner Casey

No: 3 - Vice Chair Foos, Chair Slattery and Commissioner Sipilovic

Absent: 1 - Commissioner Hensler

- 8.C. [NVAR-24-0004](#) A Non-Use Variance to City Code Section 7.3.303.I.1.c to allow a 16-foot separation between the nearest point of the building in which the repair activity of an Automobile and Light Vehicle Repair use occurs to any residential zone district where 100 feet is required consisting of 13,100 square feet located at 822 West Colorado Avenue. (Quasi-Judicial)

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

Attachments: [7.5.526 NON-USE VARIANCE](#)

Motion by Commissioner Rickett, seconded by Commissioner Briggs, to approve the Non-Use Variance to City Code Section 7.3.303.I.1.c to allow a 16

foot separation between the nearest point of the building in which the repair activity of an Automobile and Light Vehicle Repair use occurs to any residential zone district where 100 feet is required located at 822 West Colorado Avenue based upon the findings that the request complies with the criteria for a Non-Use Variance as set forth in City Code Section 7.5.526.E, with the following conditions: A final landscape plan that addresses landscaping, screening, fencing, and parking improvements as illustrated in Attachment 9-Site Plan and which are necessary to comply with City Code Section 7.5.526.E is submitted within 60 days of the Planning Commission hearing date. The approved final landscape plan is implemented not later than June 15, 2025, and the improvements will be guaranteed through a Financial Assurance Agreement.No exterior storage of automotive parts, tires, and/or materials. All work is required to be done within the building. All work is limited to tire sales, installation and repair. No other auto repair services or body and fender work are allowed. The inside and outside storage of tires is required to comply with Chapter 34, Tire Rebuilding and Tire Storage, Fire Code of the City of Colorado Springs. The motion failed by a vote of 5-3.

- Aye:** 3 - Commissioner Briggs, Commissioner Rickett and Commissioner Casey
- No:** 5 - Vice Chair Foos, Commissioner Cecil, Chair Slattery, Commissioner Robbins and Commissioner Sipilovic
- Absent:** 1 - Commissioner Hensler

Optical Engines

- 8.D. [UVAR-24-00](#) A Use Variance request to allow a light industrial land use within the MX-L UV (Mixed-Use Large Scale - with a Use Variance on file) zone district consisting of 10,916 square feet located at 2732 W. Colorado Ave.

Presenter:
 Johnny Malpica, Planner II, Planning + Neighborhood Services
 Kevin Walker, Director, Planning + Neighborhood Services

- Attachments:** [Optical Engines Use Variance - Staff Report - JPM](#)
[Attachment 1 - Use Variance Development Plan](#)
[Attachment 2 - Project Statement](#)
[Optical Engines - Council Staff Presentation - JPM](#)
[Optical Engines - CPC Staff Presentation - JPM](#)
[7.5.527 USE VARIANCE](#)

Johnny Malpica, Planner II, presented the Use Variance to allow a light industrial land use located at 2732 W. Colorado Ave. The use more specifically will be laser and photonic technology manufacturing with a street-fronting office. This is being used as an expansion, as the applicant has an existing establishment with the same use. Posters and public notice were provided. Two comments were received by email

asking for clarification regarding parking, noise impact and traffic impact. Responses were provided by city staff. One comment was received through the agency review from Fire Construction Services stating the new occupancy will need to meet occupancy fire codes. The permit is currently under review. Staff feels that the application does meet the review criteria. Work is on a small scale done at a desk. A condition has been added stating the approval does not permit any other light industrial uses. Economic Development has issued a Rapid Response certificate for the project.

Commissioner Questions:

Commissioner Rickett stated the property was purchased under Chapter 7 and the Use Variance is under the current UDC. He asked if there were limitations from Chapter 7. Mr. Malpica said yes, under Chapter 7, the property was zone C-6, not Mixed-Use Large Scale. The use would be considered General Industry Light.

Commissioner Robbins asked for clarification that the work would be done at a desk. Mr. Malpica said yes, it is similar to jewelry. They are producing small devices.

Applicant Donald Sipes, president and CEO of Optical Engines and building owner, gave a short presentation. Mr. Sipes stated they are producing devices with fiber optics and they use desktop machines to build fiber lasers. These are sold to the government, Lockheed, Boeing, NASA, Microsoft and various agencies. Work is done in a clean room and is very quiet. They have been a good neighbor and have been involved in helping with the homeless problems in the area.

Public Comments:

Ryan Lloyd, applicant speaking as public commenter. He is the architect for the project and shares a wall in the building. He stated the use of the building is appropriate.

Commissioner Questions:

Commissioner Slattery asked if the light industrial use in the back is the entrance and exit out of that space. Mr. Sipes said the space has two doors, half is the corporate office, and the other is retail space. It is an open space.

Commissioner Cecil asked if traffic would be impacted in the alley with

deliveries. Mr. Sipes stated that they have standard Fedex delivery. There is no impact.

Motion by Commissioner Rickett, seconded by Vice Chair Foos, to recommend approval to City Council the Use Variance to establish the Light Industrial land use based upon the findings that the request complies with the criteria as set forth in City Code Section 7.5.527 with the following condition: This approval only allows for the use as discussed in the associated project statement and depicted on the associated site plan for optical engines, any future changes or intensification will require a new Use Variance. The motion passed by a vote of 8-0.

Aye: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Absent: 1 - Commissioner Hensler

Park Vista Addition No. 10

8.E. [ANEX-22-0002](#) Park Vista Addition No. 10 Annexation consisting of 2.18 acres located at 4372 Siferd Boulevard. (Legislative)

Presenter:
 Gabe Sevigny, Planning Supervisor, Planning and Neighborhood Services
 Kevin Walker, Interim Planning Director, Planning and Neighborhood Services

- Attachments:** [Staff Report_Park Vista Addition No 10_RGS](#)
[Attachment 1_Project Statement_Park Vista Addition No 10](#)
[Attachment 2_Annexation Agreement-Applicant Executed only_Park Vista Addition No. 10](#)
[Attachment 3_Exhibit A - Legal Description](#)
[Attachment 4_Park Vista Addition No 10 - Annexation Plat_3-5-24](#)
[Attachment 5_Petition - Park Vista Addition No 10](#)
[Park Vista Addition No. 10_Formal Presentation_RGS](#)
[7.6.203-Annexation Conditions](#)

Gabe Sevigny, Planning Supervisor, gave a presentation on this application located at 4372 Siferd Blvd. Mr. Sevigny stated R-5 is the standard zone in this area. Public notice was given and no comments were received and no neighborhood meetings were held. Outside agency comments were addressed. SWENT will need to submit the final approval of the drainage report. The project is in compliance with PlanCOS. Staff finds the application does meet requirements.

Commissioner Questions: NONE

Public Comment: NONE

Motion by Commissioner Rickett, seconded by Commissioner Casey, to recommend approval to City Council the annexation of 2.18 acres as the Park Vista Addition No. 10 Annexation based upon the findings that the annexation complies with the Conditions for Annexation, as set forth in Chapter 7 Section 7.6.203. The motion passed by a vote of 8-0.

Aye: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Absent: 1 - Commissioner Hensler

- 8.F. [ZONE-22-00](#) [06](#) The establishment of R-5 (Multi-Family High) zone district in association with the Park Vista Addition No. 10 Annexation consisting of 0.89 acres located at 4372 Siferd Boulevard. (Legislative)

Presenter:
 Gabe Sevigny, Planning Supervisor, Planning and Neighborhood Services
 Kevin Walker, Interim Planning Director, Planning and Neighborhood Services

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

Motion by Commissioner Rickett, seconded by Commissioner Casey, to recommend approval to City Council the zone establishment of 0.89 acres as R-5 (Multi-Family High) based upon the findings that the request complies with the criteria for zoning establishment as set forth in Chapter 7 Section 7.5.603.B The motion passed by a vote of 8-0.

Aye: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Absent: 1 - Commissioner Hensler

- 8.G. [SUBD-22-00](#) [21](#) Park Vista Subdivision No. 10 Preliminary/Final Plat for 0.89 acres located 4372 Siferd Boulevard. (Quasi-Judicial)

Presenter:
 Gabe Sevigny, Planning Supervisor, Planning and Neighborhood Services
 Kevin Walker, Interim Planning Director, Planning and Neighborhood Services

Attachments: [Attachment 8 Park Vista Addition Subdivision Filing No 10](#)
[7.7.204 Preliminary Plat Requirements](#)
[7.7.303 Final Plat Req - Subdivision Plats Review Criteria](#)

Motion by Commissioner Rickett, seconded by Commissioner Casey, to recommend approval to City Council the Park Vista Annexation Subdivision No. 10 Preliminary/Final Plat based upon the findings that the proposal complies with the requirements for a preliminary plat as set forth in Chapter 7 Section 7.7.204, and the requirements for a final plat as set forth in Chapter 7 Section 7.7.303 with one (1) Technical Modification. Applicant shall receive final approval of the Final Drainage Report from Stormwater Enterprise (SWENT). The motion passed by a vote of 8-0.

Aye: 8 - Commissioner Briggs, Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Absent: 1 - Commissioner Hensler

UDC Code Amendment

8.H. [24-397](#) An Ordinance amending City Code Section 7.3.303.F (Marijuana-Related Services) of the Unified Development Code of the City of Colorado Springs. (Legislative)

Presenter:

Michael Allen, District Attorney, Colorado 4th Judicial District

Attachments: [Draft Ordinance to City Council CAO Approved](#)
[Staff Report - RMS Council Ordinance Referral v3](#)
[UDC 7.5.702 Text changes](#)
[UDC 7.3.303 Marijuana-Related Uses](#)
[Charter Amendment](#)
[Statement of Insufficiency](#)
[MMC Facilities One Mile Separation Map8_24v2](#)
[City Council Draft Minutes](#)
[2024 Presentation_ 8.28.24](#)

Kevin Walker, Interim Planning Director, gave an overview of the ordinance. This request is from City Council from the June 22, 2024 work session meeting to modify the Unified Development Code to add a section regarding the distances from potential retail marijuana stores to other land uses inside the city. Mr. Walker stated that City Council is a body that is able to refer matters to the Planning Commission and the Planning Commission is required to hear the matter and make a recommendation to City Council. A public hearing will be held on August 28, 2024. City Council referred a charter amendment restricting

retail marijuana sales, which will be going to the ballot in November.

Council Member Brian Risley spoke about the ordinance as well. The reasons they are proposing this amendment to the UDC are very methodical and very specific. Mr. Risley said that El Paso County has one of the highest rates of teenage suicide in the country, as well as one of the highest rates of marijuana and drug use among high school students. They are proposing to limit recreation marijuana sales within a certain distance of schools and other locations.

District Attorney Michael Allen urged this commission to approve this item. Voters considered the issue of recreational marijuana sales in 2022 and it was rejected by 57% of voters. He said proponents of recreational marijuana always point to sales tax revenue going toward public safety, mental health services and PTSD treatment for veterans. Mr. Allen said that potency is much higher now, noting that there are no curbs or state regulations for those levels. Young people under 25 have higher impacts on their mental health. Mr. Allen stated that he sees marijuana in all aspects of crime. He stated that this is a commonsense solution that will protect children and other people that are dealing with mental health and addiction issues.

President Pro Tem Lynette Crow-Iverson re-iterated Mr. Allen's comments and asked if the commissioners had questions.

Commissioner Rickett requested that factual data be provided for the ordinance prior to the next meeting. President Pro Tem Crow-Iverson stated that there was no science to the one-mile buffer. Commissioner Rickett requested a map of the city with the items on the ordinance that measures the one mile. Mr. Walker stated that will be provided.

Commissioner Foos asked if this pertains to the existing medical facilities as well and how they fit compliance. President Pro Tem Crow-Iverson stated that they were only speaking on recreational marijuana.

Commissioner Casey asked if there are any other one-mile restrictions in city code for other establishments. He also reiterated that the code for medical marijuana requires 1,000 feet between establishments.

Commissioner Briggs said the proposal is to limit the number of facilities

of the existing medical marijuana providers, which seems exclusionary when it comes to the free market. He gave his military history on medical marijuana access to veterans. He spoke in detail on addiction and marijuana use and that retail marijuana facilities are for profit.

Commissioner Rickett asked what the greatest restriction in distance related to the code. There is a 1,000-foot distance. City Attorney Trevor Gloss stated that is the greatest one he knows of for medical marijuana. Commissioner Rickett stated that this is the standard. Mr. Walker said he will provide the information.

Chair Slattery closed by saying this was an information only item today and there will be a special meeting on August 28th at 9 a.m.

9. Presentations

10. Adjourn