

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

THURSDAY, MARCH 20, 2014

**CITY HALL COUNCIL CHAMBERS
107 NORTH NEVADA AVENUE
COLORADO SPRINGS, COLORADO 80903**

**CHAIR GONZALEZ CALLED THE MEETING TO ORDER AT 9:00 A.M.
THE MEETING ADJOURNED AT 6:20 P.M.**

PRESENT:

Donley
Gonzalez
Henninger
Markewich
Phillips
Shonkwiler
Sparks
Walkowski

ABSENT:

Ham

ALSO IN ATTENDANCE:

Mr. Peter Wysocki, Planning and Development Director
Mr. Marc Smith, City Municipal Attorney

RECORD OF DECISION

Commissioner Donley stated there was not enough time to review the February minutes prior to today's meeting. He recognized the City Planning Commission secretary's job is stretched and more resources are needed to help finish minutes and other items in a timely fashion.

Moved by Commissioner Donley, seconded by Commissioner Markewich, to postpone adoption of the February 20, 2014 minutes to the April 17, 2014 meeting. Motion carried 8-0 (Commissioner Ham absent)

COMMUNICATIONS

None

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

CONSENT CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM: A.1 CPC PUZ 13-00136</p> <p>ITEM: A.2 CPC PUD 13-00137 (Quasi-Judicial)</p> <p>PARCEL NO.: 6209301007</p> <p>PLANNER: Meggan Herington</p>	<p>Request by NES, Inc. on behalf of Flying Horse Country Club, LLC for consideration of the following development applications:</p> <ol style="list-style-type: none"> 1. A rezone of 2.3 acres from PUD (Planned Unit Development - Commercial; 3.04 dwelling units per acre, 35 foot maximum building height) to PUD (Planned Unit Development - Short-term stay cottages, lodge suites and meeting space, 35-foot maximum building height). 2. Major amendment to the Flying Horse Casitas Development Plan that will allow up to 60 hospitality rooms with meeting space in lodge type structures along with two detached cottage units in one separate building. <p>The property is 2.3 acres and is addressed as 1823 Weiskopf Point and accessed through the gate to the Club at Flying Horse.</p>	6
<p>ITEM: B.1 CPC MPA 05-00230-A1MJ13 (Legislative)</p> <p>ITEM: B.2 CPC PUZ 13-00073</p> <p>ITEM: B.3 CPC PUD 13-00074 (Quasi-Judicial)</p> <p>PARCEL NOS.: 5306000027, 5306000029</p> <p>PLANNER: Larry Larsen</p>	<p>Request by YOW Architects on behalf of Cumbre Vista LLC for consideration of the following development applications:</p> <ol style="list-style-type: none"> 1. An amendment to the approved Powerwood No. 3-6 Master Plan to allow for an increase in residential density from 12 to 18 dwelling units per acre. 2. A change of zoning from A (Agricultural) to PUD (Planned Unit Development). 3. The Cumbre Vista Apartment PUD Development Plan to allow for the development of the Cumbre Vista Apartment project that includes 204 units, a clubhouse, outdoor recreation areas, private streets, and landscape tracts. <p>The proposed site is located southeast of the Tutt Boulevard and Sorpresa Lane intersection and consists of approximately 12 acres.</p>	7

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

<p>ITEM: C CPC UV 14-00023 (Quasi-Judicial)</p> <p>PARCEL NO.: 7435104034</p> <p>PLANNER: Mike Schultz</p>	<p>Request by John Dworak who is seeking approval of a use variance to allow two free-standing, single-family residences on one lot within the R-1 6000 zone district. The subject property is located at 1534 & 1536 W. Cheyenne Road, is zoned R-1 6000/HS (Single-family Residential with Hillside Overlay) and consists of 0.163 acres.</p>	11
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UNFINISHED BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM NO.: 4 CPC DP 05-00092-A4MN13 (Quasi-Judicial)</p> <p>PARCEL NO.: 5306000007</p> <p>PLANNER: Larry Larsen</p>	<p style="text-align: center;"><i>(Postponed from the February 20th meeting)</i></p> <p>Appeal by Bill and Maureen Marchant and others regarding the administrative approval of an application requested by Nine Design, Ltd. on behalf of KF103-CV, LLC for a minor amendment to the approved Cumbre Vista Development Plan. This application would allow for a change in the phasing sequence, street and lot layout, an extension of the proposed City street, De Anza Peak Trail to Sorpresa Lane and a reduction in the number of lots. The property is located between Cowpoke Road and Sorpresa Lane, east of Tutt Boulevard and it consists of 113 acres.</p>	12

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

NEW BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM NO.: 5.A CPC MP 84-361-A4MN13</p> <p>ITEM NO.: 5.B CPC CP 13-00143</p> <p>ITEM NO.: 5.C CPC ZC 13-00141</p> <p>ITEM NO.: 5.D CPC PUZ 13-00142</p> <p>ITEM NO.: 5.E CPC DP 13-00144 (Quasi-Judicial)</p> <p>PARCEL NO.: 5308400008</p> <p>PLANNER: Rick O'Connor</p>	<p>Request by NES, Inc. on behalf of Pulpit Rock Investments LLC for consideration of the following development applications:</p> <ul style="list-style-type: none"> A. An amendment to the Stetson Ridge Master Plan consisting of eliminating 7 acres of Community Commercial and eliminating 14 acres of residential 12-24.99 dwelling units per acre and replacing the 21 acres with residential 3.5-7.99 dwelling units per acre. B. The Renaissance at Indigo Ranch Commercial Concept Plan that covers 10 acres and illustrates 5 commercial/office pad sites with associated parking C. A rezone of 10 acres from A (Agricultural) to PBC (Planned Business Center). D. A rezone of 21.13 acres from A (Agricultural) to PUD (Planned Unit Development; single-family detached, 35-foot maximum height and 4.78 dwelling units per acre). E. The Renaissance at Indigo North Development Plan that will allow 101 single family lots on 21.13 acres (an overall density of 4.8 dwelling units per acre). <p>The property is located north of Dublin Boulevard and is between Mustang Rim Drive on the west and Issaquah Drive on the east.</p>	98
<p>ITEM NO.: 6.A CPC PUP 05-00264-A1MN12</p> <p>ITEM NO.: 6.B AR PUD 06-00336-A1MN12 (Quasi-Judicial)</p> <p>PARCEL NOS.: 5308000098, 5308000099</p> <p>PLANNER: Larry Larsen</p>	<p>Appeal of an administrative decision regarding the following development applications:</p> <ul style="list-style-type: none"> A. An amendment to the approved Quail Brush Creek Concept Plan that would allow for the reconfiguration of the lot pattern and to modify the phasing schedule. The overall development character remains unchanged – residential single family detached dwelling use. B. An amendment to the approved Quail Brush Creek Development Plan. <p>The property is located approximately north of Gold Drop Drive and adjacent to the east of Nebraska Lane and it consists of 11.1 acres.</p>	113

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM: 7.A CPC A 13-00111</p> <p>ITEM: 7.B CPC MP 13-00131</p> <p>ITEM: 7.C CPC ZC 13-00130 (Legislative)</p> <p>PARCEL NO.: 5306000061</p> <p>PLANNER: Larry Larsen</p>	<p>Request by Rivers Development and M&S Consulting Engineers on behalf of Nextop Holdings, LLC, for consideration of the following development applications:</p> <ul style="list-style-type: none"> A. Annexation of the Saddle Tree Village property into the City of Colorado Springs. B. The Ridge at Cumbre Vista Master Plan that proposes single-family detached residential uses at the density of 3.5 to 7.99 dwelling units per acre. C. The establishment of the A/AO (Agricultural with Airport Overlay) zoning district for the Ridge at Cumbre Vista project. <p>The property is located south of Cowpoke Road, approximately ¼ mile west of the Cowpoke Road and Black Forest Road intersection and consists of approximately 13.70 acres.</p>	167

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

CONSENT CALENDAR

DATE: March 20, 2014

ITEM: A.1, A.2

STAFF: Meggan Herington

FILE NOS.: CPC PUZ 13-00136, CPC PUD 13-00137

PROJECT: THE LODGE AT FLYING HORSE

DECISION OF THE PLANNING COMMISSION

Moved by Commissioner Markewich, seconded by Commissioner Phillips, to approve **Item A.1-File No. CPC PUZ 13-00136**, the zone change of 2.3 acres from PUD (Planned Unit Development: Commercial; 3.04 dwelling units per acre, 35-foot maximum building height) to PUD (Planned Unit Development: Short-term stay cottages, lodge suites and meeting space, 35-foot maximum building height), based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603 and the criteria for the establishment and development of a PUD zone as set forth in City Code Section 7.3.603. Motion carried 8-0 (Commissioner Ham absent).

Moved by Commissioner Markewich, seconded by Commissioner Phillips, to approve **Item A.2-File No. CPC PUD 13-00137**, the Lodge at Flying Horse PUD Development Plan based upon the findings that the PUD development plan meets the review criteria for PUD development plans as set forth in City Code Section 7.3.606, and the development plan review criteria as set forth in Section 7.5.502.E. Motion carried 8-0 (Commissioner Ham absent).

March 20, 2014
Date of Decision


Edward Gonzalez, Planning Commission Chair

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

CONSENT CALENDAR

DATE: March 20, 2014

ITEM: B.1-B.3

STAFF: Larry Larsen

FILE NOS.: CPC MPA 05-00230-A1MJ13, CPC PUZ 13-00073, CPC PUD 13-00074

PROJECT: Cumbre Vista Apartments

Mr. Ross Clinger pulled Items Items B.1-B.3 from the Consent Calendar.

STAFF PRESENTATION

Mr. Larsen recommended approval.

Commissioner Markewich inquired if any neighborhood meetings were held since the July 19, 2013 meeting. Mr. Larsen stated no.

Commissioner Donley inquired of current and proposed master plan designations. Mr. Larsen stated the site is currently at a lower density of residential use at 3.5-8 dwelling units per acre with a new designation of 12-18 dwelling units per acre.

Commissioner Gonzalez inquired if the applicant adequately addressed the City requirements. Mr. Larsen stated yes. The neighbors created a smaller committee to represent themselves to coordinate review of the plans and alternatives presented by the developer. The applicant coordinated the revised plan with the neighbors.

Commissioner Shonkwiler inquired if City Engineering reviewed the proposed retaining wall and grading plan. Mr. Larsen stated yes, that has been approved.

APPLICANT PRESENTATION

Mr. Jonathan Moore, Rivers Development, stated the applicant has had a great relationship with the neighbors, and the developer addressed all of the neighbors' concerns. He stated the developer was waiting for an easement issue be decided in court, but decided to shift the site development away from those easements.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

Commissioner Shonkwiler inquired if the grade will be equal or higher than the backyards of the existing homes. Mr. Moore stated the developer will grade the land down on the south side and will be approximately equal to those existing backyard.

CITIZENS IN FAVOR

Ms. Liz Wilcox, resident of Cumbre Vista, stated the developer has met all the neighbors' requests and felt this site will be an asset for their area.

CITIZENS IN OPPOSITION

1. Mr. Ross Clinger, neighboring property owner at extreme west end of Cowpoke Road (adjacent to Cottonwood Creek), stated his 100-acre property will be responsible for much of the Tutt Boulevard development. He was unable to attend some of the neighborhood meetings. The developer may or may not have addressed his concerns, and was concerned his annexation agreement would be changed based upon doubling the traffic with the development plan and how it affects his financial obligation per rata basis for the Tutt intersection traffic signal and street infrastructure.
2. Mr. David Krall was in attendance for Item 4, but clarified a comment made by Mr. Moore. The vacation order by the Courts does not vacate that portion of the easement. The developer was no party to the easement. If the developer plans to build apartments on that easement they should speak with the owners.

APPLICANT REBUTTAL

Mr. Moore clarified that the development plan does not grade upon the existing easement (north boundary of site) and their intent is to avoid that area. Mr. Moore addressed traffic concerns raised by Mr. Clinger and stated that the traffic from the apartments will not warrant a traffic study. Next he addressed drainage and stated that the civil engineer erroneously graded the north side of the site, thus, the developer replaced the grade and submitted a revised plan to the City reflecting the change. The developer is providing financial requirements for street infrastructure as required.

Commissioner Markewich inquired of the developer's contributions toward Cottonwood Creek and/or the Tutt Boulevard bridge/infrastructure. Mr. Moore stated the annexation agreement included a provision requiring an increase in financial contributions toward the Tutt bridge should density increase. The developer is paying more as required by the annexation agreement.

Commissioner Sparks requested he address Mr. Clinger's comments of water and wastewater. Mr. Moore stated the Cottonwood Creek basin requires detention and not a water quality pond. Mr. Moore stated the wastewater was adequate to support the project.

Commissioner Walkowski inquired of water runoff. Mr. Moore stated the entire development is allowed to flow off site and into Cottonwood Creek

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

STAFF REQUESTED TO SPEAK

Commissioner Markewich requested Mr. Clinger clarify his comments. Mr. Clinger stated the Woodmen Heights Metropolitan District (WHMD) is not responsible for building the Tutt Boulevard bridge, but will contribute toward the stormwater infrastructure. Mr. Clinger related his version of past conversations with Commissioner Gonzalez during his past employment.

Commissioner Gonzalez clarified his past conversations with Mr. Clinger by pointing out that Mr. Clinger misrepresented to the commission facts discussed in those conversations and that Mr. Clinger had not presented any facts that City staff had acted inappropriately in approving this item or in placing it on the Consent agenda. Property owners surrounding the proposed bridge are required to pay fees into that bridge fund. Mr. Larsen confirmed Commissioner Gonzalez's comments, and annexors have a shared obligation in this area together with the City's 50% funding for this area.

DECISION OF THE PLANNING COMMISSION

Commissioner Donley questioned the master plan amendment overall density adjacent to single-family residential, and would've preferred a higher density at this site. He supported the applications.

Commissioner Walkowski appreciated Mr. Clinger's comments and the annexor contributions. He addressed Commissioner Donley's comments regarding density and felt the net effect is not that great. This is a project he could support.

Commissioner Sparks had no concerns with increased density with infrastructure. The reports must prove there is no burden on infrastructure. She supported the applications.

Commissioner Markewich appreciated the developer coordinating so well with the neighbors. He suggested the developer cooperate with the property owner near the awkward corner (Sorpresa Lane and Tutt Boulevard). He supported the applications.

Commissioner Henninger supported the developer reducing the number of apartments and supported the applications.

Commissioner Gonzalez had some involvement at some level of the Cumbre Vista area during his past employment. This is the first time he's seen the apartment site development plans. He stated the densities were addressed in the annexation and master plan, whereby the infrastructure needs were addressed. He supported all three applications. He also appreciated the developer adjusting the plan to address neighbors' concerns. He stated all three applications conform with the City Comprehensive Plan objectives.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

Moved by Commissioner Phillips, seconded by Commissioner Shonkwiler, to approve **Item B.1-File No. CPC MPA 05-00230-A1MJ13**, the Amendment to the Powerwood 3-6 Master Plan, based upon the finding that the plan complies with the review criteria of City Code Section 7.5.408, subject to the following conditions:

Conditions of Approval:

1. Prior to scheduling the public hearing before the City Council for the master plan amendment, the zone change, and development plan applications, the annexation plat and agreement must be recorded.
 2. Provide Engineering Development Review's approval of the Master Development Drainage Plan.
- The motion carried 8-0 (Commissioner Ham absent).

Moved by Commissioner Phillips, seconded by Commissioner Shonkwiler, to approve **Item B.2-File No. CPC PUZ 13-00073**, the change of zone district of zone district from A/AO (Agricultural with Airport Overlay) to PUD/AO (Planned Unit Development with Airport Overlay for multi-family residential use, 12 to 18 dwelling units per acre and maximum building height of 45 feet), based upon the finding that it complies with the findings of City Code Section 7.5.603.B and the PUD establishment criteria found in City Code Section 7.3.603. The motion carried 8-0 (Commissioner Ham absent).

Moved by Commissioner Phillips, seconded by Commissioner Shonkwiler, to approve **Item B.3-File No. CPC PUD 13-00074**, the Cumbre Vista Apartment PUD Development Plan, based upon the finding that the plan complies with the PUD development plan review criteria in City Code Section 7.3.606, subject to compliance with the following technical and informational plan modifications:

Technical Modifications:

1. Provide Engineering Development Review's approval of the Final Drainage Report.
 2. On the Cover Sheet, Site Data, add the final PUD zone change ordinance number & provisions under proposed zoning.
 3. On the Cover Sheet, modify plan note #9 to read: "It shall be the responsibility of the developer to install all landscaping within the Tutt Boulevard median and the Woodmen Heights Metro District has agreed to maintain said landscaping".
 4. On the Cover Sheet, remove plan note #10.
 5. On the Cover Sheet, in plan note #14, add "sidewalks" to the first sentence and remove the last sentence.
 6. On Sheet 1, clearly show the extension of the sidewalks within the Tutt and Sorpresa right-of-ways.
 7. On Sheet 1, clearly show the 30-foot private access easement.
 8. On Sheet 11, relocate the stormwater outlet out of the 30-foot private access easement.
- The motion carried 8-0 (Commissioner Ham absent).

March 20, 2014
Date of Decision


Edward Gonzalez, Planning Commission Chair

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

CONSENT CALENDAR

DATE: March 20, 2014
ITEM: C
STAFF: Michael Schultz
FILE NOS.: CPC UV 14-00023
PROJECT: 1534 & 1536 W. Cheyenne Road

DECISION OF THE PLANNING COMMISSION

Moved by Commissioner Markewich, seconded by Commissioner Phillips, to approve **Item C-File No. CPC UV 14-00023**, the use variance at 1534 and 1536 W. Cheyenne Road to allow two (2) single-family homes within an R-1 6000/HS (Single-Family Residential with Hillside Overlay) zone district based upon the finding that the use and plan comply with the criteria for granting a use variance and a development plan as set forth in City Code Sections 7.5.803.B and 7.5.502.E and is subject to the following technical modification to the development plan:

Technical Modification

Place the City file number, CPC UV 14-00023, in the lower right-hand corner of the plan page.

Motion carried 8-0 (Commissioner Ham absent).

March 20, 2014
Date of Decision



Edward Gonzalez, Planning Commission Chair

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

UNFINISHED BUSINESS CALENDAR

DATE: March 20, 2014

ITEM: 4

STAFF: Larry Larsen

FILE NOS.: CPC DP 05-00092-A4MN13

PROJECT: Appeal of Cumbre Vista Development Plan Amendment

Commissioner Sparks announced she worked on this project years ago for a former employer and vaguely remembers this site.

Mr. Krall formally objected to Commissioner Sparks attendance during this hearing. Commissioner Sparks stated she worked as an engineer in training, which was over four years ago and has no financial interest in this application. She stated she could listen to this item without any bias.

Commissioner Gonzalez recused from Item 4 (Both Chair and Vice Chair absent from Item 4).

Moved by Commissioner Phillips, seconded by Commissioner Walkowski, to nominate Commissioner Shonkwiler as the temporary chair during Item 4. Motion carried 7-0 (Commissioner Gonzalez recused and Commissioner Ham absent).

STAFF PRESENTATION

Mr. Larry Larsen, City Senior Planner, presented PowerPoint slides (Exhibit A). He offered his recommendation that the appeal be denied and affirm the administrative decision.

Commissioner Markewich inquired if all the easements in question are in the City limits. Mr. Larsen displayed slide 6, and stated the only area that may be located outside the City is the eastern edge of the site. (It was later determined that the easement is entirely within the city).

APPELLANT PRESENTATION

1. Mr. Bill and Mrs. Maureen Marchant, presented PowerPoint slides (Exhibit B). If development were allowed on the east side of Ski Lane then stormwater and other drainage lines anchoring that development would make it almost impossible to alter and restore the easement. Mr. Marchant stated allowing this development was tantamount to usurping the Court's authority. They asked the commission to approve the appeal.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

2. Mr. David Krall, attorney representing Mr. and Mrs. Marchant, took offense to Mr. Isbell's response letter contained in the agenda. Before the intersection and wall were approved by the Court, it was presented to the City first who summarily approved it prior to the Court's decision. Thus the unsafe u-turn intersection was created. He clarified the property that is located within the City limits and stated the easement travels to the elevated portion of Sorpresa Lane. The owners of the easement are still being determined. He questioned how correct the legal description is on the development plan because the owners need to be addressed. He questioned if the terms of the annexation agreement are being unilaterally changed with this plan. A letter of credit was posted and a letter of assurance was posted by the Woodmen Heights Metropolitan District (WHMD). The WHMD claims there is no money now. Thus, Mr. Krall requested the financial assurance posted for a retaining wall adjacent to the appellant's property and the Sorpresa Lane intersection. He objected to the private right-of-way referenced by City staff. Mr. Krall felt it is all public, and that needed to be clarified. If this is a private road, he questioned when it becomes public. The interim condition has existed for five years and fears it could exist for another five to 10 years. He questioned the liability and party that will be charged with maintenance. He disputed Mr. Florczak's comment that this road was not included in the legal description. He addressed the status of the appeal and stated the court reporter expects all transcripts filed with the court next week, and the earliest decision possible would be at the end of the year.

Commissioner Shonkwiler stated this item's hearing was postponed because the appellant did not have enough time to review the revised plan. Commissioner Shonkwiler inquired if they had comments specifically about the wall. Mr. Krall stated he did not know the postponement was specifically regarding the retaining wall. The rock face material has not been decided, but the engineering drawings are satisfactory.

APPLICANT PRESENTATION

Mr. David Isbell, with Hogan Lovells representing KF-103, did not mean to suggest that the appellants had lesser standing because they reside in the County and apologized. He reviewed some facts of the construction of improvements and stated the Woodmen Heights Metropolitan District (WHMD) built Sorpresa Lane including the cliff, not KF-103. He referenced City Code Section 7.5.906-Appeal of an Administrative Decision, and stated that the criteria has not been met. There is no benefit to the community to deny the appeal because the amenities to this undeveloped portion of the plan would create all sorts of construction jobs for the 185 proposed lots. Denial of the development plan amendment would create a financial burden on the developer and the WHMD. There would be no benefit to the appellant should their appeal be granted.

Commissioner Donley inquired if Mr. Isbell would be agreeable to a condition stating that the easements will be returned to their original grades as part of this approval. Mr. Isbell replied he was not certain what the original grade was during 1956 when easements were granted. He felt driving on (the proposed) newly paved streets would be preferable to driving on dirt roads.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

Commissioner Donley felt that protecting those lots doesn't assure the easements would return to their original condition. There were existing contours when the grading plan was submitted and those have changed. Mr. Isbell replied that is presumably true.

Commissioner Sparks stated that an additional 36 linear feet would be needed to return the grade to its pre-existing condition, and this easement area could be taken into a driveable path. Commissioner Sparks inquired if Mr. Isbell would object to reserving additional lots to accommodate grades toward the appellant's property (the east-west portion of easement in which it goes over walkout lots that are graded at an eight-foot vertical differential minimum between front and back end). Mr. Jim Byer, Nine Design, stated as each of the development phases is established, Phases 4-4B can be done immediately without encroaching into the easements. If the ruling were in favor of the appellant, in theory, a driveable surface could be created on all the easements. Mr. Byers stated that would not be a relevant condition if the appellants were successful because the applicant wouldn't be able to build on those restricted lots at all. The grading would return back to a driveable surface meeting a required design standard. Mr. Isbell stated the note could be amended confirming it will be a driveable surface.

Commissioner Sparks stated if a certain amount of lots could be restricted based on the overlying easement. Mr. Byer replied that he could add a note assuring that these will be driveable surfaces if the appellant is successful.

Mr. Wysocki and Mr. Smith clarified the review criteria needs to be adhered to rather than conditions on what may or may not occur.

CITIZENS IN FAVOR OF APPLICANT

1. Mr. David Thayer, resident of Cumbre Vista neighborhood, appreciates the value and quality of homes built by the developer. He supported the development plan amendment. He submitted a petition signed by 57 other Cumbre Vista residents in support of the plan (Exhibit C).
2. Ms. Liz Wilcox, resident of Cumbre Vista neighborhood, stated once the eastern lots are constructed it will address the erosion and runoff issues currently experienced. She also supported the development plan amendment.
3. Mr. Tom Cole, resident of Cumbre Vista neighborhood, supported the development plan amendment.
4. Mr. Terry Schooler, WHMD Manager who helped fund development in this area, stated the amendment and notes were to accommodate the appellants and court order regarding the old and new easements until the court appeal is decided. He stated the grade of an easement is not dictated. He stated the existing easement is drivable as-is.

CITIZENS IN OPPOSITION OF APPLICANT

Mr. Ross Clinger, nearby resident, opposed the development plan amendment application.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

APPLICANT REBUTTAL

Mr. Isbell stated the appellants will have better access to their street once the development is complete with paved roads. He stated the appeal did not meet the review criteria in Section 7.5.906. The interim road and u-turn from Sorpresa to Ski Lane is drivable.

APPELLANT REBUTTAL

Mr. Marchant objected to Mr. Isbell's comments that there is no eastbound traffic east of Ski Lane. There are two properties that access Sorpresa Lane from the east because there is no access to Ski Lane from their property. If any construction is allowed, then the Planning Commission would be usurping the court's authority. He felt their appeal met the appeal review criteria. He objected to the statement that the drive path that connects Ski Lane to Sorpresa is driveable.

APPLICANT FINAL REBUTTAL

Mr. Isbell stated all comments regarding Ski Lane and the easement are outside the purview of this amendment to the development plan. The easement has been accommodated by isolating those lots restricted from development.

STAFF REQUESTED TO SPEAK

Commissioner Shonkwiler inquired at what stage are the rock face materials chosen for the retaining wall. Mr. Steve Kuehster, City Engineering, stated his division reviewed the plan as part of the court proceedings. The parties developing in conjunction with the WHMD will choose the stone face for the stucco retaining wall.

Commissioner Markewich inquired about note 4 in regards to access and when the interim access from Ski Lane will be brought up to City standards. Mr. Larsen stated this is an interim access until the lots to the south and east are developed.

Commissioner Markewich was concerned that should development not occur to the south or east, then this intersection could remain "substandard and dangerous" forever. He voiced concern regarding the City's liability due to the poorly designed and constructed intersection and stated that he could not, in good conscience, support the remainder of the application while the intersection of Ski Lane and Sorpresa remains dangerous and substandard. Mr. Larsen replied that this intersection is substandard, but the City took every precaution to prevent it from being dangerous.

Mr. Larsen processed this application and took every care to notify the neighbors and try to bring all parties together to a compromise

DECISION OF THE PLANNING COMMISSION

Commissioner Donley stated the design of the hairpin turn is unacceptable. He could not believe there was not some sort of thought toward a perpendicular design. Secondly, there is a perception that planners do not have value. For example, an engineer is focused on their sphere of expertise and may assume they are qualified to be a planner. The planner is tasked with the overall scope of the project with coordination of all parties involved. He recognized that the City Planning Dept. is grossly overtaxed

CITY OF COLORADO SPRINGS PLANNING COMMISSION

RECORD-OF-DECISION

and planners need to be given appropriate time to review plans. He felt consideration needs to be given to Commissioner Sparks' comments to restrict additional lots on the plan. Also, he trusts and respects Mr. Larsen's determination of which lots should be restricted as shown on the plan to return the easements to their original position.

Commissioner Sparks suggested restricting two additional lots to be included in Note 1 of the development plan - Phase 4B-lot 39 and Phase 6B-lot 1. She felt other lots were accommodated acceptably in case the court's decision were upheld.

Commissioner Henninger objected to the current construction of the Ski Lane ramp. The appellant requested postponement during last month's meeting to review changes to the plan, but he did not hear any concerns regarding the plan. He felt this should be an up or down vote rather than redesigning the plan.

Commissioner Walkowski stated if this were about redesigning or righting injustices he would support the appellant, but the Planning Commission is tasked with specific review criteria pertaining to an appeal of an administrative decision. He felt the appellant did not meet that criteria. He was in agreement with Commissioner Donley's suggestions that additional notes and restricted lots be placed on the development plan should the courts rule in favor of the applicant.

Commissioner Markewich stated the paved Sorpresa Lane to Cowpoke Road along with the future proposed roadways give the appellants better access to travel north. He was not concerned with the easement, but was concerned with the design of the hairpin turn. He referenced City Code Section 7.7.705 regarding right-of-way dedication, and was concerned the substandard intersection and turn would remain in perpetuity.

Commissioner Phillips was sympathetic to the appellants. The problem started with the development plan and not the amendments. He supported denial of the appeal.

Commissioner Shonkwiler stated this road has been decided upon by the courts. He supported denial of the appeal.

Moved by Commissioner Henninger, seconded by Commissioner Phillips, to deny the appeal of **Item No. 4-File No. CPC DP 05-00092-A4MN13**, affirming the administrative approval of the amendment to the previously approved Cumbre Vista Development Plan, based upon the finding that the amendment complies with the development plan review criteria found in City Code Section 7.5.502.E and the appeal fails to substantiate the criteria for review of an appeal of an administrative decision found in City Code Section 7.5.906.A.4.

Commissioner Walkowski requested an amendment to the motion to further protect the easements.

Commissioner Henninger did not support the motion to amend.

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

Moved by Commissioner Sparks, seconded by Commissioner Walkowski, to include an amendment to the motion to modify note 1 on the development plan to include restricted development on Lot 39 of Phase 4B and Lot 1 of Phase 6B.

Commissioner Sparks stated a large list of lots are already restricted, and it is only prudent these two lots be included in case the land need to be modified or regraded. She stated that if homes were built on these two lots then we'd be in the same situation as today.

Motion on the amendment failed 3-4 (Commissioners Henninger, Markewich, Phillips and Shonkwiler opposed with Commissioner Gonzalez recused and Commissioner Ham absent).

Original motion now stands.

Motion to deny the appeal carried 5-2 (Commissioners Donley and Markewich opposed with Commissioner Gonzalez recused and Commissioner Ham absent).

March 20, 2014
Date of Decision



Edward Gonzalez, Planning Commission Chair

**Appeal – Cumbre Vista #4
Amendment to Development Plan**

**City Planning Commission
March 20, 2014**

Larry Larsen, Senior Planner

1

**Appeal – Cumbre Vista #4
Amendment to Development Plan**

**Appeal of the Administrative
Approval of a Minor
Amendment to the Cumbre
Vista Development Plan
(CPC DP 05-00092-A4MN13)**

2

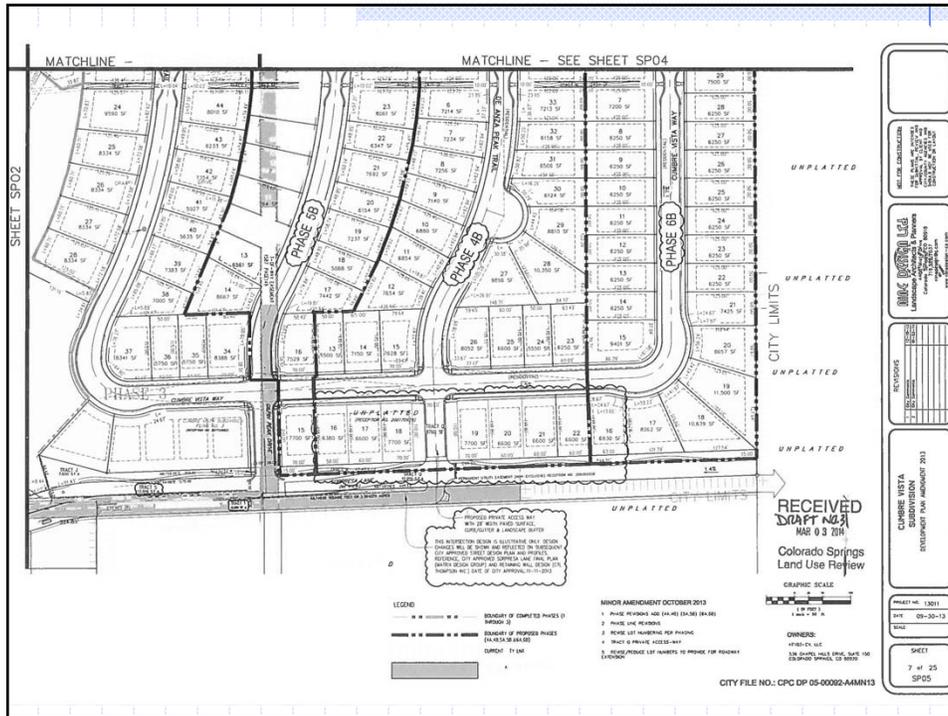


Appeal – Cumbre Vista #4 Amendment to Development Plan

Minor Amendment to the Cumbre Vista Development Plan:

- ✓ Revision of the phasing scheme
- ✓ Revise lot layout & decrease number of lots per new phasing
- ✓ Add new De Anza Peak Trail access way between Cumbre Vista Way & Sorpresa Lane
- ✓ Incorporate District Court Decision regarding interim intersection design & private right-of-way easement

4



Appeal – Cumbre Vista #4 Amendment to Development Plan

BACKGROUND:

- ✓ Annexation, Master Plan, Zoning & Development Plan approved – 2005
- ✓ Platting, grading & street plans approved & construction – 2006 & 2007
- ✓ Sorpresa Lane & Ski Lane grade separation – 2007
- ✓ Efforts & cooperation failed to resolve issue – 2008
- ✓ Interim intersection design & street plans approved – 2008
- ✓ District Court case commenced – 2008
 - Quiet Title & Relocate Easement

8

Appeal – Cumbre Vista #4 Amendment to Development Plan

BACKGROUND: (Continued)

- ✓ Sorpresa Lane Plat approval, appeal & withdraw – 2008 -2010
- ✓ District Court ruling -2010
 - Ruled against quiet title & relocate easement
- ✓ District Court post trail ruling – 2013
 - Ruled now to vacate & relocate easement and accept interim intersection design
- ✓ District Court post trail ruling appealed - 2013
- ✓ Cumbre Vista #4 Development Plan Amendment submitted, reviewed, approved & appeal - 2013
- ✓ City Planning Commission appeal hearing – 2/20/14

9

Appeal – Cumbre Vista #4 Amendment to Development Plan

Administrative Approval based upon findings:

- ✓ Compliance with City Comprehensive Plan;
- ✓ Compliance with the Powerwood No. 3-6 Master Plan; and
- ✓ Development Plan Review Criteria found in City Code 7.5.502.E

10

Appeal – Cumbre Vista #4 Amendment to Development Plan

Appeal statement: (Appellant's reasons why Appeal should be granted and approval rescinded)

- ✓ Development Plan should minimize objectionable & adverse impacts;
- ✓ Right-of-way dedication & street improvements;
- ✓ Cooperation with subdividers through eminent domain; and
- ✓ Obligation of landowner
- ✓ Allow the Court appeal process to be completed prior to any plan approvals

11

Appeal – Cumbre Vista #4 Amendment to Development Plan

Appeal Review Criteria: (City Code Section 7.5.906.A.4)

- ✓ Identify explicit Code provisions in dispute;
- ✓ Show why administrative decision was incorrect:
 - Against the expressed language of the Code
 - Against the expressed intent of the Code
 - Unreasonable
 - Erroneous
 - Clearly contrary to law
- ✓ Identify the benefits and adverse impacts created by the decision

12

Appeal – Cumbre Vista #4 Amendment to Development Plan

Findings:

- ✓ Appeal fails to substantiate the appeal review criteria
- ✓ Administrative Approval based upon findings:
 - Compliance with City Comprehensive Plan;
 - Compliance with the Powerwood No. 3-6 Master Plan; and
 - Development Plan Review Criteria found in City Code 7.5.502.E

13

Appeal – Cumbre Vista #4 Amendment to Development Plan

Summary/Recommendation:

Deny the appeal and affirm the administrative decision to approve the Minor Amendment to the Cumbre Vista Development Plan.

14

Questions?

15

A Bit of History

Hill chopped to create temporary El Glen Extension

Mrs. Nance's Property

May 2006
Mrs. Nance Private Property Altered without permission

1

- Late June 2006
- Notice in mailbox
- Ski Lane temporary Closure
- Sorpressa not affected

- This is misleading information

******NOTICE******

To all Ski Lane and Sorpressa Lane Residents

Beginning Monday June 26, 2006 utility construction will create a need to detour Ski Lane traffic. Ski Lane north of Sorpressa Lane will be closed temporarily for the relocation of utility lines. Ski Lane traffic will be diverted east on Sorpressa Lane to a connection with El Glen. Traffic will head north on El Glen to the Cowpoke Road Intersection. Ski Lane south of Sorpressa Lane will not be affected from this utility construction. If you have any questions regarding this information please contact Charlie Williams at 719-492-1993.

2

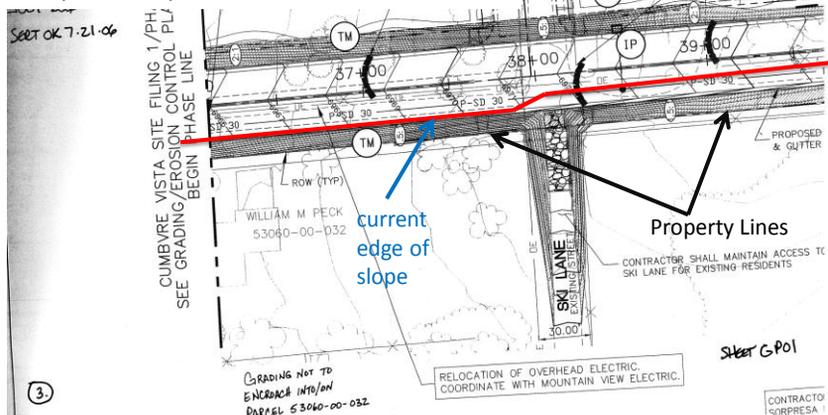
SURPRISE

- Sorpresa is Spanish for SURPRISE!
 - Elevation change in Sorpresa was a surprise to us.
 - Intended cut of Ski Ln, S of Sorpresa was a surprise to us.
- 2006 City approved plan was to create wall AT Peck and Howell PROPERTY LINES.
- 2006 City approved plan was to create slot in Ski south of Sorpresa. NO STREET DESIGN – JUST GRADING PLAN

3

Original Plan for Ski @ Sorpresa

- 2006 APPROVED PLAN
- Does this meet city standards for roads? NO
- Did the county give the go ahead for this road? NO
- Did anyone get permission to alter the easement held by us for Sorpresa or Ski South? NO



4

Item: 4
Exhibit: B
CPC Meeting: March 20, 2014



Slot Cut UNACCEPTABLE

- 3 cliffs
 - 1 on South side of Sorpresa
 - 1 on East side and 1 on West side of Ski Lane South
- Access to Pecks property impossible
- DANGEROUS – blind at Sorpresa & Ski
- IMPOSSIBLE TO prevent catastrophic erosion
- ADAMANTLY OPPOSED to SLOT CUT of Ski
- Neighbors have road and utility easement over Ski South. Did NOT give permission to alter it.

6

Sequence of Events

- 06-2006 – Peck sends certified Letter to City & Howard expressing concerns over grade separation
 - Infinity has opportunity to alter plans PRIOR to ANY grading for CV East
- 07-2006 – Ski “temporary closure”
- 07-2006 - Marchants look at city plans - no red flags
- 07-2006 – Mitros approves slot cut of SKI and grade change of Sorpresa
 - Infinity plans indicate property to south WILL BE DEVELOPED
 - Mitros has opportunity to raise red flag and alter plans PRIOR to ANY grading for CV East
- 05-2007 – Initial grading to lower Sorpresa
 - Marchants raise concerns
 - City, Infinity, & Keller have opportunity to alter the plans for Sorpresa & Ski PRIOR to ANY utility installation
 - Marchants learn of intended slot cut
- 05-11 2007 – Much discussion about concerns
 - Grading and installation of utilities continue despite controversy
 - Mark Francis hired to STOP slot cut.
 - Developer attempted to slot cut Ski despite controversy
 - DAMAGE IS DONE! City gives choice: [Slot Cut or U-Turn](#)
 - ATTITUDE IS: **Have approved plan in hand – FORGE AHEAD**

7

U-Turn Intersection

- 11-2007 Lawyers start talks
- 01-2008 WHMD approves Suit against us
- 01-2008 **Utility pole moved to Peck corner – FORGE AHEAD**
- 03-2008 **City approves U-Turn design**
 - WHMD - Consent to U-Turn & relocation of ROW or be SUED
 - Negotiations with WHMD begin – **U-Turn is part of settlement**
- 06-2008 **Construction of U-Turn design – FORGE AHEAD**
 - Despite no finalized settlement
 - ATTITUDE IS: **Have approved plan in hand – FORGE AHEAD**
- 07-2008 **Guard rail installed – FORGE AHEAD**
- 08-2008 Terms of settlement altered by WHMD & deal falls through
- 09-2008 WHMD Sue us.
- 09-2008 **Sorpresa Paved under wall & U-Turn construction complete. – FORGE AHEAD**

8

Sorpresa Plat

- 10-2008 to 10-2010 Pre-trial motions fly
- 04-2009 Sorpresa Plat admin approval
- 05-2009 Neighbors Appeal to planning comm.
- 05-08 2009 Settlement talks – to no avail
- 09-2009 Appeal Hearing – DENIED
- 10-2009 Neighbors Appeal to city council
- 11-2009 Appeal to City Council postponed by developers
- 12-2009 City REVOKES approval due to ownership confusion (Today: Chain of title STILL has not been done for the land under our easement. Title to the land under the easement HAS NOT BEEN QUIETED)

9

2010 Trial

- 10-2010 Schwartz rules
 - Easements exist and are owned by neighbors
 - Alterations DID NOT COMPLY with Roaring Forks
 - Developer DID NOT HAVE PERMISSION to alter
 - Developer DID NOT HAVE JUDICIAL APPROVAL
 - NO Settlement agreement existed
 - Developer MUST restore easements to original location & elevation
- Damages trial bifurcated to future date

10

2012 Trial

- Same conclusions as 2010 except restoration
- KF103 told the court that restoration would affect homes already built
 - We pleaded with the city to not grant permits on homes that could affect the Judges decision
 - **FORGE AHEAD - 1 home was built near Ski Lane, after the 2010 trial but prior to the 2012 trial**
 - The Judge was led to believe a “substantial number of new occupied dwellings” could be impacted by restoration.
 - This affected his ruling
- **Constructing dozens of homes “near” our easements WOULD tie the hands of the Appellate court**

11

Easements

- To Alter an Easement
 - Servient estate (land owner) **MUST** have permission of the dominant estate (easement holder)
 - OR must have a Court order **PRIOR** to changes
 - Neither the City nor the County can give permission to alter a deeded easement.

12

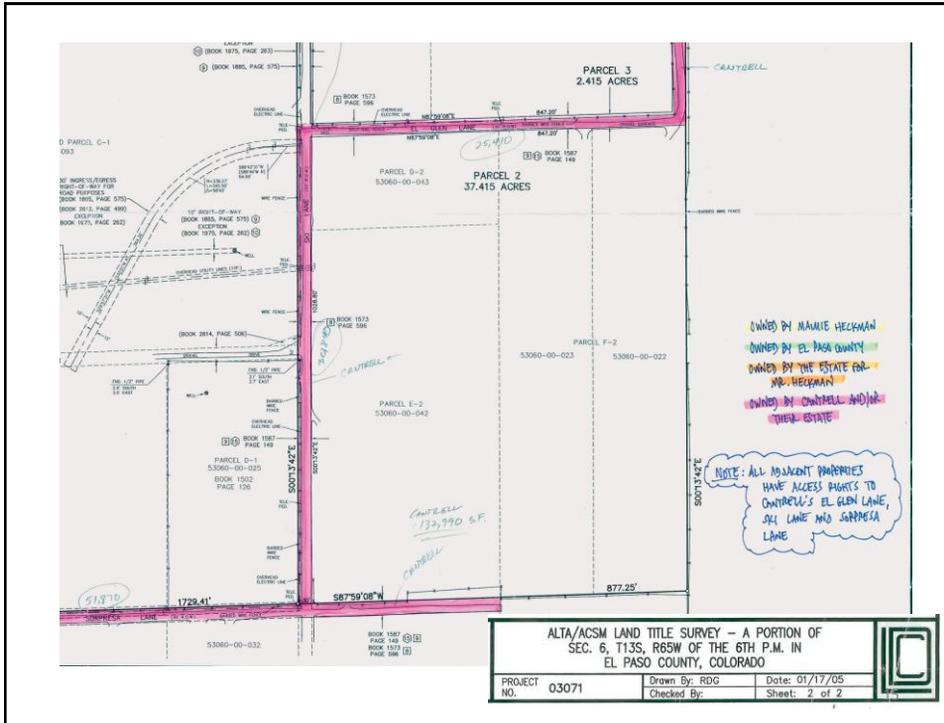
Easements

- Eminent Domain
 - The power of the government to take private property and convert it to public use
 - Fifth amendment of Constitution of US
 - No person shall be... deprived of life, liberty, or property without **DUE PROCESS**
 - Nor shall private property be taken for PUBLIC USE, **without just compensation**
 - NO government agency has exercised Eminent Domain over any part of Ski, El Glen, or Sorpresa
 - An EASEMENT IS REAL PROPERTY
 - Ski and El Glen are NOT to be for PUBLIC USE!
 - Ski and El Glen have been OBLITERATED!

13

- NO PERMISSION OBTAINED from us.
- NO DUE PROCESS given to us.
- NOT EVEN INFORMED OF drastic CHANGES
- Sorpresa was dramatically altered in elevation
 - Without consent of Dominant Estate owner
 - Without court order
- Ski Ln and El Glen were obliterated
 - Without consent of Dominant Estate owner
 - Without court order
- Existence of easement KNOWN to Infinity, Keller, AND City – No steps taken to VACATE

14



City Code

- Our situation is unique
- I could not find code that pertains to
 - City/County boundaries
 - Private deeded metes & bound easements (Vacate, Permission to Alter, etc.)
 - Making changes to property in the county
 - Whether changes in the county must meet city standards
 - Transition standards at City/County boundaries
 - Interim conditions
 - Allowing an unstable and UNSAFE CONDITION

16

City Standards

- No design for Ski/Sorpresa intersect has yet to meet city standards
- Creating the grade difference is the reason for that, NOT the property owners to the South.
- The city approving the grade difference is responsible for that, NOT the property owners to the South.
- Mitros approving the grade difference based on belief that the land to the south would soon be developed is the reason for that, NOT the property owners to the South.

17

Undue financial burden

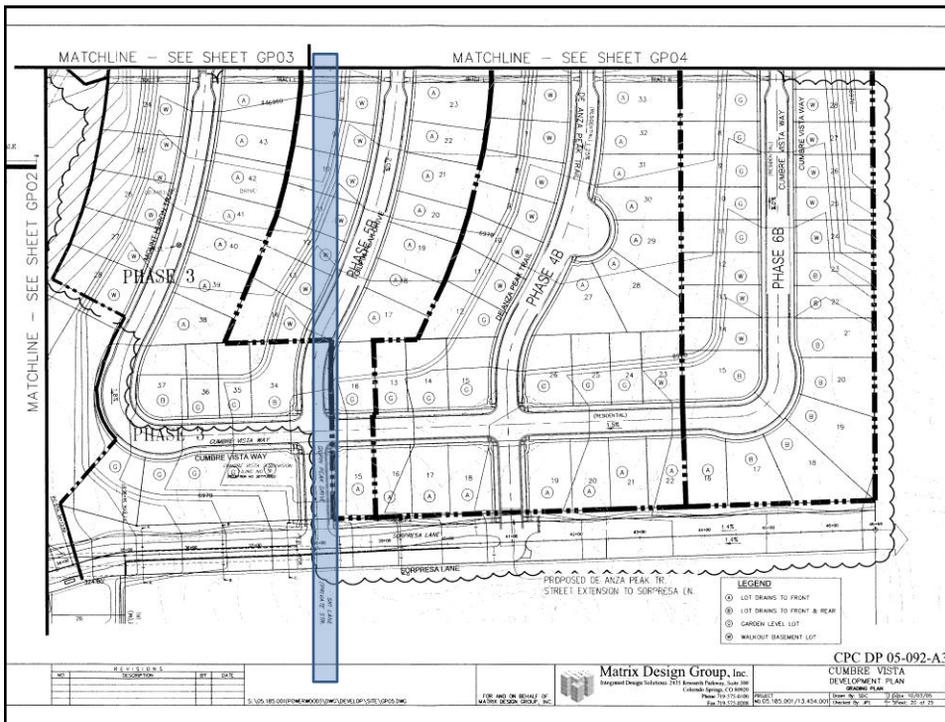
- The developers created this situation
- The developers solution to the problem is for the neighbors to SUCK IT UP and LIVE WITH IT.
- The developers only think in terms of money – never in terms of how their actions affect innocent lives of non-city county folk.
- The city appears to agree with the developer
- The city has no charter to protect anyone OUTSIDE the city.

18

Using Ski Lane

- I challenge ANYONE to drive Ski Lane today
- I challenge ANYONE to drive El Glen today
- Currently, it IS POSSIBLE to move the dirt and recreate Ski and El Glen.
- After ANY development in CV East, that will not be the case! The City will be responsible for allowing the creation of that situation.

19





Approve appeal – Deny Minor Amendment

- Time and again
 - City approvals have been granted to Cumbre Vista Developers, without consideration of consequences to the neighbors
 - Because neighbors in the County?
 - Do not have to apply city rules to them?
 - Because it is EXPECTED that our land will develop in the future?
 - Cumbre Vista Developers have used approved plans to **forge ahead**, knowingly ignoring the rights of the neighbors.
 - Developer takes calculated risks; Counting on fact that we do not have financial resources to fight for our rights, whereas developer has scores of high end attorneys on their payroll.
 - Developer and their attorneys muddy the waters with incorrect, incomplete, missing, or misleading information
- Approval of ANY further Cumbre Vista filings
 - Allow grade changes, cross streets, curb and gutter, front and back Yards; All will set the elevation of the area adjacent to our express easements.
 - This will make it IMPOSSIBLE to restore Ski Lane or El Glen Lane
 - This would TIE the appellate court's hands

22

PETITION TO PLANNING COMMISSION

Cumbre Vista Development Plan Amendment File No: CPC DP 05-00092-A4MN13

The parties signed below, as residents of Cumbre Vista, hereby petition the City Planning Commission to approve the above Amendment at the March 20th, 2014 meeting without further delay.

We or I recommend approval due to, but not limited to the following reasons:

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- Finally moving forward with development and building homes will:
 - Complete the original plans for Cumbre Vista.
 - Allow infrastructure to be built that will replace unimproved site drainage.
 - Improve the strength of the Metro District, reduce taxes and payoff debt.
 - Reduce shared expenses for the maintenance of common areas.
 - Finish a partially graded site that has been unsightly since 2008.
 - Additional households will increase the prospects for the neighborhood school to be built.
 - Improve property values.
- Other:

Respectfully,

6077 Cumbre Vista Way	Scott Brokaw		803-468-5503
6077 Cumbre Vista Way	Rebecca Brokaw	Rebecca A Brokaw	
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

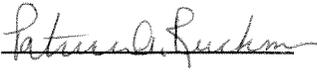
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 - Improve property values.
- Other:

Respectfully,

<u>5808 CUMBRE VISTA WAY</u>	<u>DONALD REICHMAN</u>	<u></u>	<u>719-487-3057</u>
<u>5808 Cumbre Vista Way</u>	<u>Patricia Reichman</u>	<u></u>	<u>719-487-3057</u>
Address	Printed name	Signature & date	Phone number (optional)

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 - Improve property values.
- Other:

Respectfully,

5828 Cumbre Vista Arnie Espinoza  3/16/14 (714)433-4202

Address Printed name Signature & date Phone number (optional)

Lencer

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 - Improve property values.
- Other:

Respectfully,

5848 Cumbre Vista
Colorado Springs
Gregory Kureus
[Signature]
719-495-1488

Address Printed name Signature & date Phone number (optional)

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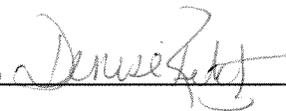
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 - Improve property values.
- Other:

Respectfully,

5957 Cumbre Vista Way

Denise Ritchings 

719-337-4472

Address Printed name Signature & date Phone number (optional)

PETITION TO PLANNING COMMISSION

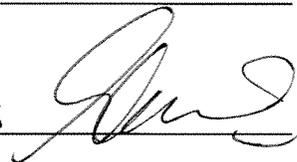
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 - Improve property values.
- Other:

Respectfully,

_____	_____	_____	_____
5967 Cumbre Vista Way	Gabriele Evans		719-426-1517
Address	Printed name	Signature & date	Phone number (optional)

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- Other:

Respectfully,

5997 Cumbre Vista Way Dennis Alvarez  3/9/14 719-502-6192

Address

Printed name

Signature & date

Phone number (optional)

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 - Improve property values.
- Other:

Respectfully,

6157 Cumbre Vista Way
Address

Arlene Bonetti
Printed name

Arlene Bonetti
Signature & date

375-5474
Phone number (optional)

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- Other:

Respectfully,

6248 Cumbre Vista Way, CO 80924

ALANA Miller

Alana Miller

3-03-14

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

6248 CUMBRE VISTA WAY TERRY MILLER 

Address Printed name Signature & date Phone number (optional)

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- Other:

Respectfully,

_____	_____	_____	_____
6258 CUMBRE VISTA WAY	ROBERT E. EVERS	 3/1/14	719-264-8974
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

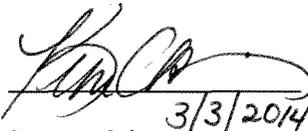
Cumbre Vista Development Plan Amendment File No:CPC DP 05-00092-A4MN13

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 - Reduce shared expenses for the maintenance of common areas.
 - Finish a partially graded site that has been unsightly since 2008.
 - Additional households will increase the prospects for the neighborhood school to be built.
 - Improve property values.
- Other:

Respectfully,

_____	_____	_____	_____
6277 Cumbre Vista way	Kim Brichacel	 3/3/2014	_____
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

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 - Improve property values.
- Other:

Respectfully,

		''
<u>6288 Cumbre Vista</u> Colorado Springs, Ca 80924	<u>3-6-14</u>	<u>719-210-0611</u>
Address	Printed name	Signature & date
Dorothy Lewis	Roy H. Lewis	Phone number (optional)

PETITION TO PLANNING COMMISSION

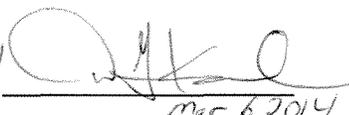
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 - Improve property values.
- Other:

Respectfully,

6298 Cumbre Vista Way Donald G. Kerl  719-322-5892
Mar 6, 2014

Address

Printed name

Signature & date

Phone number (optional)

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 - Improve property values.
- Other:

Respectfully,

60368 Cumbre Vista Way Broad Mo High BLMh 3-15-14 719-352-8786

Address

Printed name

Signature & date

Phone number (optional)

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 - Improve property values.
- Other:

Respectfully,

10368 Cumbre Vista Lindsay McHugh Lindsay F. McHugh 719-377-8062

Way, 80924 _____ 3-12-14 _____

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

7008 Cumbre Vista Way 

Address

Printed name

Signature & date

Phone number (optional)

PETITION TO PLANNING COMMISSION

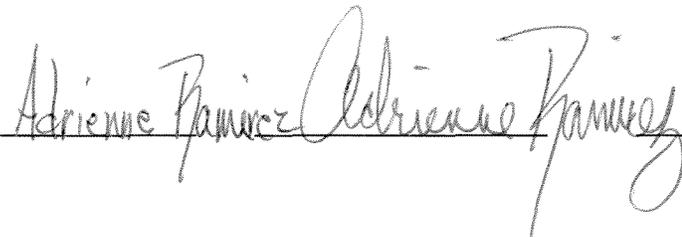
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- Other:

Respectfully,

7008 Cumbre Vista Adrienne Ramirez  719/6661-8410

Address

Printed name

Signature & date

Phone number (optional)

PETITION TO PLANNING COMMISSION

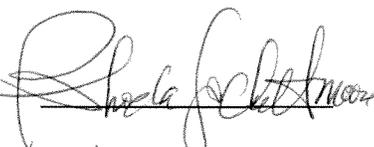
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- Other:

Respectfully,

<u>7017</u>	<u>Rhoda Moore</u>		<u>719 694-8624</u>
<u>Cumbre Vista Way</u>	<u>Dwayne Moore</u>	 3/16/14	<u>↓</u>
Address	Printed name	Signature & date	Phone number (optional)

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- Other:

Respectfully,

<u>7037 CUMBRE VISTA WAY</u>	<u>TIM CHATFIELD</u>	<u>Tim Chatfield</u>	<u>16 MAR 14</u>	<u>719-5021212</u>
Address	Printed name	Signature & date	Phone number (optional)	

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- Other:

Respectfully,

<u>7918 MT HURON TRAIL</u>	<u>Tom D. Cole</u>	<u>Tom D. Cole 3-16-14</u>	<u>719-330-1605</u>
<u>7918 Mt Huron Tr</u>	<u>Cindy L Cole</u>	<u>Cindy L. Cole</u> 3-16-14	<u>719 330 7260</u>
Address	Printed name	Signature & date	Phone number (optional)

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- Other:

Respectfully,

7928 Mt. Huron Trail Karen Vanhorn Karen Vanhorn 03-16-14 (719) 232-6906
CO 80924

Address Printed name Signature & date Phone number (optional)

PETITION TO PLANNING COMMISSION

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 - Improve property values.
- Other:

Respectfully,

7928 Mt Huon Trl Chad M VanHorn Chad M VanHorn 719-271-4723

Address

Printed name

Signature & date

Phone number (optional)

PETITION TO PLANNING COMMISSION

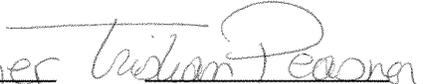
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- Other:

Respectfully,

79417 mt Huron trail Tristan Peasner 

Address

Printed name

Signature & date

Phone number (optional)

719-310-7049
Item: 4
Exhibit: C
CPC Meeting: March 20, 2014

PETITION TO PLANNING COMMISSION

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- Other:

Respectfully,

7958 MHT O'Dell Isaac Olaf Bauer (719)648-8974

7958 Mount Huron Trail _____

Address

Printed name

Signature & date

Phone number (optional)

Co Springs, Co

80924

Item: 4
Exhibit: C
CPC Meeting: March 20, 2014

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 - Improve property values.
- Other:

Respectfully,

Barbara A Isaac BARBARA A. ISAAC

7958 Mount Auron Trl 80924 _____

Address

Co Springs, CO
Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

<u>7978 Mount Huron</u>	<u>JND:ix</u>	<u></u>	<u>15 Mar 358-7179</u>
<u>7978 Mount Huron</u>	<u>Veronica Dix</u>	<u></u>	<u>15 Mar 358-7179</u>
Address	Printed name	Signature & date	Phone number (optional)

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- Other:

Respectfully,

7987 M+Huron Trl Carrrie Becker Carrie Becker

719-375-8363

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

7987 Mt Huron Aaron Becker AahBeel 3/13/14 719-375-0363

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

8015 Mount Huron Trail Jeffrey Deuba  16 Mar 14

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

8028 MT HANON COLLEEN MURPHY Colleen R Murphy 651-0415

Address Printed name Signature & date Phone number (optional)

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- Other:

Respectfully,

8037 N.H. Huron Trl. Nicole Feucht Nicole Feucht 321-446-2222

Address

Printed name

Signature & date

Phone number (optional)

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Cumbre Vista Development Plan Amendment File No:CPC DP 05-00092-A4MN13

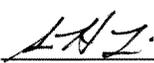
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 - Finish a partially graded site that has been unsightly since 2008.
 - Additional households will increase the prospects for the neighborhood school to be built.
 - Improve property values.
- Other:

Respectfully,

8038 Mt Huron Trl Eric Lewis  3-4-14 714 358 8108

8038 Mount Huron Trl Sandra Lewis  3-4-2014 719-358-8108

Address

Printed name

Signature & date

Phone number (optional)

PETITION TO PLANNING COMMISSION

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- Other:

Respectfully,

8048 mount Huron Tr Joyce E Perry Joyce E Perry 719-352-5238

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

8067 Mount Huron Trail
DANIEL WOODARD
3 MAR 14

8067 Mount Huron Trail
Bianca Woodard
3 Mar 14

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

8078 Mt. WALTERS
HURON TRAIL SCHNEIDER [Signature] 719-495-7469

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,



8078 Mt Huron Trl. SHARON A SCHUSTER 030513
Columbus Hwy, A 80924
Address Printed name Signature & date Phone number (optional)

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- Other:

Respectfully,

90000 Mt View Trail Sequelina Pitter [Signature] 3/14/14 719-761-4346

Address Printed name Signature & date Phone number (optional)

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 - Improve property values.
- Other:

Respectfully,

8098 Mt Huron Tr 1 Ann DeLancey Ann DeLancey 3/16/14 719-999-7837

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

		<i>Paula Parsons</i>	
<i>8107 Mount Huron Trail</i>	<i>Paula Parsons</i>	<i>3/3/14</i>	<i>407-312-9461</i>
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

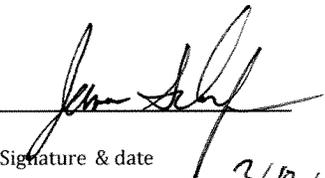
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 - Improve property values.
- Other:

Respectfully,

8108 Mont Haven James Schuerkamp  719-231-8516
Address Printed name Signature & date Phone number (optional)

3/18/14

Item: 4
Exhibit: C
CPC Meeting: March 20, 2014

PETITION TO PLANNING COMMISSION

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- Other:

Respectfully,

<u>818 Mt Huron Trl</u>	<u>Kelsey Riberdy</u>	<u>Kelsey Riberdy</u>	<u>231-1538</u>
<u>2113 Mt Huron Trl</u>	<u>Jason Riberdy</u>	<u>[Signature]</u>	<u>233 7610</u>
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

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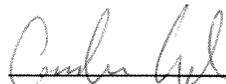
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 - Improve property values.
- Other:

Respectfully,

2147 MT HURON DR CASSANDRA CRAWFORD
10 SPRG, CO 80924


3-12

617-538-9595

Address

Printed name

Signature & date

Phone number (optional)

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Respectfully,

<u>8148 Mt Huron</u>	<u>David Thayer</u>	<u>D. J. Thayer</u>	<u>3/3/14</u>
<u>"</u>	<u>Cheryl Thayer</u>	<u>Cheryl Thayer</u>	<u>3/3/14</u>
Address	Printed name	Signature & date	Phone number (optional)

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- Other:

Respectfully,

8077 Mount Hope Dr
Coke Spgs - CO 80924

3/2/14
C. J. Jarama
719-495-9530

Address

Printed name

Signature & date

Phone number (optional)

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Respectfully,

<u>8125 Mt Hope Dr</u>	<u>JACK PEDRO</u>	<u>[Signature]</u> <u>3/2/14</u>	<u>719 2649603</u>
<u>8125 Mt Hope Dr</u>	<u>SUSAN PEDRO</u>	<u>[Signature]</u> <u>3/2/14</u>	<u>719 2649603</u>
Address	Printed name	Signature & date	Phone number (optional)

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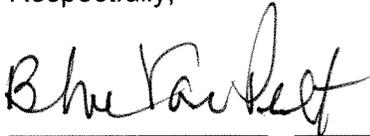
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Respectfully,



8149 Mount Neff Marl Van Pelt Marl Van Pelt 719-375-5292
Address Printed name Signature & date Phone number (optional)

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- Other:

Respectfully,

<u>8161 Mt. Hope Dr.</u>	<u>Patrick J. Roddy</u>	<u>Patrick J. Roddy</u>	<u>(719) 375-8664</u>
<u>8161 Mt. Hope Dr.</u>	<u>ELKE G RODDY</u>	<u>Elke G Roddy</u>	<u>(719) 375 8664</u>
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

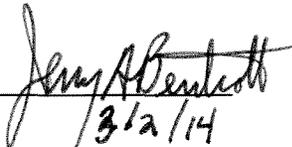
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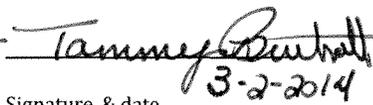
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- Other:

Respectfully,

8197 Mt. Hope Dr. Jerry A Bentrott  (719) 494-1242
3/2/14

8197 Mt. Hope Dr. Tammy Bentrott  719-494-1242
3-2-2014

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

_____	_____	_____	_____
6215 Mount Oseray	JOAN TOKARZ	Joan Tokarz	757-286-6507
Address	Printed name	Signature & date	Phone number (optional)

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- Other:

Respectfully,

6364 Mt. Duroy Dr, Liz Wilcox Liz Wilcox 3-3-14 719-593-1472
80924

Address

Printed name

Signature & date

Phone number (optional)

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- Other:

Respectfully,

6264 MT OURAY DR. LONNIE WILCOX 3/9/14

6274 Mt Ouray Dr John Trujillo 3/9/14

Address Printed name Signature & date Phone number (optional)
6285 Mount Ouray Michele M. Luce 3-9-14

Item: 4
Exhibit: C
CPC Meeting: March 20, 2014

PETITION TO PLANNING COMMISSION

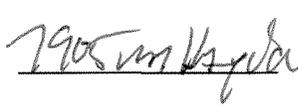
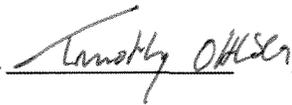
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The parties signed below, as residents of Cumbre Vista, hereby petition the City Planning Commission to approve the above Amendment at the March 20th, 2014 meeting without further delay.

We or I recommend approval due to, but not limited to the following reasons:

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 - Reduce shared expenses for the maintenance of common areas.
 - Finish a partially graded site that has been unsightly since 2008.
 - Additional households will increase the prospects for the neighborhood school to be built.
 - Improve property values.
- Other:

Respectfully,

_____	_____	_____	_____
			
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

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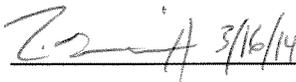
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 - Improve property values.
- Other:

Respectfully,

7915 MT HAYDEN
~~ERIC MILLER~~

ERIC MILLER

 3/16/14

719-660-3014

Address

Printed name

Signature & date

Phone number (optional)

PETITION TO PLANNING COMMISSION

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 - Additional households will increase the prospects for the neighborhood school to be built.
 - Improve property values.
- Other:

Respectfully,

<u>8046 Mt. Hayden Drive</u> <u>Colo Spgs, CO</u> <u>80924</u>	<u>Donna Bezrou</u>	<u>Donna Bezrou</u>	_____
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

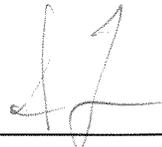
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- Other:

Respectfully,

<u>7904 Hunter Peak Tr.</u>	<u>ARIE FERNANDEZ</u>	<u></u>	<u>3/16/14</u>	_____
<u>7904 Hunter Peak Tr.</u>	<u>Tracy Fernandez</u>	<u></u>	<u>3/16/14</u>	_____
Address	Printed name	Signature & date	Phone number (optional)	

Item: 4
Exhibit: C
CPC Meeting: March 20, 2014

PETITION TO PLANNING COMMISSION

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 - Improve property values.
- Other:

Respectfully,

8124 Hunter Peak TR LouAnne Smith LouAnne Smith 3/12/14

8124 Hunter Peak TR DAVID SMITH David Smith 3/12/14

Address

Printed name

Signature & date

Phone number (optional)

PETITION TO PLANNING COMMISSION

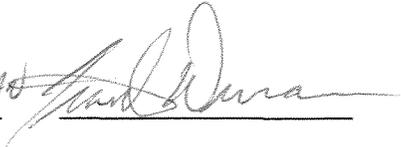
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 - Improve property values.
- Other:

Respectfully,

8145 Hunter's Creek	FRANK DURAN		
Address	Printed name	Signature & date	Phone number (optional)

PETITION TO PLANNING COMMISSION

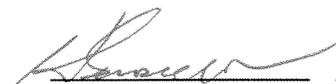
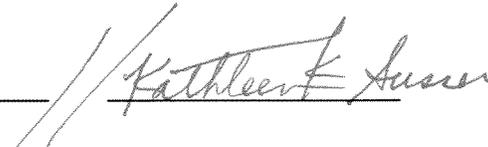
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 - Additional households will increase the prospects for the neighborhood school to be built.
 - Improve property values.
- Other:

Respectfully,

 _____ //  Kathleen K. Susser

8164 Hunter Park Dr

3-9-14

719 648 7652

Address

Printed name

Signature & date

Phone number (optional)

Herman Susser

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

NEW BUSINESS CALENDAR

DATE: March 20, 2014

ITEM: 5.A-5.E

STAFF: Rick O'Connor

FILE NOS.: CPC MP 84-00361-A4MN13, CPC CP 13-00143, CPC ZC 13-00141, CPC PUZ 13-00142, CPC DP 13-00144

PROJECT: The Renaissance at Indigo Ranch

STAFF PRESENTATION

Mr. Rick O'Connor, City Principal Planner, presented PowerPoint slides (Exhibit A).

Commissioner Shonkwiler inquired if the roundabout has openings for three directions and the reason vehicles access from the roundabout into the commercial property rather than going down the road to gain access. Ms. Kathleen Krager, City Transportation manager, deferred to the applicant because it was their design choice.

Commissioner Markewich inquired of Dublin Boulevard lane width. Ms. Krager replied that Dublin Boulevard will remain a two-lane street until PPRTA funds are released next year to expand it to four lanes, two in each direction.

Commissioner Walkowski inquired if a traffic signal would be installed at the Issaquah and Dublin intersection. Ms. Krager stated the only traffic signals currently planned are at the Dublin and Marksheffel intersection, which will be constructed this summer, and the Dublin and Peterson intersection signal that will likely be installed during 2015 if traffic volumes build.

Commissioner Henninger now excused for the rest of the meeting.

Commissioner Gonzalez inquired of the reason for veering from the guidelines that recommend only 10% of lots with street frontage/non-greenway units compared with the 20% proposed. Mr. O'Connor stated the perimeter streets are collector streets that restrict frontage and cause more front-facing units onto a non-courtyard area. The garages are still accessed through alleyways.

Commissioner Gonzalez inquired why the units on the far south end have sound walls. Mr. O'Connor stated those outdoor private areas will have private sound walls. Five houses on the south side are

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

adjacent to Dublin Boulevard and incorporate sound walls to buffer noise. Further to the west the houses are pushed back farther eliminating the need for sound walls.

APPLICANT PRESENTATION

Mr. Kyle Campbell, Classic Consulting, displayed an enlarged graphic of the proposed plan. The Chaparral development was built 10 years ago and is now being used as an example. He addressed the roundabout and displayed the plan. The intent was to include an additional access point along the roundabout into the commercial area. An additional black arrow was erroneously left off the final plan. If Planning Commission prefers an additional access, he'd agree to amend the plan.

All items on the Small Lot Guidelines checklist were met with the exception of 20% of the lots fronting a greenway. The Chaparral development developed with 30% non-greenway fronting lots. If the guidelines are strictly adhered to, the perimeter buildings would be front-facing streets.

Commissioner Markewich inquired of the connection to open space for the east-west connection. Mr. Campbell pointed out the sidewalks that connect to the greenways. There is on-street parking allowed in the residential area as well.

CITIZENS IN FAVOR

None

CITIZENS IN OPPOSITION

None

APPLICANT REBUTTAL

None

STAFF REQUESTED TO SPEAK

None

DECISION OF THE PLANNING COMMISSION

Commissioner Donley liked the idea of detached housing with increased density. He supported the applications.

Commissioner Markewich stated the applications comply with all City Code review criteria. He recommended that the developer coordinate with Falcon School District 49 in regard to their letter outlining their concerns of overburdening their district.

Commissioner Shonkwiler stated this type of development is needed and supported the applications. He suggested including access off the roundabout into the commercial area.

Commissioner Phillips supported the applications and agreed with Commissioner Markewich's comments regarding School District 49.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

Commissioner Sparks stated the plans were designed well and all necessary elements are included.

Commissioner Walkowski supported the applications. He stated they applications meet the Comprehensive Plan and the City Code review criteria.

Commissioner Gonzalez stated the challenge of a Traditional Neighborhood Development (TND) or PUD neighborhood is including open space while making it livable. He felt that was accomplished with this plan. He also determined that the plans met the Comprehensive Plan and City Code review criteria. If a motion to approve is made, he supported additional access off the roundabout. He suggested striking technical modification 4 under the development plan recommendation.

Moved by Commissioner Markewich, seconded by Commissioner Walkowski, to approve **Item No. 5.A-File No. CPC MP 84-00361-A4MN13**, the amendment to the Stetson Ridge Master Plan, based upon the finding that the master plan complies with the master plan review criteria in City Code Section 7.5.408. The motion carried 7-0 (Commissioner Henninger excused and Commissioner Ham absent)

Moved by Commissioner Markewich, seconded by Commissioner Phillips, to approve **Item No. 5.B-File No. CPC CP 13-001430**, the Renaissance at Indigo Ranch Concept Plan, based upon the finding that the plan complies with the concept plan review criteria in City Code Section 7.5.501 E, subject to the following condition:

Condition of Approval:

The plan shall provide access on the commercial side from the roundabout

The motion carried 7-0 (Commissioner Henninger excused and Commissioner Ham absent).

Moved by Commissioner Markewich, seconded by Commissioner Phillips, to approve **Item No. 5.C-File No. CPC ZC 13-00141**, the PBC/AO (Planned Business Center with Airport Overlay) rezoning, based upon the finding that the rezoning complies with the three review criteria in City Code Section 7.5.603 B. The motion carried 7-0 (Commissioner Henninger excused and Commissioner Ham absent).

Moved by Commissioner Markewich, seconded by Commissioner Phillips, to approve **Item No. 5.D-File No. CPC PUZ 13-00142**, the Renaissance at Indigo Ranch PUD/AO rezoning (single family residential detached, 35-foot maximum height, 4.78 dwelling units per acre with Airport Overlay), based upon the finding that the rezoning complies with the three review criteria in City Code Section 7.3.603. The motion carried 7-0 (Commissioner Henninger excused and Commissioner Ham absent).

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

Moved by Commissioner Markewich, seconded by Commissioner Shonkwiler, to approve **Item No. 5.E-File No. CPC DP 13-00144**, the Renaissance at Indigo Ranch Development Plan, based upon the finding that the development plan complies with the development plan review criteria in City Code Section 7.5.502.E and with the PUD development plan review criteria in City Code Section 7.3.606, subject to compliance with the following technical and/or informational plan modifications:

Technical and Informational Modifications:

1. Sound study information from LSC was not provided. The development plan needs to include information as to specific units that are subject to additional sound attenuation. Provide a copy of the study and indicate on the development plan the affected units and the necessary noise mitigation.
2. Provide a detail of the retaining walls (materials).
3. Address the items noted by the Landscape Architect consisting of the following:
 - a. Include all street names and classifications on the landscape plan.
 - b. Show all Landscape categories requirements (setbacks, internal, and buffers if there are commercial uses across the non-arterial).
4. ~~Provide a letter from the Metro District which indicates that they will accept all responsibility for the ownership and maintenance of properties as noted on the plan.~~

The motion carried 7-0 (Commissioner Henninger excused and Commissioner Ham absent).

March 20, 2014

Date of Decision



Edward Gonzalez, Planning Commission Chair

Planning Commission Meeting March 20, 2014

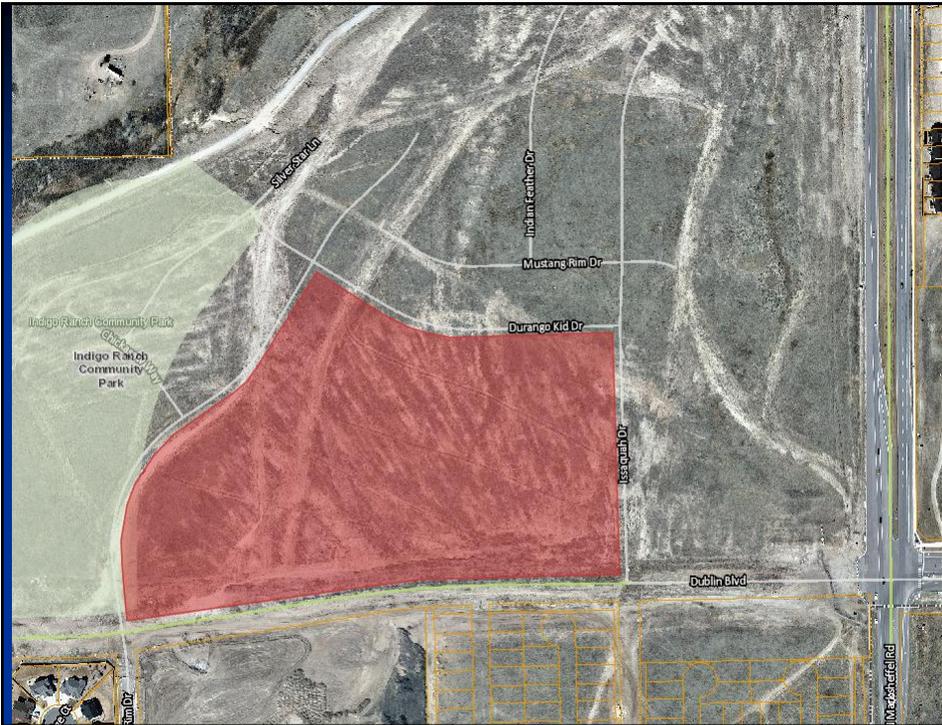
The Renaissance at Indigo Ranch

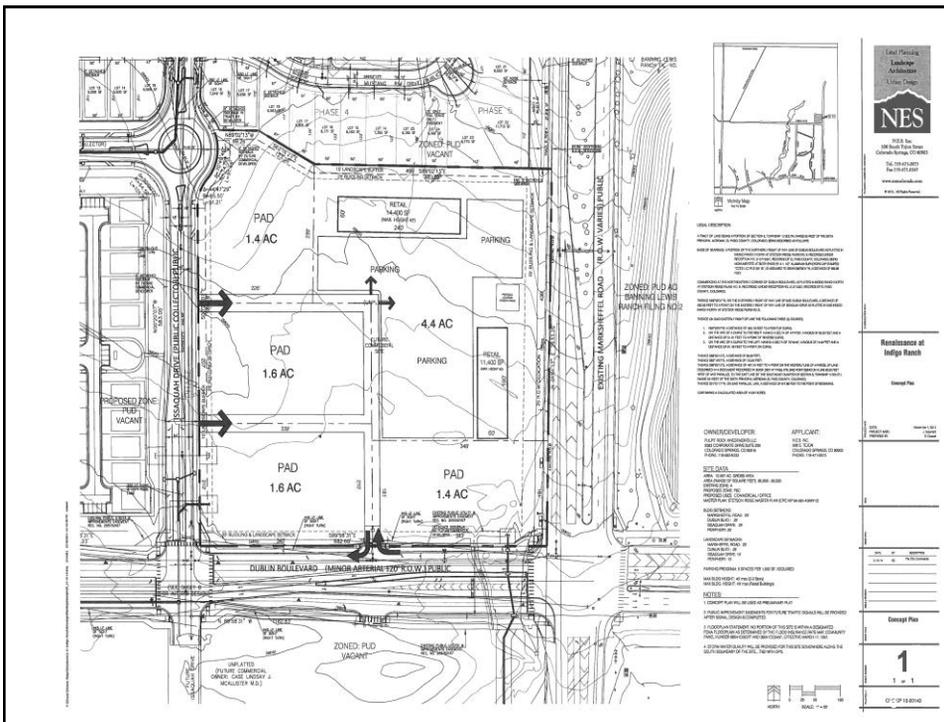
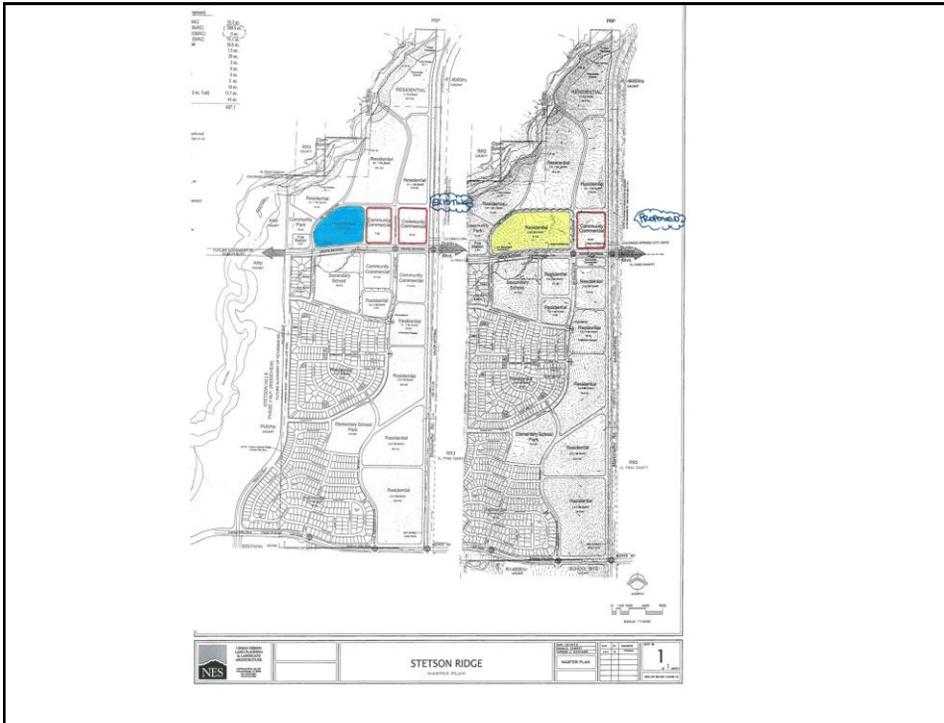
File Numbers: CPC MP 84-361-A4MN13; CPC ZC
13-00141; CPC PUZ 13-00142; CPC CP 00143;
CPC DP 13-00144

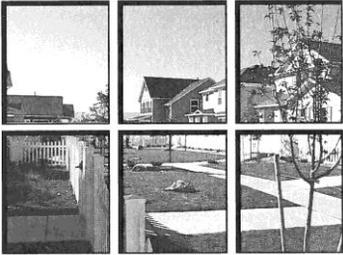
1

- SUMMARY OF THE FIVE APPLICATIONS:
 - Master Plan amendment
 - Rezoning of 10 acres from A to PBC
 - Rezoning of 21 acres from A to PUD
 - Five lot concept plan for a 10 acre commercial development
 - Develop plan for a 101 lot small lot single family development.

2



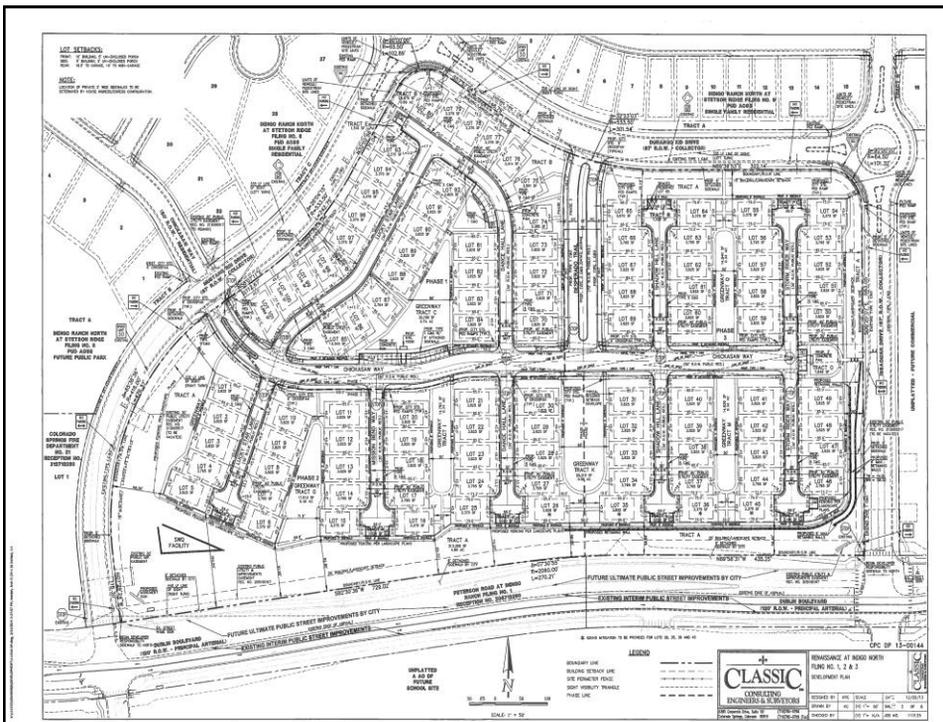


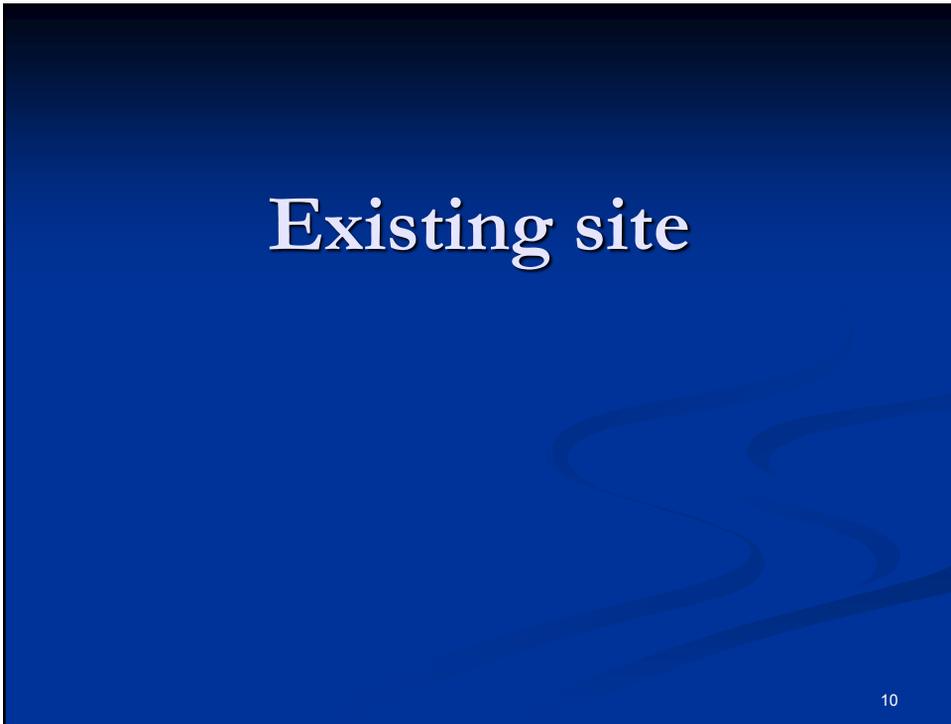
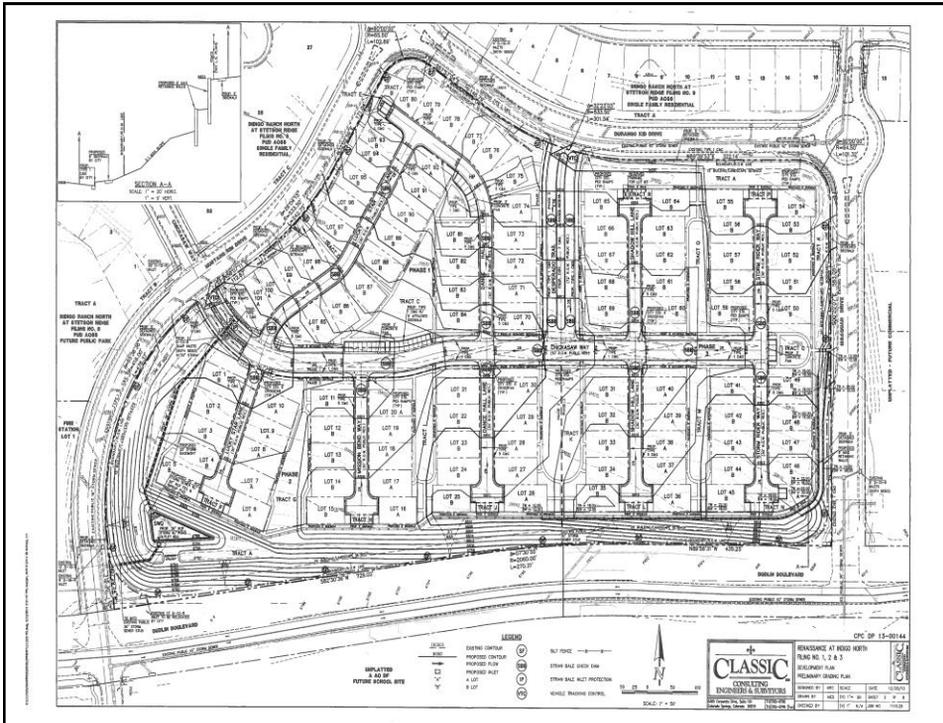


Small Lot Planned Unit Developments

Review Criteria and Guidelines


 Planning and Community Development Department
 April 23, 2009











Chaparral at Indigo Ranch

16







**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

NEW BUSINESS CALENDAR

DATE: March 20, 2014

ITEM: 6.A, 6.B

STAFF: Larry Larsen

FILE NOS.: CPC PUP 05-00264-A1MN12, CPC PUD 06-00336-A1MN12

PROJECT: Appeal of Administrative Decision: Quail Brush Creek Concept Plan and Development Plan Amendments

STAFF PRESENTATION

Mr. Larry Larsen, City Senior Planner, presented PowerPoint slides (Exhibit A). He offered his recommendation that the appeal be denied and affirm the administrative decision.

Mr. Larsen noted on typographical errors on page 171 of the agenda. Fourth paragraph under number 2 should read, *"The development plan does **not** provide for an adequate harmonious transition from the City to the rural country lifestyle."* Also, paragraph 6 under that same heading should read, *"Again, requiring the developer to modify the project to conform to rural country lifestyles or densities of the surrounding area would **not be** consistent with the Comprehensive Plan,..."*

A traffic study was not necessary because the access points changed and densities were lowered.

Commissioner Donley inquired if the street connections go east and west. Mr. Larsen stated yes, City staff requested the developer reserve potential right-of-way to make a logical connection between this development and potential development to the east.

Commissioner Walkowski inquired if Nebraska Lane will be developed at the developer's expense. Mr. Larsen stated yes.

Commissioner Walkowski inquired of the reason for transitioning along the western side and not continue larger lot sizes to the north. Mr. Larsen stated it was based upon the view of the property owners present during previous City Council hearings, and there was little discussion about northern lot transition.

Commissioner Markewich inquired of the second phase of Nebraska Lane. Mr. Larsen stated it will be a residential collector street built to City standards.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

Commissioner Markewich inquired of drainage easements through the back of homes along the southern lots connecting to Sand Creek. Mr. Larsen deferred to City Engineering and the applicant.

APPELLANT PRESENTATION

Mr. Brian Newberg was asked to serve as the neighborhood representative of Horseshoe Rancheros Estates, Rural States Roads, and Flowering Almond neighborhoods. He presented PowerPoint slides (Exhibit B).

Commissioner Phillips is now excused for rest of the meeting.

Mr. Newberg requested the 30-foot easement included in the plan in addition to the 11,000 square-foot transitions lots. He preferred no connections to the west.

APPLICANT PRESENTATION

1. Mr. William Louis, attorney with Flynn Wright and Fredman, LLC representing the applicant, presented PowerPoint slides (Exhibit C). City staff and the appellant's presentations unintentionally created the inference that this was City encroaching into the County. The reality is the County is surrounded by the City.

He introduced as Virgil Sanchez and Jeff Hodsdon with LSC.

Mr. Louis objected to the appellant's new grounds of appeal expressed today that the plan should not have been classified as a minor amendment. This information should've been included in their appeal statement. All landscape buffering measurements were approved within the original development plan and should not be changed.

Commissioner Donley requested clarification of the development plan expiration process. Mr. Wysocki stated when a project was originally approved, the City allowed four years before the expiration. In 2012, the City Code was changed to extend the expiration to six years. The Code did not address retroactive approvals. City staff determined it was subject to a four-year expiration plus one year. Code Section referenced by the appellant relates to when a formal application filed has no activity or communication with the City Planning Dept. for 180 days after submittal. To reactivate an expired development plan an amendment application is required.

Commissioner Gonzalez inquired if the original traffic study was based upon the original 330 lots. Mr. Louis replied yes.

Commissioner Walkowski inquired of the rationale to reduce the lots to 230. Mr. Louis deferred to Mr. Sanchez.

Commissioner Walkowski inquired of the previous development plan access.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

2. Mr. Virgil Sanchez, M&S Civil Consultants, stated the amendment reflects increased lot sizes with reconfiguration of lot shapes from the former John Laing “Z pattern”. The street alignment did not change, but a road was eliminated due to the larger lots and reduced density.

Commissioner Markewich inquired of the drainage area. Mr. Sanchez replied the tributary flows into Sand Creek and the existing wetlands were studied and will be preserved.

3. Mr. Terry Schooler, Woodmen Heights Metropolitan District, coordinated the original plan and PUD established on the site. During that previous process, City Planning Dept. required the Dublin North Master plan with its traffic study that encompassed Templeton Gap to Dublin and over to Woodmen. The total traffic impact was reviewed to include the subject 60 acres.
4. Mr. Jeff Hodsdon with LSC Transportation Consultants displayed and explained the traffic study prepared in 2006. Most items on the appellants list were factored within the original traffic study.

Commissioner Sparks inquired if there was any reason the access point to the west was required to meet the traffic criteria. Mr. Hodsdon replied the short-term analysis showed that even if the street connections were not made, the internal street connections can adequately accommodate the proposed traffic.

CITIZENS IN FAVOR OF APPLICANT

1. Mr. Jonathan Moore, Rivers Development, will coordinate the construction of this site and was excited about the project including the open space and Black Forest Road extension.
2. Mr. Steve Jacobs wondered if Mr. Newburg truly represented the entire sentiment of his neighbors because several Horseshoe Rancheros residents have inquired about selling their land. He is assisting the church to sell their land for this development.

CITIZENS IN OPPOSITION TO APPLICANT

1. Mr. Kirby Thompson resides on Wyoming Lane and has multiple greenhouses with a home business. He agreed with Commissioner Donley’s comments that this plan seems a bit “fishy or screwy” due to unusual access. He had concerns about traffic funneling out of Ficus and other southern streets that connect to Dublin Boulevard. He was then concerned with the existing traffic volumes on the northern streets as well. He reference existing drainage issues with Sand Creek and homes recently being flooded along Flowering Almond. He requested a more harmonious development.
2. Mr. Mark LeVake, Horseshoe Rancheros resident, stated everyone in Horseshoe Rancheros that he’s spoken with are concerned with the same issues that were presented by Mr. Newburg. He was concerned with the north access road (Nebraska Lane). There is no buffer or fence for lots

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

toward the more northern extension of Nebraska. He had safety concerns because his children play near the proposed road extension.

3. Mr. Dan Olson, Horseshoe Rancheros resident, stated the homes at the southern terminus of Horseshoe Road are newer owners and have not contacted the developer to sell their land. He had similar safety concerns of the development.
4. Mr. Phil Ciborowski, resides in the State Roads neighborhood, and stated his area is a wetlands and referenced the vast amount of drainage that flows in the area. He was concerned with the proposed east access roads toward his property.
5. Mr. Roger Haywood, property owner along Wyoming Lane, was concerned with the three western and eastern access points and suggested a right-in access off Woodmen Road to provide better access especially for emergency egress (mentioned recent fires).

APPLICANT REBUTTAL

Mr. Louis stated that drainage would've been studied during the original zoning. Once an application enters the final plat stage the drainage standards will be reviewed for compliance.

Mr. Sanchez addressed drainage issues. He stated the drainage issues are resolved with the final plat. North of Woodmen Road is Sand Creek detention pond No. 6 that will control drainage under Woodmen Road. There is a short-term solution because it is out for bid. He believes all the stories he's heard about affected properties from recent flooding because that storm exceeded 100-year storm volumes.

Commissioner Donley inquired of drainage improvements. Mr. Sanchez stated the improvements will be made within Quail Brush Creek, but regional improvements will be upstream.

STAFF REQUESTED TO SPEAK

Commissioner Shonkwiler requested to speak with Ms. Krager.

Commissioner Shonkwiler inquired of the necessity to provide for potential access. Ms. Krager stated streets outlast developments. She preferred less access points, but wanted some ability for an east-west connection. She would prefer two options open.

Commissioner Walkowski inquired of the Nebraska to Adventure Way access and felt it was not the best spot for an access point. Ms. Krager stated it wouldn't look like it does today because it will be reconstructed once Nebraska is ready for development. She is in favor of a right-in/right-out off Woodmen Road. Federal funds are still being spent on Woodmen Road which ties her hands with changes to Woodmen since the improvements were subjected to an environmental study.

CITY OF COLORADO SPRINGS PLANNING COMMISSION

RECORD-OF-DECISION

Mr. Larsen addressed the need for additional access points. He referenced sheet 2 of the concept plan notes. Roads are shown as a conceptual need for future connections. He felt this amendment is improvement compared with the original plan.

DECISION OF THE PLANNING COMMISSION

Commissioner Donley wrestled with the determination that the original plan actually expired. The reason for limitations for a set number of years is because conditions change. He felt the development plans are evolving in varying densities. It's critical to create an urban network so all aren't restricted to one direction. He was discouraged by the reduction in density and preferred higher density. He found that the plans met the review criteria and supported denial of the appeal.

Commissioner Markewich stated his drainage concerns were addressed. The neighbors who requested lower densities are getting what they asked for, in comparison to the existing approved plan which allows for vastly more homes, even though it may not be as low as desired. He supported denial of the appeal.

Commissioner Walkowski stated that as much as he would love to open the box and redesign the plan that is not within the scope of the Planning Commission. There may be some relief as future phases are reviewed by City staff. He did not believe the appellant met the review criteria and supported denial of the appeal.

Commissioner Sparks determined appeal criteria was not met and City staff reviewed plan in line with criteria. In future phases City staff should review transitions toward the north. In favor of denial of appeal.

Commissioner Shonkwiler felt this is a case of suburban densities meeting up with semi-rural areas. This is the most difficult issue as development continues. He agreed with Commissioner Donley's comments regarding lowering the density was the wrong step forward. He supported denial of the appeal, but was sympathetic to anyone dealing with suburban densities next to rural areas.

Commissioner Gonzalez stated projects as this are always difficult with different land rights, and the developer has to navigate a compromise. He felt the plan did not need to be changed, and found it met the Comprehensive Plan objectives along with the PUD review criteria. He supported denial of the appeal.

Moved by Commissioner Sparks, seconded by Commissioner Markewich, to deny the appeal for **Item No. 6.A-File No. CPC PUP 05-00264-A1MN12**, and affirm the administrative approval of the amendment to the previously approved Quail Brush Creek PUD Concept Plan, based upon the finding that the amendment complies with the PUD concept plan review criteria found in City Code Section 7.3.605 and the appeal fails to substantiate the criteria for review of an appeal of an administrative decision found in City Code Section 7.5.906.A.4. The motion carried 6-0 (Commissioner Ham absent with Commissioners Phillips and Henninger excused).

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

Moved by Commissioner Sparks, seconded by Commissioner Markewich, to deny the appeal for **Item No. 6.B-File No. CPC PUD 06-00336-A1MN12** and affirm the administrative approval of the amendment to the previously approved Quail Brush Creek PUD Development Plan, based upon the finding that the amendment complies with the PUD development plan review criteria found in City Code Section 7.3.606 and the appeal fails to substantiate the criteria for review of an appeal of an administrative decision found in City Code Section 7.5.906.A.4. The motion carried 6-0 (Commissioner Ham absent with Commissioners Phillips and Henninger excused).

March 20, 2014
Date of Decision



Edward Gonzalez, Planning Commission Chair

Appeal – Quail Brush Creek
Amendment to Development & Concept Plans

City Planning Commission
March 20, 2014

Larry Larsen, Senior Planner

1

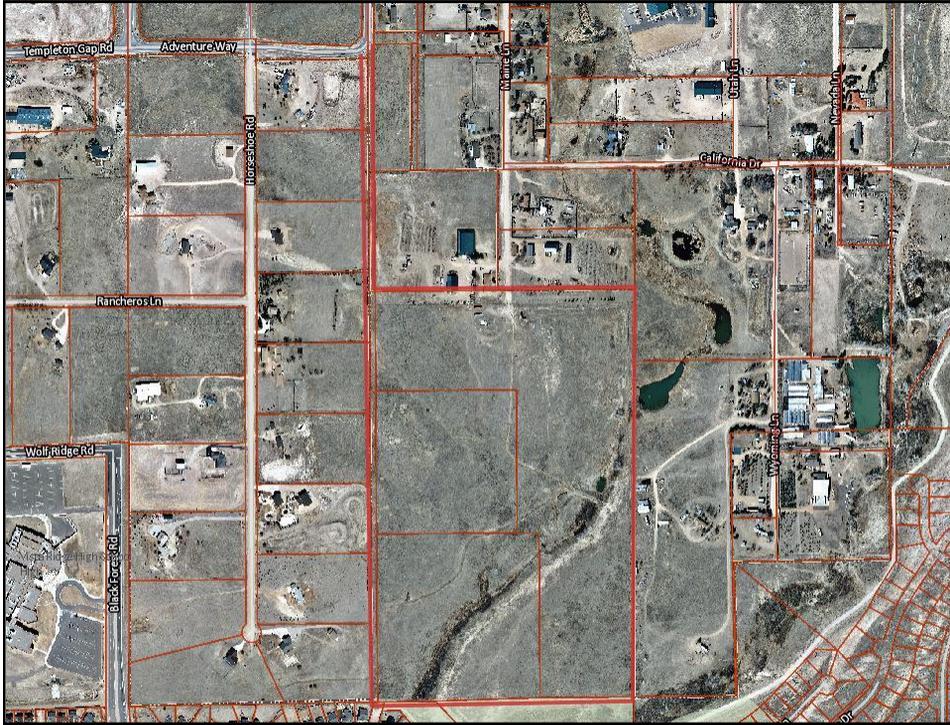
Appeal – Quail Brush Creek
Amendment to Development & Concept Plans

APPEAL OF THE ADMINISTRATIVE
APPROVAL OF A MINOR
AMENDMENTS TO THE QUAIL
BRUSH CREEK DEVELOPMENT &
CONCEPT PLANS

(CPC PUD 06-00336-A1MN12 &
CPC PUP 05-00264-A1MN12)

2

Item: 6.A, 6.B
Exhibit: A
CPC Meeting: March 20, 2014



Appeal – Quail Brush Creek Amendment to Development & Concept Plans

MINOR AMENDMENT TO THE CUMBRE VISTA DEVELOPMENT & CONCEPT PLANS:

- ✓ Revision of the phasing scheme
- ✓ Revise lot layout & decrease number of lots per new phasing
- ✓ Revise street layout

4

Item: 6.A, 6.B
Exhibit: A
CPC Meeting: March 20, 2014

Appeal – Quail Brush Creek Amendment to Development & Concept Plans

ADMINISTRATIVE APPROVAL BASED UPON FINDINGS:

- ✓ Compliance with City Comprehensive Plan;
- ✓ Compliance with the Dublin North Master Plan;
- ✓ Concept Plan Review Criteria found in City Code 7.3.605
- ✓ Development Plan Review Criteria found in City Code 7.3.606

11

Appeal – Quail Brush Creek Amendment to Development & Concept Plans

APPEAL STATEMENT: (APPELLANT'S REASONS WHY APPEAL SHOULD BE GRANTED AND APPROVAL RESCINDED)

- ✓ Decision was erroneous, unreasonable & in consistent with Comprehensive Plan & Code
- ✓ Land use & densities are not compatible with surrounding area
- ✓ Buffering & lot sizes are not consistently applied
- ✓ Traffic created cannot be supported by existing street system

12

Item: 6.A, 6.B
Exhibit: A
CPC Meeting: March 20, 2014

Appeal – Quail Brush Creek Amendment to Development & Concept Plans

APPEAL REVIEW CRITERIA: (CITY CODE SECTION 7.5.906.A.4):

- ✓ Identify explicit Code provisions in dispute;
- ✓ Show why administrative decision was incorrect:
 - Against the expressed language of the Code
 - Against the expressed intent of the Code
 - Unreasonable
 - Erroneous
 - Clearly contrary to law
- ✓ Identify the benefits and adverse impacts created by the decision

13

Appeal – Quail Brush Creek Amendment to Development & Concept Plans

FINDINGS:

- ✓ Appeal fails to substantiate the appeal review criteria
- ✓ Administrative Approval based upon findings:
 - Compliance with City Comprehensive Plan;
 - Compliance with the Dublin North Master Plan; and
 - Concept & Development Plan Review Criteria found in City Code 7.3.606 & 7.3.606

14

Appeal – Quail Brush Creek
Amendment to Development & Concept Plans

SUMMARY/RECOMMENDATION:

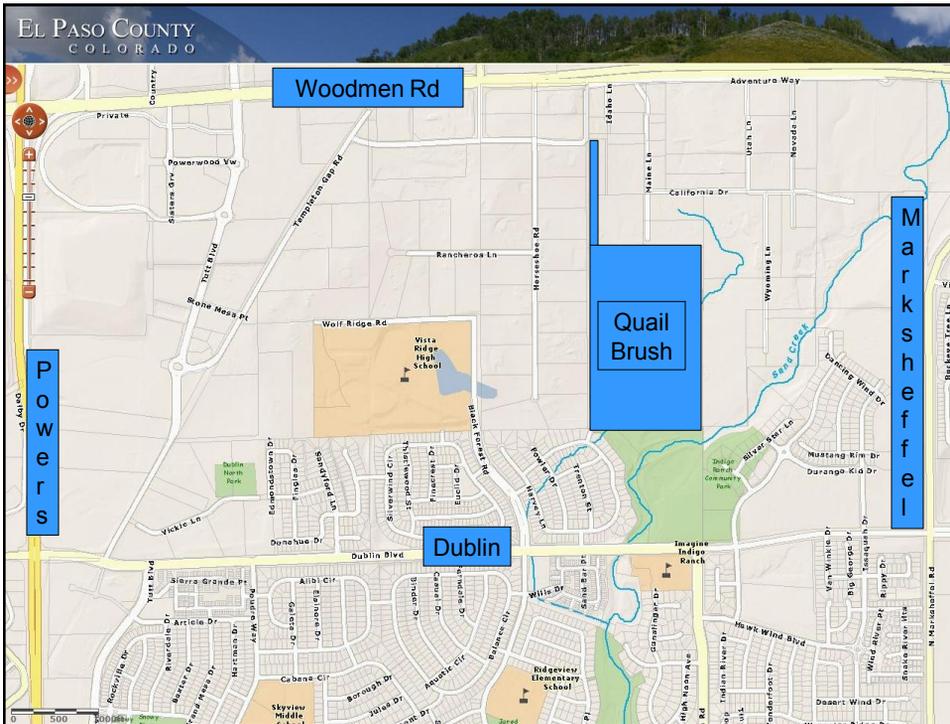
Deny the appeal and affirm the administrative decision to approve the Minor Amendments to the Quail Brush Creek Concept Plan & Development Plan.

15

Appeal – Quail Brush Creek
Amendment to Development & Concept Plans –

QUESTIONS?

16



Item: 6.A, 6.B
Exhibit: B
CPC Meeting: March 20, 2014

Who is filing the appeal?

- Three surrounding neighborhoods
 - Flowering Almond neighborhood (South)
 - Horseshoe Rancheros Estates (West)
 - Rural State Roads – Maine, Nebraska, Utah, Idaho, Nevada, Wyoming & California (North & East)

Flowering Almond Area

- Ridgeview Development Filing 26 & 27
- Approved in 2003
- 181 Single Family Homes
- Set the precedent for transition and buffering with the Horseshoe Rancheros Estates neighborhood.



Flowering Almond

- Concerns:
 - Traffic
 - Public safety
 - Density
 - Traffic Compatibility

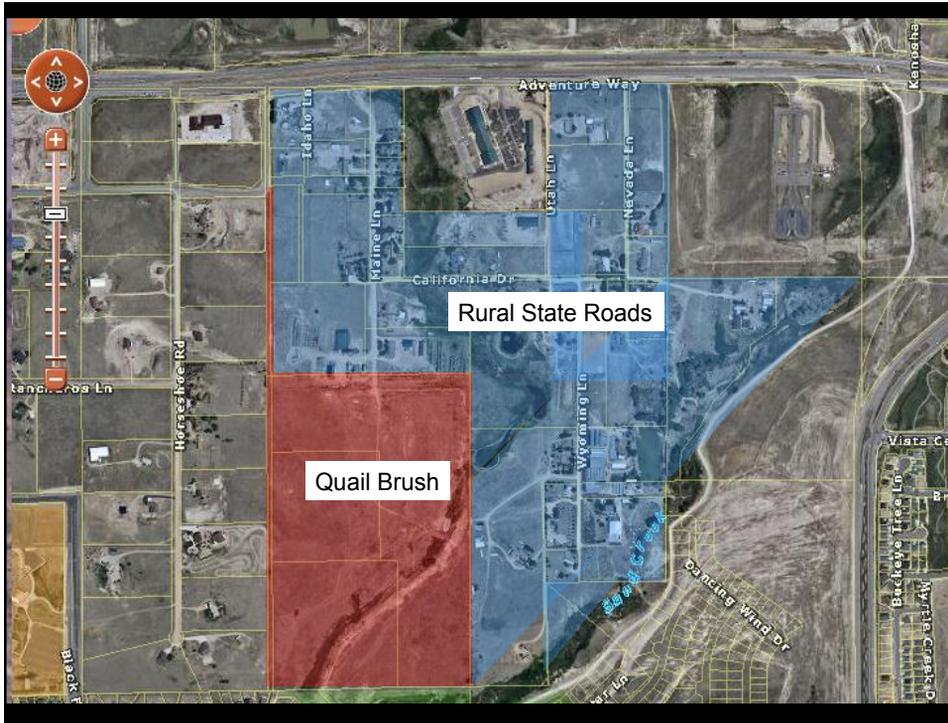
Item: 6.A, 6.B
 Exhibit: B
 CPC Meeting: March 20, 2014

Horseshoe Rancheros Estates

- Concerns are
 - Compatibility
 - Harmonious Transition
 - Density
 - Buffering
 - Traffic

Rural State Roads Area

- County
- 5++ acre rural residential home sites
- 5++ acre rural agricultural commercial home based businesses.



Rural State Roads Area

- Concerns are
 - Compatibility
 - Harmonious Transition
 - Density
 - Buffering
 - Traffic

Quail Brush Development

- Historical perspective
 - Annexed into the City in 2007 as part of the Woodmen Heights #7 annexation
 - Initial Quail Brush Creek Development Plan was approved in 2007
 - Original development plan was extended in 2011 to March 21, 2012 and expired when no building permits were issued

Quail Brush Development

- Historical perspective (continued)
 - December 2012 – 8 months after the DP expired, the City accepted applications for amendments to the approved Quail Brush Creek Concept Plan and Development Plan to reinstate the plans and propose new modifications
 - January 2014 – Amendments approved
 - February 2014 – Appeal timely filed

Quail Brush Development

- Four phases – 230 Lots total
- Phase 1 – 49 lots, only 25 permits until Phase 2 DP approved & North access.
- Phase 2 – 47 lots
- Phase 3 – 73 lots
- Phase 4 – 61 lots

Appeal Requirements

1. Identify the explicit ordinance provisions which are in dispute
2. Show the administrative decision is incorrect because of one of the following:
 - c. unreasonable
 - d. it is erroneous
3. Identify benefits and averse impacts

Appeal Considerations

- Begin with the End in Mind
 - What is the impact of this **entire** development project.
 - Amendment to the Approved
 - Quail Brush Creek Concept Plan
 - Quail Brush Creek Phase 1 PUD Dev Plan
 - Quail Brush Creek Filing # 1 Subdivision Plat

Review Criteria

- Are guidelines or a standard of evaluation
- By their nature they are subject to interpretation
- Competing values exist between the Developer, the Neighbors and the City
- We believe there were errors made and interpretations which led to decisions which are not reasonable.

Appeal – Error in City Process

- Error in acceptance of submittals of Amendments to the Approved Quail Brush Creek Concept and Development Plan by the City to reinstate the plans 8 months after they had expired
- Appellant believes this should have started the development plan process over and would have necessitated re-filing and new traffic studies.

Basis of Appeal

- Unreasonable application of established review criteria
- 1.) The land use and proposed densities are not compatible with the surrounding area. [Section 7.3.605 E, F, H, I and 7.3.606 C, F]

Basis of Appeal

- 2.) The development plan does not provide for an adequate harmonious transition from the City to the rural county lifestyle. [Section 7.3.605 E, F, H, I and 7.3.606 C, F]

Basis of Appeal

- 3.) The buffering (including fences and sound barriers) and lot sizes bordering the rural areas is inconsistently applied. [Section 7.3.605 E, F, H, I and 7.3.606 C, F]

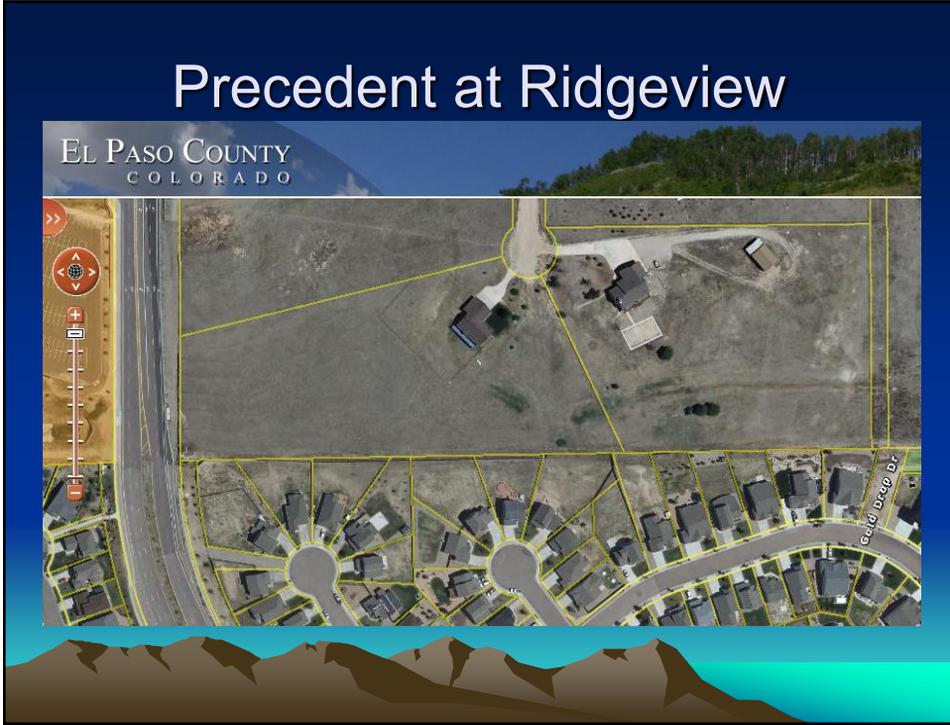
Compatibility & Density

- 230 Residential Homes surrounded on 3 sides by Rural Residences presents an obvious issue of compatibility.
- The neighbors would like to preserve as much of our rural lifestyle as is possible.
- Lower density, larger lots and better buffering help to mitigate compatibility issues.

Lot Sizes in Quail Brush

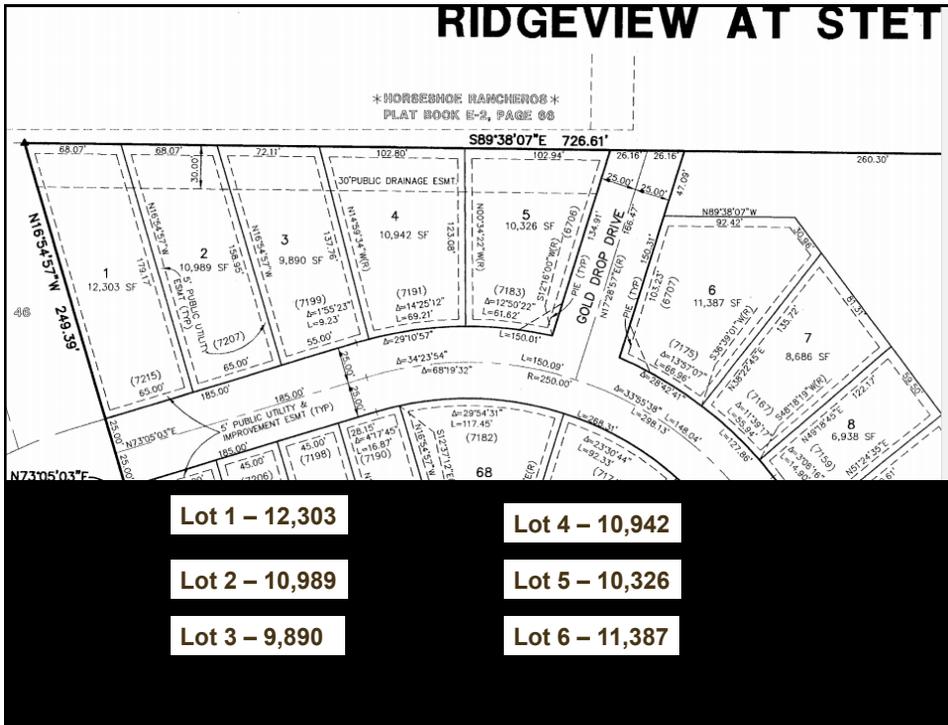
- Planned lot sizes bordering Horseshoe are mostly 8,500 plus 30' landscape buffer or approximately 11,000 total.
- Planned lot sizes bordering Rural States Road properties to the North between West border and Maine Lane average 9,164 with no landscape buffer shown.
- We do not have information on the rest of the property.

Precedent at Ridgeview



Lot 97 – 19,965	Lot 53 – 16,957
Lot 96 – 13,293	Lot 52 – 12,020
Lot 95 – 13,505	Lot 51 – 16,976
Lot 94 – 15,305	Lot 46 – 13,652

Item: 6.A, 6.B
 Exhibit: B
 CPC Meeting: March 20, 2014



Lot Sizes

- Ridgeview Development to the South sets the precedent for Harmonious Transition and Buffering – average lot size bordering Horseshoe properties is 13,394 which includes the buffer. (or 11,000 plus 30' landscape buffer)
- City Council note we believe was not properly interpreted – should be 11,000 plus 30' landscape buffer.

Lot Sizes

- We believe this should be consistently applied at Quail Brush to all areas where the development is adjacent to rural properties.

Indigo Ranch at Stetson Ridge



Basis of Appeal

- 4.) The traffic created by such densities cannot be safely supported by the proposed and existing road system. [Section 7.3.605 J, K, L, M, P and 7.3.606 D, E]

Traffic Study

- Draft study used was completed May 15, 2006
- Draft counts in the study were conducted in August & September 2005
- Quail Brush Creek subdivision expected to generate 2,967 vehicle trips per day based on 310 dwelling units and 2,201 based on 230 dwelling units.

Traffic Study

- Short Term Site Generated Traffic reveals 860 cars exiting Gold Drop and 1,340 exiting to the North. (2,200 total for 230 DU's)
- All of the schools serving Quail Brush are to the South – thru Flowering Almond.
- Building permit limitation confirms Flowering Almond cannot support the traffic.

Traffic Study

- Planner erred in not requiring a new traffic study.
- There has been a substantial change in the facts and circumstances of traffic patterns in the surrounding area.

Change in Facts & Circumstances

- St Francis Hospital – 2008
- Vista Ridge High School – 2008
- Powers/Woodmen overpass – 2008
- Woodmen Road expansion and extension project – 2008-2010
- Powers extension to Highway 83
- Significant growth of businesses along the Powers Corridor

Change in Facts & Circumstances

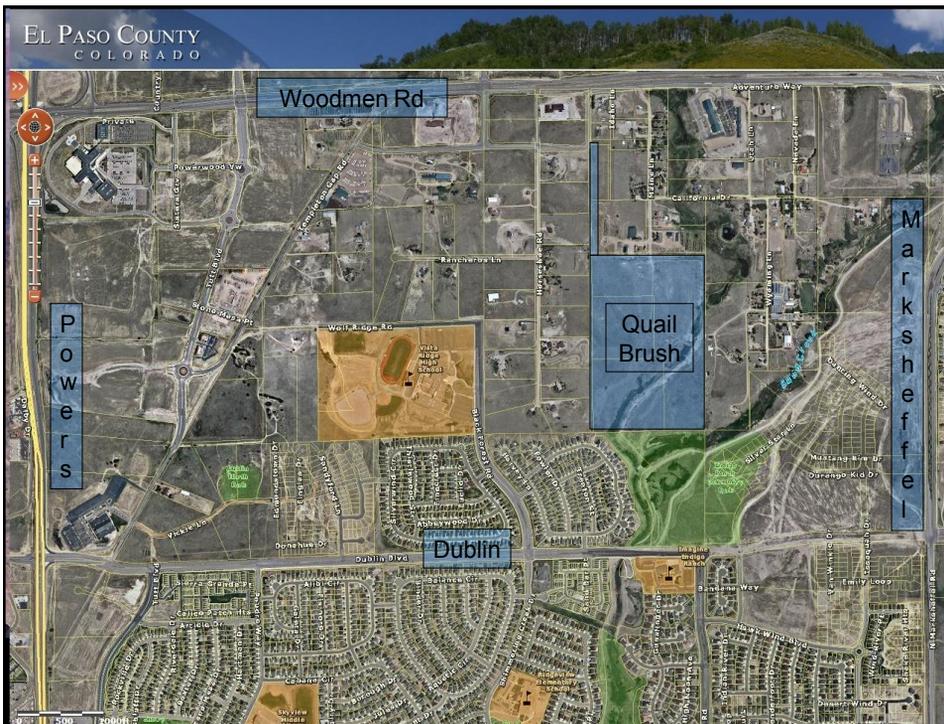
- Growth of Mountain Springs Church
- Population growth in an around the area
- Extension of Dublin Blvd - 2013
- Dublin Fire Station - 2013
- Imagine Indigo Ranch – 2008
- We believe there have been enough substantive changes to necessitate a new traffic study.



Gold Drop Drive – looking N



Gold Drop Drive – looking S



Item: 6.A, 6.B
Exhibit: B
CPC Meeting: March 20, 2014

T Intersection–Adventure Way

- Concerned about the volume of traffic
- Concerned about sight lines
- Will this be a three way stop?
- Concerned about safety when exiting Horseshoe Road – would like to see a four way stop.



Looking East from Horseshoe



Looking South to Quail Brush



Looking South to Quail Brush



T Intersection—Adventure Way



Appeal Request

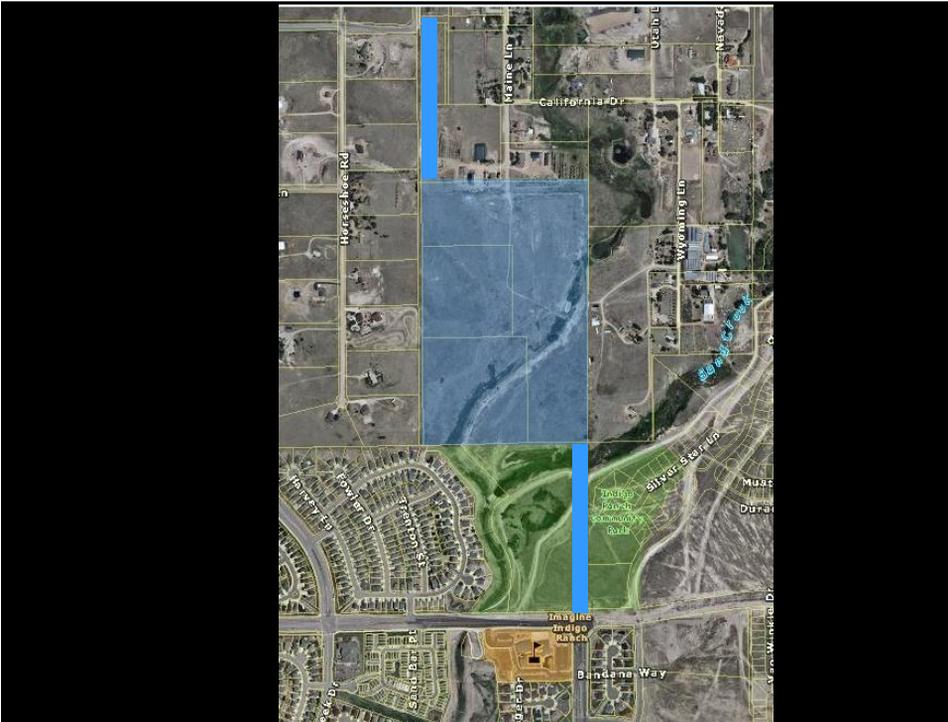
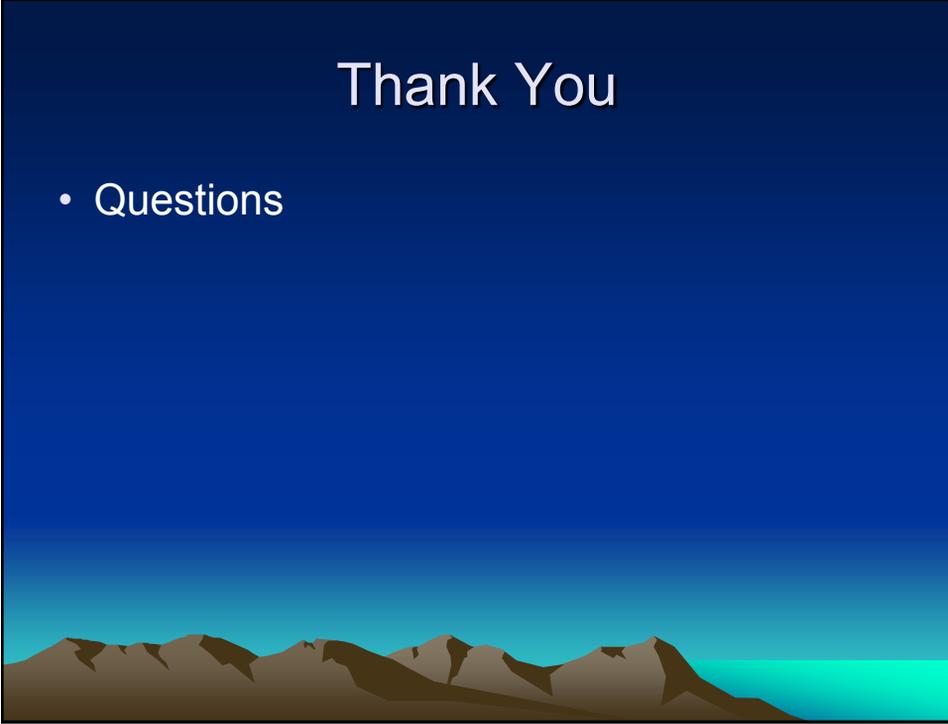
- Approve our appeal
- Require a new traffic study
- Reduce density to better accommodate traffic and for better transition and compatibility with Rural neighborhoods – a market exists for larger lot sizes as evidence by Indigo Ranch at Stetson Ridge

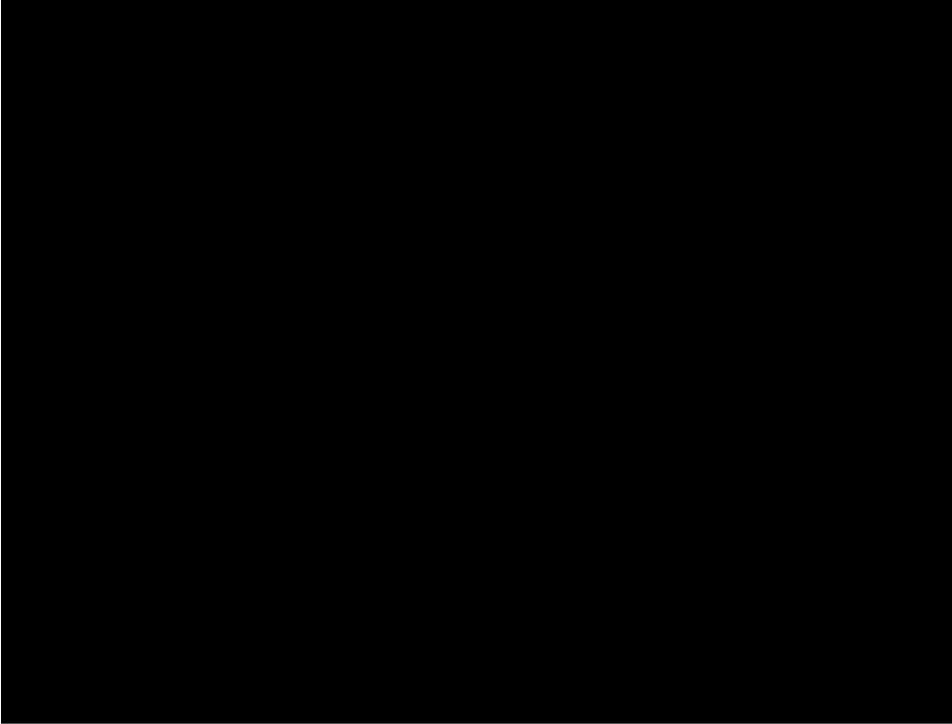
Appeal Request

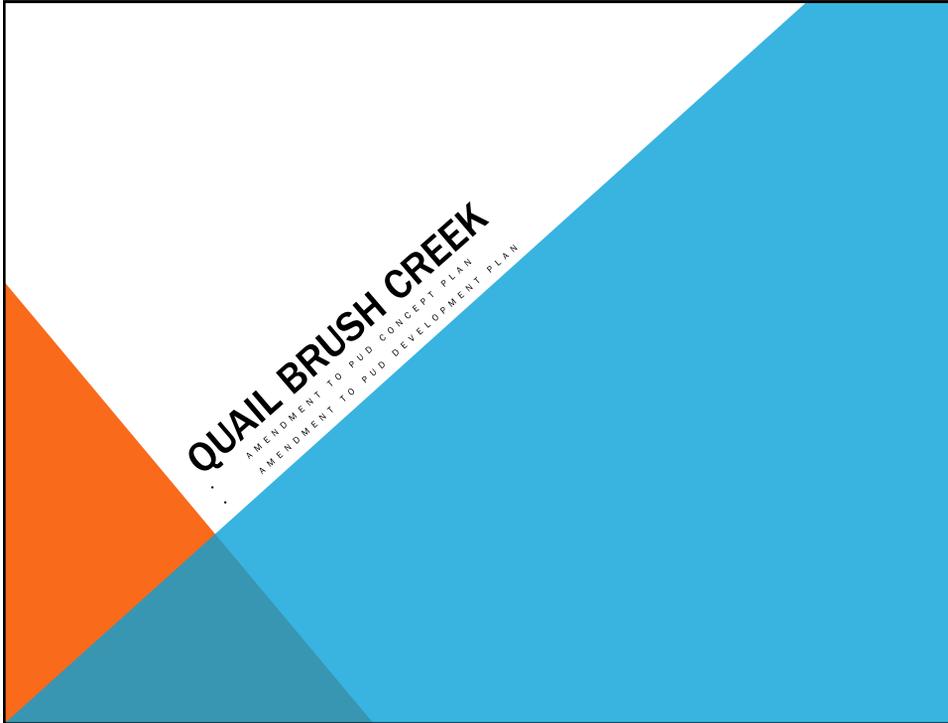
- Increase lot sizes and buffering to be consistent on all areas that border rural areas (11,000 plus a 30' landscape buffer)
- The neighborhoods are willing to work with the City and Developer to achieve a solution that benefits everyone

Thank You

- Questions







PROJECT TEAM ON TECHNICAL ISSUES

William Louis, Attorney for Project

Virgil Sanchez, PE

- Civil engineer for Project

- Planner for Project

Jeff Hodsdon, PE

- Traffic engineer for Project

Steven Jacobs, Member, IQ Investors, LLC

- Developer of the Project



TECHNICAL WITNESSES FOR REBUTTAL, IF NEEDED

Terry Schooler, PE

Marty Chase, Real Estate Agent

ADDITIONAL TECHNICAL INPUT – CITY ENGINEERING

Project has requested City have available Kathleen Krager, PE

Traffic engineer employed by City Engineering

Land Planning Review referred this matter to Ms. Krager

Her opinion new traffic study was not required

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

MEMBERS OF CHURCH OF THE NAZARENE, COLORADO SPRINGS

Purchased property several years ago as site for future sanctuary

Purpose was expansion of ministry, not real estate investment

Church decided to expand campus at existing location, off Fountain Blvd near Academy

In 2006 timeframe put property under contract with John Laing Homes, the original developer of site

John Laing Homes received approval for 330 homes, 100 less than being requested today

Church pleased current proposed development will be of less impact on neighbors than as proposed by John Laing Homes

TO GO FORWARD LET'S LOOK AT THE PAST

2007 – Annexed into City of Colorado Springs

2007 – Zoned PUD

Discretionary land use processes

Open and public hearings

Well attended and project actively opposed

City Council and Planning Commission thoroughly analyzed Project for compliance with City Code and City Comprehensive Plan

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

LET'S NOT LOSE SIGHT OF THE FOREST THROUGH THE TREES

2007 – John Laing, national home builder
 Approval for 330 single family homes on site
 Section 7.5.504 (C), 6-year expiration
 Applicant successor to John Laing
 As a matter of right could have recorded final plats for 330 homes through most of 2013
 Nothing neighbors could have done about it
 No notice to neighbors
 Would have learned when dirt movers showed up

SO HOW DID WE GET HERE TODAY?

Applicant determined not to follow the approved John Laing Homes plan
 Business decision that the John Laing Homes model of higher density subdivision would not work
 Applicant proposed 33% less density than John Laing Homes business model
 Increases phases from three to four – putting less density into production by stretching it out into four phases –
 Increased phasing reduces impact on area
 Came in to see Land Use Review staff – “how do we get this land into production?”

Item: 6.A, 6.B
 Exhibit: C
 CPC Meeting: March 20, 2014

CITY CODE PROVIDES THE ANSWER

7.3.608 – PUD Concept Plan and PUD Development Plan Amendments

Makes Sense, Right - Approved John Laing Homes plan and amending it

First part asks – is it a change in PUD land use types?

No, because all single family residential

Second part says – all other amendments go through process in Section 7.5.503.C

APPLICANT'S REPRESENTATIVE MET WITH CITY DEVELOPMENT REVIEW STAFF

Met with Staff in early 2012

Staff – Tell us what you are going to require Applicant to do to get this land into production

Stated another way – Applicant just doesn't submit arbitrary material and it ends up in front of you

Staff tells Applicant this is what you need to submit and then we review to make sure it complies with the requirements of the Code

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

APPLICANT SUBMITTED

Once City staff determined what Applicant submitted was in compliance with the Code, administratively approved it

Gave notice to neighbors of administrative approval

City Code gave neighbors 10-days to appeal or City Staff's determination that plan in compliance with Code would have been final

Really about is determining whether Staff erred in interpreting the Code

NEIGHBORS RECEIVE NOTICE

- Understandable neighbors think, "okay, we get another bite at the apple"
- "We didn't prevail in 2007, so maybe this time things will turn out differently"
- It was controversial in 2007 and heavily opposed, so it is perfectly understandable neighbors want another day "in court"
- Just because they receive notice, doesn't mean the neighbors gets to rehash 2007
- Point of this presentation is that as a matter of law the scope of the neighbors' appeal rights are extremely limited.

Item: 6.A, 6.B
Exhibit: C
CPC Meeting: March 20, 2014

CITY CODE, SECTION 7.5.503.C

Three choices on how to classify – minor, major or minor modification

Eliminate minor modification immediately because no public process required

Minor vs. Major

SECTION 7.5.503.C MAJOR AMENDMENTS

Major Amendments:

- a. Creation of new freestanding buildings;
- b. An increase in gross floor area of the established square footage by fifteen percent (15%) or more;
- c. Major relocation of buildings, lot lines, and/or easements;
- d. Relocation of points of access that are not clear improvements;
- e. Changes to established land uses;
- f. Increase of established building height;
- g. Decrease of required perimeter landscape or building setbacks; and
- h. Renewal of an expired development plan in which major design changes are necessary to comply with current development standards.

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

SECTION 7.5.503.C

Minor Amendments:

- a. Additions to an existing structure which increases the gross floor area by less than fifteen percent (15%);
- b. Minor relocation or reorientation of buildings, lot lines and/or easements;
- c. Relocation of points of access which will improve traffic circulation on adjacent public rights of way as determined by the Traffic Engineer;
- d. Relocation of Internal access and circulation;
- e. Relocation or rearrangement of parking areas;
- f. Reduction of established square footage and/or density limitations;
- g. Increase of landscape or building setbacks; and
- h. Renewal of an expired development plan for which no major design changes to comply with current development standards are necessary.

TYING IT ALL TOGETHER

City Code adopted by City Council, elected representatives of the People
 City Code tells City Land Development Review the extent of its authority
 Very clearly tells staff – “minor amendment”
 So far no question staff has correctly done their job
 Density reduction and phasing

Item: 6.A, 6.B
Exhibit: C
CPC Meeting: March 20, 2014

APPEAL STANDARDS – DENSITY REDUCTION AND PHASING

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.

LOOK AT STATEMENT OF APPEAL

Page 181 staff report

“administrative decision is erroneous, unreasonable and inconsistent with the goals and objectives provided in the Comprehensive Plan and with the Review Criteria for PUD Concept and Development Plans as provided in the City Code 7.3.605 and 7.3.606

Item: 6.A, 6.B
Exhibit: C
CPC Meeting: March 20, 2014

WHAT DO WE LEARN FROM LOOKING AT STATEMENT OF APPEAL

Not alleging against express provisions of the zoning ordinance

Not alleging against the express intent of the zoning ordinance

Not alleging clearly contrary to law

Alleging "erroneous"

Alleging "unreasonable"

Alleging "inconsistent"

FRAME THE APPEAL IN MORE DETAIL

Quickly dispose of "inconsistent" because not a ground of appeal

Issue becomes whether Development Review Staff acted "erroneously" or "unreasonably" in analyzing Sections 7.3.605 and 606

In the context of reducing the density

In the context of revised phasing plan

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

STATED ANOTHER WAY

Did City Staff act erroneously or unreasonably in applying the criteria set forth in Sections 7.3.605 and 606 to the Applicant's request to reduce the density?

Did City staff act erroneously or unreasonably in applying the criteria set forth in Section 7.3.605 and 606 to the Applicant's request to increase the phasing from three phases to four phases, thereby reducing the velocity of new home construction than allowed in the original, approved John Laing Homes plan?

LET'S SPOT CHECK THE CRITERIA

Open to pages 181 and 182 staff report

Neighbors have set out the criteria they would like you to apply

Let's apply line by line in the context of phasing and density reduction

See Code is designed to approve minor amendments as a matter of law

Not designed to let neighbors in opposition get another shot at the apple

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

AS MATTER OF LAW DON'T EVEN REACH THE NEIGHBOR REQUESTS

11,000 square foot lot buffering to the north and east

- Not required in 2007
- No nexus to phasing or density reduction

Fencing and Sound Barriers

- Not required in 2007
- No nexus to phasing or density reduction

NEIGHBORS' TRAFFIC STUDY REQUEST

Give the neighbors one here

Not compromising position that as a matter of law lose on this issue

If any argument they raise is worthy of more than consideration, it's this one – public safety

Mere lay opinion that traffic study out of date

Mr. Hodsdon's traffic study from 2006-2007 timeframe projected to the year 2030

Done at time before the Great Recession

Everyone predicted there would be no end in sight to development in the Springs

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

DEVELOPMENT REVIEW REFERRED TRAFFIC ISSUE TO CITY ENGINEERING

City Engineering

Traffic engineer, Kathleen Krager

Informed Development Review that updated traffic study not required

ISSUE IS NOT WHY WASN'T AN UPDATED STUDY REQUIRED

Real issue is under what circumstances does the Code give authority to Staff to
require an updated study

Code is silent on both issues

Know from experience that Staff has broad discretion when to require or when not to
require a traffic study

Unless find staff acted arbitrarily and capriciously, then should not substitute your
judgment for professionals charged with duty to protect public safety

Item: 6.A, 6.B

Exhibit: C

CPC Meeting: March 20, 2014

DON'T TAKE MY WORD FOR IT – LOOK AT STAFF REPORT

Pages 170 -175 Staff report

Staff provides detailed and point-by-point analysis of the decisions they made in this matter



THE END

Questions?

Turn over to Mr. Sanchez and Mr. Hodsdon



Item: 6.A, 6.B
Exhibit: C
CPC Meeting: March 20, 2014

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION**

NEW BUSINESS CALENDAR

DATE: March 20, 2014

ITEM: 7.A-7.C

STAFF: Larry Larsen

FILE NOS.: CPC A 13-00111, CPC MP 13-00131, CPC ZC 13-00130

PROJECT: Saddletree Annexation and The Ridge at Cumbre Vista Master Plan

Commissioner Henninger rejoined the meeting.

STAFF PRESENTATION

Mr. Larry Larsen, City Senior Planner, presented PowerPoint slides (Exhibit A). He offered his recommendation to approve the applications.

Commissioner Markewich inquired of the existing structures on the site. Mr. Larsen stated those will be removed.

APPLICANT PRESENTATION

Mr. Jonathan Moore, Rivers Development, stated he's been coordinating with adjacent property owners regarding sanitary sewer lines and drainage. He clarified that the Cumbre Vista easement does not affect this site.

CITIZENS IN FAVOR/OPPOSITION

None

APPLICANT REBUTTAL

None

STAFF REQUESTED TO SPEAK

None

DECISION OF THE PLANNING COMMISSION

Commissioner Donley stated these applications meet the review criteria.

Commissioner Gonzalez stated the applications were in conformance with the Comprehensive Plan as well.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

Moved by Commissioner Walkowski, seconded by Commissioner Henninger, to approve **Item 7.A-File No. CPC A 13-00111**, the Saddletree Village Annexation, based upon the finding that the annexation complies with the findings of City Code Section 7.6.203, subject to the following conditions and technical and/or informational modifications:

Technical Modifications:

1. Prior to requesting the City Council to schedule their public hearing, the draft annexation agreement shall be approved by the applicant, Land Use Review, Engineering Development & Stormwater Review, Traffic Engineering, and City Utilities.
2. Prior to requesting the City Council to schedule their public hearing, City Budget staff must prepare the required fiscal impact analysis.
3. Provide Engineering Development & Stormwater Review's approval of the Master Development Drainage Plan (MDDP).
4. Provide the Bureau of Reclamation's approval for inclusion into the Southeastern Colorado Water Conservancy District.
5. Provide City Utilities approval and execute a Special Warranty Deed transferring water rights to the City (which will require the Owner to obtain an inventory of the Owner's water rights appropriations for the property) prior to recording.

The motion carried 7-0 (Commissioner Ham absent and Commissioner Phillips excused).

Moved by Commissioner Walkowski, seconded by Commissioner Henninger, to approve **Item 7.B-File No. CPC MP 13-00131**, the Ridge at Cumbre Vista Master Plan based upon the finding that the plan complies with the review criteria of City Code Section 7.5.408, subject to the following conditions and technical and/or informational modifications:

Technical Modifications:

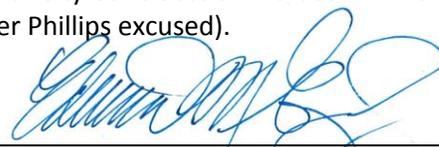
1. Provide City Utilities' approval of the Master Plan's Utility Plan and wastewater facilities report.
2. On Sheet 1, under Site Data – Land Use, remove the existing zoning, it is not applicable.
3. On Sheet 1, show the zone districts and existing land uses on all adjacent properties. Remove the City or County designation, platting and ownership information.
4. On Sheet 1, under notes, Note #5, add "...and within the inclusion area of the Woodmen Heights Metro District".
5. On Sheet 1, under notes, Note #2 add, " ... adjacent property owners".

The motion carried 7-0 (Commissioner Ham absent and Commissioner Phillips excused).

Moved by Commissioner Walkowski, seconded by Commissioner Henninger, to approve **Item 7.C-File No. CPC ZC 13-00130**, the establishment of the A/AO (Agricultural zone with Airport Overlay), based upon the finding that it complies with the review criteria of City Code Section 7.5.603.B. The motion carried 7-0 (Commissioner Ham absent and Commissioner Phillips excused).

March 20, 2014

Date of Decision



Edward Gonzalez, Planning Commission Chair

Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

City Planning Commission
March 20, 2014

Larry Larsen, Senior Planner

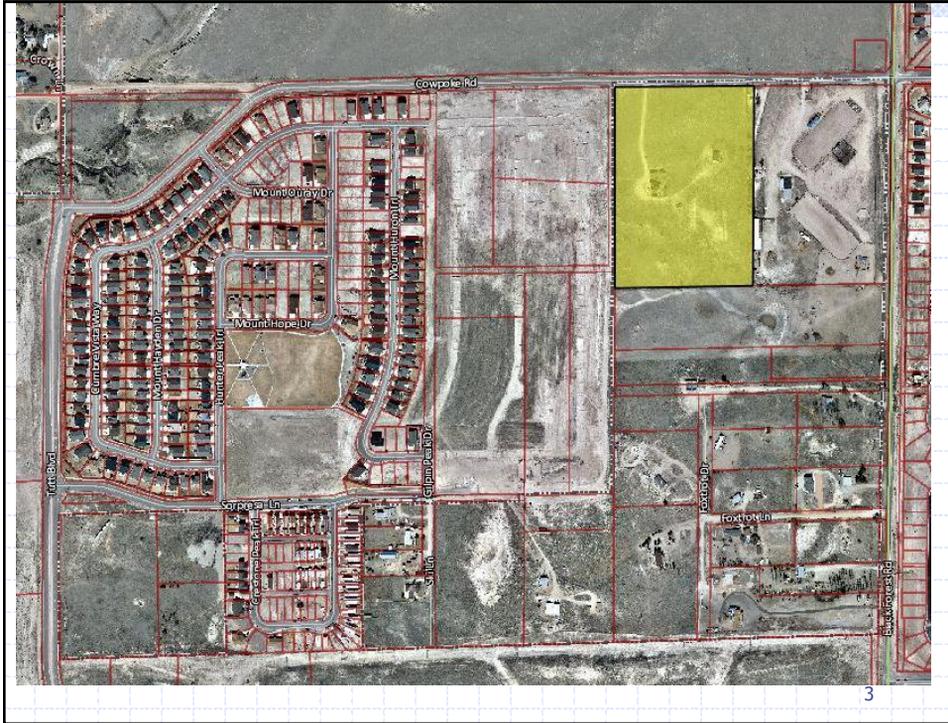
1

Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

- ✓ Saddletree Village Annexation (CPC A 13-00111)
- ✓ Ridge at Cumbre Vista Master Plan (CPC MP 13-00131)
- ✓ Ridge at Cumbre Vista Establishment of Zoning to "A/AO" Agricultural with Airport Overlay (CPC ZC 13-00130)

2

Items: 7.A, 7.B
Exhibit: A
CPC Meeting: March 20, 2014



Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

ANNEXATION AGREEMENT:

- ✓ Land Use per Master Plan
- ✓ Public Facilities:
 - ✓ Metro Districts
 - ✓ Streets
 - ✓ Drainage
 - ✓ Parks & Schools
 - ✓ Fire & Police
- ✓ Utilities & Water Rights

4

Items: 7.A, 7.B
Exhibit: A
CPC Meeting: March 20, 2014

Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

ZONE DISTRICT DETERMINATION:

“A/AO” Agricultural with Airport Overlay

7

Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

DESIGN & DEVELOPMENT ISSUES: None

8

Items: 7.A, 7.B
Exhibit: A
CPC Meeting: March 20, 2014

Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

FINDINGS:

- Compliance with City Comprehensive Plan;
- Compliance with the City Annexation Plan
- Compliance with the Ridge at Cumbre Vista Master Plan, as proposed; and
- Compliance with the zone district establishment review criteria found in City Code section 7.5.603.B

9

Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

SUMMARY/RECOMMENDATION:

Approve the Saddletree Village Annexation;
Approve the Ridge at Cumbre Vista Master Plan; and
Zone Establishment to "A/AO" Agricultural with Airport Overlay

10

Items: 7.A, 7.B
Exhibit: A
CPC Meeting: March 20, 2014

Saddletree Village Annexation & The Ridge at Cumbre Vista Master Plan

QUESTIONS?

11