

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

THURSDAY, FEBRUARY 20, 2014

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

**CHAIR GONZALEZ CALLED THE MEETING TO ORDER AT 8:30 A.M.
THE MEETING ADJOURNED AT 2:30 P.M.**

PRESENT:

Donley
Gonzalez
Ham
Henninger
Markewich
Phillips
Shonkwiler
Sparks

ABSENT:

Walkowski

ALSO IN ATTENDANCE:

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

RECORD OF DECISION

Moved by Commissioner Markewich, seconded by Commissioner Henninger, to approve the January 16, 2014 Record of Decision (Minutes). Motion carried 7-0 (Commissioner Walkowski absent and Commissioner Ham abstained due to absence during the January meeting).

COMMUNICATIONS

None

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CONSENT CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM: A CPC CU 13-00134 (Quasi-Judicial)</p> <p>PARCEL NO.: 6327209031</p> <p>PLANNER: Lonna Thelen</p>	<p>Request by NES Inc. on behalf of Front Row Properties LLC for A conditional use to allow a fast food restaurant in an OC (Office Complex) zone district located at 3230 Austin Bluffs Parkway, contains 1.57 acres and is zoned OC (Office Complex).</p>	4
<p>ITEM: B.1 CPC ZC 13-00122</p> <p>ITEM: B.2 CPC PUD 06-00108-A5MJ13 (Quasi-Judicial)</p> <p>PARCEL NOS.: 5307002005, 5307002014, 5307002018, & 5307002020</p> <p>PLANNER: Larry Larsen</p>	<p>Request by Guman and Associates on behalf of Apaloosa Investments, LLC for the following development applications:</p> <ol style="list-style-type: none"> 1. A change of zoning from Agricultural with Airport Overlay (A/AO) to Planned Unit Development with Airport Overlay (PUD/AO). This would provide for single-family detached residential use with a maximum density of 5.86 dwelling units per acre and maximum building height of 30 feet. 2. A major amendment to the approved Dublin North Development Plan. This application would allow for an additional 23 lots and new City streets. <p>The property is located north of the Dublin Boulevard and Sandy Ford Lane intersection and it consists of 47 acres.</p>	6
<p>ITEM: C CPC CU 13-00110 (Quasi-Judicial)</p> <p>PARCEL NO.: 6418111056</p> <p>PLANNER: Ryan Tefertiller</p>	<p>Request by Dean Mabe on behalf of Dianna Sanchez for approval of the 550 E Kiowa St. conditional use development plan to allow the property to be used for auto repair. The plan illustrates the use of the existing building for auto repair, and the construction of a 190 square-foot attached lean-to and a 208 square-foot detached shed. The property is located at 550 E. Kiowa St., is roughly 0.78 acre, is zoned C6/SS (General Business with the Streamside Overlay Zone) and is located between E. Kiowa St. and E. Bijou St. just west of N. El Paso St.</p>	7

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UNFINISHED BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
ITEM NO.: 4 CPC AP 14-00002 (Quasi-Judicial) PARCEL NO.: 6418119015 PLANNER: Peter Wysocki	<i>(Postponed from the January 16 meeting)</i> An appeal by Studio A 64 LLC and K.C. Stark of an administrative determination that a marijuana smoking facility is not a permissible land use within the Form-Based Zoning. The subject property is located at 332 East Colorado Avenue.	8

NEW BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
ITEM NO.: 5 CPC DP 05-00092-A4MN13 (Quasi-Judicial) PARCEL NO.: 5306000007 PLANNER: Larry Larsen	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.	20
ITEM NO.: 6 CPC UV 13-00129 (Quasi-Judicial) PARCEL NO.: 7412415003 PLANNER: Mike Schultz	Request by Oliver E. Watts Consulting Engineer, Inc. on behalf of the Helen Collier Trust for a Use Variance to allow a triplex in an R-2 (Two-Family Residential) Zone District. The property consists of 0.17 acre and is located at 623 N. Spruce Street.	30
Added Agenda Item	Revisions to the Planning Commission Rules of Procedure	42

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CONSENT CALENDAR

DATE: February 20, 2014

ITEM: A

STAFF: Lonna Thelen

FILE NOS.: CPC CU 13-00134

PROJECT: Austin Meadows Business Center

DECISION OF THE PLANNING COMMISSION

Moved by Commissioner Ham, seconded by Commissioner Phillips, to approve **Item A-File No. CPC CU 13-00134**, the conditional use for Austin Meadows Business Center, based upon the finding that the conditional use complies with the review criteria in City Code Section 7.5.704 and 7.5.502.E, and is subject to compliance with the following technical and/or informational plan modifications:

Technical and Informational Modifications to the Conditional Use:

1. Under building use in the site data change "Lot 2 Site Down Restaurant" to "Lot 2 Sit Down Restaurant".
2. Label all four elevations of the trash enclosure with north, south, east or west.
3. Call out the light fixtures on the building as full cut-off.
4. Reception numbers need to be included on the plan for existing public easements. Also, label the proposed public easement for the new onsite mains.
5. All electric and gas lines need to be shown and labeled on the plan. Please add and label the missing items, including showing/labeling the two onsite transformers (one is shown), two high pressure gas mains along Austin Bluffs and north of existing public wastewater main, one gas distribution main along Austin Bluffs and north of existing public wastewater main. There is a UG and UE labeled but staff is not sure which of these listed relates to the UG and UE.
6. The grease interceptor for lot 2 is shown on the water service line. Please move to wastewater service line. Also, show domestic wastewater services coming out of the buildings that connect to the wastewater service line after the grease interceptor. Two lines out of each building are needed to separate the domestic waste from the waste that needs to go to the interceptor. Please correct on DP.

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7. Utilities were added to the Landscape Plan; however, the additional utilities being requested above are also need to be added to the Landscape Plan. Several of the proposed trees need to be moved so that they are not within 15 feet from the existing or proposed public utility mains. Also, trees must not be located directly over or within 6 feet of any underground gas or electric distribution facilities and shall not violate any provision of the National Electric Safety Code (NESC) or any applicable Natural Gas Codes or Colorado Springs Utilities' policies, which require a minimum clearance of 10 feet from gas mains rated at 150 psi. Correct the Landscape Plan to ensure all separation criteria are met for gas, electric, water and wastewater.

Motion carried 8-0 (Commissioner Walkowski absent).

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Edward Gonzalez, Planning Commission Chair

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CONSENT CALENDAR

DATE: February 20, 2014

ITEM: B.1, B.2

STAFF: Larry Larsen

FILE NOS.: CPC ZC 13-00122, CPC PUD 06-00108-A5MJ13

PROJECT: Dublin North Phase 6

DECISION OF THE PLANNING COMMISSION

Moved by Commissioner Ham, seconded by Commissioner Phillips, to approve **Item B.1-File No. CPC ZC 13-00122**, the zone change to PUD/AO (Planned Unit Development: Detached Single-Family Residential, density 5.66 dwelling units per acre, maximum building height of 30 feet, with Airport Overlay), based upon the finding that the change complies with the zone change criteria found in City Code Section 7.5.603.B. and the PUD establishment criteria found in City Code Section 7.3.603. Motion carried 8-0 (Commissioner Walkowski absent).

Moved by Commissioner Ham, seconded by Commissioner Phillips, to approve **Item B.2-File No. CPC PUD 06-00108-A5MJ13**, the Dublin North Phase 6 PUD Development Plan Amendment based upon the finding that the plan complies with the PUD development plan review criteria in City Code Section 7.3.606. Motion carried 8-0 (Commissioner Walkowski absent).

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Edward Gonzalez, Planning Commission Chair

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CONSENT CALENDAR

DATE: February 20, 2014
ITEM: C
STAFF: Ryan Tefertiller
FILE NOS.: CPC CU 13-00110
PROJECT: 550 E. Kiowa Street Auto Repair

DECISION OF THE PLANNING COMMISSION

Moved by Commissioner Ham, seconded by Commissioner Phillips, to approve **Item C-File No. CPC CU 13-00110**, the conditional use development plan based upon the finding that the plan complies with the criteria in City Code Sections 7.5.704, 7.5.502.E, and 7.3.508.C and is subject to compliance with the following technical and informational plan modifications:

Technical and Informational Modifications to the Conditional Use Development Plan:

1. Clarify the proposed use and the size of the subject property.
2. Correct the number of proposed parking stalls taking into account the required ADA stall.
3. Correct the Streamside and floodplain sheets to correctly document the buffer requirements, impervious surface calculations, and all other streamside-specific information.
4. Improve the landscape plan specific to the property's E. Kiowa frontage to meet the landscape plan and plant material requirements of the City's landscape architect.
5. Provide data and dimensions regarding driveway dimension/design, curb, gutter, ROW, and sidewalk along both Kiowa and Bijou.
6. Add the General Utility Notes on the Preliminary Utility Plan.

Motion carried 8-0 (Commissioner Walkowski absent).

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Edward Gonzalez, Planning Commission Chair

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UNFINISHED BUSINESS CALENDAR

DATE: February 20, 2014

ITEM: 4

STAFF: Peter Wysocki

FILE NOS.: CPC AP 14-00002

PROJECT: Appeal of Notice and Order - Club A64

Commissioner Markewich disclosed that during his site visit he had a conversation with the appellant, Mr. Stark, but did not discuss the item. They only discussed procedures of the City Planning Commission.

STAFF PRESENTATION

Mr. Peter Wysocki, City Planning and Development Director, briefly reviewed the process and background. If City Code does not state a specific use is allowed as a conditional or permitted use, then the use is deemed not allowed. The appellant argues that his use should be categorized as a social club. City Code Section 7.2.302.D.3 states: CLUB (Membership): A use providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests, excluding uses with the chief activity being a service customarily carried on as a business. Staff believes the use, Studio A64, is a commercial business and does not fall under a non-profit use. Studio A64 claims that it provides social and artistic activities, and its sole use is not for the consumption of medical marijuana. If the appeal is approved, then a determination must be made as to which use currently listed in the City Code this falls under.

Commissioner Markewich questioned why staff put emphasis on ‘nonprofit or noncommercial association’ from the code section. Mr. Wysocki replied that staff interpretation was that ‘nonprofit and noncommercial’ described the use in the code. Commissioner Markewich countered that the code language could also mean that the use could be for private, nonprofit or noncommercial and that any one of these could describe the use. As an example, the Garden of the Gods Club is a membership club but is not necessarily ‘nonprofit or noncommercial’.

Commissioner Phillips inquired of the difference between this use and a tobacco facility or hookah bar. Mr. Marc Smith, stated there are exceptions depending upon what a facility is selling. For example, cigar bars are required to have a certain percentage of tobacco sales to allow smoking on-premise.

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Commissioner Markewich requested the definition of a cigar bar read into the record.

Commissioner Gonzalez requested clarification of a club or membership where alcohol is served. Mr. Wysocki stated it would fall under the definition of a club, or under the broader definition of a civic use. Zone uses are categorized into use types (residential, commercial, civic, industrial, etc.). A membership club would fall under a civic use type umbrella.

Commissioner Ham inquired of the director's parameters to grant uses versus restricting them. Mr. Wysocki stated the director is authorized to grant non-use variances to building setbacks, building heights, etc. A use variance requires Planning Commission action to allow a use not permitted in that zone. The Planning Director is authorized to make similar use determinations if a use does not have a clear definition in the City Code. Code Enforcement was made aware of the use and alerted the Planning Dept. to determine if it were an allowed use, then Code Enforcement decided to issue a Notice and Order.

Commissioner Gonzalez inquired of the appellant's argument that it should be defined as a social club. Mr. Smith stated a variance or similar use determination is not required under this appeal. The Planning Commission needs to determine if the Notice and Order was issued correctly and if the use should be permitted.

Commissioner Gonzalez referenced Form-Based Code Section 2.5.3 that lists only a few prohibited uses, of which this use is not mentioned. Mr. Wysocki stated he would research that.

Commissioner Markewich read the definition of a hookah bar that is an establishment providing for sale and on-site consumption of smoke flavored tobacco or herbs and added that herb is defined in the dictionary as a flowering, non-woody plant, therefore marijuana can be considered an 'herb' and added that herb is defined in the dictionary as a flowering, non-woody plant; therefore, marijuana can be considered an 'herb'.

APPELLANT PRESENTATION

1. Mr. Charles Houghton, attorney representing Studio A64, stated this use has been operating since February 2013. Knowing this use was not specifically allowed in the City Code, the use was created to sell non-alcoholic beverages while enjoying art classes, listening to live music, and an agreement of strict rules for on-site consumption of marijuana only for those with medical marijuana cards. A non-profit status would probably not be granted to this business because medical marijuana is still federally illegal. Smoking marijuana is ancillary to all other activities of the membership club. He commended City Staff for the quick responses and communicating the process. Mr. Houghton felt this use fits under an allowable use within the form-based zone district (FBZ), such as an Elks lodge membership club. Amendment 64 limits the use of recreational marijuana to private places.

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Commissioner Markewich inquired why a conditional use application was not submitted. Mr. Houghton felt this use fit within the parameters of the existing code and did not need to apply for a variance or conditional use.

2. Mr. K.C. Stark stated this is not a profit business. It is a club that supports the arts, and marijuana is not sold on-premise. Other drugs and alcohol are not permitted for sale or allowed on-site. The City issued his business two sales tax licenses during February 2013. He felt that if it were illegal, then he would've been denied the licenses. He tried to find a location that would not offend surrounding neighbors.

Commissioner Markewich inquired of any operation similar to his within the State of Colorado. Mr. Stark stated his is the first that he is aware of.

Commissioner Shonkwiler inquired of the membership. Mr. Stark stated the age requirement is 21 unless someone can prove they are a medical marijuana card holder at least 18 years of age.

- 3 Mr. Ken Brady, owner of the building, stated Mr. Stark approached him last year, has tried to abide by the law, and has been a good tenant.

CITIZENS IN FAVOR OF APPEAL

1. Ms. Ingrid Henderson, senior of UCCS and local business owner, has post traumatic stress disorder (PTSD) and stated Studio A64 is a safe place for adults like her to be in a membership club.
2. Mr. Tim Cuyl, moved from Alabama six months ago, and related how medical marijuana has helped his medical conditions and finds comfort and relief in Studio A64.
3. Mr. Robert Thew felt it is wrong to approve sales tax licenses and try to revoke a business a year later. He is not a member, but felt it is their right to operate and felt it falls under the social club definition in the City Code.
4. Mr. Jack Doerfler, member of Studio A64, supported the appeal.
5. Mr. Greg Benson, artist and I.T. professional, and member of Studio A64, books the artists for Friday and Saturday nights. This club has allowed him to record an album and expand his talent. He is an armed forces veteran who served overseas and is a medical marijuana patient. He hopes the stigma of being just a marijuana club is removed; it's a club for the arts.
6. Ms. Nataya Gantz supported the club.
7. Ms. Sara Griffin supported Studio A64 and has never observed the sale of marijuana or any illegal activity.
8. Letters were submitted after printing of the agenda (Exhibit A).

CITIZENS IN OPPOSITION TO APPEAL

None

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APPLICANT/APPELLANT REBUTTAL

1. Mr. Houghton displayed membership and identification cards to show the strict rules of the club (Exhibit B).
2. Mr. Wysocki stated this type of club does not fall under any definition currently in the City Code. Staff is coming to Planning Commission for a determination.

Mr. Smith clarified that if there are questions that bring forth new information from the code enforcement officer, then the Planning Commission should allow the appellant to comment again.

STAFF REQUESTED TO SPEAK

Commissioner Markewich inquired if the sales tax license process consults with the Planning Dept. Mr. Smith stated he is not aware of anything that prompts review by the Planning Dept. or the City Attorney's Office because a license is based upon sales of tangible items.

Commissioner Shonkwiler requested to speak with Mr. Tom Wasinger, Code Enforcement Supervisor. Commissioner Shonkwiler inquired how he was notified of this use and issue. Mr. Wasinger stated it was generated through meetings with the Planning Dept. whereby it was found that this use was not permitted. Subsequently, an enforcement case was opened and a Notice and Order was issued. His office was told to open a case by City management possibly due to the media attention surrounding the new use. There was no citizen complaint. It was an internal-generated complaint, which may have come from an enforcement officer.

Commissioner Phillips inquired of his ventilation system. Mr. Stark stated his ventilation system recycles the air every 60 seconds.

DECISION OF THE PLANNING COMMISSION

Commissioner Ham thanked all for attending today's hearing. This is Planning Commission's first time addressing this issue too. The appellant has to prove that the criteria City Staff used was erroneous or unreasonable in their decision. He didn't feel staff was either. City Code is up to interpretation. He interpreted that this use doesn't fit under the prohibited uses within the FBZ district. It is almost impossible for Code scrubs to keep up with every possible use in the community. He was bewildered as to the sales tax licenses were issued in February 2013, but this Notice and Order wasn't issued until November 2013. He felt this use doesn't fit within a hookah bar definition.

Commissioner Markewich supported the use and felt the Code needs a provision to allow this type of use. He was conflicted because this use doesn't clearly fit within a hookah bar definition nor within existing definitions. He suggested City Staff initiate a Code amendment and it should consider State law and proximity of these types of facilities to schools.

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Commissioner Phillips agreed with his fellow commissioners. He supported the use. He felt a lot of former military personnel that have PTSD may desire this type of club. He also supported a code amendment.

Commissioner Sparks felt this code definition is an unfortunate grouping of ambiguous words. She felt this use best fits within the social club definition of the City Code.

Commissioner Henninger applauded the applicant's efforts. He felt the FBZ criteria was not applicable because this is a city-wide issue that falls under the rest of the City Zoning Code criteria. He felt the applicant should've received approval or inquired of the City Planning Dept. before applying for the license. He felt this is not the appropriate venue to make this final use determination.

Commissioner Donley addressed the Code Enforcement process and felt it could be argued that staff is the complainant, which he found troubling. He determined the use did not qualify as a hookah bar because marijuana was not sold on-site. Comparatively, the City is constantly finding uses that don't fit into existing Code definitions. He referenced the 1980s video rental businesses that struggled to fit into existing zoning definitions. That use is now gone. Prior to his joining the Planning Commission, the definition of restaurants was expanded to include event centers. He agreed with Commissioner Sparks' determination that this use best fits within a social club definition. The FBZ zoning controls bulk and design, land use controls are forfeited. He felt the use is not restricted according to the FBZ guidelines, and he would rather make his decision based on that rather than a private club definition, which is still a valid justification.

Commissioner Markewich inquired of use restrictions in the Form-Based Code (FBC). Mr. Smith stated FBC Section 2.5.3 lists prohibited uses. Those are not the only prohibited uses. The Planning Commission does not have authority over the FBC, but has authority over Notice and Orders and whether this one is appropriate.

Mr. Wysocki clarified uses listed in the FBC. As an example, civic uses are allowed under FBC Section 2, which are tied into the City Zoning Code definitions.

Commissioner Ham invited Mr. Houghton to speak. Mr. Houghton argued that there are uses that have come and gone, such as the video rental uses mentioned by Commissioner Donley. Just because there is not a "check box," a use is disallowed by the City. A similar use designation should be reviewed. If the Planning Commission believes this is a civic club, then this use should be allowed in the FBZ.

Mr. Wysocki clarified that the Sales Tax dept. does not "bucksip" their applications for review by other City departments. There was no single person identified as a complainant. There was a number of communications between City Police Dept., Planning Dept. and the City Attorney's Office.

Commissioner Gonzalez referred to the definition of a social club and concluded this use fits under that definition and meets the criteria for an appeal. He determined the appeal should be granted.

**CITY OF COLORADO SPRINGS PLANNING COMMISSION
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Moved by Commissioner Ham, seconded by Commissioner Phillips, to approve the appeal of **Item 4-File No. CPC AP 14-00002**, to overturn the Notice and Order based on the appeal criteria in City Code Section 7.5.906 and classify this use as a social club.

Commissioner Markewich directed staff to draft an ordinance to clearly define this use in the City Code. Mr. Wysocki stated for the sake of clarity, today's action needs to focus on this appeal only. The discussion of City Code amendments needs to be discussed at an Informal meeting.

Mr. Smith clarified that a use classification is not being requested by this appeal-only if the Notice and Order was issued correctly. The Planning Commission needs to reference specifically the criteria they did not agree with. The discussion can address what use they feel it meets, but a use classification is not on the table for decision.

Commissioner Ham withdrew his motion.

Moved by Commissioner Ham, seconded by Commissioner Phillips, to approve the appeal, **Item No. 4-File No. CPC AP 14-00002**, and no longer uphold the Notice and Order for 332 E. Colorado based on the appeal review criteria, specifically 7.5.906.B.4 (it was erroneous), and that this use is best defined as a social club for private use. Motion carried 6-2 (Commissioners Shonkwiler and Henninger opposed and Commissioner Walkowski absent.)

February 20, 2014

Date of Decision



Edward Gonzalez, Planning Commission Chair

2959 Electra Dr. South
Colorado Springs, CO 80906
February 19, 2014

City Planning Commission
City of Colorado Springs
30 S. Nevada, Suite 105
Colorado Springs, CO 80903

RE: CPC AP 14-00002

Dear Comissioners:

I am writing to express my support for Studio 64, the private cannabis club owned by K.C. Stark. Why must the city threaten with shut down an existing business that is contributing to the community? Why can't the city find a permitted zoning designation under which Studio 64 can continue to operate? I suspect it is because of one word: marijuana, and that is the only reason.

With all the bars that we have in this town which are licensed by the city, why can't we have a place where cannabis users can congregate legally? And these bars cause a lot of problems in the community with drunkenness, obnoxious people, assaults, etc. at 2 AM when they let out. No commotion like that has ever occurred at Studio 64 to my knowledge.

I am a medical marijuana patient who is a member of Studio 64, and I have attended events at the club. It is a nice environment where like-minded cannabis users can congregate, hear music, attend meetings and classes, and share their common interests.

I have never encountered any obnoxious people at Studio 64, felt uncomfortable for my safety or been harassed in any way. The club is a well-run, safe environment. People who consume cannabis need a place to congregate, just as people who drink alcohol need bars to go out to for socialization, etc. Some cannabis users cannot consume it in their homes, especially if they have children or live in federally-subsidized housing. Studio 64 acts as a hub and provides a valuable service for the cannabis community.

Amendment 64, which passed by 5,000 votes in Colorado Springs, and is now the law in the State of CO, states that marijuana should be regulated like alcohol. To deny a permit to a private cannabis club while allowing zoning for liquor-selling establishments to flourish does not seem like equal regulation.

In Colorado we have the right to consume and possess cannabis, and K.C. Stark's Studio 64 offers us a meeting space where we can enjoy our constitutional rights and mingle with like-minded cannabis enthusiasts.

I urge you not to close down Studio 64, rather to find a designation under which it can continue to operate legally. If bars and liquor stores can be regulated in Colorado Springs, so can cannabis clubs. To do otherwise is quite simply discrimination.

Thank you for your consideration.

Sincerely,

Cyndy Kulp

2959 Electra Dr. S.
Colorado Springs, CO 80906
February 15, 2014

Intake Department
ACLU of Colorado
303 E. 17th Ave., Ste 350
Denver, CO 80203-1256

Dear ACLU:

I am writing to you to express my concern about two anti-marijuana ordinances that the City of Colorado Springs appears poised to adopt which I feel violate my rights as a medical marijuana patient in Colorado. Both ordinances were passed by the council by majority votes this past week on February 11th, 2014, and will be brought back, probably in two weeks, for 2nd reading prior to going to the mayor for his signature and becoming law.

I would like the ACLU to determine if these laws do violate patient rights, and if so, to represent me in stopping their enactment. As I understand them, the one ordinance prohibits anyone from carrying marijuana into a city-owned building, and the second one does the same thing at the Colorado Springs airport. A person found to be carrying marijuana (and they do not specify how the police will look for it) can be arrested and charged with trespassing, should he or she fail to surrender the marijuana or leave the premises. Fines can be imposed ranging from \$100-\$500 and marijuana can be confiscated.

As a medical marijuana patient, I am legally allowed to be in possession of two ounces. I do not feel that citizens should be required to surrender their medications just to enter a city building. The public owns these buildings, and we may be required to be there for several hours conducting business. For example, City Council Meetings often run for several hours, and the public must wait there until their item is called. Also, a person in the airport may be waiting for a flight to Denver, Pueblo or somewhere else inside Colorado. How can we be required to surrender our medication or be threatened with arrest and fines when we are legally allowed to possess marijuana in CO?

As you may know, the City of Colorado Springs, under the leadership of Mayor Steve Bach, has a very anti-marijuana bias. Last summer they opted out of retail sales apparently as allowed by Amend 64, despite the 5,000 vote margin in favor of the amendment among Colo. Springs voters.

Since then City leaders have come up with more punitive ways to prohibit marijuana. There are three examples that I want to mention in addition to the Opt Out from retail sales:

1) The City Planning Dept. is in the process of trying to close down a private social club called Studio 64, which has been open for the past 9 months and which pays sales tax to the city. At Studio 64 marijuana users pay a membership fee and bring their own cannabis to consume on the premises. The club also offers entertainment, classes and socialization. Now the city says it is a "zoning violation" and must be closed.

2) Recently, a City Council employee was fired by the Mayor, apparently for calling an airline to ask about their policy on marijuana without permission from the mayor.

3) Lastly, the new ordinances did not originate with the City Council, but were proposed by the City administration and drafted by City Police and the City Attorney, then brought to the council for action. Initially they called for stiffer penalties, including jail time, but the Council knew that was on shaky legal ground and stripped out those penalties.

These three examples further demonstrate the Mayor's agenda to stifle marijuana rights in Colorado Springs and recriminalize possession where he can. I feel that he and the other city leaders, have shown a pattern of intolerance for marijuana, and they seem to be punishing the voters for their pro-marijuana votes. I am concerned that these actions have gone too far, and are possibly violating our constitutional rights to possess and consume marijuana as well as to use it for medical conditions. These proposed ordinances are a misuse of the trespass charge, in my opinion, which was never designed to keep the public out of public buildings!

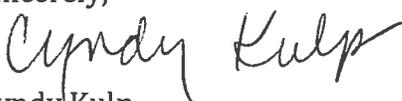
I have enclosed materials from the City Council Agenda for Feb. 11, 2014, the handouts pertaining to Items 15 A & B which is the discussion on these two ordinances including the drafts approved.

I have also enclosed news articles about the threatened closure of Studio 64 and the firing of the Council lobbyist, along with a copy of my Medical Marijuana card.

I would sincerely appreciate your review of these materials, and determination on if the ordinances that are proposed are legal under Colorado's marijuana laws.

Thank you for your assistance. If you have questions, I can be reached at (719) 634-0627 or via email at kulpc@aol.com.

Sincerely,


Cyndy Kulp

Koehn, Alayna

From: Meral Sarper <merally@gmail.com>
Sent: Wednesday, February 19, 2014 2:42 PM
To: Koehn, Alayna
Subject: Citizen input to be attached to minutes of hearing tomorrow 830 am

Hello,

Thank you for speaking with me on the phone and for your willingness to forward my comments to be heard tomorrow via the minutes , as I cannot attend.

" My name is Meral Sarper and I support Studio A64 and hope you will decide to keep this great community location open. Please consider the fact that we can exercise our right to "peacefully assemble " and by shutting it down on false grounds, then our inherent Bill of Rights are being violated. Also, as amendment 64 is now state law, to restrict possession and use on private grounds is unconditional . I hope you will consider these facts and realize this that medical cannabis patients like myself are counting on you.

On behalf of medical cannabis patients who count on Studio A64 to feel safe and to feel included,

Meral Sarper , Mechanical Engineering Senior Student at UCCS."

Cheers,

Meral Sarper

Have a great day. Make it Extraordinary!

merally@gmail.com

President of UCCS Students for Sensible Drug Policy

Intern for Pikes Peak Justice and Peace Commission (PPJPC)

Propulsion Academy Research Associate, NASA Marshall Space Flight Center 2011

Mechanical Engineering and Sustainable Development Undergraduate Student at UCCS

Linked In Profile : www.linkedin.com/in/meralsarper



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

NEW BUSINESS CALENDAR

DATE: February 20, 2014

ITEM: 5

STAFF: Larry Larsen

FILE NOS.: CPC DP 05-00092-A4MN13

PROJECT: Appeal of Cumbre Vista Development Plan Amendment

Commissioner Ham, CPC Vice Chair, recused himself based on a possible perceived conflict of interest.

Commissioner Gonzalez, CPC Chair, recused himself because he is a member of KF 103-CV, LLC

Commissioner Sparks stated over four years ago she worked on this project for her previous employer and barely remembers this project. She stated there is no conflict of interest.

Moved by Commissioner Phillips, seconded by Commissioner Henninger, to nominate Commissioner Shonkwiler as the temporary Chair.

STAFF PRESENTATION

Mr. Larry Larsen, City Senior Planner, displayed PowerPoint slides (Exhibit A). He recommended that the appeal be denied and affirm the administrative approval.

Commissioner Markewich inquired of redesigning the wall near Ski Lane and how severe the slope and wall should be mitigated. Mr. Larsen stated City Engineering approved an interim design that has been accepted by District Court. That design will install a guard rail and a reconfigured driveway. Future redesign of the access and intersection will meet City standards.

Commissioner Henninger inquired if an extension of Sorpresa Lane is part of this development plan. Mr. Larsen stated yes, it is anticipated that Sorpresa Lane will extend to a private access and provide a direct route to Cowpoke Road. It will be a gravel road during the interim condition.

Commissioner Donley stated the intersection at Sorpresa and Ski Lane is a hairpin turn and clearly wouldn't comply with City standards. He inquired if the design of this intersection is part of this development plan amendment. Mr. Larsen stated it cannot meet City standards at this time and if development occurs to the south and the east, then it will be redesigned to meet City design standards.

CITY OF COLORADO SPRINGS PLANNING COMMISSION

RECORD-OF-DECISION

Commissioner Sparks inquired if the hairpin turn is part of the development plan. Mr. Larsen stated it is now part of the amended development plan because it was endorsed and approved by the Courts. The intersection is depicted as an interim design. The trigger to redesign the intersection is when development occurs south and east of this site.

Commissioner Markewich was concerned with a poorly designed intersection that could make the City liable for accidents. Mr. Tom Florczak, Deputy City Attorney, if and when that area is proposed for annexation, it will need to be considered on its own basis. The likelihood is that the easement as it existed prior to this development wouldn't comply with City design standards. Due to the equitable relief fashioned by the court it probably wouldn't comply with design standards either. Yet, that is not an issue for the City to address because that is an implementation the court required as part of its order. He addressed the Planning Commission's questions regarding phasing of this intersection to preserve the rights of the neighbors to the south (appellants), and clarified that due to the equities involved with the developer while respecting the wishes and preserving the rights of property owners to south, the City requested notes placed on the development plan restricting any development of permanent structures on those easements until final resolution of the lawsuit. Thus, development of homes and roads can proceed on lots that avoid the proclaimed easement rights.

Commissioner Donley stated he would've liked to have the court's decision in the agenda packet.

Mr. Florczak stated the decision is a green light for the development plan with minor amendments and restrictions that do not allow development of any lots which lie under the neighbor's claimed easements until resolved by the Court of Appeals.

APPELLANT PRESENTATION

Mr. Bill and Mrs. Maureen Marchant, property owners along Ski Lane, clarified that the 30-foot easement was deeded to his property in 1956. In the first trial, the judge ruled that the easement existed prior to the Cumbre Vista development and ordered the easement restored to its original location and elevation. After the second trial, the plaintiffs, Woodmen Heights Metro District and KF-103, were entitled to equitable remedies. The judge allowed the developer to redesign and re-build a retaining wall and only provide 20 feet of road surface on top of the cliff. That is one of the issues being appealed to the courts. He requested postponement because his appeal was based on plans originally submitted. He received notice two days ago that the plans have been modified. He is requesting that this item be postponed which would time to allow him and his attorney to review the modified plans.

DISCUSSION OF REQUESTED POSTONEMENT

Commissioner Markewich requested clarification of the timeline for postponement. Mr. Marchant requested postponement to the next regularly scheduled meeting (March 20, 2014).

Mr. Wysocki requested clarification of the revised plans. Mr. Larsen stated the differences of the plans received Monday and yesterday both address the intent of the various tracts and easements clarified. Other changes addressed converting a public street to a private street. All these issues were agreed upon during the review process, but are now reflected in the plan. Mr. Larsen left the decision of postponement to the Planning Commission.

CITY OF COLORADO SPRINGS PLANNING COMMISSION
RECORD-OF-DECISION

Mr. David Isbell, Hogan Lovells LLP representing the applicant KF103-CV, LLC, was opposed to the postponement. He stated the easements no longer exist by ruling of the El Paso County District Court, and have gone out of their way to preserve them in the development plan until the litigation is resolved. The completion of the wall is under the jurisdiction of the court.

APELLANT REBUTTAL REGARDING POSTONEMENT

Mr. Marchant stated both initial court decisions ordered the developer to restore the roadway to its historic elevation. The next post trail ruling the court granted the developer equitable remedies, which he is still trying to figure out and is being appealed. He needs an opportunity to review the changes to the development plan and consult with his attorney.

Commissioner Markewich felt it's fundamentally unfair to change a plan a day or two before the meeting. He supported the request for postponement.

Commissioner Donley wants to see the final judgment by Judge Schwartz before the next meeting. All notes must be legible such as 10 point font. He supported postponement to the March 20th meeting.

Commissioner Phillips also agreed to the postponement.

Commissioner Shonkwiler supported the request for postponement.

Commissioner Henninger was in support of the postponement to March 20.

Commissioner Sparks felt the judgment was not needed, and City Staff provided that information in the agenda packet.

DECISION OF THE PLANNING COMMISSION

Moved by Commissioner Markewich, seconded by Commissioner Henninger, to postpone **Item No. 5-File No. CPC DP 05-00092-A4MN13**, to the March 20, 2014 meeting. Motion to postpone carried 4-2 (Commissioners Shonkwiler and Sparks opposed, Commissioner Walkowski absent, and Commissioners Ham and Gonzalez recused).

February 20, 2014

Date of Decision



Edward Gonzalez, Planning Commission Chair

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

**City Planning Commission
February 20, 2014**

Larry Larsen, Senior Planner

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**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)**

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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

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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

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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

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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

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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

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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

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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

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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.

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Questions?

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

NEW BUSINESS CALENDAR

DATE: February 20, 2014

ITEM: 6

STAFF: Mike Schultz

FILE NOS.: CPC UV 13-00129

PROJECT: 623 N. Spruce Street

STAFF PRESENTATION

Mr. Mike Schultz, City Planner II, briefly reviewed the application with PowerPoint slides (Exhibit A). He recommended denial of the application. Mr. Schultz referenced an email sent by Mr. Welling Clark, president of Organization of Westside Neighbors, supporting staff's recommendation, but failed to bring a copy.

Commissioner Henninger inquired if modern homes that include a partial kitchen or wet bar in the basement would be considered a separate dwelling unit. Mr. Schultz replied if an area has sanitary facilities with a full kitchen and a separate entrance it would be designated as a separate dwelling unit. He referred to page 99 of the agenda, which doesn't describe a separate entrance, but assumes that would be assumed.

Commissioner Shonkwiler inquired if there are separate electric or utility services for each unit. Mr. Schultz did not observe that and did not believe that is a requirement of Colorado Springs Utilities.

APPLICANT PRESENTATION

1. Mr. William Collier, representative for the property, explained this is a retirement income for he and his brothers. They put the property on the market, and the financial institute would not finance the property without a use variance. If it could be proved that the property was a triplex prior to 1969 then the City would approve the variance. He displayed a timeline and felt the County Assessor's Office confirmed it was a triplex (refer to page 96). He stated there are three different furnaces, gas meters and electrical meters. He stated the neighbor at 322 Willamette Avenue confirmed the property was built as a triplex in 1945 because that was year the neighbor returned from the war and got married.
2. Mr. Pete Frech with Coldwell Banker, representing the sale under contract, stated this site was identified as a triplex in 1966 according to the County Assessor. This site has been taxed as a

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

triplex for 56 years. He provided a complete copy of the Assessor’s card with dates on the bottom (Exhibit B).

Mr. Donley asked the applicant for evidence of the creation of the units prior to the date of the duplex zoning. He asked for documentation that specifically shows the date of construction, such as the date on the original Assessor card. Mr. Collier noted the date of 2/21/66 on the Assessor card which was cut off in the staff report copy. The top of the card also states “triplex”, the notes on the right hand side of the card indicating the number of units, were added subsequent to the original card creation.

Mr. Collier stated it would be a financial burden to convert the building from a triplex into a duplex. He stated there are over 400 triplexes in the area under the R-2 zone and questioned if those would be required to return to a duplex status.

CITIZENS IN FAVOR

None

CITIZENS IN OPPOSITION

None

STAFF REQUESTED TO SPEAK

Mr. Schultz clarified the 400 triplexes in the area. The County Assessor categorizes residential uses as either single-family or duplex/triplex. The Assessor does not determine if the use is legal or not. He did request documentation from the Building Official if they could provide proof that this site was a triplex prior to 1980. That has not been provided.

Commissioner Donley stated if this were built in 1945, this would be a nonconforming use and would be considered legal. At that point does the City need a variance because it would be nonconforming? Mr. Wysocki clarified that if a portion of the building were destroyed, it would need to conform to current zoning requirements.

Commissioner Ham requested clarification of verifiable documentation for a triplex use. Mr. Schultz stated the owner needed documentation from the local building official. That was requested from the applicant, but not provided to staff.

DECISION OF THE PLANNING COMMISSION

Commissioner Henninger stated this unit is very old and who knows where the old records went. He felt the likelihood that this site has existed as a triplex is strong based upon the mechanical items assigned for each unit. The criteria for exceptional and extraordinary use is applicable. He supported the variance.

Commissioner Donley believes at this point it is a legal nonconforming use, but does not match the use variance criteria. There is an incremental process in neighborhoods whereby the quality of

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

neighborhoods are compromised by conversion of uses – parking and noise and traffic become an issue. He doesn't have proof to verify the triplex. He felt the extraordinary circumstances criterion was not met.

Mr. Wysocki suggested if the decision were to approve the variance, then the Planning Commission could strike the last sentence of the recommendation.

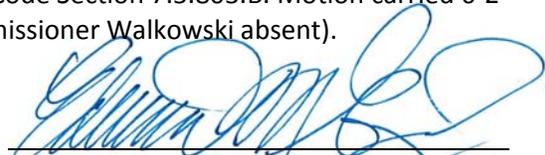
Commissioner Sparks stated that striking the last sentence would be agreeable to her. She has not seen enough evidence of a triplex. She felt it meets the extraordinary or exceptional criteria, but is not a legal nonconforming use.

Commissioner Gonzalez determined that the exceptional criteria was met because without granting the use variance the owner is significantly harmed. Criteria 3 was also met.

Moved by Commissioner Sparks, seconded by Commissioner Shonkwiler, to approve **Item No. 6-File No. CPC UV 13-00129**, the use variance for 623 N. Spruce to legalize an existing triplex (multi-family) dwelling located within an R-2 (Two-Family Residential) zone district based on the finding that the use variance does comply with the review criteria in City Code Section 7.5.803.B. Motion carried 6-2 (Commissioners Ham and Donley opposed with Commissioner Walkowski absent).

February 20, 2014

Date of Decision



Edward Gonzalez, Planning Commission Chair

**CITY PLANNING COMMISSION
FEBRUARY 20, 2014**

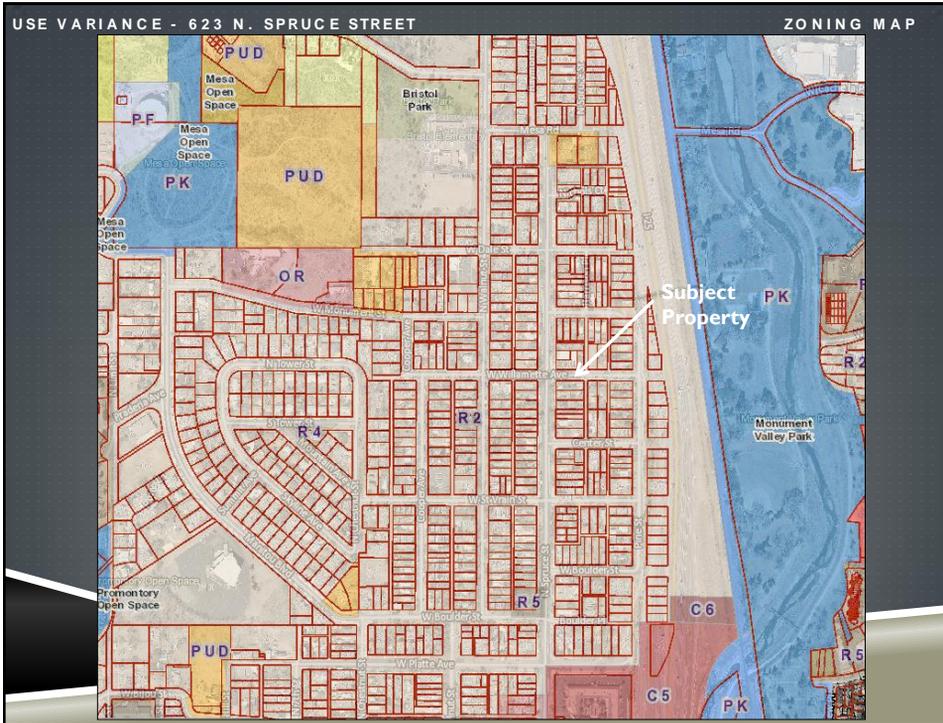
USE VARIANCE FOR 623 N. SPRUCE STREET

CITY FILE NO.: CPC UV 13-00129

PLANNER: MIKE SCHULTZ

USE VARIANCE - 623 N. SPRUCE STREET **LOCATION MAP**





USE VARIANCE - 623 N. SPRUCE STREET

Zoning Code/History

1968 - Earliest modern zoning map: R-3 (*Two-family Residential*) Zoning Code did have provision for conversions of structures to multi-family: must be 2,400 square feet or larger, no physical addition to the dwelling, and the conversion was approved by the building official; it does not appear this occurred with the property.

1980 - Zoning Code struck above exception. Zoning maps amended removing the R-3 zone district; subject area remained as a two-family zone but now under current R-2 zoning standards.

2001 – Adoption of current Zoning Code. R-2 zone district limits no more than two (2) dwellings on property

Use History

1976 – County Assessor’s card implies a “Triplex” in the design notes - staff believes this was an update to the records; under “Other Items and Remarks” the property is noted as having a “front unit” and “rear unit”.

1981 – Assessor’s card notes, “Fire damage repaired 100% no changes to hse (house) or lot”.

1998 – Assessor’s card notes “prop. (property) has (3) units” and later notes “triplex”.

2000 – Assessor’s Office notes sale of property to William & Helen Collier.

Master Plan

The property within The Westside Plan, formally adopted by City Council in January, 1980.

The plan shows this area as “Residential Low Density”.

Property is located within the Near West Residential subarea. The recommendation for this area is to “reinforce the intent of the original plan by endorsing the following proposal: **preserve the single-family character and land use**”.

It is the finding of the Land Use Review Division that the use variance will not substantially conform to the Area’s Master Plan.

USE VARIANCE - 623 N. SPRUCE STREET
County Assessor Card (Fig. 3, Pg. 95)

RESIDENTIAL PROPERTY APPRAISAL RECORD

(VAA) CITY OF TOWN *Colorado Springs* (AA) PARCEL NO. *26-24-01-31* (AS) SCHEDULE NO. *1*

(SUB) SUBDIVISION (DAB) BLOCK (DAB) LOT(S) (DAB) TWP. (DAB) RANGE (DAB) SEC. (DAB) MAP NO.

(DAD) CITY NO. (DAD) SUB. NO. (DAD) CENSUS NO. (DAD) PLAN DIST. A. JAWA

(DAA) PROPERTY ADDRESS *623 N. Spruce St* (DAB) ZIP CODE

(DAB) OFFICER NAME (DAB) STREET ADDRESS (DAB) CITY & STATE (DAB) ZIP CODE (DAB) MAP NO. (DAB) TAX AREA

OWNERSHIP: *Single, Own (Partia)* RECEIPTION NO. *AV 96031335* (DAB) VOL. (DAB) BOOK (DAB) PAGE (DAB) INSTR. (DAB) DATE (DAB) FEE

LAND VALUE CALCULATION: (DAB) LAND CLASS *102* (DAB) ADJUSTMENT FACTORS (DAB) BASE UNIT (DAB) TOTAL LAND VALUE *3700*

APPROACH USED (DAB) APPROACH USED (DAB) ACTUAL VALUE (DAB) LAND IMPR. RATIO (DAB) INDICATED VALUE

COST APPROACH: (DAB) DATE (DAB) TOTAL A.C.N.L.D. (DAB) COST FACTORS (DAB) ADJUSTED A.C.N.L.D. (DAB) ADD. LAND (DAB) INDICATED VALUE

MARKET APPROACH (COMPARABLE SALES): (DAB) DATE (DAB) PRICE PAID (DAB) TIME LOCATION (DAB) PHYSICAL CHARACTERISTICS (DAB) INDICATED VALUE



USE VARIANCE - 623 N. SPRUCE STREET

County Assessor Card (Fig. 3, Pg. 97)

OTHER ITEMS AND REMARKS:

Final 10 - 2-20-11

623 N Spruce St

X SHED 8x24 - 1/2 TIN - 1/2 STUCCO - DIRT FL. - 1/2 TIN - 1/2 BALL ROOF # 174.00

FRONT UNIT POSTED 1/2 JAIL. REAR UNIT OCCUPIED 1-2-26

FIRE DAMAGE REPAIRED 100% NO CHANGES TO HSE OR LOT (BY OWNER) 1-1-91

(1-2-91) M.L. OCCUPIED 9-15-91 M.L. Four dation repaired N.V.

Shed shed - de 1 d. renter 8-21 8/24/11/10/10 8.0 B.T. 9x24 Covered (3x9) of which is roof / SW. - (see above), shed type roof - Port. Fiberglass. Partial covered due to this damage - 1/2 (18) brick unit - always will be 1/2 (18) unit in 2 units @ 1388 ft. - The rest is Greenwald Dmp.

Units (3) units for 1-48 5000 = 4 Dation = Tripunit = 4 units

Total Land Value: ~~2500~~ 3700 Fr(8) = imp -

(Muni 3-20-984)

FT. AREA: *1298* BUILDING PERMITS: *5-19-88 1000.00 Det. dw (hang)*

SHAPE: *1151*

"Front Unit" & "Rear Unit"

"prop. has (3) units" "Triplex"

Polk Directory: Directories that were assembled to identify owners, renters and business information along with phone number listings. Staff uses the directory as a reference to provide potential land use history.

1922 – POLK DIRECTORY

514	E A Calvert
	L L Calvert
515	D C Malone
518	D J Elkins
520	U T Edwards
522	W J Stray
522 1/2	vacant
602	vacant
603	F C Curtis
604	W J Graham
605	W S Marshall
607	G A Williams
610	F E Collins
611	Mrs L M Triplett
614	E D Watts
615	E J Bogren
619	I G Howard
623	Mrs M E Cantonwine
	L J Schnitzius
701	Ch of God in Christ
701	F A Johnson
701	Anthony Johnson
706	J C Kelly
707	Polly Gross

Example of
2 unit
home

Polk Directory History

1921 to 1956 – Directory lists property as having only a single unit.

1957 – 1960 – Lists property as having a “rear” unit (duplex).

1965 & 1967 – No second unit listed.

1975 – 2 addresses listed.

1980 – Single address again only listed.

1993 – Address not listed (622 N. Spruce St. listed having 3 units).

1996 – Polk lists a single unit.

1998, 1999, 2000 & 2001 – Polk lists 3 units.

2002 – Polk lists 3 units; William & Helen Collier listed residents for previous 5 years.

2006 – Polk lists 3 units; Colliers’ no longer listed as residents.

2011 – Single unit listed

2012 – Single unit listed

2013 – Polk lists 3 units

USE VARIANCE - 623 N. SPRUCE STREET

MODERN POLK DIRECTORY - LEGEND

What you will find in this section

- Streets listed alphabetically
- Portion of street described (with suburban designations)
- Zip code and carrier route
- Phone number
- Intersecting streets
- In-home businesses
- Homeowners (H)
- Multiple adults in household
- New listing in the directory (N)
- Apartment tenants
- Length of residency (R) — years in directory at this address
- Office buildings and tenants
- Street summary of households and businesses

623 DAN MANAGEMENT 4299 Longview 732-7539

1 Plummet Steven D 732-1482

2 Miller Dennis L 252-1400

3 Partridge Teresa M 732-6966

4 Smith Edward J 732-9112

5 Johnson William J 732-9112

WILLAMETTE INTERSECTS

60 TRADEWAY SUITES

100 AAA INSURANCE 732-2340

200 CALIFORNIA FITNESS 732-9287

BUSINESS 3 HOUSEHOLD 13

1981 - POLK DIRECTORY

614 Raygoza Tony O 475-1104

614 1/2 Manley Lewis

615 O'Dell Winnie @ 634-3899

619 Hoffman Wm D @ 473-2899

622 Scott Antonia K Mrs @ 632-6248

Bsmt Vacant

623 Stringer Jesse

W WILLAMETTE ST INTERSECTS

701 Morgan Memorial Chapel 633-8884

1988 - POLK DIRECTORY

610 Debakey Theresa

614 Vacant

614 1/2 Manley Lewis

615 Tehan Gail @ 633-4544

619 Vacant

622 Scott Antonia K Mrs @ 632-6248

623 Mason Sherry A 473-5543

W WILLAMETTE ST INTERSECTS

701 Morgan Memorial Chapel 633-8884

702 Smith Fannie

1989 - POLK DIRECTORY

614 Nichols Nick 632-3823

614 1/2 Manley Lewis

615 Tehan Gail A @ 633-4544

619 Vacant

622 Scott Antonia K @ 632-6248

623 Vacant

W WILLAMETTE ST INTERSECTS

701 Morgan Memorial Chapel 633-8884

702 Smith Fannie

1990 - POLK DIRECTORY

615 Tehan Gail A @ 633-4544

619 Feldman Steven M 634-8743

622 Scott Antonia K @ 632-6248

623 Vacant

W WILLAMETTE ST INTERSECTS

701 Morgan Memorial Chapel 633-8884

702 Smith Fannie

USE VARIANCE - 623 N. SPRUCE STREET

1993 - POLK DIRECTORY

632-4601

AMPS 614 Ros Stern & Rebecca 632-3623

614 Vacant

619 1/2 Not Verified (3 Hses)

622 Scott Antonia K @ + @ 632-6248

AMPS 1 Forrest S D 633-7972

2 Not Verified

3 Vacant

W WILLAMETTE ST INTERSECTS

701 MORGAN MEMORIAL CHAPEL

702 Smith Fannie (7)

2000 - POLK DIRECTORY

619 Pierce Troy O @ 632-6248

622 Scott Antonia K @ 632-6248

623 Frame Ron J @ 578-0804

1 Not Verified

2 Coyne Julie S

3 Not Verified

W WILLAMETTE AVE INTERSECTS

718 CODE 3005 CAR ST 610

1998 - POLK DIRECTORY

619 1/2 Not Verified 444-8421

622 Scott Antonia K @ 632-6248

623 Doute Mike R

1 Frame Aimee R (2)

2-3 Not Verified (2 Apts)

W WILLAMETTE AVE INTERSECTS

2013 - POLK DIRECTORY

618 Keamey Martin R

619 Brunner Charles ✓

32-8037 Pierce Troy D @ (1900) 5310

39) 622 Masuden Angela ✓ (1)

623 Fulton Adrian S ✓ (1)

1 Harlow Cassie D @ (1)

2 Padgett David R ✓ (1)

32-6-49 2 Padgett Jeanette R

3 Hein Tiffany ✓

35-2723 3 Musher Gerald ✓

701 MORGAN MEMORIAL CHAPEL churches ✓ @ 719-447-8739 531

1999 - POLK DIRECTORY

622 Scott Antonia K @ 632-6248

Scott Antonia K @ 632-6248

623 Frame A @ 578-0804

Segovia Joseph J (2)

Segovia Aimee R

1 Frame Ron J (1)

1 Frame Aimee R

2 Brys Jonathan W

3 Doute Mike R @

3 Doute Janice M

W WILLAMETTE AVE INTERSECTS

Use Variance criteria (City Code Section 7.5.803.B.):

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so that a denial of the petition would result in undue property loss; and

Applicant has not been able to demonstrate to staff that the property carries any extraordinary or exception physical conditions that may differ from the immediate neighborhood. Applicant points to Assessor card; staff believes the Assessor's card was later amended (possibly in 1998) noting three units.

2. That such a variance is necessary for the preservation and enjoyment of a property right of the petitioner; and

The petitioner is currently attempting to sell the property in which the buyer and lender are requesting the petitioner demonstrate the legal standing of the property. An approval of the use variance would allow the petitioner to preserve the "value" of the additional (third) unit as when the property was purchased in 2000.

Use Variance criteria (City Code Section 7.5.803.B.):

3. That such variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property.

The property is squarely located within an R-2 (Two-family Residential) zone district with most of the homes being largely single-family residential; the zoning limits additional density in this area to two dwelling units on a single property.

Staff Recommendation:

Deny the use variance for 623 N. Spruce Street to legalize an existing triplex (multi-family) dwelling located within an R-2 (Two-family Residential) zone district based on the finding that the use variance does not comply with the review criteria in City Code Section 7.5.803.B. In addition, the property shall be brought into compliance by eliminating at least one of the units (by the removal of a kitchen) no later than 18 months after the date of final disposition of this application.

QUESTIONS

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

NEW BUSINESS CALENDAR

DATE: February 20, 2014
ITEM: Added Agenda Item
STAFF: Marc Smith
FILE NOS.: not applicable
PROJECT: CPC Rules and Procedures

STAFF/APPLICANT PRESENTATION

Mr. Marc Smith, Senior City Municipal Attorney, reviewed the process of revising the Planning Commission rules. A request was made during late 2013 to the City Attorney's Office to revise the Planning Commission rules with coordination with Planning Commission. These rules have not been changed for many years. One of the goals was to align them with the Council rules for appeals.

The Planning Commission thanked Mr. Smith for his time and input with revising the rules and procedures.

Commissioner Donley reiterated the 40-day rule is excessive to restrict Commissioners from discussing Quasi-Judicial items after they are decided upon by the Planning Commission. He wishes Council would give thought to update the appeal process to include the right for the appellant to rebut. He struggled with the fact that position titles constantly change (i.e. Planning Manager or Director). Mr. Smith understood and agreed. He took the language taken directly from the City Code.

Mr. Smith requested that if he finds a scribbler's change such as a typo or comma or similar that he would have authority to fix it before Council's review. Planning Commission granted that permission.

CITIZENS IN FAVOR/OPOSED

None.

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

DECISION OF THE PLANNING COMMISSION

Moved by Commissioner Ham, seconded by Commissioner Markewich, to recommend the proposed changes to the rules and procedures and authorize City staff to make minor changes if needed. Motion carried 8-0 (Commissioner Walkowski absent).

February 20, 2014

Date of Decision



Edward Gonzalez, Planning Commission Chair