



CITY PLANNING COMMISSION AGENDA

**THURSDAY, AUGUST 20, 2015
8:30 A.M.**

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

CITY PLANNING COMMISSION MEETING PROCEDURES

MEETING ORDER:

The City Planning Commission will hold its regular meeting on **Thursday, August 20, 2015 at 8:30 a.m.** in the City Hall Council Chambers at 107 North Nevada Avenue, Colorado Springs, Colorado.

The Consent Calendar will be acted upon as a whole unless a specific item is called up for discussion by a Planning Commissioner, a City staff member, or a citizen wishing to address the Planning Commission.

When an item is presented to the Planning Commission the following order shall be used:

- City staff presents the item with a recommendation;
- The applicant or the representative of the applicant makes a presentation;
- Supporters of the request are heard;
- Opponents of the item will be heard;
- The applicant has the right of rebuttal;
- Questions from the Commission may be directed at any time to the applicant, staff or public to clarify evidence presented in the hearing.

VIEW LIVE MEETINGS:

To inquire of current items being discussed during the meeting, please contact the Planning & Development Team at 719-385-5905, tune into local cable channel 18 or live video stream at www.coloradosprings.gov.

CITY PLANNING COMMISSION COMPREHENSIVE PLAN AND REVIEW CRITERIA

COMPREHENSIVE PLAN:

The City Planning Commission uses the Comprehensive Plan as a guide in all land use matters. The Plan is available for review in the Land Use Review Office, located at 30 S. Nevada Avenue, Suite 105. The following lists the elements of the Comprehensive Plan:

- Introduction and Background
- Land Use
- Neighborhood
- Transportation
- Natural Environment
- Community Character and Appearance
- 2020 Land Use Map
- Implementation

The Comprehensive Plan contains a land use map known as the 2020 Land Use Map. This map represents a framework for future city growth through the year 2020, and is intended to be used with the Comprehensive Plan's goals, policies, objectives and strategies. It illustrates a desired pattern of growth in conformance with Comprehensive Plan policies, and should be used as a guide in city land use decisions. The Comprehensive Plan, including the Land Use Map, may be amended from time to time as an update to city policies.

APPLICATION REVIEW CRITERIA:

Each application that comes before the Planning Commission is reviewed using the applicable criteria located in the *Appendix* of the Planning Commission Agenda.

CITY PLANNING COMMISSION APPEAL INSTRUCTIONS

In accordance with Chapter 7, Article 5, Part 906 (B) (1) of the City Code, "Any person may appeal to the City Council any action of the Planning Commission or an FBZ Review Board or Historic Preservation Board in relation to this Zoning Code, where the action was adverse to the person by filing with the City Clerk a written notice of appeal. The notice of appeal shall be filed with the City Clerk no later than ten (10) days after the action from which appeal is taken, and shall briefly state the grounds upon which the appeal is based."

Accordingly, any appeal relating to this Planning Commission meeting must be submitted to the City Clerk (located at 30 S. Nevada Avenue, #101, Colorado Springs, CO 80903) by:

Monday, August 31, 2015

A **\$176** application fee and a justification letter specifying your specific grounds of appeal shall be required. The appeal letter should address specific City Code requirements that were not adequately addressed by the Planning Commission. City Council may elect to limit discussion at the appeal hearing to the matters set forth in your appeal letter.

CITY PLANNING COMMISSION MEETING AGENDA THURSDAY, August 20, 2015

1. Approval of the Record of Decision (minutes) for the June 24th and July 16th 2015, City Planning Commission Meeting
2. Communications
3. Consent Calendar (Item A1 and A2) Page 8
4. New Business Calendar (Items 4A and 4B, 5A through 5D, 6A through 6E and Item 7) . . Page 15

CONSENT CALENDAR		
ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM: A1 CPC ZC 15-00045 (Quasi-Judicial)</p> <p>ITEM: A2 CPC CP 15-00046 (Quasi-Judicial)</p> <p>PARCEL NO'S: 74244-00-015 74244-00-033 74244-20-002 and 74244-09-022</p> <p>PLANNER: Lonna Thelen</p>	<p>A request by LDC, Inc. on behalf of Farrio, LLC and Cheyenne Canon Properties LLC for:</p> <ol style="list-style-type: none"> 1. A zone change from OC (Office Complex) & R-5 (Multi-Family Residential) to PBC (Planned Business Center) for Gearonimo PBC. 2. A concept plan to allow for retail, office, indoor recreation, and mini-warehouse. <p>The property is located at 1301, 1353, 1355, and 1401 S. 8th St, contains 7.2 acres, and is currently zoned R-5 and OC (Multi-Family Residential and Office Complex).</p>	8

NEW BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM: 4A CPC PUZ 15-00036 (Quasi-Judicial)</p> <p>ITEM: 4B CPC PUP 15-00037 (Quasi-Judicial)</p> <p>PARCEL NO.: 63313-16-002</p> <p>PLANNER: Steve Tuck</p>	<p>A request by EV Studio on behalf of School District 11 for approval of:</p> <ol style="list-style-type: none"> 1. A zone change from R-1 6000 (Single-family) to PUD (Planned Unit Development: Commercial, 51,900 square feet maximum; Residential, 20 dwelling units/acre maximum density; 35' maximum building height) for the Lincoln School Mixed-Use Redevelopment 2. A concept plan for the Lincoln School Mixed-Use Redevelopment. The concept plan shows the use of the former school building and property for the following uses: multi-family residential with a maximum density of 20 dwelling units/acre, a maximum of 51,900 square feet of commercial uses for a bar with brewery, mini-warehouses, restaurant and retail. A maximum building height of 35' is proposed. <p>The property is located at 2727 North Cascade Avenue, consists of 3.04 acres and is currently zoned R-1-6000 (Single Family) and was formerly used as Lincoln Elementary School.</p>	15
<p>ITEM: 5A CPC ZC 15-00075 (Quasi-Judicial)</p> <p>ITEM: 5B AR DP 15-00291 (Quasi-Judicial)</p> <p>ITEM: 5C AR V 15-00293 (Quasi-Judicial)</p> <p>ITEM: 5D AR NV 15-00292 (Quasi-Judicial)</p> <p>PARCEL NO.: 74121-37-001</p> <p>PLANNER: Michael Turisk</p>	<p>A request by Echo Architecture on behalf of Jerry Morris for approval of:</p> <ol style="list-style-type: none"> 1. A change of zone classification from C-5 (Intermediate Business) to C-5/P (Intermediate Business with Planned Provisional Overlay) to repurpose a veterinary clinic building to a brew pub. 2. The creation of a Development Plan to convert an existing 3,538 square-foot vacant veterinary clinic into a brew pub ("Cerberus Brewing Co."). 3. A non-use variance to allow for a zero-foot setback for a liquor establishment where a minimum of 200-feet is required from any residentially-used or residentially-zoned property. 4. A vacation of Public Right-of-Way (alley). The alley separates Lots 2 and 3 of the 9,250 square-foot subject property at the south and the smaller triangular Lot 4 at the north. <p>The subject property consists of 9,250 square feet, is currently zoned C-5 (Intermediate Business) and is located at 702 W. Colorado Avenue</p>	43

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM: 6A CPC MP 97-00261-A4MN15 (Quasi-Judicial)</p> <p>ITEM: 6B CPC ZC 15-00055 (Quasi-Judicial)</p> <p>ITEM: 6C CPC CU 10-00100-A3MJ15 (Quasi-Judicial)</p> <p>ITEM: 6D CPC V 15-00058 (Quasi-Judicial)</p> <p>ITEM: 6E CPC NV 15-00076 (Quasi-Judicial)</p> <p>PARCEL NO.: 64072-04-001, 64072-04-002, 64072-04-005, 64072-04-006, 64072-04-011, 64072-04-012, 64072-04-013 and 64072-06-024</p> <p>PLANNER: Ryan Tefertiller</p>	<p>A request by Tim Seibert of N.E.S. Inc. on behalf of Colorado College for approval of:</p> <ol style="list-style-type: none"> 1. A zone change from R2/SS (Two-Family Residential with Streamside Overlay) to SU/SS (Special Use with Streamside Overlay). 2. A minor amendment to the Colorado College Master Plan to add an additional 1.39 acres of land which the College has acquired since the last Master Plan amendment. The area added to the master plan is labeled as "library storage receiving offices". 3. A major amendment to the Colorado College San Miguel Facilities Yard Conditions Use Development Plan. The proposed amendment expands the existing facility yard by adding an additional 1.381 acres and redeveloping the added area to include a new 10,923 square foot warehouse building, parking and loading area, landscaping, fencing, and a new cul-de-sac bulb at the north terminus of Glen Ave. The plan also illustrates minor additions to the two structures at 232 W. San Miguel and the conversion of the existing buildings of 240 W. San Miguel from a residence to an office. 4. A vacation of public right-of-way. The request applies to roughly 11,637 square feet of W. San Miguel St east of Glen Ave. 5. A non-use variance to allow 42% impervious cover within the Streamside Overlay buffer where the limit is 25% impervious cover per City Code. <p>The total site measures roughly 2.27 acres is currently zoned R-2/SS (Two Family Residential with Streamside Overlay) and SU/SS (Special Use with Streamside Overlay) includes 232, 236 and 240 W. San Miguel Street and 1315, 1317, 1323 and 1331 Glen Avenue and is generally located north of W. San Miguel Street and east of Glen Avenue.</p>	67
<p>ITEM: 7 AR NV 15-00413-AP (Quasi-Judicial)</p> <p>PARCEL NO.: 73154-03-007</p> <p>PLANNER: Ryan Tefertiller</p>	<p>An appeal of an administrative decision by Henry and Barbara Kozoil and Maria Kozoil-Petkash of a request by Robert Robert-Scott G.C. for approval of a non-use variance to the Parkside at Mountain Shadows Development Plan to allow a 1.6 foot side-yard setback where 5 feet are required along the eastern property line. The variance is necessary to allow the recently poured foundation to remain as is. The site totals roughly 4,095 square feet, is zoned PUD/HS (Planned Unit Development with the Hillside Overlay zone), and is located at the far northern extent of Majestic Dr. in the Parkside at Mountain Shadows neighborhood at 5675 Majestic Drive.</p>	119

CONSENT CALENDAR

CITY PLANNING COMMISSION AGENDA

ITEM NO: A1 - A2

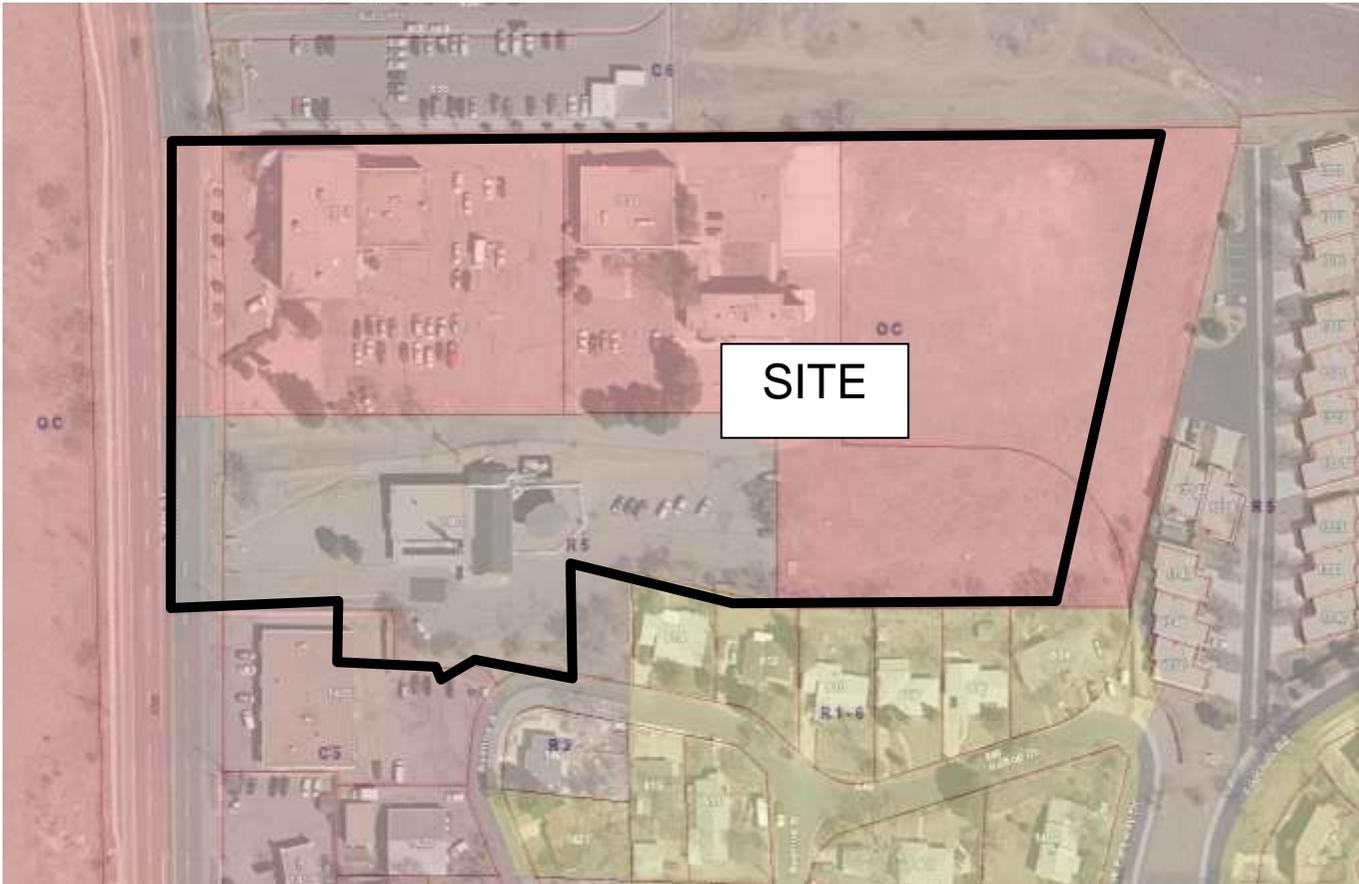
STAFF: LONNA THELEN

FILE NO(S):

CPC ZC 15-00045 – QUASI-JUDICIAL

CPC CP 15-00046 – QUASI-JUDICIAL

PROJECT: GEARONIMO PBC
APPLICANT: LDC INC.
OWNER: FARRIO LLC & CHEYENNE CANYON PROPERTIES, LLC



PROJECT SUMMARY:

1. **Project Description:** This project includes concurrent applications for a zone change and a concept plan for a 7.2-acre site located at 1301, 1353, and 1355 S. 8th Street. The applicant is requesting a zone change from OC (Office Complex) and R-5 (Multi-family residential) to PBC (Planned Business Center). In addition, the applicant is proposing a concept plan for the property. **(FIGURE 1)**
2. **Applicant's Project Statement:** **(FIGURE 2)**
3. **Planning and Development Department's Recommendation:** **Approval of the applications, subject to modifications.**

BACKGROUND:

1. **Site Address:** 1301, 1353, and 1355 S. 8th Street
2. **Existing Zoning/Land Use:** OC and R-5 / offices and climbing gym
3. **Surrounding Zoning/Land Use:** North: C-6 / auto sales
South: C-5 and R-1-6000 / retail and single-family residential
East: R-5 / Multi-family residential
West: OC / Offices
4. **Comprehensive Plan/Designated 2020 Land Use:** Commercial Center
5. **Annexation:** 8th Street Addition / 1968
6. **Master Plan/Designated Master Plan Land Use:** No master plan exists for this site.
7. **Subdivision:** A portion of the site is platted as "Pikes Peak Mental Health Center Subdivision"; the remainder of the site is unplatted.
8. **Zoning Enforcement Action:** None
9. **Physical Characteristics:** The west side of the site is developed with three large office complexes; there is also one building on the south side of the site. The east side of the site is undeveloped. The site decreases in elevation from the north to the south side of the site.

STAKEHOLDER PROCESS AND INVOLVEMENT: The public process involved with the review of these applications included posting of the site and sending of postcards on two separate occasions to 78 property owners within 500 feet. No public comment was received. The site will post and postcards mailed prior to the Planning Commission's public hearing.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. **Review Criteria / Design & Development Issues:**
The application under review is for a zone change from OC and R-5 to PBC. The site is located adjacent to 8th street. The OC portion of the site was originally developed as an office complex and the R-5 portion of the site was originally developed as a church **(FIGURE 3)**. The church has recently turned into a climbing gym, which falls under the indoor sports and recreation use category and is not a permitted use in the R-5 zone district. Indoor sports and recreation and offices are permitted uses in the PBC zone district; therefore, the applicant is requesting a zone change to PBC for the entire site. The PBC zoning is consistent with the zoning along 8th street. The corridor contains OC, PBC, C-5 and C-6 zoning.

The concept plan shows a 3,200 square foot proposed addition to the indoor sports and recreation use to allow a retail component adjacent to 8th Street. The proposal is conceptual and would require a development plan prior to a building permit for the site. The climbing gym and proposed retail component are buffered from the residential uses to the south by a large grade change and a large setback. The applicant is also proposing a layout for a mini-warehouse use on the east portion of the site. The mini-warehouse use would require a development plan and subdivision plat prior to a building permit. The mini-warehouse use is a quiet use adjacent to the multi-family to the east and single-family to the south.

The only portion of the site that is platted is the portion called out as Phase 2 on the concept plan. The remainder of the site is unplatted and platting would be required prior to a building permit.

After review and analysis Planning Staff finds that the proposed project meets the required zone change and concept plan review criteria.

2. Conformance with the City Comprehensive Plan:

Objective LU 4: Encourage Infill and Redevelopment

Encourage infill and redevelopment projects that are in character and context with existing, surrounding development. Infill and redevelopment projects in existing neighborhoods make good use of the City's infrastructure. If properly designed, these projects can serve an important role in achieving quality, mixed-use neighborhoods. In some instances, sensitively designed, high quality infill and redevelopment projects can help stabilize and revitalize existing older neighborhoods.

Policy LU 801: Locate New Employment Activities within Mixed-use Centers

Locate concentrated employment activities within designated mixed-use centers whenever possible. Employment centers will be designed for basic employment uses including light manufacturing, offices, corporate headquarters, as well as other uses of similar character. Include a variety of complementary uses, such as business services, lodging for business travelers, convenience retail, childcare, restaurants, and multifamily housing. Employment activities that cannot be located within mixed-use centers due to large, single employer campuses, or environmental, industrial, and operational constraints, should be planned within the context of complimentary mixed uses in nearby activity centers.

Objective LU 2: Develop A Land Use Pattern That Preserves the City's Natural Environment, Livability, And Sense of Community

A focused pattern of development makes more efficient use of land and natural and financial resources than scattered, "leap frog" development. In contrast to dispersed patterns of development, a consolidated pattern helps to decrease traffic congestion and facilitates the ability of the City to provide needed services and public facilities, such as street maintenance, public transit, police and fire protection, and emergency services.

A more focused land use pattern should be planned to better protect open spaces and natural resources, deliver public facilities and services more effectively, provide a greater range of options for housing in neighborhoods, preserve the unique character of the community, and make available a greater range of choices in modes of transportation.

The Comprehensive Plan calls out this site as a commercial center. The office, indoor sports and recreation, retail, and mini-warehouse uses fit within the commercial center use. The proposal is an infill project that makes use of existing infrastructure and reuses existing buildings.

Planning Staff finds that the proposed project is consistent with the City's Comprehensive Plan.

3. Conformance with the Area's Master Plan:

There is not a master plan for this site.

STAFF RECOMMENDATION:

Item No: A1: CPC ZC 15-00045 – ZONE CHANGE

Approve the zone change from OC (Office Complex) and R-5 (Multi-family residential) to PBC (Planned Business Center) for Gearonimo PBC, based upon the finding that the zone change complies with the review criteria in City Code Section 7.5.603.B.

Item No: A2: CPC CP 15-00046 – CONCEPT PLAN

Approve the concept plan for Gearonimo PBC, based upon the finding that the concept plan complies with the review criteria in City Code Section 7.5.501.E, subject to compliance with the following conditions and/or significant design, technical and/or informational plan modifications:

Technical and Informational Modifications to the Concept Plan:

1. Show the proposed and existing zoning under the data for the parcels.
2. Include a note for a “one way” sign between the two way parking area and the one way parking area that wraps around the south side of the building.
3. Add the following note: “Approval of a development plan is required prior to construction of any new buildings on the property. The development plan will include elevations, landscape, and development plan checklist items.”
4. Add an accessible parking space on parcel 3 that meets the City’s ADA requirements.
5. Provide a copy of an acceptable HGL Response form to Colorado Springs Utilities.
6. Provide a copy of the private water system maintenance agreement or a Notice of Private Water System to Colorado Springs Utilities. This is required since there are multiple properties served by the private water mains. No new connections will be allowed until a notice or agreement has been provided to CSU



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June 9, 2015

Lonna Thelen, Planner II
Land Use Review Division
30 S. Nevada Ave., Suite 105
Colorado Springs, CO 80901

RE: 1401 South 8th Street

Ms Thelen,

LDC Inc., is representing Pete Youngwerth and Faccio LLC., in their application for Rezone of approximately 7 acres on four (4) lots from existing OC and R5 to PBC. The properties are located on South 8th. Street and are addressed as 1301, 1353, 1355 and 1401.

Three (3) of the properties are developed and the remainder is vacant with a proposed future use of storage/mini-warehouse. In addition (Concept Plan) Lot 4 is proposing building addition of 3600 SF freestanding or attached, to be determined at the Development Plan stage. Proposed future development of the vacant ground will require lot line vacation and platting of the existing lots.

Zone Change

The Zone Change request is for a PBC zone, which is consistent with the intent of City Zoning Code and is compatible with surrounding zones and land uses that are typically C-6, C-5 and R-5. The PBC designation would provide greater flexibility in land use while restricting potential nuisance uses.

The PBC zoning proposed and supported by city staff, is consistent with intent of city planning.

Included in the submittal package, for your review, is a Zoning Map and Concept Plan.

Please feel free to contact me with any questions.

Respectfully submitted.

Land Development Consultants, Inc.

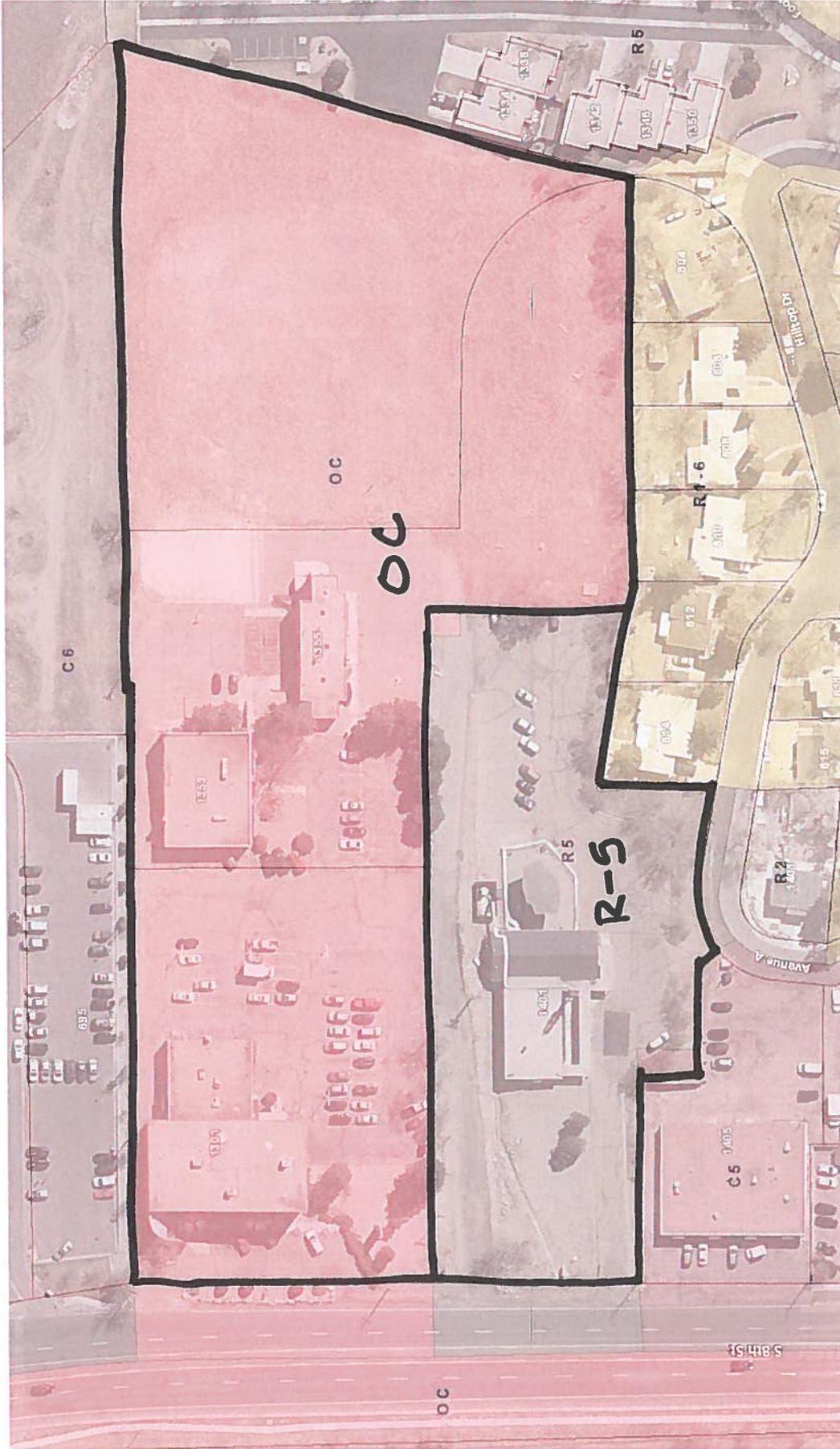


FIGURE 3

NEW BUSINESS CALENDAR

CITY PLANNING COMMISSION AGENDA

ITEM NO: 4A - 4B

STAFF: STEVE TUCK

FILE NO'S:

CPC PUZ 15-00036 – QUASI-JUDICIAL

CPC PUP 15-00037 – QUASI-JUDICIAL

PROJECT: LINCOLN SCHOOL

APPLICANT: EV STUDIO

OWNER: COLORADO SPRINGS SCHOOL DISTRICT 11



PROJECT SUMMARY:

1. **Project Description:** The applications propose rezoning 3.04 acres from R-1 6000 (Single-family) to PUD (Planned Unit Development: 51,900 square feet maximum of commercial, office, civic, 20 dwelling units/acre maximum density for multi-family residential, 35-foot maximum building height) for the purpose of converting the former Lincoln Elementary School to a mixed use project (**FIGURE 1**). The concept plan shows no additional buildings and the existing playground developed as a parking lot to support the uses within the building.
2. **Applicant's Project Statement:** **FIGURE 2**
3. **Planning and Development Team's Recommendation:** Approve the zone change from R-1 6000 (Single-family) to PUD (Planned Unit Development: 20,000 square feet maximum of commercial, office, civic, 20 dwelling units/acre maximum density for multi-family residential, 35-foot maximum building height) and approve the concept plan subject to significant and technical modifications to the plan.

BACKGROUND:

1. **Site Address:** 2727 North Cascade Avenue
2. **Existing Zoning/Land Use:** R-1 6000/elementary school (not in use)
3. **Surrounding Zoning/Land Use:**
North: R-2/single-family residences
South: R-4/single-family residences, duplex
East: R-5, C-5/multi-family residential, medical offices
West: R-2/single-family residences, multi-family residential, adult daycare center
4. **Comprehensive Plan/Designated 2020 Land Use:** General Residential
5. **Annexation:** 1950, Roswell Addition
6. **Master Plan/Designated Master Plan Land Use:** None
7. **Subdivision:** 1888, Addition No. 1 to the Town of Roswell, 1889, North Colorado Springs
8. **Zoning Enforcement Action:** None
9. **Physical Characteristics:** The 3.04-acre site is developed with a 42,327 square-foot, public elementary school and playground constructed in 1948.

STAKEHOLDER PROCESS AND INVOLVEMENT:

Public notice was provided to 280 property owners within 1,000 feet of the property on three occasions: 1) during the pre-application stage for the neighborhood meeting on April 27, 2015, 2) after the submittal of the applications in May of 2015, and 3) prior to the Planning Commission meeting. Approximately 50 people attended the neighborhood meeting on April 27, 2015. **FIGURE 3** is the City review letter of June 11, 2015 and includes correspondence received after the submittal of the applications.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. **Review Criteria/Design & Development Issues:**

The Property:

From 1948 until its closure at the end of the 2013-2014 school year Lincoln Elementary School served as the local neighborhood school and a focal point for the Roswell area. The site consists of 3.04 acres and is surrounded by local streets on three sides and Cascade Avenue, a minor arterial, along the west side. No on-site parking exists. Twenty-five diagonal parking spaces available to the public are located along the east side of the site and within the public right-of-way of Tejon Street. Parallel parking is also available on the south side of Polk St., portions of either side of Cascade Ave., and both sides of Tyler St. While the parallel and angled stalls may help serve the site as well as the surrounding land uses, they do not satisfy City requirements for on-site parking.

The building is a solid, one story, brick structure consisting of 42,327 square feet. There are two small basements. The tallest portion of the school is the gymnasium at 32 feet. The building is in the shape of an "L" with the east/west wing containing the front entry, gymnasium/cafeteria, library/auditorium, kitchen and classrooms. The north/south wing consists of classrooms. The building surrounds a gravel playground. Two modular buildings are located along the east side of the site.

Applicant's Proposal:

The proposal is to use the existing building with no new structures or substantial additions to the school (**FIGURE 4**, response by applicant to item 1.b in City review letter of June 11, 2015). Parking spaces for 102 vehicles are shown in the former playground with driveways connecting to Cascade Avenue and Tyler Street. The proposed plan describes up to 51,900 square feet of commercial, office and civic uses along with a maximum of 60 residential units. However there is no commitment with the plan to provide a mixture of residential and nonresidential uses. The concept plan would permit the entire property to be used for commercial uses only without a residential component.

Staff's Recommendation:

The goal of rezoning the site to PUD is to establish a balance of uses that will allow for a reasonable use of the property while providing a complementary and appropriately scaled project with the existing neighborhood. The size of the building and the amount of the land available for parking and outdoor amenities assists in understanding the opportunities and constraints of the site.

While the concept plan indicates the possibility for a mixture of uses there is no assurance a mixture of residential and non-residential uses will occur. The concept plan would potentially allow the entire site to be used for a single use, even though the plan is represented for a potential mixture of uses. Additionally several of the uses are not compatible or appropriate with the surrounding neighborhood and some of the proposed maximums appear excessive. Examples of the uses not considered compatible include 28,000 square feet of miniwarehouses, a large retail establishment (50,000 square feet or larger), drive-through facilities for a restaurant, and construction sales and services. Also several intense commercial uses (such as a bar/restaurant) may be appropriate but the proposal to have up to 10,500 square feet just for the seating area may allow a use with the potential to overwhelm the surrounding, low density neighborhood with noise, late night activity and parking conflicts. The typical parking requirement for a bar/restaurant is one parking space per 100 square feet for the facility, including the kitchen and related areas. The entire 102-space parking area would be necessary to satisfy the parking requirement just for the 10,500 square-foot seating area.

To insure the project will be developed as a mixed use project the proposed intensities of the commercial uses are recommended to be reduced from the proposed limits. Staff recommends a maximum of 20,000 square feet devoted to commercial uses. The east/west wing of the building where the front entry, gymnasium/cafeteria, kitchen and library/auditorium are located are better suited for the commercial uses, while the north/south wing which is occupied by classrooms could accommodate office, civic or residential units.

The zone change review criteria require the project not be detrimental to the public interest, safety and general welfare of the neighborhood, and be consistent with the Comprehensive Plan. The PUD concept plan review criteria require a project to provide an appropriate type of development and promote the stabilization and preservation of the surrounding neighborhood. With the revisions as proposed by staff the project will meet the zone change and concept plan review criteria.

2. Conformance with the City Comprehensive Plan:

The 2020 Land Use Plan within the Comprehensive Plan includes the site within the General Residential designation. Neighborhood commercial centers consisting of up to five acres in size are considered secondary uses in the General Residential category.

Policy LU 301 (Promote a Mixed Land Use Pattern) of the Plan promotes development that is characterized by a mix of mutually supportive and integrated residential and non-residential land uses, while Policy LU 302 (Encourage Development of Mixed-use Activity Centers) encourages the development of activity centers designed to include a mix of uses that complement and support each other such as commercial, employment-related, institutional, civic and residential. Strategy LU 302c (Promote Compatibility between Land Use of Differing Intensities) recommends the development of mixed land uses to ensure compatibility and appropriate transitions between land uses that vary in intensity and scale. With the revisions as recommended by staff the applications are consistent with the Comprehensive Plan.

3. Conformance with the Area's Master Plan:

The site is not within an area master plan.

STAFF RECOMMENDATION:

Item No: B.1 CPC-PUZ 15-00036 – Zone Change

Approve the zone change from R-1 6000 to PUD (Planned Unit Development: 20,000 square feet maximum of commercial, office, civic, 20 dwelling units/acre maximum density for multi-family residential, 35-foot maximum building height), based on the finding the request complies with the review criteria in City Code Section 7.5.603.B (Establishment or Change of Zone District Boundaries).

Item No: B.2 CPC-PUP 15-00037 – Concept Plan

Approve the concept plan for Lincoln School, based on the finding the plan complies with the review criteria in City Code Section 7.3.605 (Review Criteria for PUD Concept Plans) subject to compliance with the following significant modifications and technical and/or informational modifications to the concept plan:

Significant Modifications to the Concept Plan:

1. Note the PUD zone requirements (land use types and mix, maximum intensity, maximum residential density, maximum building height) as indicated in the rezoning ordinance. Note the number of the ordinance once approved by City Council.
2. Note a maximum of 20,000 square feet of commercial uses are permitted. Revise the Land Use Restrictions listed on sheet 1 accordingly. Delete miniwarehouses from the list.
3. Delete the following uses from the Land Uses Permitted table: single-family detached, automotive rentals, business park, construction sales and services, data center, funeral services, miniwarehouses, "with drive-through" (from quick serve restaurant, by definition a quick serve restaurant does not include drive-through facilities), "with drive-through capabilities" (from sit down restaurant, by definition a sit down restaurant does not include drive-through facilities), large retail establishment (by definition a large retail establishment is greater than 50,000 square feet), and hospital.
4. Revise note 11 to: "No vehicular drive-through facilities are permitted."

Technical and Informational Modifications to the Concept Plan

1. Note the correct scale of the drawing as 1 inch = 40 feet instead of 1 inch = 50 feet.
2. Note the existing accessory buildings along Tejon Street shall be removed prior to the approval of a building permit.
3. Revise the proposed minimum building setbacks from 10 feet to match the 15-foot landscape buffers along Polk Street, Tejon Street and Tyler Street and the 20-foot landscape setback along Cascade Avenue.
4. Delete "seating area" from the bar/brewery and restaurant Land Use Restrictions; as the size of the use is determined by the gross floor area, not the seating area.
5. Delete from note 1 "climate-controlled storage" and add "civic".
6. Delete note 2 regarding off-street parking.
7. Delete note 7 which permits miniwarehouses.
8. Delete note 9 regarding parking requirements.
9. Delete note 10 regarding footcandle maximums for exterior lighting.

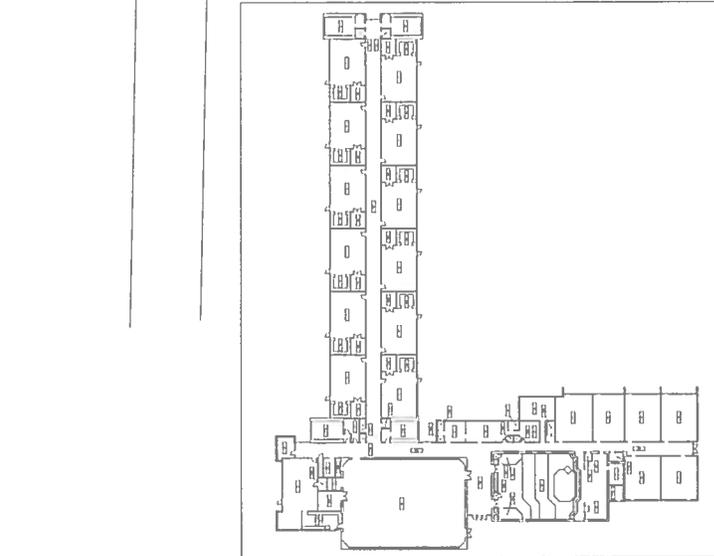
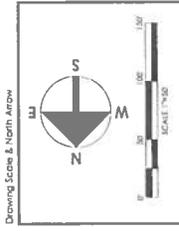
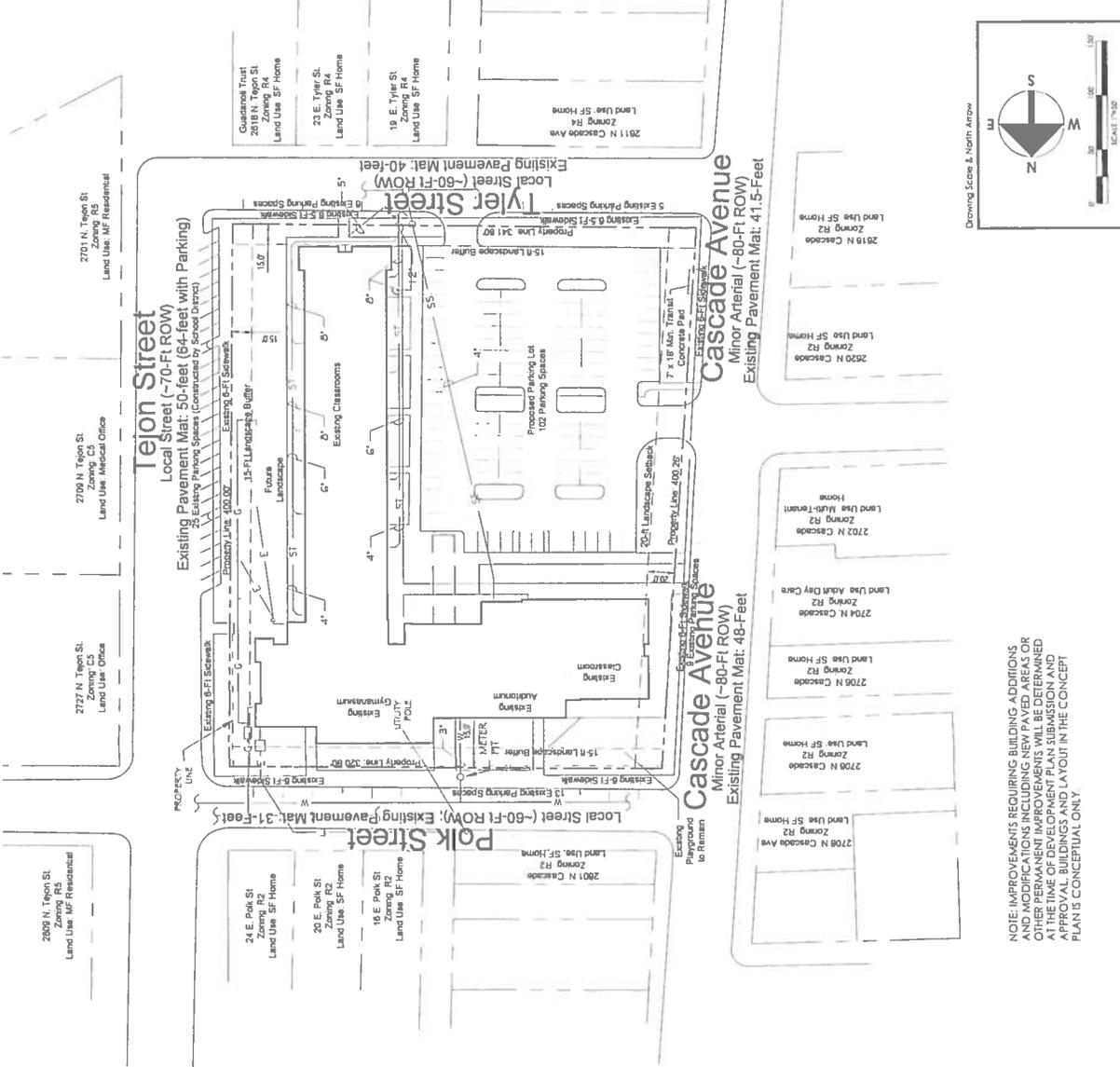
LINCOLN SCHOOL
 2727 North Cascade Avenue
 Colorado Springs, Colorado
 15-051

NOT FOR CONSTRUCTION

DATE: 08/11/15
 DRAWN BY: J. WOOD
 CHECKED BY: J. WOOD
 PROJECT: LINCOLN SCHOOL
 SHEET: 15-051
 PREPARED BY: J. WOOD

CONCEPT SITE PLAN

CP2
 CEP: PUP: 15-0065Z
 Sheet 2 of 2



EXISTING BUILDING LAYOUT - PROVIDED BY OWNER

NOTE: IMPROVEMENTS REQUIRING BUILDING ADDITIONS AND MODIFICATIONS INCLUDING NEW PARKING AREAS OR EXISTING PARKING AREAS TO BE REDESIGNED AT THE TIME OF DEVELOPMENT PLAN SUBMISSION AND APPROVAL. BUILDINGS AND LAYOUT IN THE CONCEPT PLAN IS CONCEPTUAL ONLY.

FIGURE 1



Project Statement/ Analysis
May 1, 2015

The proposed application includes a Concept Plan for the Re-zone of the property. The rezone to a defined PUD (clarified below and on the Concept Plan) will allow the Developer to market the property to neighborhood retail and/or restaurant or office uses. The PUD will allow for most land uses within the PBC Zoning of the Current Code along with Residential uses, however will have exclusions of the PBC and maximum restrictions on land use intensities.

At this present time, if we were to submit the Concept Plan and Rezone Application with greater detail as suggested by Planning Staff, the detailed information would be for a less than desirable use for the Developer, and the neighbors. The purpose for leaving some flexibility in the zoning is to allow for higher and better uses to be accommodated without the onerous process of a rezone which could prohibit those uses from coming to fruition.

The current zoning in place allows the following land uses as permitted uses:

- Single-family Residential Lots with a minimum lot size of 6,000 sq. ft.

The use listed above is permitted without a zone change, which would require hearings before Planning Commission and City Council.

The Concept Plan submitted in conjunction with this application illustrates the intention to utilize the existing building for a mixture of uses. We have conducted a neighborhood meeting prior to the submittal of the application to understand the feedback of the residents. The general consensus of the neighborhood participants (approximately 50 in attendance), was that a mixture of uses for the school would be desirable, similar to that which was provided at the Ivywild School. This is in conjunction with the goals of our team as well, however we do need to leave interior, climate-conditioned storage as a potential use of the building in case the commercial market does now warrant the desired uses.

The property is adjacent to a mixture of uses, including R2 (11 Properties); R4 (3 Properties); R5 (2 Properties); and C5 (2 Properties). This compatibility creates a harmonious and complementary cohesiveness to the neighborhood for the neighborhood with the zoning that is being proposed. The goal to lease the building to a mix of uses that may include a restaurant/brewery, retail, office space and potentially interior, climate-conditioned storage would create the "Third Place" nature that the School once served for the neighborhood.



PLANNING & DEVELOPMENT DEPARTMENT
Land Use Review Division

June 11, 2015

Mr. John Olson
EV Studio
210 East Las Animas Street, Suite 113
Colorado Springs, CO 80903

RE: Zone Change and Concept Plan for Lincoln School – File Nos. CPC PUZ 15-00036 and CPC PUP 15-00037

Dear John:

The City has completed the review of the above applications. Prior to scheduling the requests for a Planning Commission meeting the following 3 items shall be addressed:

1. Submit to Land Use Review 6 copies of the concept plan (folded to no larger than 9" x 14", with the lower right corner exposed) with the following revisions:
 - a. Note the City file number of CPC PUP 15-00037 in the lower right corner of each sheet.
 - b. To the north, south and west of the site are single-family homes. To the east is multi-family residential and medical office. The zone change and concept plan applications propose both high intensity commercial (25,400 square feet of bar/restaurant, 12,000 square feet of retail, 28,000 square feet of miniwarehouses) and high density residential (20 dwelling units/acre for a maximum of 60 units). The plan is not clear as to how the proposed land uses will be achieved. Will only the existing school building be occupied or is an additional building anticipated to achieve the requested intensity and density? The requested land uses far exceed the size of the former school building. Reduce the maximum floor area of the commercial uses and the number of dwelling units to achieve a compatible relationship with the neighborhood and to "fit" the site (see the following item which discusses on-site parking availability). Eliminate the miniwarehouse use. Consider uses which complement and may provide services to the neighborhood (e.g. office, personal consumer services, and personal improvement services). Note that only those uses listed shall be permitted. Revise the proposed zoning note by eliminating the reference to the PBC zone. As currently shown on the concept plan the proposed uses are not appropriate with the surrounding neighborhood. Therefore the applications do not meet the review criteria for a zone change or concept plan and will not be supported as requested.
 - c. The school playground is labeled as a potential parking area. To understand the ability of the site to support various land uses determine the number of parking spaces which may be accommodated in this area while satisfying the dimensional requirements for parking spaces (including accessible spaces), driveways, vehicular access onto the public street(s), pedestrian access (sidewalk connections to the building), outdoor area for building occupants, motor vehicle lot landscaping, the landscape setback of 20' along Cascade Avenue, and the landscape buffer of 15' along Tyler Street. Graphically show this information on sheet 2 and note dimensions of the various elements mentioned above.
 - d. Note the size of the property (3.04 acres per the El Paso County Assessor).
 - e. Note the size of the existing building (42,327 per School District 11). Indicate the building shall remain.
 - f. Note the height of the school building to the highest ridge.
 - g. Note the existing accessory buildings adjacent to Tejon Street shall be removed prior to the approval of a development plan.

- h. As required by Engineering Development Review (comment 2) note that the review of public improvement requirements shall be provided with the development plan.
- i. Show and dimension the landscape setbacks and buffers around the perimeter of the site.
- j. Note proposed building setbacks and maximum lot coverage for the PUD zone.
- k. Show the north arrow correctly on sheet 2.
- l. Show and note the dimensions of the property lines. Only a portion of the property lines are shown.
- m. On sheet 2 note the surrounding land uses and delete the surrounding property owners' names.
- n. Show Cascade Avenue as a minor arterial street instead of a collector. Show Tejon Street as a local street instead of a collector.
- o. Note the width of the pavement mat (face of curb to face of curb) of Cascade Avenue, Polk Street, Tejon Street and Tyler Street. Show and note the width of the sidewalks within the adjacent public rights-of-way.
- p. As required by Mountain Metropolitan Transit show the provision of a concrete bus stop pad on Cascade Avenue. Note the pad will constructed concurrently with the initial use of the site.

2. Submit to Land Use Review 1 copy of the revised concept plan reduced to 11" x 17".

3. Submit to Land Use Review the completed posting affidavit. Enclosed is a copy.

Listed below are comments received from the various City departments or other review agencies regarding the application. **If the comments listed below are not referenced in the items above, then the comments are for information purposes and are not required to be addressed prior to scheduling the applications for a Planning Commission agenda.**

Engineering Development Review –

1. Please note the north arrow is pointing in the wrong direction on Sheet 2.
2. The concept plan basically proposes a zone change to PUD with limited uses and does not propose a site layout that can be reviewed from an engineering standpoint. Therefore, the Concept Plan should state that a thorough engineering review will be performed at the time of development plan submittal, which will include public improvement requirements.

For more information contact Lydia Maring at 385-5546.

Traffic Engineering – No comments

For more information contact Zaker Alazzeah at 385-5468.

Mountain Metropolitan Transit –

There is an existing bus stop that will need upgrading based on the proposed usage of this property. Currently there is a bench present and this proposed use warrants a shelter stop. Please improve the bus stop to a shelter stop by providing the concrete flatwork only. Concrete shall be 6" thick, 4000 PSI strength. Transit will provide the shelter, stop signage and other amenities. Please reference the included details for possible shelter stop layouts.

For more information contact Christoph Zurcher at 385-6524.

Colorado Springs Utilities –

Action Items: None, approval is recommended.

Information Items:

1. The applicant or their engineer should contact Contract Administration for an estimate of any system development charges, fees, Recovery Agreement Charges or other costs that may apply to this development (668-8111).

2. When new water meters are proposed to serve the project or additional demand added to existing water meters, a Commercial Water Meter Sizing form will be required to be submitted to CSU prior to Service Contract issuance and building permit approval.
3. CSU requires an Application for Gas and Electric Line Extension to be submitted along with a Load Data form or an Application for Gas Service Line Approval and/or Application for Elevated Pressure Approval prior to electric and natural gas system design for service to the project. Refer to the CSU Line Extension and Service Standards or contact Field Engineering at 719-668-4985.
4. CSU may require an extension contract and payment of contributions-in-aid of construction (or a Revenue Guarantee Contract) for the extension of electric facilities needed to serve the development. With regard to natural gas extensions, CSU may require an extension contract and an advance payment for the estimated cost to construct the necessary gas extensions.
5. Improvements, structures and 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 regulations or Colorado Springs Utilities' policies.
6. Improvements, structures and trees shall not be located under any overhead utility facility, shall not violate NESC clearances, and shall not impair access or the ability to maintain utility facilities.
7. Landscaping shall be designed to provide the required clearances for utility facilities, to allow continuous access for utility equipment, and to minimize conflicts with such facilities.
8. Colorado Springs Utilities requires wastewater and water construction drawings when new wastewater and water facilities are proposed. Plans can be submitted electronically to Utilities Development Services via www.csu.org.
9. The water distribution system facilities must meet the Colorado Springs Utilities' criteria for fire flow, water quality, service interruption and pressure. To meet service interruption criteria, no more than fifty (50) homes on a dead end water main line are permitted. The static pressure of the water distribution system shall be a minimum of 60 psi. CSU will determine the need for a Water Quality Plan based on information presented in the Development Plan. CSU may require a new or updated Water Quality Plan where construction phasing or the water system design differ from the approved Development Plan.

For more information contact Ann Werner at awerner@csu.org or 668-8262.

Fire Prevention –

No 'disapproved' comments.

Attention comments:

No exceptions: CSFD does not have any exceptions with the concept plan as submitted.

For more information contact Steve Smith at 385-7362.

Police – No objections or suggestions

Regional Building Department - Enumerations –

Enumerations has no comment on the zoning and concept plan for the existing structure at this stage of the development process. When the actual development begins on this site, we will have input.

For more information contact Jeannine Lewis at 327-2907.

U.S. Postal Service –

Depending on the usage of the building or land would determine the type of delivery.

Residential – cluster box units

Office type – wall unit

For more information contact Elaine Medina-Kelly at 570-5415.

Enclosed is correspondence received during the review of the applications.

Failure to submit the requested items within 180 days from the date of this letter will result in the application being formally withdrawn from consideration. Once withdrawn, any subsequent resubmittal will require the filing of a new application and payment of application fees.

If you have questions please call me at 385-5366.

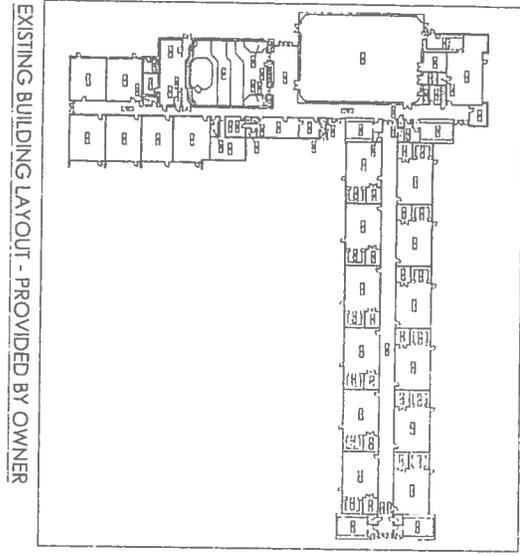
Sincerely,



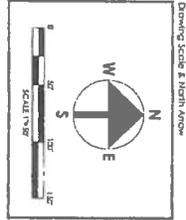
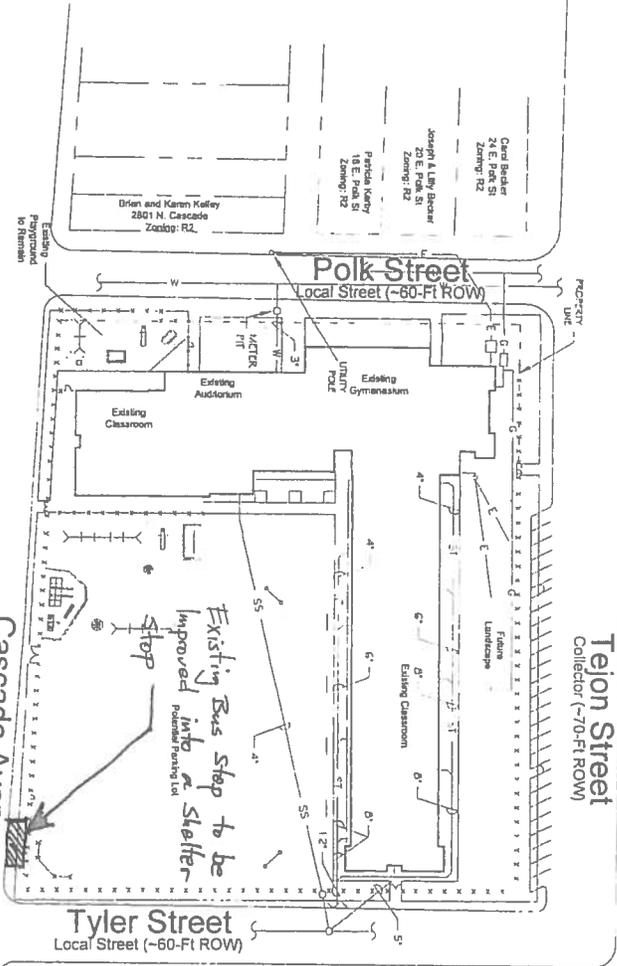
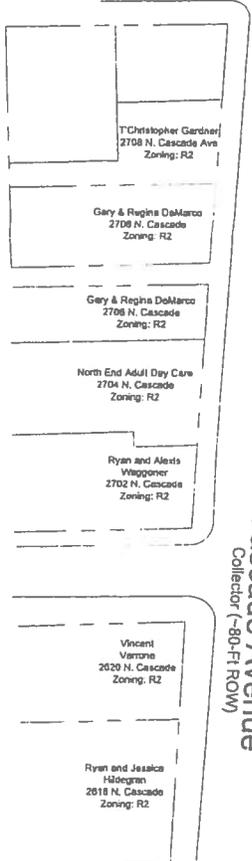
Steve Tuck
Principal Planner

C: File Nos. CPC PUZ 15-00036 and CPC PUP 15-00037
Paul Byer, Asthma and Allergy Associates, P.C., pbyer@aacos.com
Bonnie Olson, tumbleweed_two@msn.com
Lynn and Liz Bevington, lynnliz1513@msn.com
Phyllis Feaster, filis3@comcast.net
Judi Ingelido, jkingelid09@q.com
Margaret Oliver, mholiver@comcast.net
Bob Sullivan, Old North End Neighborhood Association, president@oldnorthend.org

Enclosures



NOTE: IMPROVEMENTS REQUIRING BUILDING ADDITIONS AND MODIFICATIONS INCLUDING NEW PAVED AREAS OR OTHER PERMANENT IMPROVEMENTS WILL BE DETERMINED AT THE TIME OF DEVELOPMENT PLAN SUBMISSION AND SHALL BE SHOWN ON A LAYOUT IN THE CONCEPT PLAN IS CONCEPTUAL ONLY.



DATE: 08/11/15
 DRAWN BY: JMD
 CHECKED BY: JMD
 APPROVED BY: JMD

CP2
 CIVIL ENGINEERING

NOT FOR CONSTRUCTION

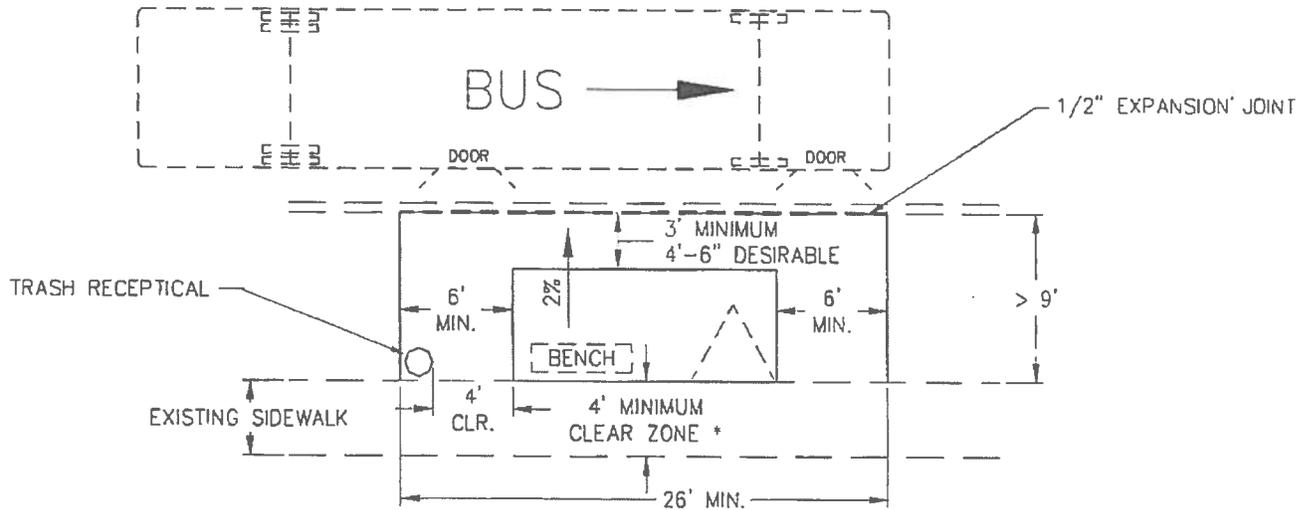
LINCOLN SCHOOL
 2727 North Cascade Avenue
 Colorado Springs, Colorado
 15-051

EVSTUDIC
 CIVIL ENGINEERING
 201 E. Lake Avenue, Suite 100
 Colorado Springs, CO
 719.231.3599

FIGURE 3

CASE I

FOR BUS STOPS WITH DETACHED SIDEWALKS AND AN AREA BETWEEN CURB AND SIDEWALK GREATER THAN 9 FEET WIDE.

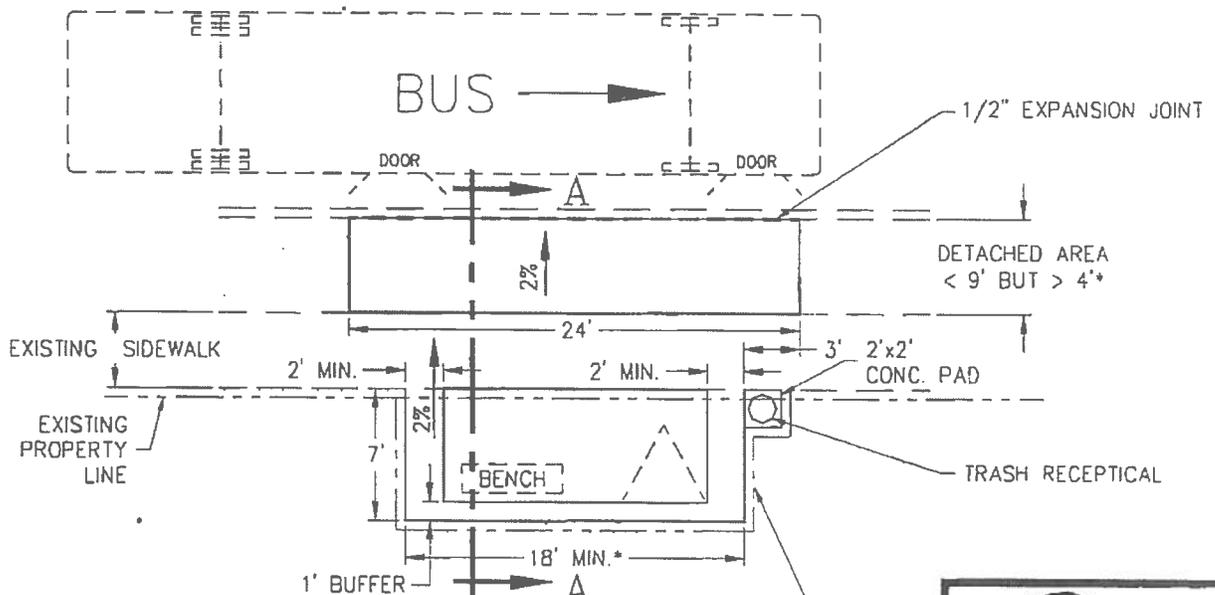


* 4' MINIMUM CLEAR ZONE OR MATCH EXISTING SIDEWALK WIDTH, WHICHEVER IS GREATER.

IF EXISTING SIDEWALK IS ALSO A BIKE TRAIL, THEN AN ADDITIONAL 3' CLEARANCE AREA MUST BE PROVIDED BETWEEN EDGE OF SIDEWALK AND SHELTER.

CASE II

FOR BUS STOPS WITH DETACHED SIDEWALKS AND AN AREA BETWEEN CURB AND SIDEWALK LESS THAN 9 FEET WIDE BUT GREATER THAN 4 FEET WIDE.



ADDITIONAL RIGHT-OF-WAY OR SHELTER EASEMENT REQUIRED IF SHELTER EXTENDS OUTSIDE OF EXISTING RIGHT-OF-WAY.

* IF SIDEWALK IS DETACHED LESS THAN 4 FEET USE CASE III AND SHELTER PAD SHALL BE A MINIMUM OF 26' WIDE.



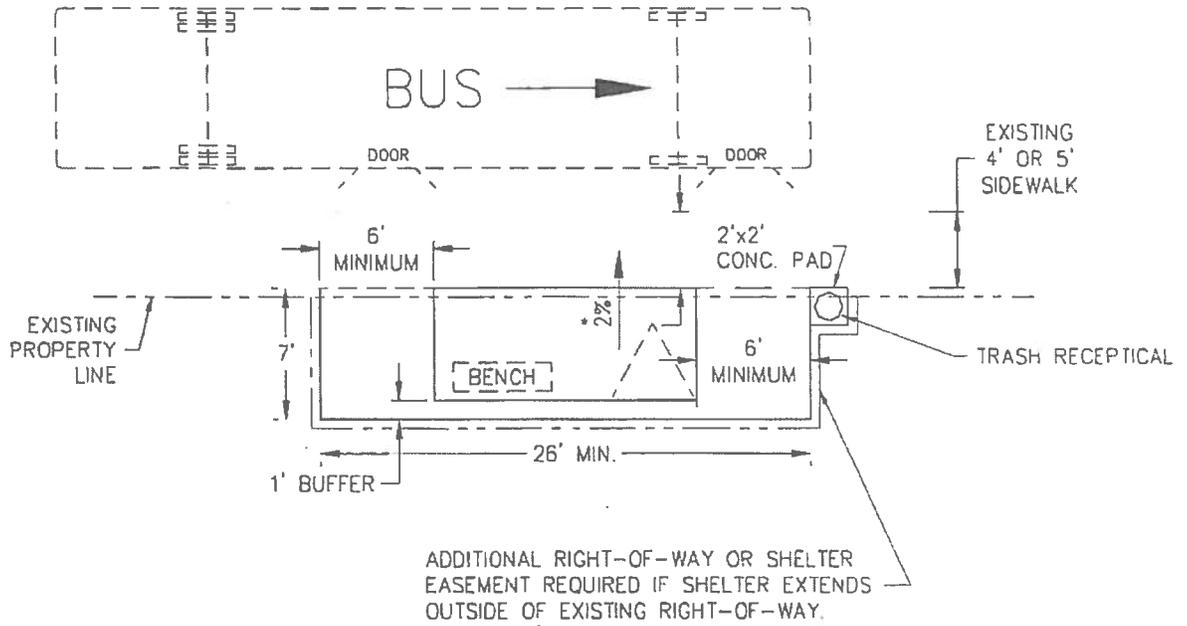
CITY OF COLORADO SPRINGS

TYPICAL BUS SHELTER GENERAL NOTES

Approved by:		City Engineer
Drawn by:	J. Niño	Date: 1/97
SHT 2 OF 4		STD. D-36B
SCALE: 1"=10'		

FIGURE 3

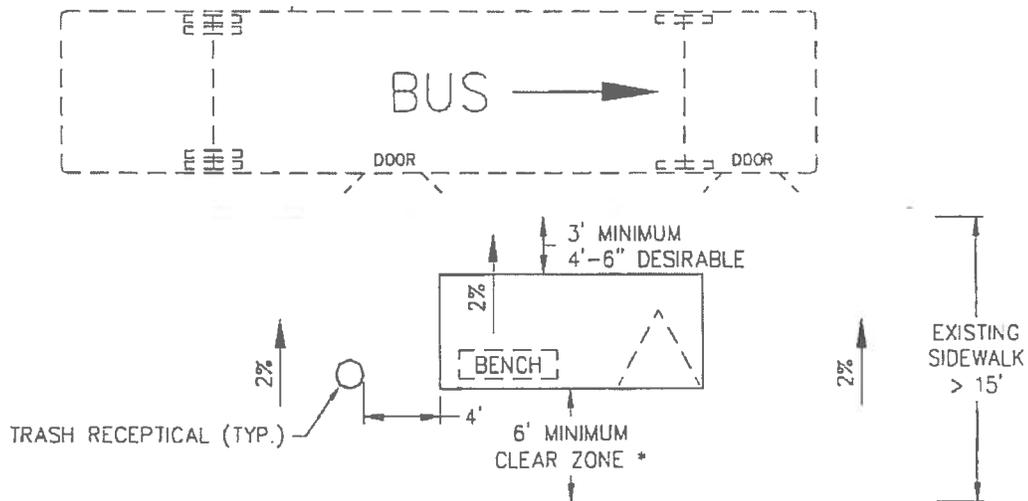
CASE III FOR BUS STOPS WITH ATTACHED SIDEWALKS.



▼ MATCH EXISTING SIDEWALK WIDTH.

CASE IV

FOR BUS STOPS WITH ATTACHED SIDEWALKS MORE THAN 15 FEET WIDE



* PROVIDED THAT THE SIDEWALK IS NOT ALSO A BIKE LANE OR TRAIL, IN WHICH CASE THE SIDEWALK MAY NOT BE OBSTRUCTED AND THE SHELTER WILL NEED TO BE LOCATED BEHIND THE BACK OF SIDEWALK

 CITY OF COLORADO SPRINGS		
TYPICAL BUS SHELTER GENERAL NOTES		
Approved by:	City Engineer	
Drawn by:	J. Niño	Date: 1/97
Scale:	1"=10'	STD. D-36C

SHT. 3 OF 4
 SCALE: 1"=10'

FIGURE 3

INTERNAL REVIEW POSTING AFFIDAVIT

previously
paid

Date _____

I, _____, do hereby certify that a Public Notice Poster was visibly and continuously posted on the site located at: _____

City Planning File No(s): CPC PUZ 15-00036 & CPC PUP 15-00037

Project Name (if applicable): Lincoln School Mixed-Use Redevelopment

Planning Staff Member: Steve Tuck

(date) from 5/12/2015 (date) to: 5/22/2015

I also do hereby certify that the site was checked on the following dates to ensure that the Public Notice was visible and readable:

1. _____
2. _____

Signature

INTERNAL REVIEW POSTING INSTRUCTIONS

APPLICANT'S RESPONSIBILITIES:

All internal review applications are required to have the site posted for a minimum of ten (10) days after formal submittal of the application. City Planning relies on applicants/owners to post the prospective sites themselves.

You may have the poster laminated. Office Services in the City Administration Building can provide this service for \$6.00. The fee should be paid directly to Office Services unless prior arrangements have been made. You must be able to leave the poster for two days prior to posting for lamination.

The general posting guidelines are as follows:

- The public notice poster will be provided within three (3) days of the time of formal application submittal. The proposed project site must be posted for a minimum of ten (10) days and remain on the property for the full ten (10) day period.
- After the posting period has been completed, the poster needs to be removed as soon as possible from the posting location.
- The poster should be placed on the proposed site in a very visible location at a point (or points, if additional posters are provided) along the perimeter of the site where it can be clearly viewed by passing motorists from adjacent streets and/or pedestrians without having to trespass. The physical location of the poster should provide actual notice to owners and residents of the surrounding properties and the general public that a development is being proposed in the general area.
- The poster should never be placed on trees within the street right-of-way. A \$500.00 fine or a 90 day jail sentence or both may imposed under Section 21-6-603 and 604 of the City Code. It is also forbidden to place a poster on electrical power poles and telephone poles.
- If a public notice poster should become lost or illegible, immediately contact City Planning at 385-5905 and you will be supplied with a replacement poster.
- The applicant should complete and return it after the posting period to: City Planning, 30 S. Nevada Av, #105, Colorado Springs, CO 80903, Fax: (719) 385-5167. (Note: a delay in returning this form to the planning staff member named above could result in a delay of the project moving forward.)

Tuck, Steve

From: Paul Byer <PByer@aacos.com>
Sent: Monday, May 11, 2015 9:23 AM
To: Tuck, Steve
Subject: Lincoln School

Steve:

Good seeing you at the meeting. You have the patience of a saint. I'd have told the folks, uh, never mind, I better keep this PG rated!!!!!!

Anyway, I see that EV Studio has put in the formal request for the zoning change and has added some potential uses. I'm meeting with my doctor/owners tomorrow a.m. and I'll add this to our agenda. But, I'm 99.99999 % sure we are "all in" for any use but with the mini-warehouse way, way down on our list. Ivywild School model.... Way up on our list.

So, will there now be another public meeting to discuss this proposal? Or another meeting when they finalize a use(s)? God I hope not.

Paul Byer
Clinic Administrator
Asthma and Allergy Associates, P.C.
710-634-1741

Tuck, Steve

From: ERIC BONNIE OLSON <tumbleweed_two@msn.com>
Sent: Tuesday, May 19, 2015 6:28 AM
To: Tuck, Steve
Subject: Lincoln School Re-Zone Concept Plan

Planning and Development
Land Use Review
30 S Nevada #105
Colorado Springs, CO 80903

May 18, 2015

For the attention of Reviewing Planner Steve Tuck:

Reference:

2727 North Cascade Avenue
Colorado Springs, CO 80907

File Nos. CPC PUZ 15-00036 / CPC PUD 15-00037

A zone change from R-1-6000 to PUD for a redevelopment of Lincoln Elementary School for 65,400 square feet of commercial/ residential and a concept plan for redevelopment of the school with uses which include a brewery, bar, warehouses, restaurant and multi-family up to 60 units on this 3 acre parcel.

I am writing in regards to this application since my home at 2704 N Cascade is immediately adjacent to this land. I do understand that this property needs to be reoccupied and cared for and that the possibility that it can continue as a school may not be possible and that a re-zoning of this land may need to occur.

However, I think that the current proposal is excessively broad and if approved would not afford my neighborhood to address parking and traffic and noise and other issues that could impact this area.

Traffic on this portion of North Cascade is already very heavy. The school property is surrounded on three sides by residential homes. The east west streets, (Tyler and Polk), on either side of this land are very narrow and constrained. In reviewing the files there is no traffic study in the proposal.

In addition, the current concept plan includes a number of intense uses from dense residential to a proposed brewery, bar which would require a variance from residential uses. Therefore, I want to strongly express my concern and current objection to these applications.

Cordially,



Bonnie Olson
Property Owner of 2704 N Cascade Avenue, Colorado Springs, CO 80907
719 351-8786

Tuck, Steve

From: LYNN <lynnliz1513@msn.com>
Sent: Tuesday, May 19, 2015 8:51 PM
To: Tuck, Steve
Subject: Lincoln school

hi Steve. i am opposed to any type of storage use and concerned about on street parking capacity. thank you and best regards. sorry the weather hasn't been conducive to cycle commuting.
lynn bevington

Sent from my iPhone

Tuck, Steve

From: LYNN <lynnliz1513@msn.com>
Sent: Tuesday, May 19, 2015 9:12 PM
To: Tuck, Steve
Subject: Lincoln School Zoning Change Request

Hi Steve,

I am opposed to the zone change from R-1 6000 to PUD for 2727 North Cascade Avenue, formerly Lincoln Elementary School. I would like to see the developers be more definite about their plans before they are granted the PUD Zoning which opens up a plethora of opportunities, many of which I oppose. Once that zone is granted we can not successfully oppose what I consider undesirable uses. I am also quite concerned about their use of "mainly on-street parking" once the land is developed. There is already a huge parking problem with Penrose Hospital only a few blocks to the south. Their plan for on-street parking would only exacerbate the problem.

Liz Bevington
1513 Alamo Avenue
Colorado Springs, CO 80907

Tuck, Steve

From: filis3@comcast.net
Sent: Thursday, May 21, 2015 10:00 AM
To: Tuck, Steve
Subject: 2727N Cascade rezoning

As an Old North End property owner, I would like you to know that I am opposed to any rezoning of the Lincoln School property that would allow for more than residential building. The idea of mini warehouses is most troubling. This neighborhood has great residential potential, and, is a prime spot for the much needed infill mentality our city needs to embrace.

Thank you for your time.

Phyllis Feaster
1633 Culebra Ave
Colorado Springs CO 80907
719-473-5650

Tuck, Steve

From: Judi Ingelido <jkingelid09@q.com>
Sent: Thursday, May 21, 2015 2:23 PM
To: Tuck, Steve
Subject: re: zoning of old Lincoln Elementary school property

How can you approve this with such a broad description for what the property may be used for. I would like to see the specific commercial or residential use of the property for approval.

Most importantly, i do not want to see any commercial zoning/ development in this area...this is a property in the middle of a neighborhood! Have you walked this area? Many property owners are trying to improve the neighborhood, fixing up their homes, etc., and new/more residential property will help with this improvement.

Respectfully,
judi ingelido

Tuck, Steve

From: Margaret Oliver <mholiver@comcast.net>
Sent: Friday, May 22, 2015 12:12 PM
To: Tuck, Steve
Subject: Lincoln School Development plans

Dear Steve,

As a lifetime resident of Colorado Springs, I would like to see the Lincoln School property remain residential. As I understand it, city goals lean toward infilling available lots in viable locations. The idea of a bar and a brewery plus storage does not conform to a residential environment. There are plenty of lots on busy streets for the bar and restaurant.

Regards,
Margaret Oliver
1551 Culebra Ave.
Colorado Springs, CO 80907

Margaret Oliver
mholiver@comcast.net



OLD NORTH END

NEIGHBORHOOD

Steve Tuck, Senior Planner
City of Colorado Springs
30 S. Nevada, Suite 105
Colorado Springs, CO 80903
Via email: stuck@springsgov.com

May 29, 2015

Re: Rezoning 2727 N. Cascade (CPC PUZ 15-00036 & CPC PUP 15-00037)

Dear Mr. Tuck

We appreciate the applicant's desire to use PUD zoning so certain uses would be restricted versus going for a straight PBC zoning, this is considerate to the neighborhood. The primary concern about rezoning of the property is parking and traffic.

Please let us know if our understanding of the process is not correct:

1. Concept Plan is created for rezoning (this is where we are now.) This is intentionally a loose plan and is by no means a description of eventual use. If the plan is too tight, another rezoning / variance may need to occur as final uses are determined. Once this concept plan and the rezoning is approved, the applicant continues to the development plan.
2. Development Plan is created and submitted for approval. This document more concretely lays out the planned uses. Consideration of approval in this phase includes compliance with parking requirements. The Development Plan also goes through Planning Commission and City Council and neighbors have another opportunity to comment.

The potential uses of the building that would be laid out in the Development Plan is basically an algebra problem: Restaurant / bar space parking required + office space parking required + neighborhood retail parking required \leq 186 (the number of spots that would fit on the current playground. This could be increased to 211 if modular buildings on Tejon are removed and replaced with 25 parking spaces). The City could include the existing on street parking in order for the applicant to meet the parking requirement.

Parking requirements are 1 space per 300 square feet for retail, 1/200 medical, 1/400 general office, 1/100 bar/tavern/night club, 1/100 restaurant, 1/150 recreation club. There is not a parking requirement for mini storage.

The building is 42,327 square feet. The concept plan limits bar/brewery to 13,400 square feet and restaurant to 12,000 sf. They would not be able to put both a restaurant and a bar/brewery in the facility and meet the parking requirement (134 spots for the bar + 120 for the restaurant = 254 required spots.)

The applicant has stated that they will comply with parking requirements at the Development Plan stage. We believe they will, but would like assurances that they must meet the parking requirement or apply for a variance and give the neighbors another opportunity to provide feedback. We have met with the applicant and expressed objection to some uses, which I think they are considering. This would be added to their Concept Plan. The uses allowed in PBC that we would like to have eliminated as uses for this property are:

1. Drive-in / fast food restaurant (the drive in aspect)
2. Transit shelter
3. Mini storage (additional buildings with outdoor access)
4. Parking lot / surface parking (other than parking in support of the building(s) on the property.)

This building is best suited to be a school building. The elected officials at D11 have determined that as they sell this community asset, it will not be allowed for this use. If a zoning change is not allowed, this school building is on its way to becoming blight to the neighborhood.

We encourage working through the process to allow a zoning change. We are generally supportive of the plan with the additional adjustments outlined in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Sullivan', with a long horizontal flourish extending to the right.

Bob Sullivan, President
Old North End Neighborhood



July 2, 2015

Mr. Steve Tuck
Colorado Springs Land Use Review

RECEIVED
JUL 06 2015
COLORADO SPRINGS
CITY PLANNING

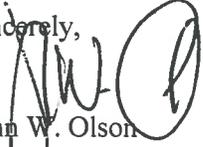
RE: Zone Change and Concept Plan for Lincoln School – File Nos. CPC PUZ 15-00036 and CPC PUP 15-00037

Dear Steve,

Please find the responses to the comments below. Since our last submittal we have met with representatives from the Old North End and further solidified the Concept Plan. Our intention is to maintain some flexibility in the Concept Plan to allow for the best possible outcome for the development of the School in respect to the community, without providing additional barriers for development. We understand that we may have not met the qualitative factors that the City may desire for the project and have otherwise accommodated all quantitative requirements and therefore would ask that we be put on the agenda for Planning Commission, with or without the recommendation for approval from City Staff.

Thank you for your thorough review.

Sincerely,


John W. Olson
Affiliate Director of Planning
EV Studio Planning + Civil Engineering

June 11, 2015

RE: Zone Change and Concept Plan for Lincoln School – File Nos. CPC PUZ 15-00036 and CPC PUP 15-00037

Dear John:

The City has completed the review of the above applications. Prior to scheduling the requests for a Planning Commission meeting the following 3 items shall be addressed:

1. Submit to Land Use Review 6 copies of the concept plan (folded to no larger than 9" x 14", with the lower right corner exposed) with the following revisions:
 - a. Note the City file number of CPC PUP 15-00037 in the lower right corner of each sheet. *Updated.*
 - b. To the north, south and west of the site are single-family homes. To the east is multi-family residential and medical office. The zone change and concept plan applications propose both high intensity commercial (25,400 square feet of bar/restaurant, 12,000 square feet of retail, 28,000 square feet of miniwarehouses) and high density residential (20 dwelling units/acre for a maximum of 60 units). The plan is not clear as to how the proposed land uses will be achieved. *We have updated these totals to make the items more clear. The neighborhood expressed concern of a possible Walmart store on the site. To protect the neighborhood from this happening, we restricted the size of high density commercial use. The sizes referenced will exceed the total size of the property because they are only stated for maximum densities, and since we do not have tenants pre-signed at the property, we cannot provide exact densities for every use.* Will only the existing school building be occupied or is an additional building anticipated to achieve the requested intensity and density? *We anticipate utilizing*

FIGURE 4



the existing building without additional buildings or expansions beyond cosmetic expansions. The final configuration will be determined at the time of a Development Plan for the property. The requested land uses far exceed the size of the former school building. Reduce the maximum floor area of the commercial uses and the number of dwelling units to achieve a compatible relationship with the neighborhood and to “fit” the site (see the following item which discusses on-site parking availability). *We have updated these totals to make the intention more clear.* Eliminate the miniwarehouse use. *We cannot eliminate this land use as it is a fall-back land use for the building if other land uses are not viable. It is, however, the least desirable in terms of lease rates and therefore will not be prioritized over other listed land uses.* Consider uses which complement and may provide services to the neighborhood (e.g. office, personal consumer services, and personal improvement services). Note that only those uses listed shall be permitted. *It is our desire to only have uses that exclusively provide services to the neighborhood. Many of the uses that are listed do complement the neighborhood and other uses that are listed are provided so that the building does not remain vacant and are uses that will not be detrimental to the neighborhood and will, at a minimum provide some vitality to an otherwise vacant structure.* Revise the proposed zoning note by eliminating the reference to the PBC zone. *We have eliminated the reference to PBC and have listed the land uses. The common zoning type for commercial properties is PBC. To provide protection for the neighborhood, we have restricted the uses that are typically permitted under a commercial zoning.* As currently shown on the concept plan the proposed uses are not appropriate with the surrounding neighborhood. Therefore the applications do not meet the review criteria for a zone change or concept plan and will not be supported as requested. *Responses to comments are included above.*

- c. The school playground is labeled as a potential parking area. To understand the ability of the site to support various land uses determine the number of parking spaces which may be accommodated in this area while satisfying the dimensional requirements for parking spaces (including accessible spaces), driveways, vehicular access onto the public street(s), pedestrian access (sidewalk connections to the building), outdoor area for building occupants, motor vehicle lot landscaping, the landscape setback of 20’ along Cascade Avenue, and the landscape buffer of 15’ along Tyler Street. Graphically show this information on sheet 2 and note dimensions of the various elements mentioned above. *The Concept Plan has been updated to illustrate the requested items.*
- d. Note the size of the property (3.04 acres per the El Paso County Assessor). *Updated.*
- e. Note the size of the existing building (42,327 per School District 11). Indicate the building shall remain. *Updated.*
- f. Note the height of the school building to the highest ridge. *Updated.*
- g. Note the existing accessory buildings adjacent to Tejon Street shall be removed prior to the approval of a development plan. *Understood.*
- h. As required by Engineering Development Review (comment 2) note that the review of public improvement requirements shall be provided with the development plan. *Updated.*
- i. Show and dimension the landscape setbacks and buffers around the perimeter of the site. *Updated.*
- j. Note proposed building setbacks and maximum lot coverage for the PUD zone. *Updated.*
- k. Show the north arrow correctly on sheet 2. *Updated.*
- l. Show and note the dimensions of the property lines. Only a portion of the property lines are shown. *Updated.*
- m. On sheet 2 note the surrounding land uses and delete the surrounding property owners’ names. *Updated.*
- n. Show Cascade Avenue as a minor arterial street instead of a collector. Show Tejon Street as a local street instead of a collector. *Updated.*
- o. Note the width of the pavement mat (face of curb to face of curb) of Cascade Avenue, Polk Street, Tejon Street and Tyler Street. Show and note the width of the sidewalks within the adjacent public rights-of-way. *Updated.*
- p. As required by Mountain Metropolitan Transit show the provision of a concrete bus stop pad on Cascade Avenue. Note the pad will constructed concurrently with the initial use of the site. *Existing Concrete Pad to be expanded to the standard; Updated.*



2. Submit to Land Use Review 1 copy of the revised concept plan reduced to 11" x 17".
3. Submit to Land Use Review the completed posting affidavit. Enclosed is a copy.

Listed below are comments received from the various City departments or other review agencies regarding the application. **If the comments listed below are not referenced in the items above, then the comments are for information purposes and are not required to be addressed prior to scheduling the applications for a Planning Commission agenda.**

Engineering Development Review –

1. Please note the north arrow is pointing in the wrong direction on Sheet 2.
2. The concept plan basically proposes a zone change to PUD with limited uses and does not propose a site layout that can be reviewed from an engineering standpoint. Therefore, the Concept Plan should state that a thorough engineering review will be performed at the time of development plan submittal, which will include public improvement requirements. *Add to General Notes on Sheet 1; Item #8.*

For more information contact Lydia Maring at 385-5546.

Traffic Engineering – No comments

For more information contact Zaker Alazzeh at 385-5468.

Mountain Metropolitan Transit –

There is an existing bus stop that will need upgrading based on the proposed usage of this property. Currently there is a bench present and this proposed use warrants a shelter stop. Please improve the bus stop to a shelter stop by providing the concrete flatwork only. Concrete shall be 6" thick, 4000 PSI strength. Transit will provide the shelter, stop signage and other amenities. Please reference the included details for possible shelter stop layouts.

For more information contact Christoph Zurcher at 385-6524.

Colorado Springs Utilities –

Action Items: None, approval is recommended.

Information Items:

1. The applicant or their engineer should contact Contract Administration for an estimate of any system development charges, fees, Recovery Agreement Charges or other costs that may apply to this development (668-8111).
2. When new water meters are proposed to serve the project or additional demand added to existing water meters, a Commercial Water Meter Sizing form will be required to be submitted to CSU prior to Service Contract issuance and building permit approval.
3. CSU requires an Application for Gas and Electric Line Extension to be submitted along with a Load Data form or an Application for Gas Service Line Approval and/or Application for Elevated Pressure Approval prior to electric and natural gas system design for service to the project. Refer to the CSU Line Extension and Service Standards or contact Field Engineering at 719-668-4985.
4. CSU may require an extension contract and payment of contributions-in-aid of construction (or a Revenue Guarantee Contract) for the extension of electric facilities needed to serve the development. With regard to natural gas extensions, CSU may require an extension contract and an advance payment for the estimated cost to construct the necessary gas extensions.
5. Improvements, structures and 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 regulations or Colorado Springs Utilities' policies.
6. Improvements, structures and trees shall not be located under any overhead utility facility, shall not violate NESC clearances, and shall not impair access or the ability to maintain utility facilities.



7. Landscaping shall be designed to provide the required clearances for utility facilities, to allow continuous access for utility equipment, and to minimize conflicts with such facilities.
8. Colorado Springs Utilities requires wastewater and water construction drawings when new wastewater and water facilities are proposed. Plans can be submitted electronically to Utilities Development Services via www.csu.org.
9. The water distribution system facilities must meet the Colorado Springs Utilities' criteria for fire flow, water quality, service interruption and pressure. To meet service interruption criteria, no more than fifty (50) homes on a dead end water main line are permitted. The static pressure of the water distribution system shall be a minimum of 60 psi. CSU will determine the need for a Water Quality Plan based on information presented in the Development Plan. CSU may require a new or updated Water Quality Plan where construction phasing or the water system design differ from the approved Development Plan.

For more information contact Ann Werner at awerner@csu.org or 668-8262.

Fire Prevention –

No 'disapproved' comments.

Attention comments:

No exceptions: CSFD does not have any exceptions with the concept plan as submitted.

For more information contact Steve Smith at 385-7362.

Police – No objections or suggestions

Regional Building Department - Enumerations –

Enumerations has no comment on the zoning and concept plan for the existing structure at this stage of the development process. When the actual development begins on this site, we will have input.

For more information contact Jeannine Lewis at 327-2907.

U.S. Postal Service –

Depending on the usage of the building or land would determine the type of delivery.

Residential – cluster box units

Office type – wall unit

For more information contact Elaine Medina-Kelly at 570-5415.

Enclosed is correspondence received during the review of the applications.

Failure to submit the requested items within 180 days from the date of this letter will result in the application being formally withdrawn from consideration. Once withdrawn, any subsequent resubmittal will require the filing of a new application and payment of application fees.

If you have questions please call me at 385-5366.

Sincerely,

Steve Tuck
Principal Planner

CITY PLANNING COMMISSION AGENDA

ITEM NO: 5A - 5D

STAFF: MICHAEL TURISK

FILE NO's:

CPC ZC 15-00075 – QUASI-JUDICIAL

AR DP 15-00291 – QUASI-JUDICIAL

AR NV 15-00292 – QUASI-JUDICIAL

AR V 15-00293 - LEGISLATIVE

PROJECT: CERBERUS BREWING COMPANY

APPLICANT: RYAN LLOYD, ECHO ARCHITECTURE

OWNER: JERRY MORRIS



PROJECT SUMMARY:

1. Project Description: This request to rezone a 9,250 square-foot property located at 702 W. Colorado Ave. from C-5 (Intermediate Business) to C-5/P (Intermediate Business; Planned Provisional overlay) is associated with a submitted Development Plan, non-use variance and right-of-way vacation applications for the proposed “Cerberus Brewing Company,” a brew pub and restaurant that intends to repurpose the vacant and former 3,538 square foot Colorado Avenue Veterinary Hospital at the corner of S. 7th St. and W. Colorado Ave.
2. Applicant’s Project Statement: **(FIGURE 1)**
3. Planning and Development Team’s Recommendation: **Approval of the applications with technical modifications.**

BACKGROUND:

1. Site Address: 702 W. Colorado Ave. **(FIGURE 2)**
2. Existing Zoning/Land Use: C-5 (Intermediate Business)
3. Surrounding Zoning/Land Use: North: C-5 (Intermediate Business) and R-2 (Two-Family Residential)/single and multi-family homes
South: C-5 (Intermediate Business) / retail and office uses
East: C-5 (Intermediate Business) / retail and office uses
West: C-5 (Intermediate Business) / multi-family and single-family residential
4. Comprehensive Plan/Designated 2020 Land Use: This property is designated as Mature Redevelopment Corridor and General Residential on the city’s 2020 Land Use Map.
5. Annexation: The property was annexed in 1872 as part of the Town of Colorado Springs.
6. Master Plan/Designated Master Plan Land Use: Westside Master Plan (Implemented)/General Commercial
7. Subdivision: Cahn’s Addition to City of Colorado Springs; August 1830
8. Zoning Enforcement Action: There are no active enforcement actions on the site.
9. Physical Characteristics: The property is developed with one vacant structure and parking area.

STAKEHOLDER PROCESS AND INVOLVEMENT:

The standard City notification and posting process was implemented; 103 property owners within 500 feet of the property were notified, as well as one stakeholder organization – the Organization of Westside Neighbors. To date, Staff has received six (6) responses in opposition to the development plan and associated applications, with respondents expressing concerns about parking and the potential for noise and visual disruptions. In addition, 15 signatories signed a petition in opposition that was submitted to the Department on June 29, 2015 **(FIGURE 4)**. On May 26, 2015, Planning staff facilitated a neighborhood meeting with 17 attendees (including the applicant and applicant’s consultant) at the Penrose Library to discuss the development plan and associated applications. Several attendees expressed concerns about parking availability and the potential for other off-site impacts, particularly noise. In addition, the site was posted prior to the City Planning Commission hearing and postcards were mailed notifying property owners of the hearing.

ANALYSIS OF REVIEW CRITERIA AND MAJOR ISSUES

Zone Change to Establish a P (Planned Provisional) Zone

This request to rezone a 9,250 square-foot property located at 702 W. Colorado Ave. from C-5 (Intermediate Business) to C-5/P (Intermediate Business; Planned Provisional overlay) is associated with a submitted Development Plan, non-use variance and right-of-way vacation applications for the proposed “Cerberus Brewing Company,” a brew pub and restaurant that intends to repurpose the vacant and former 3,538 square foot Colorado Avenue Veterinary Hospital at the corner of S. 7th St. and W. Colorado Ave. The subject property is located in a mixed use area that has an established business corridor along W. Colorado Avenue that changes abruptly to primarily residential uses to the north.

The request to apply the planned provisional overlay was borne primarily of the challenge in meeting the comparatively more demanding minimum parking requirements for a pub/restaurant use and on a property that exhibits site constraints. On-site parking is inadequate to accommodate the minimum 35 parking stalls required, per City code; rather, the applicant has proposed 20 dedicated on-site parking stalls (there are five parallel stalls that abut along the east side of the building).

However, the project is characterized as urban infill, and not unlike many similar projects, site constraints can limit development and adherence to site development standards that are more appropriate for greenfield development, for example. Generic, one-size-fits-all parking standards that are simple to apply and enforce, but fail to accurately reflect the particular needs and characteristics of various neighborhoods and districts, create challenges for infill redevelopment. Parallel and angled parking is available to varying degree along local streets in the neighborhood; however, City code does not consider on-street parking in calculating minimum parking requirements. For many urban infill projects to become successful, on-street parking capacity might be considered. Although the subject property is located east of the Old Colorado City neighborhood where parking challenges have been acknowledged and a parking exempt overlay exists, the subject property suffers from similar constraints that are not self-imposed, namely having limiting site areas. Therefore, the subject property is considered to have exceptional condition.

While not frequently used, the P overlay was created specifically for situations like this one. The planned provisional overlay district is intended to establish special procedures or development standards when the base zone district will not adequately address unique situations or anticipated relationship problems with an existing developed area. The overlay may be used with any zone district in both newly developing areas as well as older, redeveloping areas of the City. City code lists dedicated, distinct planned provisional-related site development standards for properties along West Colorado Avenue between S. 7th and S. 23rd Streets in recognition of the unique characteristics and development challenges presented along the West Colorado corridor. Precedent for planned provisional exists along West Colorado Ave. as one travels westward, with the nearest C-5/P lying approximately 250 feet to the west of the subject parcel. Furthermore, planned provisional occurs more frequently between S.10th and S.11th Streets (seven properties are designated C-5/P in this area), and continues to occur to varying degree along West Colorado to almost its intersection with South 23rd Street.

The properties that would be potentially most affected would be those residentially-used properties adjacent and proximate to the subject property, as it is expected that there would be some measure of impact to general public parking along area street rights-of-way. However, the availability of on-street parking, despite not being considered in minimum parking standard calculations, is deemed sufficient to absorb overflow parking.

The applicant inquired about the possibility of a shared parking agreement with the Pikes Peak Area Council of governments (PPACG); however, it was determined by that organization that a shared parking agreement would compromise that organization's parking availability, even after daytime business hours.

If the request to apply the planned provisional overlay is approved, the minimum parking requirements would be reduced from one parking stall per 100 square feet to one stall per 200 square feet, thus allowing the project as proposed to be fully parked on-site, per minimum code standards. Again, it is anticipated that local street rights-of-way would adequately absorb on-site parking spillover.

Parking requirements can hinder infill projects, particularly when the site is not large enough to accommodate the required minimum number of spaces, such as the case here. Generally speaking, however, the level of parking required for urban infill is not the same as for "greenfield" development given opportunities for on-street and shared parking opportunities. Small-scale projects such as this require successful melding into the fabric, architecture, function, and circulation of an existing neighborhood. If approved, the Planned Provisional overlay would facilitate a less stringent on-site parking requirement.

The zoning proposal to include planned provisional on the base C-5 zoning is supported by staff. The request is deemed appropriate and harmonious due to, in no particular order, the precedent of planned provisional overlay along W. Colorado Ave., the constraints presented by the subject property, the suggestion that local public streets have the capacity to absorb overflow parking, and the adaptive reuse of a vacant infill property.

Per City Code, the establishment or change of zone district boundaries may be approved by the City Council only if the following findings (relevant to this request) are made:

1. *The action will not be detrimental to the public interest, health, safety, convenience or general welfare.*
2. *The proposal is consistent with the goals and policies of the Comprehensive Plan.*
3. *Where a master plan exists, the proposal is consistent with such plan or an approved amendment to such plan. Master plans that have been classified as implemented do not have to be amended in order to be considered consistent with a zone change request.*

After careful consideration, Staff supports the request as proposed.

Development Plan

The associated development plan, non-use variance and right-of-way vacation applications accompany the zone change and require formal Planning Commission and City Council action. The development plan proposes design features that would help to mitigate or minimize off-site impacts. For example, the on-site parking area would provide some measure of buffer between the indoor component of the brew pub and restaurant and the multi-family residential use at 712 W. Colorado (just to the west). In addition, the existing chain link fencing would have slats installed to provide visual mitigation, and the landscaping plan indicates that Rocky Mountain Juniper and Green Giant Arborvitae would provide for natural screening, especially at maturity.

After receiving a revised and improved development plan on July 17, 2015, Staff has determined that only minor changes are needed prior to approval.

Non-use Variance from Minimum Separation Requirements (200 feet) for Liquor Establishments from Residentially-zoned or –used Properties.

Per City Code, liquor sales establishments are allowed in the C-5 zone district. However, on premises liquor establishments must be located no closer than 200 feet from any residentially-used or -zoned property. Although all of the properties that front west Colorado Avenue in vicinity of the subject property are zoned C-5, a number of them accommodate residential uses, some of which are within the minimum 200 feet threshold. For example, the property that abuts the subject property to the west is a medium-density residential use; the property owner leases the home and has expressed concern that the proposed brew pub and restaurant would generate excessive off-site noise and parking impacts that would disturb tenants.

Due to the fact that existing residential uses are adjacent and near to the proposed establishment, some impact is expected. **However, after careful consideration, Staff supports the request as proposed.** The establishment should strive to reduce the amount of adverse impact by minimizing noise and transient outdoor light generation.

Vacation of Right-of-Way

The fourth application associated with the project regards vacating the public right-of-way/alley that bisects the subject property between McKinley Place and S 7th Street.

The vacation request pertains to the alley that separates Lots 2 and 3 at the south and triangular Lot 4 at the north. The calculated area of the alley to be vacated is approximately 1,227 square feet. The right-of-way is not needed for public transportation purposes or utilities access. **Staff finds that the proposed right-of-way vacation is consistent with the required vacation criteria, and thus is supportive.**

CONFORMANCE WITH COMPREHENSIVE PLAN

There are several Comprehensive Plan objectives, policies and strategies that support the proposed zoning and associated development applications, including:

- *Policy LU 201: Promote a Focused, Consolidated Land Use Pattern*
- *Objective LU 4: Encourage Infill and Redevelopment*
- *Objective LU 3: Develop A Mix of Interdependent, Compatible, and Mutually Supportive Land Uses*
- *Policy LU 301: Promote a Mixed Land Use Pattern*
- *Strategy LU 301a: Support Mixed-use Development in Neighborhoods*

It is the finding of the City's Community Development Department that the 702 W. Colorado Avenue rezoning and associated applications would substantially conform to the City's Comprehensive Plan -20 Land Use Map and the Plan's goals and objectives.

CONFORMANCE WITH AREA'S MASTER PLAN

The site lies within the boundaries of the Westside Master Plan. That plan has been officially designated as "implemented" based on the criteria found in Section 7.5.402.B of the City Code. The project is in harmony with the Plan in that it is located within a Planned Commercial area and is characteristic of a viable urban infill project.

STAFF RECOMMENDATION

Item No: 5A CPC-ZC 15-00075 – Zone Change

Approve the zone change from C-5 (Intermediate Business) to C-5/P (Intermediate Business/Planned Provisional) based upon the findings that the change of zoning request complies with the three (3) relevant criteria for granting of zone changes as set forth in City Code Section 7.5.603 .

Item No: 5B AR DP 15-00291 – Development Plan

Approve the development plan for Cerberus Brewing Company based on the finding the plan complies with the review criteria in City Code Section 7.3.605 (Review Criteria for Development Plans).

Item No: 5C AR NV 15-00292 – Non-use Variance

Approve the non-use variance from minimum separation requirements (200 feet) for liquor establishments from residentially-zoned or –used properties with the following conditions of approval:

1. The use of any outdoor speakers or sound system shall be prohibited after 9:00 p.m.
2. Any exterior lighting must meet all code requirements. Transient light onto neighboring properties shall be prohibited.

Item No: 5D AR V 15-00293 – Vacation of Right of Way

Approve the proposed vacation of the alley based on the findings that the application meets the criteria found in section 7.7.402.C. of the City Code.



Date: May 09, 2015

To: City Of Colorado Springs
Land Use Review Division
Planning & Community Development Department

Attn: Conrad Olmedo, Planner

Project: Cerberus Brewing Company

Location: 702 West Colorado Avenue
Colorado Springs, CO

Project Statement

Project Description:

The following is a proposal to convert an existing 3,538 s.f. vacant Veterinary Clinic building into a brewpub.

Project Justification:

1. *Will the project design be harmonious with the surrounding land uses and neighborhood?*

Yes. The properties adjacent to the site vary in use from residential, to commercial, to governmental, to industrial. This area of inner West Colorado Avenue is becoming a hub of new activity and Cerberus Brewing will compliment and support that quite well. The building will be updated, playing off the existing, recently improved buildings in the area as well as the existing features of the building and signage at 702 West Colorado Avenue.

2. *Will the proposed land uses be compatible with the surrounding neighborhood? Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?*

Yes. This area of West Colorado Avenue is a shining example of how successful mixed-use neighborhoods can be. West Colorado Avenue is a highly trafficked corridor (pedestrian, bikes, public transit and vehicular) and this project will not overburden the street. The utilities, parks, and schools nearby will not be affected negatively by this project, in fact infill and redevelopment projects take advantage of these existing utilities and amenities in a way that benefits the City.

3. *Will the structures be located to minimize the impact of their use and bulk on adjacent properties?*

Yes. The structures are existing.

4. *Will landscaping, berms, fences and/or walls be provided to buffer the site from undesirable views, noise, lighting or other off-site negative influences and to buffer adjacent properties from the negative influences that may be created by the proposed development?*

Yes. The outdoor patio and beer garden will be screened with fencing and landscaping from the street and neighbors in order to mitigate and sound, light, or view impacts.

Project Issues:

The following Project Issues were raised during our pre-application meeting on 03.03.2015:

PARKING (7.4.202.E):

Currently the site has an existing "un-improved" gravel lot with room for approximately 15 cars to park. Our proposal is to improve the parking lot, bring it up to Colorado Springs standards and provide 20 on-site parking stalls. Also, we plan on providing 5 new code-compliant parallel parking stalls on-street immediately to the east of the brewpub. Ample bicycle parking will be provided as well (18 spots).

We are requesting a variance to provide 20 on-site parking stalls in lieu of the code required 50 stalls.

Parking Variance Justification (Responses in *italics*):

1. Extraordinary or Exceptional Conditions

- a. The physical conditions of the property shall not be conditions general to the neighborhood or surrounding properties.
 - b. The unique physical conditions of the property may be its size, shape, location, topography, soils; or,
 - c. The unique physical conditions of the property may be the size or location of existing structures on the property if such structures are not self-imposed conditions; or
 - d. The unique physical conditions may be certain on-site or off site environmental features which may positively or negatively affect the property in question, including but not limited to, adjacent land uses, traffic, noise, views and location of significant natural, architectural, or historic features.
- *The physical conditions of this site are typical to the area in that they are atypical. The site has steep slopes, is irregularly shaped, and has an existing building on it that does not comply with the zone that it was put in. These conditions are generally disallow the building and site to come into full compliance with the C-5 zone in any aspect, especially parking.*
 - *The size of the lot and placement of the building will not allow the required amount of parking to fit on site. The steep slope and triangular shape of the northern end of the lot will not allow it to hold any code compliant parking stalls.*
 - *The sites proximity to the Midland Trail, Downtown, and Old Colorado City are highly desirable and create a unique opportunity for this new brewpub to be highly pedestrian and neighborhood oriented. The Brewpub will heavily promote bicycling, walking, public transit and community as part of their brand.*

2. No Reasonable Use

- a. The demonstrated extraordinary or exceptional physical conditions of the property must directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations.
- b. The concept of less reasonable use may be considered if a neighborhood standard exists and if it is demonstrated that the property in question has a less reasonable use by comparison with proximate and similar properties in the same zoning district.
- c. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use.
- d. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use.

- c. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use.
 - d. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use.
 - e. Knowledge or lack of knowledge, of zoning restrictions and physical site constraints at the time the property is purchased is immaterial to evidence of no reasonable use of the property.
- *For this restaurant/brewery to be successful, it must also be a Liquor Establishment. There are numerous examples of brewpubs positively affecting entire neighborhoods throughout our city, state, and nation. Without allowing this property to be a Liquor Establishment this proposed use does not provide reasonable use.*

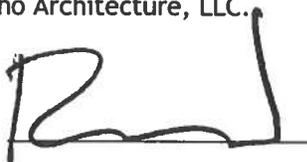
3. No Adverse Impact

- a. The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding properties.
- b. The granting of a variance shall not be inconsistent with any plans adopted by the City.
- c. The granting of a variance shall not weaken the general purpose of the Zoning Ordinance or its regulations.
- d. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property.
- *The proposed variance will not be a detriment to public health, safety and welfare or injurious to surrounding properties. In fact this Liquor Establishment variance will allow Cerberus Brewing Company to become a social neighborhood gathering place, part of the renaissance to further developing this area, and have a positive impact on surrounding neighborhoods.*

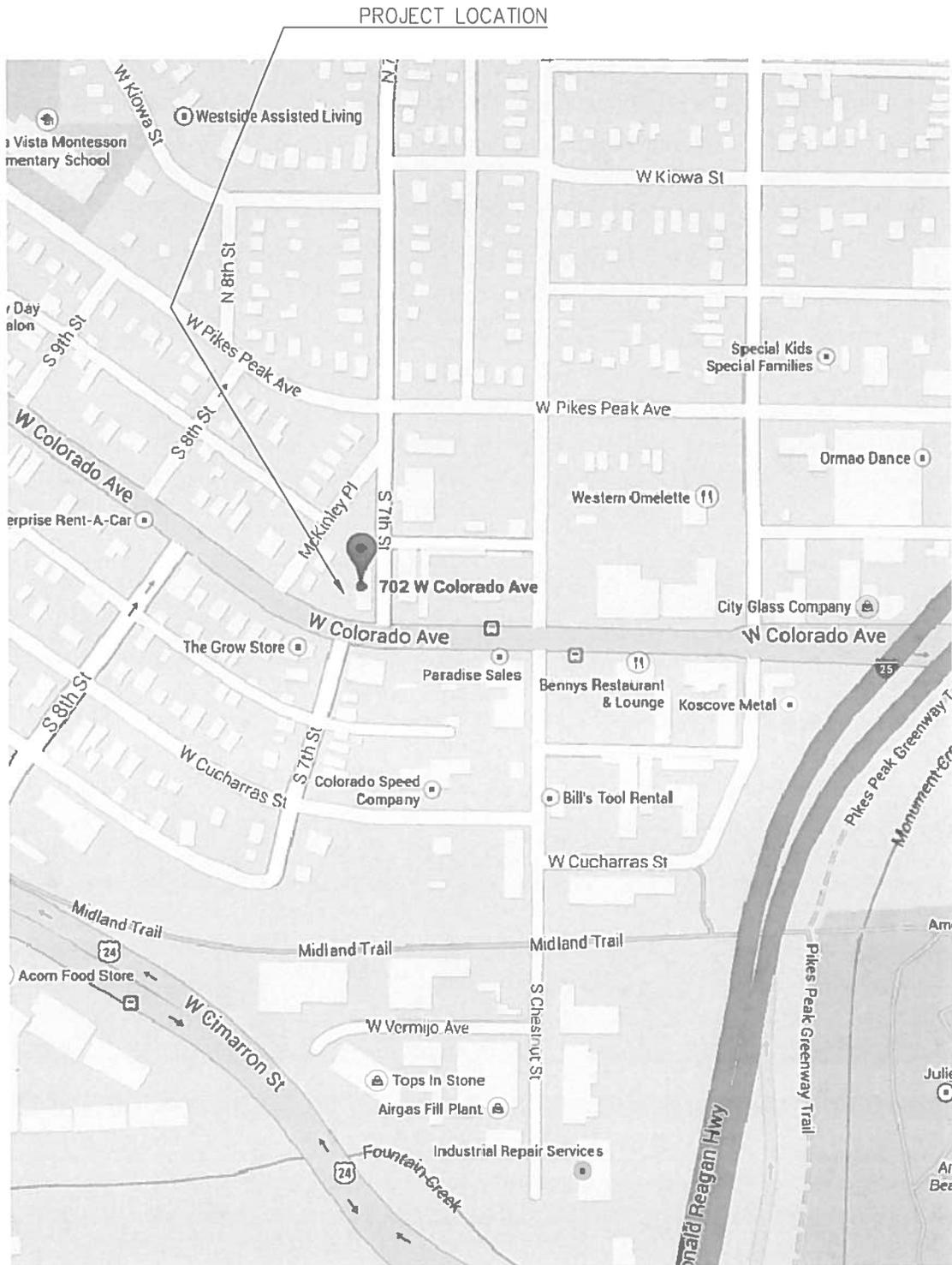
Please feel free to contact me anytime with questions and/or comments on this Project Statement.

Respectfully,
Echo Architecture, LLC.

by



Ryan Lloyd
Architect



VICINITY MAP

CERBERUS BREWING COMPANY – 702 W COLORADO



FIGURE 2

REV.	DESCRIPTION	DATE
1	ADDRESS CITY COMMENTS	07/07/15

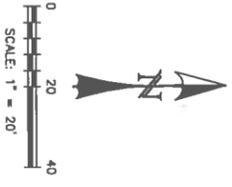
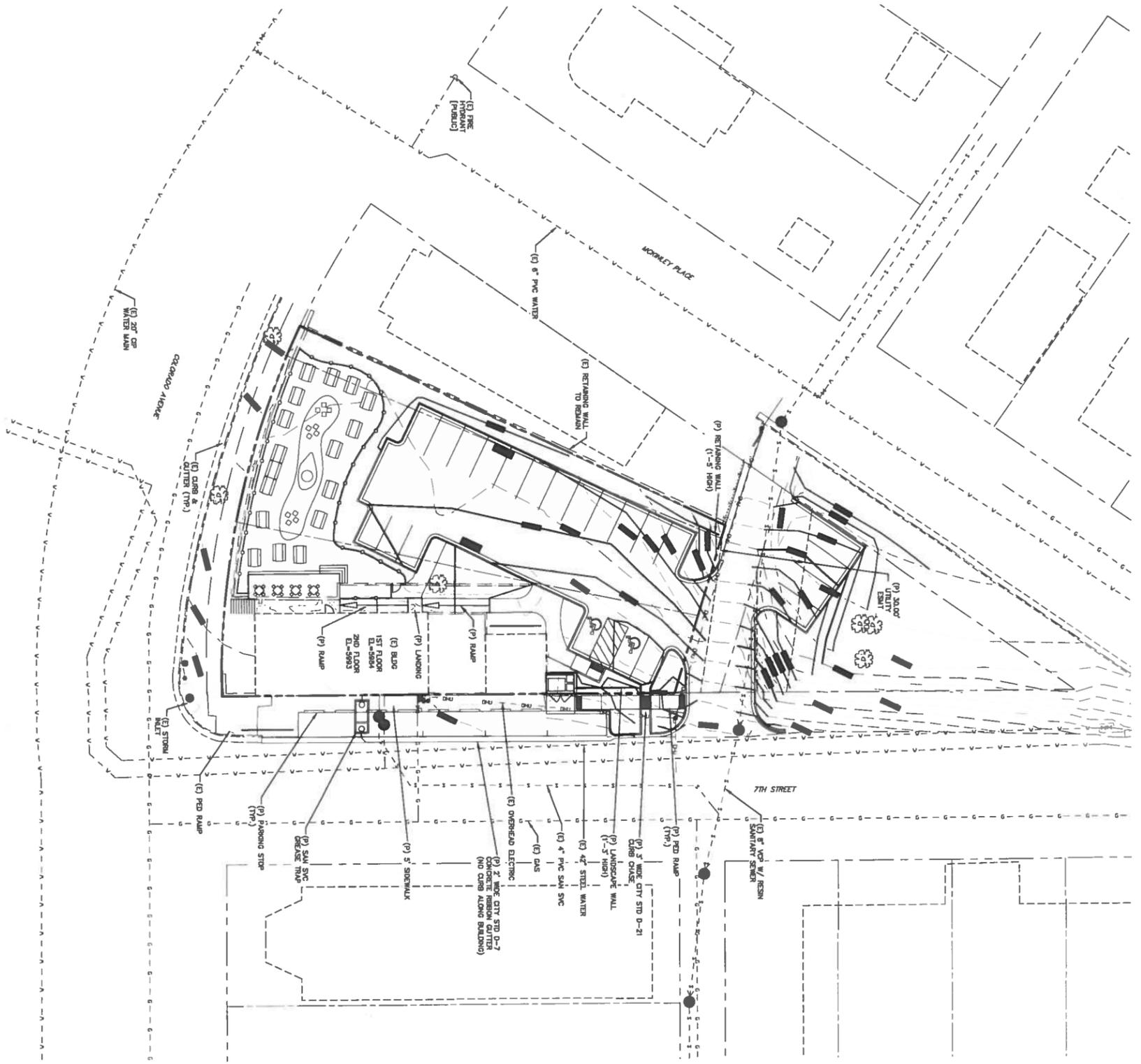


PREPARED FOR:
ECHO ARCHITECTURE
4 SOUTH WAHSATCH, #120
COLORADO SPRINGS, CO 80903
719.522.1022



702 W. COLORADO AVENUE
**PRELIMINARY GRADING
& UTILITY PLAN**

DESIGNED BY:	CDK	DRAWN BY:	CDK
SCALE:	1"=20'	DATE:	07/07/15
JOB NUMBER	91508	SHEET	DP-C1 (3 OF 5)



NOTE:
1. EXISTING UTILITY LOCATIONS AND ALIGNMENTS SHOWN ON THIS PLAN ARE APPROXIMATE BASED ON SURVEY OF SURFACE IMPROVEMENTS AND COLORADO SPRINGS UTILITIES MAPS.

CITY FILE NOS.: AR DP 14-00281
AR IN 14-00282

LEGEND

(E)	EXISTING
(F)	FUTURE
(1234)	ADDRESS
(C&G)	C&G AND GUTTER
(B)	BOUNDARY
(L)	LOT LINE
(EAS)	EASEMENT
(I)	INDEX
(S)	SANITARY MAIN, MH
(W)	WATER MAIN, BOD, VALVE, FI
(E)	ELECTRIC
(G)	GAS MAIN
(S)	STORM SEWER, MH
(C)	CONTOUR, INDEX
(S)	SANITARY MAIN, MH
(U)	UNDERDRAIN SERVICE
(W)	WATER MAIN, BOD, VALVE, FI
(F)	FIRE LINE
(S)	STORM SEWER, MH
(I)	INDEX

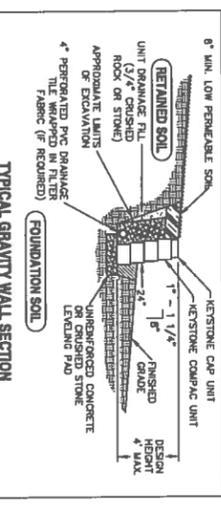
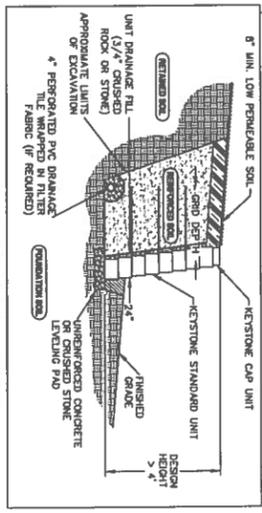
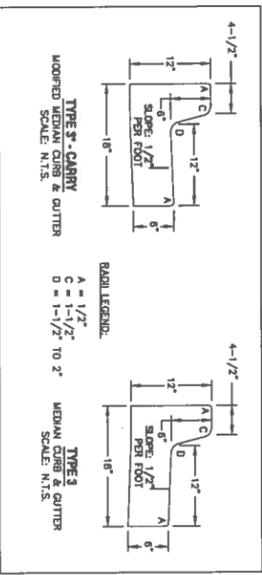


FIGURE 3

Turisk, Michael

From: Olmedo, Conrad
Sent: Thursday, May 28, 2015 8:06 AM
To: Jim McDaniels
Cc: Turisk, Michael
Subject: RE: Pre-Application Neighborhood Meeting Notice - 702 W Colorado Ave "Cerberus Brewing"

Hello Jim, thank you for your comments. This project is now being processed by Mike Turisk who is copied in this email.

Conrad Olmedo, AICP, MPA – Planner I | City of Colorado Springs | Planning & Development Team
Development Review Enterprise | 2880 International Circle, Suite 200-7 | Colorado Springs, CO 80910-1575
tel (719)385-5621 | fax (719)385-5055 | colmedo@springsgov.com | www.springsgov.com/planning

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 Please consider the environment before printing this e-mail.

From: Jim McDaniels [<mailto:jimtmcdaniels@gmail.com>]
Sent: Wednesday, May 27, 2015 5:08 PM
To: Olmedo, Conrad
Subject: Pre-Application Neighborhood Meeting Notice - 702 W Colorado Ave "Cerberus Brewing"

Dear Mr Conrad Olmedo,

I'm sorry, I was not able to attend the May 26th Penrose Library meeting, concerning converting 702 W Colorado Ave into a brewpub.

I was able to hear some discussions at the meeting from a friend who was able to attend.

As an owner and resident of 711 W Colorado Ave since 1992, I hope I can voice my concerns about this proposal application.

I was told that the property does not offer as many parking spaces as are estimated to be needed for their expected clientele and employees.

I must tell you that this is a Big red flag for me. Just on that ground I am against the proposal. Secondly, I am also against alcohol being promoted so close to our residences homes. Additionally we already have so many alcoholics walking the sidewalks in this area of our town, begging and even some acting insanely.

I do not believe it is fair to allow a property that is not large enough to accommodate it's business model, This would put unfair burden and take away surrounding parking that is needed by our neighborhood's other businesses and residents.

How can such a proposal be allowed to move forward with any good conscience?

I am glad to hear a business wants to refurbish a vacant building in our neighborhood.

I would be happy to hear of a business model open there, that has adequate or even more than adequate parking.

Please feel free to contact me if I have been given an inaccurate picture of the proposal or if I need to address my concerns to another or for any other related reason.

Thank you very much for our time.

Respectfully,

Jim McDaniels

711 W Colorado Ave
Colo Spgs CO 80905

719-337-5080

JIMTMCDANIELS@GMAIL.COM

Turisk, Michael

From: Stephanie Quigley <stephanieq24@yahoo.com>
Sent: Friday, May 29, 2015 8:57 AM
To: Turisk, Michael
Subject: 702 West Colorado Avenue

My name is Stephanie Quigley; I own the house located on the corner of West Pikes Peak and 7th Street - my address is 4 McKinley Place. I was unable to attend the meeting the other night regarding 702 W. Colorado and the remodeling, etc., and want to voice my concerns regarding the new project at 702 West Colorado Ave.

This neighborhood has more than its share of problems, and I am concerned that the new establishment may add to those issues. I am concerned as to what the noise level will be with the brew pub/restaurant. Our area already is impacted by noise from America the Beautiful park when an event is held - even with I-25 as a buffer, the music is loud enough and carries far enough that I have to shut my front windows and avoid working in the front yard. In addition, we are affected by traffic using West Colorado Avenue, motorcycle noise, music from places on W. Colorado such as Benny's; it seems to me this new establishment will only add to that. Also, I worry about parking. Those of us on McKinley Place are already affected by meetings held at Pikes Peak Area Council of Governments. If it is a large enough meeting, cars park along McKinley in front of our houses.

I bought this house (1979) realizing it was not in the best location, and my late husband loved the house. I don't want to see a business come into the area that will bring the value of my residence down and add to the problems we already have in the area, including dealing with the homeless, people stealing plants/bushes, and parking to name a few.

My hope is that the new owners will address these issues.

Stephanie Quigley
4 McKinley Place
Colorado Springs, CO 80905

Turisk, Michael

From: Barb Louricas <BLouricas@ppacg.org>
Sent: Monday, June 01, 2015 11:57 AM
To: Turisk, Michael
Cc: Rob MacDonald; Barb Louricas
Subject: 702 W. Colorado - Cerebrus Brew Pub

Mr. Turisk,

Thank you for the opportunity to comment on the Cerebrus Brew Pub project proposed for 702 W. Colorado Avenue. Pikes Peak Area Council of Governments (PPACG) is an intergovernmental planning agency located at 15 S. 7th Street.

The lack of adequate parking is a crucial issue for PPACG in addition to the homeowners and businesses in the area.

One of the functions of our agency is to provide services to seniors through the Area Agency on Aging. Those services are provided out of our lower level, located at the corner of Pikes Peak and Chestnut. The “large parking lot located in the back of the PPACG building” that was referenced at last week’s meeting, is not only used for the numerous meetings we have. It is also used for the senior clientele served from that side of the building. In addition, there is a busy open enrollment period in the Fall and Spring for insurance sign ups of the Medicare supplemental insurance and the Colorado Connect For Health Insurance Exchange.

Along 7th Street directly in front of the PPACG building, there are 13 angle parking spaces with one designated handicap space. This parking is used by both employees and visitors to our 7th Street entrance. These spaces are ***typically*** full during business hours. When cars park across from the angle parking on 7th Street, only a single car is allowed to pass at a time. Additional parking spaces could be accommodated on 7th Street by extending the five spaces they are planning next to their building by cutting into the hill to facilitate additional parallel parking, below the location of their proposed hops garden.

Please add my email address to your contacts regarding this project so that I can receive any updates on this project.

Sincerely,

Barb Louricas
Office Resources Manager
Pikes Peak Area Council of Governments
15 S. 7th Street
Colorado Springs, CO 80905
719-471-7080, extension 102
blouricas@ppacg.org
www.ppacg.org



Please consider the environment before printing this e-mail.

Planning and Development / Land Use Review
30 S Nevada #105
Colorado Springs, CO 80903

June 9, 2015

For the attention of Reviewing Planner Michael Turisk:

Reference: 702 West Colorado (File Nos. AR DP 15-00291; AR NV 15-00292; AR V-00293)

A REQUEST FOR A MINOR AMENDMENT TO A DEVELOPMENT PLAN TO CONVERT A VETERINARY CLINIC INTO A BREW PUB; A REQUEST FOR TWO VARIANCES (20 PARKING STALLS WHERE 35 STALLS ARE REQUIRED) (A ZERO SET BACK WHERE A MINIMUM OF 200 FEET IS REQUIRED FOR A LIQUOR ESTABLISHMENT ADJACENT TO A RESIDENTIAL PROPERTY); A REQUEST TO VACATE A PUBLIC RIGHT-OF-WAY

On May 14, 2015, I as the property owner and manager of the residences immediately to the west at 712 W Colorado Avenue and 23 McKinley Place, corresponded with Mr. Colmedo, the former planner for this proposal. In that email I informed him that this property that contains an historic craftsman house, constructed in 1910 has ^{been} owned and carefully maintained by my family since **1965**.

The applicant is requesting a zero setback where City Codes require a minimum of 200 feet for a liquor establishment adjacent to this house that is a residential use. The bedroom windows of 712 W. Colorado are on the eastern side, immediately adjacent to and above where the beer garden is proposed. A liquor establishment with light and noise, immediately outside the bedroom windows is absolutely unacceptable. Attempts at buffering this use with fences or walls and planting will only result in blocking of light and air and the walling in of the home and yard. If another type of business were developed on this property, with the coming and going of commerce, it would result in less impact than this proposed outdoor liquor establishment with customers lingering literally feet away.

In addition, there is currently the **503W Bar** just down the street and another bar owned by **Southside Johnnies** which is proposed to open soon in the old fire station that is across the street. To add this brew pub and beer garden inside this residential neighborhood will result in nightly bar crawling making life intolerable for tenants to remain and care for my property. The bar crawling along South Tejon Street is done among all commercial business. It needs to be noted that neighborhood on Colorado Avenue is different with numerous established residences. Cerberus Brewing Co and their proposed beer garden would have severe negative impact to the people living on this property.

I do understand that this property needs to be occupied. Mr. Morris mentioned to me that he and his partners have a fallback idea to develop this former vet clinic and living quarters into apartments and his sculpture studio. This type of development would better serve the neighborhood.

Therefore this letter is to let you know that my serious concerns about traffic and light and noise just under my resident's bedroom window result in my strongly objecting and appealing these proposed applications if they should be administratively approved by you.

Cordially,

A handwritten signature in black ink, appearing to read "Bonnie Olson". The signature is stylized with a large, circular initial "B" and a long, sweeping horizontal stroke at the end.

Bonnie Olson

Property Owner of McKinley Place LLC at 23 Mc Kinley Place and 712 West Colorado (Assessor No. **7413127002**)

Turisk, Michael

From: Kristin DeGree <kmdegree@gmail.com>
Sent: Tuesday, June 09, 2015 8:02 PM
To: Turisk, Michael
Subject: Concerns pertaining to the Brewpub on Colorado and 7th St

Michael -

Thank you very much for giving us the opportunity to express our concerns with the proposal to establish a brew pub in the currently vacant veterinary clinic. I am not sure what recourse we have because based on the public notice you sent to us, it sounds like the proposal may be approved administratively regardless of our concerns; but we'll try -

First of all, we would be happy if the veterinary clinic was again an operating business; however, allowing a business to move in to this building that will be operating late at night with an outside beer garden has us very concerned primarily because of noise. We live in one of the older homes on McKinley Place and have no air conditioning so leave our windows open, especially in the summer. Therefore, there is a big potential for us hearing the nightly party at the brew pub. Even if we did close our windows, they are very old, and offer little in the way of noise dampening. We have an 8 month old son and would rather not have to deal with having a party on the block every night. We would not have bought our home two years ago knowing a brew pub was going to be next door, and we fear that having a business that keeps late hours and music so close by may jeopardize the resale value of our home. Our neighbors, too, have a baby on the way in August and have voiced concern as well. Knowing they were moving into a home near a bar may have kept them from going through with their investment. If you would like to hear from this young couple, as well as our other neighbors (Stephanie, who is elderly and lives alone, Kari, Lisa (who lives directly behind the potential parking lot), or Ivan (who has two young children and lives within 100 feet of the building), please let me know and I will put them in touch with you.

Secondly, although the brew pub will have designated parking spots, clientele could potentially park on our street (McKinley), and then just walk around the corner to enter/exit the pub. Parking on our street is a definite concern for both us and our neighbors. We value our on the street parking and frankly, we need our parking spots throughout the street. All of the households (except for Stephanie) have two plus vehicles and it can become dangerous to have to park further away from the homes especially in the evening hours.

What recourse do we have besides this note? The city has zoning restricting a liquor establishment within 200 feet of a residential area - doesn't this mean anything? Don't get me wrong, my family and I want Colorado Springs to thrive, but a bar across the street is not what we saw for our future. What time can we expect the Brewpub to close? Will we have on street parking? Will the noise be a concern? What reasons do we have to be excited for this Brewpub? Please, give us and our small and humble street (McKinley) reasons to support the Brewpub.

We greatly appreciate your time and service,

Kristin and Andres Romero-Figgen

June 25, 2015

TO: Micheal Turisk, Reviewing Planner

Colorado Springs Colorado

FROM: Dennis & Jean Sharon

101 S. 7th, 615,617,627,631 W. Colorado

RE: FILE NO.: AR NV 15-00292

Dear Mr. Turisk,

I am the property owner across the street from the proposed Brew Pub, at 702 W. Colorado. Probably the only commercial property with adequate parking on Colorado Ave. I am opposed to the variance to allow 20 parking spaces where 35 is required. I can speak from experience because I have 20 parking spaces for 3 small businesses, one is a wholesale business with little or no customers, and the other 2 are destination businesses where customers come and go, not more than 1 or 2 at a time, and still occasionally there is not enough parking. So, I would ask you, how is 20 parking spaces going facilitate a business that may have as many as 50-60 cars on any given evening? The answer is, they will park in the residential neighborhoods and in my parking, which is for my renters, impacting their customer s and their business . I love the concept, but the location is not right because of the impact it will have on the neighborhood and local businesses that already have a parking problem, and I am not willing to share my parking lot with another business, I already do that with Paradise Gun Shop, and it does not work.

Respectfully,



Dennis A. and Jean M. Sharon

TO: Micheal Turisk , Reviewing Planner

FROM: Residence of South 7th Street

RE: FILE NO.: AR NV 15-00292

The property owners and residence on South 7th Street are concerned about the request for a variance to allow 20 parking spaces where 35 is required. Living on 7th Street, which is adjacent to the proposed Brew Pub, I feel that there is no way a successful business, serving food and beer can function and/or survive with 20 parking spaces without impacting the neighborhood. That means patrons and/or employees of the Brew Pub will have to find alternative parking, which means they will be parking in the neighborhood and in front of properties that use the street parking as their primary parking. So, as the Brew Pub gets busy, you may be looking at 50-60 cars on a Friday or Saturday evening, so where do they park? This is a neighborhood that already has a shortage of parking, and this will make the problem worse.

GREAT IDEA: WRONG LOCATION!!

Name printed	Sign	Address	Phone
Dennis Sharon		101 S. 7 th	632-1294
Jeanie Sharon		101 S. 7 th	" "
Guiger Kathrens		107 S. 7 th St.	633-3842
Joseph Cavell		111 S. 7 th Street	208-830-623
Dolly Mac Donald		133 S. 7 th St	633-8754
LARRY Bell		121 S 7 th St	512-3546353
John Vincent		701 W. Cochran	471-7500
Loyd ORFIELD		637 W. Cochran	389-143
ROBERT NASH		112 S. 7 th St	633-1908
Kathy TURNER		114 S. 7 th St	229-0769
LYNN Banda		106 S. 7 th St	719-271-4741
ROBERT GORNICHEC		704 W. COCHRAN ST.	719-332-2382
Donald		117 S. 7 th St.	FIGURE 4333-732

TO: Micheal Turisk , Reviewing Planner

FROM: Residence of South 7th Street

RE: FILE NO.: AR NV 15-00292

The property owners and residence on South 7th Street are concerned about the request for a variance to allow 20 parking spaces where 35 is required. Living on 7th Street, which is adjacent to the proposed Brew Pub, I feel that there is no way a successful business, serving food and beer can function and/or survive with 20 parking spaces without impacting the neighborhood. That means patrons and/or employees of the Brew Pub will have to find alternative parking, which means they will be parking in the neighborhood and in front of properties that use the street parking as their primary parking. So, as the Brew Pub gets busy, you may be looking at 50-60 cars on a Friday or Saturday evening, so where do they park? This is a neighborhood that already has a shortage of parking, and this will make the problem worse.

GREAT IDEA: WRONG LOCATION!!

Name printed	Sign	Address	Phone
Carol D Everett	CAROL D	11504 SO	634 3109
	EVERETT	115 1/2 7 th	
Robert W. Young	ROBERT W. Young	106 S. 7 th ST.	216 0082

7th Street, South of West Colorado Ave, has 13 residential properties and everyone expressed a real concern about the potential parking problem in the neighborhood, if the variance to allow 20 parking spaces where 35 is required, is approved, as requested by the owners of the proposed Brew Pub. As you can see every property owner and/or resident of South 7th Street signed the petition, asking for your consideration of the aforementioned request.

RECEIVED

JUN 29 2015

Colorado Springs
Land Use Review

FIGURE 4

MR

CITY PLANNING COMMISSION AGENDA

ITEM NOS: 6A – 6E

STAFF: RYAN TEFERTILLER

FILE NO's:

CPC MP 97-00261-A4MN15 – QUASI-JUDICIAL

CPC ZC 15-00055 – QUASI-JUDICIAL

CPC NV 15-00076 – QUASI-JUDICIAL

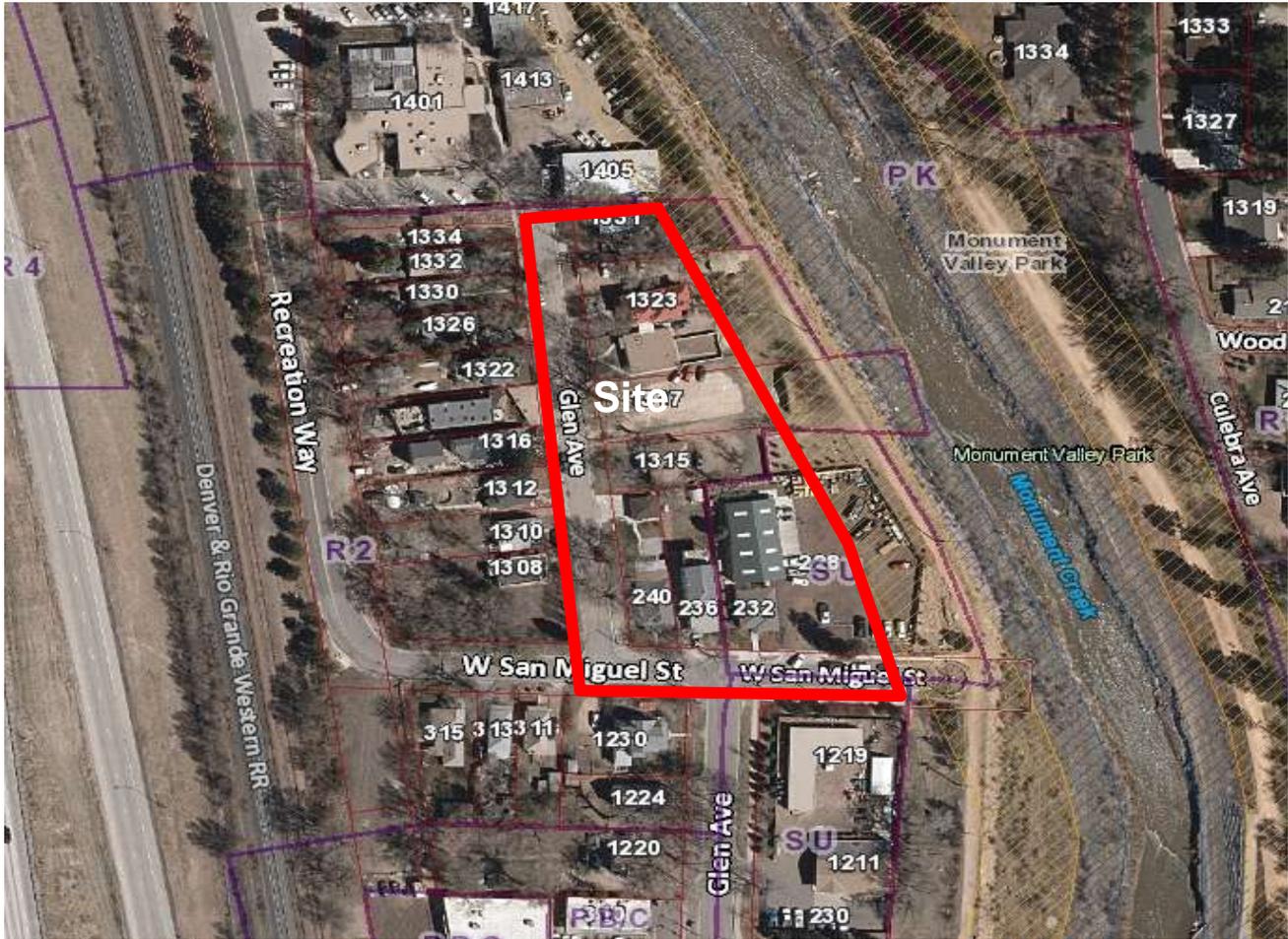
CPC CU 10-00100-A3MJ15 – QUASI-JUDICIAL

CPC V 15-00058 – LEGISLATIVE

PROJECT: COLORADO COLLEGE CREEKSIDE SUPPORT CENTER

APPLICANT: N.E.S. INC.

OWNER: COLORADO COLLEGE



PROJECT SUMMARY:

1. **Project Description:** This proposal is to allow for the redevelopment of multiple residential properties north of San Miguel St. and east of Glen Ave. Specifically, the plan illustrates the demolition of six residential structures (both single-family and multi-family) and the construction of a 10,923 square foot warehouse building. The plan also illustrates numerous site improvements including landscaping, screening, public improvements (e.g. curb/gutter/sidewalk, improved trail connection), and drainage improvements. A portion of the 2.27 acre site must be rezoned from R2 (Two Family Residential) to SU (Special Use) to support the project. **(FIGURE 1)**
2. **Applicant's Project Statement:** **(FIGURE 2)**
3. **Planning & Development Team's Recommendation:** **Approval of the applications with technical modifications.**

BACKGROUND:

1. **Site Address:** The site includes 232, 236, and 240 W. San Miguel St. as well as 1315, 1317, 1323, and 1331 Glen Ave.
2. **Existing Zoning/Land Use:** Roughly 0.9 acres of the site is zoned SU/SS (Special Use with Streamside Overlay) while the remaining 1.4 acres are zoned R2/SS (Two Family Residential with Streamside Overlay) / the site currently includes multiple residential structures, a roughly 3,000 square foot warehouse, a roughly 1,200 square foot office building, and an outdoor storage yard.
3. **Surrounding Zoning/Land Use:**
 - North: PK / Colorado Springs Parks and Recreation offices and equipment yard
 - South: SU / Colorado College Landscape Facilities
 - East: PK and R-1-9000 / Monument Valley Park are adjacent to the east; beyond the park is a portion of the Old North End single-family residential neighborhood.
 - West: R2 / Single-family homes
4. **Comprehensive Plan/Designated 2020 Land Use:** This property is designated as a General Residential on the City's 2020 Land Use Map.
5. **Annexation:** The property was annexed in 1872 as part of the Town of Colorado Springs
6. **Master Plan/Designated Master Plan Land Use:** The southern portion of the site falls within the Colorado College Master Plan and is designated as "facilities services," the northern portion of the site is not currently within a master plan; the proposed master plan amendment associated with this project adds the entirety of the site to the Colorado College Master Plan and labels it as "library storage receiving offices."
7. **Subdivision:** The site includes portions of three different subdivisions: Harrisons Sub (1898), Scholz Sub (1901), and The Colorado College Northwest Campus Filing No. 1 (2011)
8. **Zoning Enforcement Action:** There are no active zoning enforcement actions on the site.
9. **Physical Characteristics:** The site is fully developed with multiple residential structures, as well as the Colorado College's facilities warehouse, office, and storage yard.

STAKEHOLDER PROCESS AND INVOLVEMENT:

Forty-eight surrounding property owners were notified of the proposal shortly after the application was submitted; two stakeholder organizations were also notified – the Old North End Neighborhood (ONEN), and the Friends of Monument Valley Park (FoMVP). That notification provided information about the project, information about a City-initiated neighborhood meeting, and instructions of how to submit comments. The neighborhood meeting was held on June 2, 2015 and approximately seven stakeholders attended. Staff has received numerous formal comments from the surrounding property owners and ONEN **(FIGURE 3)**. An additional set of postcards will be mailed to surrounding property owners prior to the Planning Commission's public hearing.

ANALYSIS OF REVIEW CRITERIA AND MAJOR ISSUES

The subject properties are located in, and immediately adjacent to, what the College refers to as their West Campus. This area, which is also identified in the College's Long-Range Development Plan (LRDP) as being within the Glenn Avenue Precinct, is made up of a mix of College-owned and privately-owned properties. The area immediately north of the site is owned by the City of Colorado Springs and is used as the Parks and Recreation Department's administrative offices, facilities yard, and warehouses. The subject properties are immediately west of Monument Valley Park which includes Monument Creek and pedestrian trails on both sides of the stream. Beyond Monument Valley Park to the east is the southwestern corner of the Old North End neighborhood. The land uses to the south of the subject property is a mix of uses including: the Colorado College Landscape Facilities property, privately owned single-family homes, and commercial uses including a gas station /

convenience store, and a large off-premise alcohol sales establishment. A single row of single-family homes are located immediately to the west of the subject properties; just beyond the residences runs the Denver & Rio Grande Western railroad line and I-25.

The site is made up of seven parcels all of which are owned by the Colorado College. Roughly one-third of the site's 2.27 acres are currently zoned SU (Special Use) which allows for a wide range of non-residential and institutional uses. The remainder of the site is zone R2 (Two Family Residential) which only permits residential land uses.

The primary goal of the proposed project is to construct a 10,923 square foot warehouse building to serve as a central receiving facility for the College as well as an off-site storage facility for library materials that are less-frequently utilized by students and faculty. The proposed work requires multiple applications including a minor amendment to the College's master plan (**FIGURE 4**), a zone change (**FIGURE 5**), a major amendment to a conditional use development plan (**FIGURE 6**), and a non-use variance. A vacation of public right-of-way application (**FIGURE 7**) is also being processed as part of the project, but the outcome of that application doesn't directly affect the proposed warehouse construction. Additional applications are being processed administratively that are indirectly associated with the project. These include: a subdivision plat to establish one lot for the subject properties; a minor amendment to the College's landscape facilities yard immediately south of the subject properties; a non-use variance for the landscape facilities yard to allow an eight foot tall brick wall within the front yard setback along Glenn Ave.; and a major renovation to Tutt Library on N. Cascade Ave. south of Uintah St.

It was obvious from the initial conversations that the proposed project would require attention and effort to adequately meet the required review criteria. Specifically, adequate buffering, screening, landscaping, architectural design, access control, and other measures must be implemented to mitigate any impacts to the residential property owners to the west as well as the park users to the east. While significant efforts were made to address these issues, many of the residential property owners to the west and southwest object to the project. Most offered few, if any, suggestions for how to improve the project. Instead, they believe that the R2 properties should remain residential to preserve the existing character of their neighborhood.

Given the College's needs related to the proposed project, the applicant resubmitted a revised plan that implemented Staff's recommendations and requirements and addressed as many suggestions from neighbors as possible. The final landscape plan associated with the project illustrates significant vegetation along Glen and along the property's eastern boundary. The majority of the land along Glen Ave. will be improved with a forty foot wide landscape buffer when including the entire area between the new curb and the new fence. New sidewalk will be constructed along Glen Ave. adjacent to the site and the existing curb and gutter will be replaced where needed. A new cul-del-sac bulb will be constructed at the northern terminus of Glen St. to allow vehicles to turn around without utilizing private driveways. A new trail connection will be added at the north edge of the site to improve the ability for trail users to access the Parks and Recreation offices just north and west of the site. The building itself is designed with high quality materials and architectural treatments to appear more like a historic barn than a typical warehouse; multiple cupolas, board and batten hardie plank siding, stone veneer trim, and false barn doors and windows all add to the aesthetic appeal of the building.

In addition to the physical changes to the site the College has stated that the proposed use will actually decrease issues like traffic and noise to the adjacent properties. The proposed facility will receive regular delivery traffic, but will primarily consist of small and mid-size trucks. Few staff will operate out of the property, and some of those will arrive in the morning and leave in the evening but spend much of their time on the main campus. The facility will have minimal activity in the evenings or on weekends. Additionally, the access to the property has been designed to come only from San Miguel, removing all traffic from Glen Ave. to the site. Conversely, the existing residential uses (seven dwelling units) may actually have higher traffic volumes, much of it utilizing Glen Ave.

Another issue that may be improved with the proposed project is drainage. Many of the residents that attended the June 2, 2015 neighborhood meeting commented on drainage problems along Glen Ave. Follow up analysis showed that a significant amount of stormwater runoff was exiting the Parks and Recreation property to the north and running down the west side of Glen Ave. toward San Miguel St. This surface flow is creating street maintenance problems adjacent to the neighboring residential lots. The proposed plan will add a cross pan and inlet at the north end of Glen Ave. which will take the surface runoff through a private storm pipe and into the site's stormwater quality pond before discharging into Monument Creek.

As stated above, the proposed project requires numerous applications.

Colorado College Master Plan Amendment

The proposed minor amendment to the Colorado College Master Plan affects the plan's future land use map by identifying the subject property as "Proposed Zone SU, Library Storage Receiving Office;" it was previously not illustrated on the plan as it was privately owned. The minor amendment must be evaluated using the Master Plan review criteria found in section 7.5.408 of the City Code. Those criteria cover a wide range of issues including: conformance to the City's Comprehensive Plan; positive land use relationships; adequate public facilities; adequate transportation facilities; environmental impacts, and others.

After careful consideration, staff finds that the proposed minor amendment to the Colorado College Master Plan is consistent with the required Master Plan criteria.

Zone Change to Establish the SU Zone

The proposed project requires a portion of the site to be rezoned from R2/SS (Two Family Residential with Streamside Overlay) to SU/SS (Special Use with Streamside Overlay). The SU (Special Use) zone allows for a wide range of non-residential and institutional uses and is largely intended to "accommodate primarily colleges or universities and those uses customarily associated with and in close proximity to those institutions." A change in zone application must be evaluated using the zone change criteria found in section 7.5.603 of the City Code. Those criteria require that the action "will not be detrimental to the public interest, health, safety, convenience or general welfare," that the proposal is consistent with the Comprehensive Plan, and that the proposal is consistent with the applicable master plan.

During the internal review stage for this project, Staff determined that a second zoning ordinance should be utilized to change the zone of a 4,350 square foot piece of R2 zoned property to PK (Public Park). The specific area in question is currently owned by the Colorado College but is being platted as a tract and conveyed to the City for public use. Without the second zoning ordinance, the tract would retain the R2 zone.

After careful consideration, staff finds that the proposed zone changes from R2/SS (Two Family Residential with Streamside Overlay) to SU/SS (Special Use with Streamside Overlay) and from R2/SS (Two Family Residential with Streamside Overlay) to PK/SS (Public Park with Streamside Overlay) are consistent with the required zone change criteria.

Non-Use Variance for Impervious Cover

The proposed project includes a number of significant changes to the north part of the site. The existing single-family homes are being removed and replaced with a 10,923 square foot warehouse building. To provide adequate buffering and landscaping to the single-family homes to the west, the warehouse and its associated circulation area are pushed eastward toward Monument Creek and the Streamside Overlay. Although the Overlay Zone limits the amount of impervious cover within close proximity to the City's creeks and streams, exceptions are often approved to account for urban context and mitigating factors. In this case, all of the site's stormwater runoff is directed to a water quality pond at the southeastern corner of the site before it is discharged into Monument Creek. This design and stormwater system was established in 2010 when the College's facilities yard was approved on a portion of the site; at that time a non-use variance was approved to allow 39.2% impervious surface within the Streamside Overlay. And while more impervious surfaces are proposed within the Streamside Overlay than allowed by code, or allowed by the 2010 plan, the plan successfully buffers the stream with landscaping and other design elements.

After careful consideration, staff finds that the proposed non-use variance to allow 42% impervious cover where the limit is 25% meets the required non-use variance criteria.

Major Amendment to a Conditional Use Development Plan

The proposed project is considered a major change to the previously approved conditional use development plan for the Colorado College Facilities Yard at 228 and 232 W. San Miguel St. That portion of the site, roughly 0.9 of the total 2.27 acre site, already has SU zoning and was previously developed as a non-residential use serving the College. The proposed plan illustrates relatively minor additions to the existing non-residential buildings at the existing Facilities Yard and expands the site northward toward the City's Parks and Recreation property.

The plan illustrates the removal of multiple residential structures along Glen Ave. and the construction of a 10,923 square foot warehouse building to serve as a central receiving and off-site library storage building. As discussed above, the College and their planners and designers have made significant effort to mitigate impacts to the

surrounding property owners and to comply with the required conditional use and development plan review criteria. Generally, the use and the plan must not substantially injure the value and qualities of the surrounding neighborhood; it must be found consistent with the intent and purpose of the zoning code to promote public health, safety and general welfare; and it must be consistent with the City's Comprehensive Plan. To comply with the City's development plan review criteria the plan must be harmonious with surrounding land uses; be compatible with the surrounding neighborhood; it must not overburden existing public facilities; the structures must be located to minimize impact on adjacent properties; landscaping and fencing must be utilized to buffer adjacent uses; vehicular access must be limited and controlled to minimize traffic friction, noise and pollution; adequate parking must be provided; ADA needs must be accommodated; asphalt must be minimized; pedestrian needs must be accommodated; and the project must take into account the preservation of significant natural features.

As a site affected by the Streamside Overlay Zone, an additional eleven environmental criteria are utilized to evaluate the project. The criteria include: the maintenance of existing natural landforms; the incorporation of the natural streamside setting into the proposed project; minimizing impact on wildlife and the riparian ecosystem; incorporating recreational opportunities and trail networks into the project; protection from flood damage; minimizing impact on significant natural features; implementation of subarea plans; minimizing stormwater runoff and protecting water quality; meeting landscape buffer requirements; stabilizing stream banks; and reclaiming drainageways where practical.

After careful consideration, staff finds that the proposed major amendment to the previously approved conditional use development plan meets the required conditional use and development plan review criteria.

Vacation of San Miguel Right-of-Way

The final application associated with the proposed project is a request to vacate the public right-of-way for W. San Miguel St. east of Glen Ave. The current configuration of W. San Miguel St. adjacent to the site is a 50 foot wide right-of-way that extends roughly 230 feet east of Glen Ave. The right-of-way extends well beyond the Monument Valley trail and nearly down to the bottom of the creek channel. No cul-de-sac exists to allow safe maneuvering for vehicles to turn around. The College owns all the land on both the north and south sides of the right-of-way. The right-of-way is not needed for public transportation purposes. While the right-of-way does include public utilities, and is utilized to access a public stormwater pond to the southeast of the site, easements will be retained to provide adequate access for both facilities. Additionally, the right-of-way includes a historic rock wall that was built by the Works Progress Administration (WPA) in the 1930's. While this wall is included within the current right-of-way and falls within the area to be vacated, staff is including a condition on the application that the vacation is not to be recorded until a quit claim deed can be prepared to convey a portion of the vacated area back to the City for public purposes. This conveyance will occur immediately after the recordation of the vacation.

The last consideration for the proposed vacation is that the current right-of-way includes a short trail connection from the Monument Valley Trail to the public sidewalk. Some trail users utilize this route to access Glen Ave. and cross Uintah at the signalized intersection. There are two factors that justify the elimination of this connection. First, the proposed plan creates a new trail connecting the Monument Valley Trail to Glen Ave. at the north end of the subject property. This new connection is preferable in that it can help improve access to the Parks and Recreation administrative offices just northwest of the site; currently, it is difficult to get from the Parks and Recreation offices to the existing trail network. Furthermore, the College will be improving Glen Ave. with new sidewalk adjacent to the site so that if trail users still wish to access the traffic signal at Uintah or the adjacent convenience store, they can do so safely. The other consideration for evaluating the removal of the exiting trail connection at San Miguel is the fact that the City will be constructing a new underpass for the Monument Valley Trail to proceed under Uintah within the next two years. This trail improvement will significantly reduce the frequency of trail users connecting to Glen at the site.

After careful consideration, staff finds that the proposed right-of-way vacation is consistent with the required vacation criteria.

CONFORMANCE WITH THE CITY COMPREHENSIVE PLAN

Comprehensive Plan 2020 Land Use Map: General Residential.

Comprehensive Plan Goals and Objectives: General Residential.

Policy LU 202: Make Natural and Scenic Areas and Greenways an Integral Part of the Land Use Pattern

Objective LU 3: Develop a Mix of Interdependent, Compatible, and Mutually Supportive Land Uses

Strategy LU 302a: Promote an Integrated Pedestrian Circulation System

Objective LU 4: Encourage Infill and Redevelopment

Strategy NE 201b: Incorporate Natural Features into Design of All Development

Policy CCA 302: Protect Historical and Cultural Resources

It is the finding of the City Community Development Department that the Colorado College Creekside Support Center project will substantially conform to the City Comprehensive Plan 2020 Land Use Map and the Plan's goals and objectives.

STAFF RECOMMENDATIONS:

ITEM NO: 6A CPC MP 97-00261-A4MN15 – COLORADO COLLEGE MASTER PLAN

Approve the proposed master plan amendment based on the findings that the application meets the criteria found in section 7.5.408 of the City Code.

ITEM NO: 6B CPC ZC 15-00055 – ZONE CHANGE

Approve the proposed zone changes from R2/SS (Two Family Residential with Streamside Overlay) and SU/SS (Special Use with Streamside Overlay) to SU/SS (Special Use with Streamside Overlay) and from R2/SS (Two Family Residential with Streamside Overlay) to PK/SS (Public Park with Streamside Overlay) based on the findings that the application meets the criteria found in section 7.5.603 of the City Code.

ITEM NO: 6C CPC NV 15-00076 – NON-USE VARIANCE FOR IMPERVIOUS COVER

Approve the proposed non-use variance to allow 42% impervious cover within the Streamside Overlay where 25% is the limit based on the findings that the application meets the criteria found in section 7.5.802.B. of the City Code.

ITEM NO: 6D CPC CU 10-00100-A3MJ15 – MAJOR AMENDMENT TO THE COLORADO COLLEGE FACILITIES YARD CONDITIONAL USE DEVELOPMENT PLAN

Approve the proposed major amendment to the Colorado College Facilities Yard Conditional Use Development Plan based on the findings that the application meets the criteria found in section 7.5.704 of the City Code subject to compliance with the following technical and informational plan modifications:

Technical and Informational Modifications to the Conditional Use Development Plan:

1. The development plan labels a 5 foot wide public improvement easement along the Glen Ave. right-of-way, but the subdivision plat labels this easement as a public utility easement; correct the plan to provide consistency with the plat.
2. Add the variance file number to General Note #3.
3. Update the tree demolition information as needed to reflect direction from the City Forester.
4. Correct the trail easement label leader arrow on sheet 1 to reference the 20 foot wide trail easement not the 5 foot wide utility easement.
5. Clarify that the new trail easement is public.
6. Provide an acceptable Wastewater Facilities Form and HGL Response forms to Colorado Springs Utilities.
7. Revise the landscape plan to remove trees from within 15 feet of the proposed fire hydrant lateral.
8. Provide a soil analysis to support the soil amendment notes on the final landscape plan.
9. Revise the landscape plan to clarify fence types and locations.
10. Revise the landscape plan and legend to detail the trees being relocated and given landscape credit.
11. Add a landscape chart to the Streamside Overlay sheet identifying that the Overlay's landscape requirements are met.

ITEM NO: 6E CPC V 15-00058 – RIGHT OF WAY VACATION

Approve the proposed vacation of a portion of W. San Miguel St. based on the findings that the application meets the criteria found in section 7.7.402.C. of the City Code subject to compliance with the following conditions of approval:

Condition of Approval for the Vacation of San Miguel Right-of-Way:

1. The recordation of the vacation ordinance must immediately precede the conveyance of the area shown on the vacation sketch as being conveyed back to the City for public purposes.
2. Public utility easements and an easement for City access to the adjacent stormwater facility will be retained when the right-of-way is vacated.

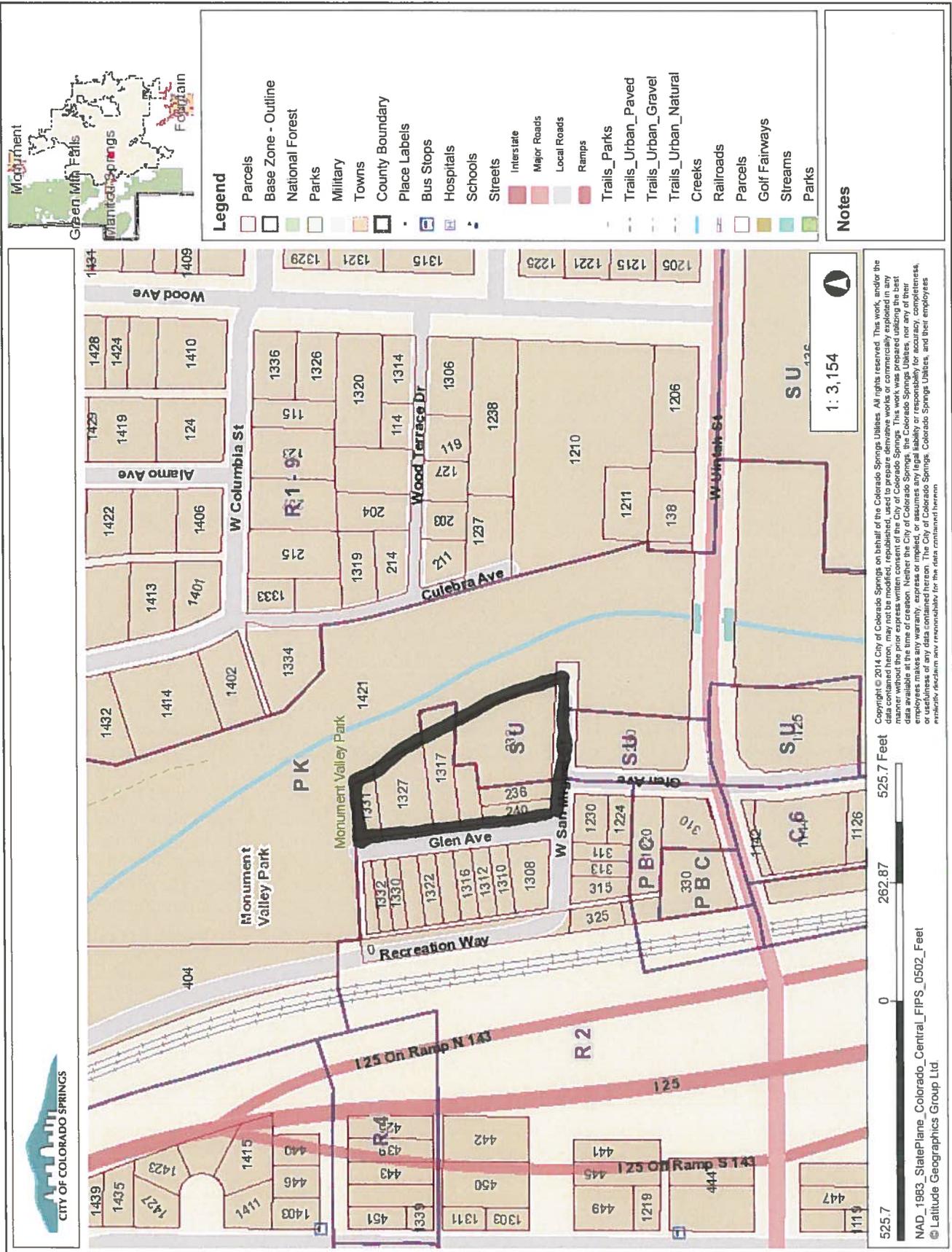


FIGURE 1

Colorado College
Creekside Support Center

June 18, 2015
Revised: July 23, 2015

Project Description and Justification

Requested Applications:

- **Master Plan Amendment – West Campus:** The Colorado College Master Plan for the West Campus is to be amended in order to fully incorporate the parcels that the College now owns. The proposed uses are illustrated.
- **Zone Change from R2 to SU:** Request a zone change of approximately 1.37 acres from R2 Residential to SU Special Use to allow Colorado College to create the Creekside Support Center comprised of renovated and new structures for uses that support the College functions.
- **Development Plan Amendment (CPC CU 10-00100-A2MN12):** This application incorporates the proposed rezone area into the existing College uses along West San Miguel Street. This is a Conditional Use DP to allow storage/warehousing within the Streamside Overlay.
- **Subdivision Plat:** To incorporate the new parcels that are being rezoned, a replat of Lot 1 Colorado College Northwest Campus Filing No. 1 is included to create a single lot for the Development Plan area.

Project Description:

The proposed Creekside Support Center for Colorado College brings together several functions that are critical to the operation and maintenance of the College. The existing San Miguel Faculties yard and warehouse has functioned on the site for several years and the Development Plan Amendment incorporates these functions with a broader use of the property for other support needs such as long-term library storage and archiving, central receiving, and additional office needs for facilities staff. The two structures at the existing site will remain with expansions proposed to both the office and the warehouse buildings. The home that is located at 240 West San Miguel Street will remain, keep its residential character, but be converted to office space. Five other homes and several outbuildings currently located on the other lots will be removed. A new library storage and central receiving building is proposed to the north end of the site. The T-shaped building is oriented to screen the loading and service area for the structure from the trail with new fencing, substantial landscaping and setback along Glen Avenue screen it from the west view.

A new vehicular entrance is proposed between the existing structures and will allow simplified access of vehicles to head directly north of the Glen Avenue intersection with San Miguel Street. This single access will provide all the necessary access for the entire site. All access points along east side of Glen Avenue north of San Miguel Street will be closed. A new cul-de-sac turnaround is proposed at the north terminus of Glen Avenue just before it enters the City Parks and Recreation property. This turn around right-of-way will be provided from the College property. A new storm drainage system is proposed in the turnaround that will collect water and from that area and direct it away from the existing street.

The new T-shaped building has a unique architectural approach with the goal to blend it with the historic character of the broader neighborhood. The aesthetic is to create the appearance of an old

barn along the creek. Rust colored roofing, board and batten siding, barn doors, cupolas and other features are intended to create a complimentary backdrop for the neighborhood. During conversations with the surrounding neighborhoods, concern was raised regarding the color of the roof on the existing warehouse building. With the addition proposed to this structure, a new roof will be installed that will blend with the roof of the proposed building.

Extensive landscape buffering is also proposed with this project as illustrated on the Preliminary Landscape Plan. The existing retaining wall/berm with the fencing will be continued along the eastern property boundary adjacent to the trail. Additional landscaping is proposed along the current berm and will be expanded as it moves north along the edge of the building. A landscape buffer is also proposed along the east side of Glen Avenue. A proposed six foot wooden fence will be installed along this side of the site approximately 32 feet from the existing street curb. A new sidewalk will be installed along this area since it does not exist today. New deciduous and evergreen trees will be installed to soften the edge of the site with a shrub bed at the base of the fence.

Inside the fence is parking and circulation for the property. Overhead doors are proposed along the western wing of the building. The large concrete pad and circulation area can accommodate deliveries via tractor trailers but that will be an infrequent occurrence. Most deliveries will be by panel truck or van. With the Development Plan, the College is requesting the use of asphalt millings for the majority of the driving surface. The existing yard area utilizes the same material. The new entry will receive asphalt paving up to the accessible parking space. A concrete apron is proposed at the entry doors along the south face of the building. The yard area drains to a new storm sewer system and is directed toward an expanded storm water quality pond in the southeast corner of the property. This pond currently outfalls to the existing inlet.

The property is also within the Streamside Overlay for Monument Creek. Streamside analysis is provided on sheet 2 of the plan set. The San Miguel site has an approved variance to allow for 39.2% of impervious area with the buffer area where 25% is allowed. As noted in that approval, the site does not contain typical streamside characteristics because of the historic stone armored slope along this portion of the creek. This plan creates a landscape buffer through berming, fencing and landscape treatment. Special care is also taken to create a unique architectural expression with the new building as discussed above and seen on sheet eight of the plan set. With this application, we are requesting a new variance that allows for 41.2% impervious area with the Streamside buffer. This is a slight increase of 2% from the previously approved variance.

The six lots are proposed to be rezoned from the current R2 Residential to SU Special Use. The SU District is consistent with the zoning for Colorado College. A West Campus Master Plan Amendment is included with the application set. It incorporates the properties recently acquired by the College and reflects the intended uses for the property.

A Non-Use Variance to Streamside development standards is also being requested to 42% impervious area when 25% impervious area is allowed. In 2011, a Non-Use Variance was approved for the San Miguel Facilities Site which allowed 39.2% impervious area within the outer buffer. This plan incorporates that development plan area and expands it to the Creekside Support Center. The expanded site is requesting a slight increase in impervious area (an additional 2.8%) to create a usable and integrated site. The drive areas need to accommodate a variety of vehicles, some with larger turning radii. The storm water quality pond illustrated in the southeast corner of the site is being expanded to accommodate the increased

impervious area. This pond also is accepting some off-site flows from the City Parks and Recreation facility to ensure that all runoff is adequately managed when there is discharged into the creek. The pond will incorporate existing wall features that were a concern for some neighbors that felt they added to the character of the area. Landscape materials for the pond are intended to compliment the creek side environment. Some of the increased impervious area is from the footprint of a new storage facility for Colorado College. To create a more harmonious relationship with the neighborhood, trail and creek environment, the new structure has upgraded finishes and architectural character as mentioned above along with additional landscaping in the trail corridor.



OLD NORTH END

NEIGHBORHOOD

July 14, 2015

Ryan Tefertiller,

ONEN has the following comments on the six applications related to the Colorado College Creekside Support Center Project.

Rezoning and Warehouse Construction:

CPC ZC 15-00055: A request by Tim Seibert of N.E.S. Inc. on behalf of Colorado College for approval of a zone change from R2/SS (Two-Family Residential with Streamside Overlay) to SU/SS (Special Use with Streamside Overlay). The proposed zone change affects 1.381 acres of land located north of W. San Miguel St. and east of Glen Ave.

CPC MP 97-00261-A4MN15: A request by Tim Seibert of N.E.S. Inc. on behalf of Colorado College for approval of a minor amendment to the Colorado College Master Plan to add an additional 1.39 acres of land which the College has acquired since the last Master Plan amendment. The area added to the master plan is labeled as “library storage receiving offices” with a proposed SU (Special Use) zone district. The area of amendment is generally located north of W. San Miguel St. and east of Glen Ave.

CPC CU 10-00100-A3MJ15: A request by Tim Seibert of N.E.S. Inc. on behalf of Colorado College for approval of a major amendment to the Colorado College San Miguel Facilities Yard Conditional Use Development Plan. The proposed amendment expands the existing facility yard by adding an additional 1.381 acres and redeveloping the added area to include a new 10,923 square foot warehouse building, parking and loading area, landscaping, fencing, and a new cul-de-sac bulb at the north terminus of Glen Ave. The plan also illustrates minor additions to the two structures at 232 W. San Miguel and the conversion of the existing building at 240 W. San Miguel S. from a residence to an office. The total site measures roughly 2.27 acres, is currently zoned R2/SS (Two-Family Residential with Streamside Overlay) and SU/SS (Special Use with Streamside Overlay), includes 232, 236, and 240 W. San Miguel St. and 1315, 1317, 1323, and 1331 Glen Ave., and is generally located north of W. San Miguel St. and east of Glen Ave.

- ONEN is pleased that Colorado College has adopted a much less industrial look for the warehouse than initially presented at our meeting with them on May 8th 2015. The rustic design developed by Mark Nelson including the dark roof is much more appropriate for this facility adjacent to Monument Valley Park and Glen Ave. residences.
- Is it possible to do a variance for the planned use instead of a rezoning? There are concerns about what other higher impact uses could eventually go on at this site if the SU zoning is allowed.
- The existing overhead utilities along Glen Ave should be buried as part of the site excavation and sidewalk, curb and gutter work that will be going on in the right of way as part of this project.
- For the benefit of the remaining residential properties deliveries should be restricted to normal business hours so noise and traffic impact is lessened.
- Has there been any engineering analysis or traffic studies conducted to determine if this narrow stretch of Glen Ave. and the existing intersection of Glen Ave and Uintah St. can handle the larger and higher volume truck traffic that will visit this facility?
- No parking should be allowed at this facility or site that is not in direct support of the warehouse facility. We would be opposed to the creation of a satellite parking lot for the college at this site without another public review process.

Vacation of Right of Way

CPC V 15-00058: A request by Tim Seibert of N.E.S. Inc. on behalf of Colorado College for approval of a vacation of public right-of-way. The request applies to roughly 11,637 square feet of W. San Miguel St east of Glen Ave.

- Will the historic stone work (circled in red below) be on Colorado College or public property as a result of the vacation of this portion of the street? The historic stone work at the end of San Miguel on the edge of Monument Valley Park should not be demolished and should be maintained for the public to enjoy from the trail in Monument Valley Park.



Brick Wall Construction

AR NV 15-00379: A request by Tim Seibert of N.E.S. Inc. on behalf of Colorado College for approval of a non-use variance to allow an 8 foot high brick wall to be constructed 10 feet from the front property line where a 25 foot wide front yard setback is required along Glen Ave. The site is zoned SU (Special Use), is addressed as 230 W. Uintah St. (also known as 1211 and 1219 Glen Ave), and is located on the northeast corner of W. Uintah St. and Glen Ave.

CPC DP 04-00306-A2MN15: A request by Tim Seibert of N.E.S. Inc. on behalf of Colorado College for approval of a minor amendment to a the previously approved development plan for 230 W. Uintah St. The previously approved plan allowed for the College to establish their landscape yard, greenhouse, and storage buildings; the proposed amendment adds an 8 foot high brick wall along the entire Uintah St. frontage and a portion of the Glen Ave. frontage. The site is zoned SU (Special Use), is addressed as 230 W. Uintah St. (also known as 1211 and 1219 Glen Ave), and is located on the northeast corner of W. Uintah St. and Glen Ave.

- ONEN is pleased with the planned aesthetic improvements along Glen Ave and Uintah St. This is an important gateway to our city and neighborhood and we appreciate the College's dedication to enhancing it.

Thanks,

A handwritten signature in black ink, appearing to read 'Bob Sullivan'.

Bob Sullivan
President

TO: Ryan Tefertiller, Colorado Springs Planning Commission, Colorado Springs City Council

RE: The Colorado College's Rezoning Request at San Miguel and Glen Avenue

July 6, 2015

To Whom It May Concern:

We strenuously oppose Colorado College's plan to demolish a block of houses in our neighborhood and change the zoning from residential in order to construct a metal warehouse. The negative impact on the neighborhood environment and the park would be substantial.

Historical/Environmental impact:

While the houses in the neighborhood may not be eligible for the historical register, the *I-25 Environmental Assessment Report's* study on widening 1-25 makes a note of the value of what it calls the "small San Miguel neighborhood":

[C]ontrary to MacLaren's opinion about the lack of a Colorado style, Colorado Springs appears to have developed a somewhat indigenous architecture by using a great deal of native stone in foundations, porches, and the walls surrounding picturesque frame cottages. These houses, found mostly in the city's older neighborhoods . . . are found the small San Miguel neighborhood, as well as Brookside, Ivywild, and along the road to Cheyenne Canyon. (24) *

The report also makes specific note of the "San Miguel St. Park Entrance" and the "San Miguel Pond with Island" as "contributing resources" in its historic impact report. The "Pond with Island" has already been demolished and is buried under the concrete of CC's current San Miguel warehouse. Most of the houses in the neighborhood, including some which CC plans to demolish or has already demolished, are also listed as "contributing" to the historic value of Colorado Springs. (See attached list, document A.) Along with individual houses like the Loomis and Armstrong houses, the value of the entire neighborhood is mentioned on page 67 of the I- 25 Report's historical assessment:

5EP4200 San Miguel Historic District – 1898-1926 This area is a small isolated neighborhood located north of Uintah, east of the D&RG tracks, and west of Monument Creek. It developed between 1898 and 1926 and has retained a good deal of its original architectural integrity. There are a variety of modest turn-of-the-century residential styles that are good representatives of the small middle-class residential buildings in Colorado Springs that display a distinctive rustic styling through the use of shingles and stone. Currently, as the city is changing and the older neighborhoods are redeveloped, these types of middle-class dwellings are disappearing.

Clearly, CC's plan would not only demolish Victorian and Craftsman style houses dating from the 1890s, it would devalue and destroy the neighborhood environment of the remaining houses of the same style and era. A metal warehouse with a country barn-style "skin" would clearly not maintain the "original architectural integrity" of either the city or the neighborhood. Colorado College's desire for a temporary metal commercial warehouse does not appear to be a compelling need that warrants destroying what has remained intact for over 100 years.

We would urge the Planning Commission and City Council, at the very least, to consider the actual look of the proposed building rather than the artist's rendition. This is not original architecture; it is a prefabricated commercial metal building, and the company should be able to provide actual examples of how it would look with the surrounding concrete and without the idealized mature trees. When CC built its current warehouse, the report states that "The project has been designed to minimize the impact upon surrounding properties and to blend in with the surrounding land uses." As the attached pictures indicate, the structure does not blend in with the surrounding neighborhood. (Document B) It also states that the property will not "overburden capabilities of existing streets" and it will "provide safe and convenient vehicular and pedestrian access." This has not proven to be the case.

Traffic/Noise Impact:

It is unclear why CC would enlarge its library then need to store books on the other side of the creek. It is also unclear why they would move their shipping and receiving department blocks away and then have to truck materials back to campus. Even if this is their master plan, there is already a warehouse area to the south and west of downtown, almost equidistant from campus. The area is presumably already zoned commercial, and it has an infrastructure of wider streets and greater ingress and egress than a small neighborhood with narrow streets that are already unable to handle truck and equipment traffic. Trucks, possibly for Coaltrain Liquor, as well as CC equipment, block traffic at the corner of Glen and San Miguel simply because they are too large to make the turn. With the dead-end street at the corner of Glen and San Miguel currently being used as a parking lot for CC employees, cars and trucks are unable to turn around, so they are increasingly using our driveways. Since CC built its current warehouse, there has been a marked increase of noise from traffic, equipment, and even rain and hail on the metal roofs. Adding a turn-around, circular or otherwise, at the far end of Glen Avenue would clearly not alleviate the problem. More trucks coming back to the intersection of Glen and San Miguel would simply increase the congestion, noise, and traffic blockage as they try to maneuver two tight turns instead of one. It seems inconceivable that any traffic study could have approved of adding more heavy-vehicle traffic to this small area. CC's proposal to take over the dead end street would not only add to the traffic inconvenience, it would cut off the only convenient access the public has to the creek running and biking path on the north side of Uintah.

While CC has an interest in its own property, the college knowingly bought residential houses in a residential neighborhood for residential prices. The impact of its current warehouses has been underestimated, and there is no indication that the proposed warehouse would not further degrade the neighborhood environment, increase the traffic and noise problems, and further limit the enjoyment and value of the properties of the remaining homeowners.

* I-25 Environmental Assessment Project No. 151077.13.BN Historic Resources Survey Report History and Survey Results Vol. I, May, 2003. www.codot.gov/library/studies/I25EAColoSpgsMonument/i-25-ea-appendix-volume-2.

Sincerely, the San Miguel/Glen Avenue Neighbors:

While CC has an interest in its own property, the college knowingly bought residential houses in a residential neighborhood for residential prices. The impact of its current warehouses has been underestimated, and there is no indication that the proposed warehouse would not further degrade the neighborhood environment, increase the traffic and noise problems, and further limit the enjoyment and value of the properties of the remaining homeowners.

* I-25 Environmental Assessment Project No. 151077.13.BN Historic Resources Survey Report History and Survey Results Vol. I, May, 2003.
www.codot.gov/library/studies/I25EAColoSpqsMonument/i-25-ea-appendix-volume-2

Sincerely, the San Miguel/Glen Avenue Neighbors:

<u>1316 Glen Ave</u>	<u>Ken Harris</u>
<u>1220 GLEN AVE</u>	<u>BRUCE DALLMAN</u>
<u>1316 Glenn Ave</u>	<u>Helsie Harris</u>
<u>1312 GLEN AVE</u>	<u>JOHN M. CUNE III</u>
<u>313 W SAN-MIGUEL ST</u>	<u>John M. Cune III</u>
	<u>John M. Cune III</u>
<u>315 W. San Miguel St.</u>	<u>Christian Wright</u>
	<u>Christian Wright</u>
<u>315 W. San Miguel st.</u>	<u>Jennifer Wright</u>
	<u>Jennifer Wright</u>
<u>2854 COUNTRY CLUB CIR.</u>	<u>Lance Wright</u>
<u>313 W. San Miguel st</u>	<u>Annabella Quintana</u>
<u>311 W San Miguel St</u>	<u>Jinda Pung</u>
<u>1312 GLEN AVE</u>	<u>MUR</u>
<u>313 W. San Miguel st</u>	<u>Goe Quintana</u>
<u>2854 Country Club Cir.</u>	<u>Mrs. L. W. Wright</u>

FIGURE 3

J. T. C.

1334 Glen Ave

Colo Spgs CO 80905

Ron Mullins

1224 Glen Ave.

Colo Spgs. 80905

Kimberly H. Halse

1332 Glen Ave.

Colo Spgs, CO 80905

Christopher Eller

310 W Vinton

C15, CO 80905

7/17
store
owner

Patricia Padella

1310 Glen Ave

Co Spgs CO 80905

Mikaela Padella

1310 Glen Ave

Colo Spgs, CO 80905

Cathy Henricks

1270 Glen Ave

CO S CO 634-4491

Jesus delacruz

This represents everyone
in the neighborhood.

[staff comment -> I don't see signatures
from 1322, 1326, or 1330 Glen
or from 1308 Glen which is
College owned, or 1220 Glen]

FIGURE 3



Historic Resources
 Older than 45 Years
 Revised 10/08/07

E Eligible for Registers
 NE Not eligible for Registers
 NC Noncontributing resource
 C Contributing resource
 demo (in red) demolished

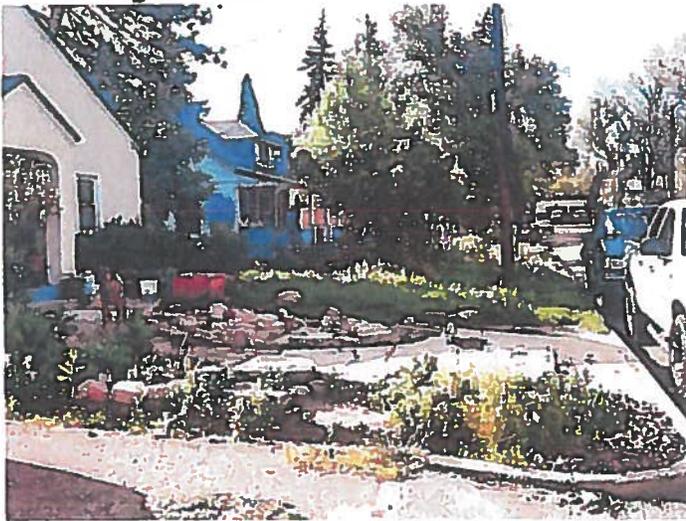
Road Segment & Property Address	Site #	Built	NR	SR	LL	Elig	Reevaluation	NE -Altered	NE - No Signif.	NE -Age
2118 Wood Ave	SEP4153	1928				NE			X	
2126 Wood Ave	SEP4154	1949				NE			X	
2130 Wood Ave	SEP4162	1954				NE			X	
125 W Monroe St	SEP4159	1952				NE			X	
San Miguel-Glen Ave HD (No Individual Forms)										
San Miguel/Glen Ave HD	SEP4200					E				
1220 Glen Ave	SEP4200.1	1908				NC				
1224 Glen Ave	SEP4200.2	1888				C				
1230 Glen Ave	SEP4200.3	1908				C				
1308 Glen Ave	SEP4200.4	1928				C				
1310 Glen Ave	SEP4200.5	1898				C				
1312 Glen Ave	SEP4200.6	1916				NC				
1315 Glen Ave	SEP4200.7	1908				C				
1316 Glen Ave	SEP4200.8	1898				C				
1317 Glen Ave	SEP4200.9	1926				C				
1319 Glen Ave	SEP4200.10					NC				
1322 Glen Ave	SEP4200.11	1903				C				
1323 Glen Ave	SEP4200.12	1898				C				
1326 Glen Ave	SEP4200.13	1898				C				
1327 Glen Ave	SEP4200.14					C				
1330 Glen Ave	SEP4200.15	1918				C				
1331 Glen Ave	SEP4200.16	1898				C				
1332 Glen Ave	SEP4200.17	1898				C				
1334 Glen Ave	SEP4200.18	1918				C				
228 W San Miguel St	SEP4200.19	1898				C				
232 W San Miguel St	SEP4200.20	1898				NC				
236 W San Miguel St	SEP4200.21	1898				NC				
240 W San Miguel St	SEP4200.22	1903				C				
311 W San Miguel St	SEP2225	1908				C	X			
313 W San Miguel St	SEP4200.23	1908				C				
315 W San Miguel St	SEP4200.24	1898				C				

FIGURE 3

Two Houses To Be Demolished



Current Neighborhood



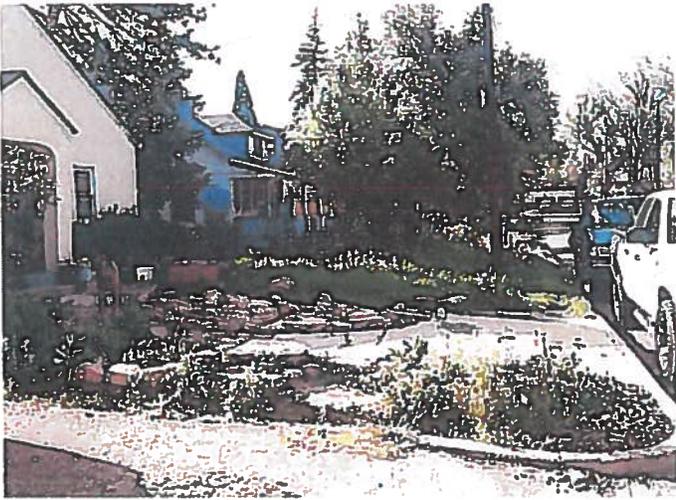
Colorado College's Current Warehouse



FIGURE 3



Two of houses to be demolished



Current neighborhood



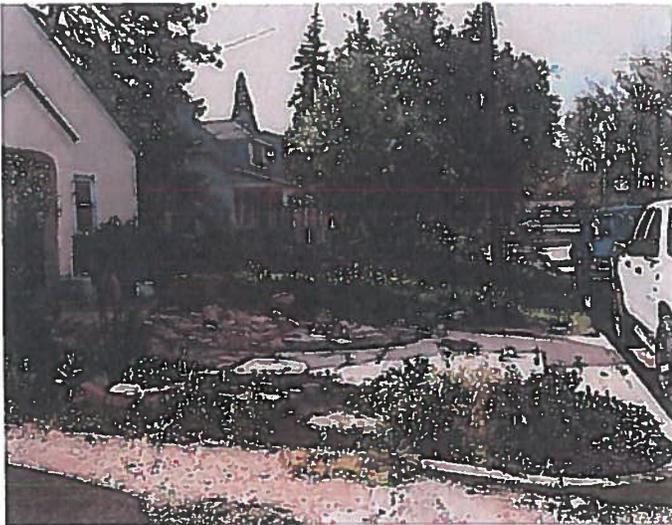
Colorado College's current warehouse



FIGURE 3



Two of houses to be demolished



Current neighborhood



Colorado College's current warehouse



FIGURE 3

Trail use disagree with
on warehouse

Anna P. Pottat

Jane Andrews

Michelle Johnson

Laura Kadish

Laura V. Johnson

Loel Palmer

Ray P. Pagan

6
John Stevens
Charles J. Smith

John

Sharon Tenker

Clara L. Lee

John
John
John

John Williamson

John

John

Jonathan Pagan

Trail USE

disagree with
warehouse

Wade P. Knight
90 MONTVIEW LANE #1A 80907

ROBERT BRAKENSIEK
45 S. Weber St.
Co. Sp. Co. 80903

Kathy VanLewegen
28 W. Monument
Unit 201 80903

ROBERT SPELL
1324 STUART ST.
DENVER, CO. 80204

PAUL SUMNER
1371 LINDENWOOD GRV.
Colorado Springs, CO 80907

Joel Marx
6759 War Sagle Pl
Colorado Springs, CO 80919

Lu Seltze
2418 Balboa
CS CO 80903

Priscilla Brooks
1571 E. Cache La Poudre
CS CO 80905

D Schoppen
1914 N Chestnut
CO 80907

Mary Burley
2332 Wood Ave
CS, Co 80907

Alan MacCarnier
2840 S Circle #43
CS 80906

Norma Ochsner
221 E. St. Vrain
CS 80904

Hell No!
Bill Walter
719-660-9945
Bill says Bad Idea

Rebecca Repp
6455 Mohican Dr.
CS CO 80915

collected on July 10

Dear Colorado College,

My name is Christian Wright, my wife and I have lived in the W. San Miguel neighborhood for over a decade. I grew up in the old north end living at 1519 N. Nevada Ave. After I married I wanted nothing more than to own a home in this neighborhood. My home was built in 1896 and I purchased it from a man that lived in this house since 1924. I bike to work downtown, using the Monument Vally Park trail, the "bicycle highway of Colorado Springs." I love my home and my neighbors and I wish to preserve my way of life.

Who are my neighbors? Colorado College employees, City employees, retired City workers, artists, nurses, builders... and Colorado College. I have been the guest of the president of Colorado College because of my work on the award winning documentary "Return" about Professor Sonderman who escaped the Holocaust and became as acclaimed political science professor at CC.

Your President, staff and students are our neighbors. The project to turn our neighborhood into a warehouse district is a disgrace. This effectively tells us that we are good enough to work for you but not live next to you.

This proposed project is directly in opposition to the City's infill initiative. The infill projects are to "increase population density" in the as Mayor Suthers put it "the heart of Colorado Springs". A place where young professionals like myself will want to "live, work and play".

We are thrilled that the City of Colorado Springs has received a one million dollar grant for the three million dollar "legacy loop" trail project; a project started by General Palmer himself. The legacy loop will improve the west side of Monument Vally Park bringing it up to and beyond the quality of the east side of the park. Many of the homes on the east trail are on Wood Avenue, the most desirable street in Colorado Springs to live on. The legacy loop project will make our neighborhood property similarly desirable.

We are asking for the same consideration that would be given to the residents of Wood ave. CC owns plenty of property on Wood Ave. Why not rezone that property and build a warehouse there? Because Colorado College knows that the neighborhood would not stand for it. Colorado College knows it's President and Facility would never allow an eyesore like the one proposed be foisted upon them. "Not in my backyard". well it is in your backyard, we are your neighbors and we demand that you show us the same respect that we show you.

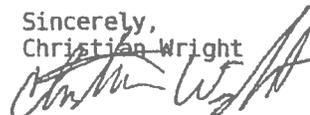
The homes owned by college back directly up to the park and the new legacy loop improvements. This is prime real estate, it is a folly for the College to turn these beautiful homes and property into a warehouse. If the college is unwilling to maintain the properties they own I am sure a residential developer would jump at the chance to restore and build on the legacy loop.

This project will severly negitivly inpact our property values. We will not allow this to happen.

Colorado College is a pillar of the community and I have been proud to call them my neighbor. But if CC insists on moving forward with this monstrosity of a project CC will become a symbol of shame for the community. The tactic of tearing down the historic homes even before the zone change is heard at the planning commission meeting is shameful. CC is assuming that they will be able push through their project regardless of what the community thinks.

We are united against this project. EVERY remaining resident of the West San Miguel - Glenn Street neighborhood have signed a petition in opposition of this project. We will not have the foisted upon us. We will do everything in our power to prevent the rezoning from R2.

We strongly appose the rezoning of the W. San Miguel and Glenn avenue properties from R2. This is our community and we want to preserve our way of life.

Sincerely,
Christian Wright

315 W. San Miguel St.
Colorado Springs, CO.
80905
719-633-7573
alstav@gmail.com

To whom it concerns,

I say R2 should stay R2 on West San Miguel and Glenn St.

I say no to the rezoning request made by Colorado College.

I oppose the building of a metal warehouse, even if it is dressed up as a "barn". The irony has not escaped me that you would tear down a real vintage barn for this fake barn.

I say no to the closing off of W. San Miguel street and the community access to the park.

Colorado College has already proven by their maintenance facilities that they have no regard for the character and charm of the neighborhood.

Colorado College has allowed the homes that they have purchased to become run down. They are unwilling to do maintenance and repairs to the properties they own on W. San Miguel Street and Glenn Ave.

They have evicted our neighbors that rented from the college with no regard to the community.

While the home owners in this community are building up the neighborhood Colorado College is insistent on tearing the neighborhood down.

These are our homes, not just some trash to be torn down. We will not allow CC to destroy our historic neighborhood.

Your metal storage barn will be an eyesore no only for our neighborhood but also for the users of the new "legacy loop" project in Monument Valley Park. Users are already treated to a view of your ugly maintenance storage barn and yard. Do not multiply this with another industrial eyesore.

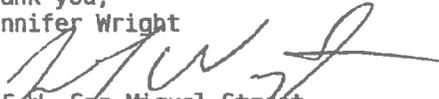
You have many other options for storage in appropriate locations. Please do not create an already obsolete library storage in our neighborhood. Do not turn our homes into your unwanted rubbish bin.

Our homes are not just houses to us. They are our HOMES, we live the history each day. They are not just a place to sleep, they have been passed down for generations. We are established home owners that love our property. Hardly anyone in the neighborhood has been here for less than five years and many have been here for decades. We have been here for over a decade and intend to stay for decades to come.

Colorado College claims to be a proponent of history, proud of their Colorado Springs legacy, yet they insist on tearing down that very history they claim to protect. Our history includes the middle class as well as the upper two percent that CC only seems to care about.

We the owners and renters are very proud of our homes and feel that your demolition is an assault on our history and way of life. The last remaining residents (the ones not pushed out by CC) of this neighborhood are united on this issue. The neighborhood gossip has never been better, for this we thank you for providing this cause that brings us even closer together as a community.

Thank you,
Jennifer Wright



315 W. San Miguel Street
Colorado Springs, CO
migenn@gmail.com

Ken Harris
1316 Glen Ave.
Colorado Springs, Colorado 80905

To whom it may concern,

As to the zoning change for the properties on Glen Ave. and San Miguel. I'm going on record opposing the change. I feel that the College and City of Colo. Springs. need to take in account the long term issues of putting a warehouse in a historic neighborhood. It's my request that a environmental study be done on the effects on the wild life in the area. This purposed warehouse will disrupted the animals movement to the creek, change the type of birds and insects that coincide with a vegetated neighborhood. All a warehouse attracts are pigeons and sparrows. This area is the only neighborhood green area between Unitah and Fillmore with flowers, gardens and grass that is not along the creek and to take over half of that away will have a major impact on not only the wild life but what we enjoy as a neighborhood. This is part of a wet land environment. To allow the zonings change and a warehouse to be put next to the Legacy Loop Trail would be a slap in the face of the tax payers and citizens of Colorado Springs. After all isn't the Legacy Loop Trail to Beautify our City? There is already a eyesore with the cities storage yards and Warehouses along the trail.

Another reason is, the colleges total disregard us our neighborhood to be apart of addressing the drainage, the road, utilities, parking and traffic concerns. They put up a fence so as to isolate themselves from being a part of the neighborhood. That's why the R2 should stay and not be rezoned.

I wonder why CC with all their finances can't find a property management company that cleans up and maintain the houses. Is that planned by CC to run down neighborhoods in-order to get the city to re-zone the neighborhoods?

I feel the college is not being forth right about the properties on Glen as to the future use of their book warehouse. When their library is complete does the book go back in the library? If so that leaves a warehouse for their unwanted items that they don't want on their campus thus creating warehouse and storage yard just like the park and rec.has going along a 3 Million Dollar Legacy Loop Beatification Project.

One other objection is the vacating of San Miguel. The neighbors on Glenn and San Miguel don't have any street parking.

It would be completely unfair to take the only parking for their friends and family that come to visit and a inconvenience to the neighbor's on the 13 hundred block to have their company take up parking in front of their homes. Keep all lot's R2! Use the lot's on the south side of Unitah!

Sincerely Ken Harris,
1316 Glen Ave.



Tefertiller, Ryan

From: Kerry Peetz <bumblebee3373@q.com>
Sent: Thursday, July 09, 2015 3:09 PM
To: Tefertiller, Ryan
Subject: Re: Comments on Creekside Service Center

Hi Ryan,

Thank you for spending a little time with me yesterday afternoon, I really appreciated it.

My comments are the following:

1. Major Concern: DO NOT want parking permitted in the "turn-around" area at the end of the block. This would encourage people to park there overnight close to the proposed park access. Drinking, parties, homeless, etc etc.
2. Somewhat concern: Residents and guest parking only on the east side of the street.
3. Somewhat concern: Regarding placement of any security lighting that may too bright facing at my place.
4. Minor concern: Nice 6 foot wood fence not a problem. (The current houses across the street from me had picket fences) If there is a change to an unsightly chain fence, that would be a major concern.

My house was built in 1898 (probably older - the Colorado Springs Assessors Office opened in 1898) thank you in advance for making sure the integrity/looks of the new warehouse is keeping with our 1898 "flavor".

Thanks again,

Kerry Peetz

From: "Ryan Tefertiller" <RTefertiller@springsgov.com>
To: "bumblebee3373@q.com" <bumblebee3373@q.com>
Sent: Thursday, June 4, 2015 10:36:09 AM

To: Colorado Springs Planning Commission

Colorado Springs City Council

Ryan Tefertiller

Re: Colorado College Zoning Change Application for San Miguel and Glen Avenue

To Whom It May Concern:

I am the owner of a house in this neighborhood, and I am writing to protest the college's request for a zoning change. Even though the college has purchased all the houses on one side of the 1300 block of Glen Avenue, its proposal to demolish all of the turn of the century houses and replace them with a warehouse would diminish the house values and the character of the entire neighborhood. My family has owned this house since the late 1950s, and while the neighborhood (and this house) have had their ups and downs, the neighborhood is on the rise with conscientious homeowners steadily improving their properties. A new warehouse adding more traffic and more noise and more unsightly warehouses would greatly diminish the entire neighborhood. The two warehouses they have already built have already added to the noise and blocked views of the park and creek path. From my front porch and upstairs, I used to have a view of a wooded lot and the park. Now I see this:



The current homeowners bought their houses in the expectation that they knew what the neighborhood offered: old period houses, large established trees, and views of the Peak and the park. What the college proposes would radically alter the neighborhood and turn it into a warehouse district with metal buildings on acres of concrete and demolished houses and trees. With the elimination of the access to the park, they would also be depriving runners and hikers of the only convenient access to the north side of the park path. No property rights the college has in its property could justify destroying the rights and legitimate expectations of the other homeowners in the enjoyment of their own property.

I am requesting that the Planning Commission and the City Council reject Colorado College's application for a zoning change.

Sincerely,

Cathy Henrichs

1230 Glen Avenue

Colorado Springs, CO 80905

FIGURE 3

Tefertiller, Ryan

From: johnny Cline III <jmciii@live.com>
Sent: Thursday, July 09, 2015 11:07 PM
To: Tefertiller, Ryan
Cc: PATRICIA A PADILLA; gbp1fan@earthlink.net; rkmull@comcast.net; Cathy Henrichs; Stanley@csindy.com; Gaebler, Jill
Subject: response to plans for the Creekside Support Center

My name is John M. Cline III. I have owned my residence at 1312 Glen Avenue for five years, and lived on Glen for eight years. I am writing this in response to the proposed changes to my neighborhood.

When I first moved to Colorado Springs almost two decades ago I discovered this tiny secluded neighborhood. I fell in love with its location and character. It has taken many years but I have finally realized my dream of making this place my home. I am raising my 11 year old daughter here, and she cannot recall living anywhere else. I have spent the last seven years working on campus at Colorado College doing food service. Work is a beautiful ten minute walk away. I plan on retiring from this job in 25 years.

Glen is a wonderful example of a working class neighborhood tucked away between the I-25/rail corridor, and Monument Creek, just north of Colorado College. It is as old as the Old North End just across the creek, with its own quaint charm. Its location as a residential neighborhood is something the City of Colorado Springs should fight to preserve. Nearby Wood Avenue is and has been historically the most desirable street to live on in this city. Wood has long been home to some of the most important and influential people throughout the history of Colorado Springs. And Glen is where the help has lived. The history that permeates the Old North End is shared on our side of the creek too; by the cooks, butlers, gardeners, and drivers. It still goes on today. I am that stereotype.

There are fewer and fewer neighborhoods surrounding downtown Colorado Springs where blue collar workers can afford to own homes. Glen's small lots and 2 and 3 bedroom homes offer just that. The addition of the fabulous trail system/parks adjacent to the Glen neighborhood make this a very unique blend of upscale urban accessibility and old fashioned blue collar front porch living. I can get on/off the interstate without ever seeing a traffic light.

When I bought my modest home here there were twenty-nine residential addresses left in this neighborhood. Colorado College has been quietly taking advantage of the recent economic downturn to buy up half of it. Two homes have already been destroyed, and a third made into office space. If the proposed changes go through there will only be fifteen left. None of the remaining homes will have a neighbor across the street.

I oppose rezoning half of my neighborhood to be used for a warehouse and receiving dock.

I oppose vacating San Miguel as well.

With the upcoming improvements to the Legacy Loop and Monument Valley Park trail system it seems counterproductive to close trail access and parking along San Miguel. Replacing the precious few remaining residences along the park with a fenced off warehouse compound is the opposite of urban infill. The improvements that are being made to MVP will make this neighborhood more desirable of a locale for urban living. The proposed repurposing of the creek side of Glen will completely separate what is left of my neighborhood from the park.

I also oppose the tactics used to push this project through. Once the wrecking crews are through, what will be left to fight for? The plans that I have seen completely disregard the reality of the current stormwater drainage situation. A lot of runoff from the south parking lot and buildings for parks and rec flows south down the west side of Glen Ave. It would be irresponsible to allow Colorado College to construct a private stormwater infrastructure which circumvents the current drainage issues. At the least the city should acknowledge that the infrastructure is crumbling along Glen Avenue due to flowing stormwater off of city

property, and any plans to improve such a large portion of the drainage basin should include an overall look at the entire drainage basin. Not just what it looks like on paper, but the reality of what actually goes on when it rains around here.

I have a big concern about the future traffic congestion surrounding the Glen/ San Miguel intersections. The streets that were put into my residential neighborhood were not designed to handle the number and frequency of tractor and trailer delivery trucks which have become much more common in the last 2 years. The recent addition to the Coal Train Liquor was done very poorly with that regard. I viewed those plans and did not comment. The current reality is not what was shown to me. Very specifically regarding delivery access from Recreation Way. To add a back entrance to a liquor store right off of a dangerous curve with a bad curb was irresponsible. Especially after the plans showed landscaping to prevent just that! (thus I didn't comment then) So I am very wary of approving any plans that increase the flow of delivery truck traffic through my neighborhood. I do not want to see the city have to widen the right of ways to make it more convenient for commercial vehicles to drive through my residential streets. The houses were here first. I want my daughter to be able to ride her bike around the block without worry about trucks backing up into her just to negotiate a ninety degree blind corner.

The last thing I want to address is Colorado College itself. It is a valuable asset to the city of Colorado Springs. The work already done by CC to beautify the north side of the downtown area is amazing. George Eckhardt's work at the historic preservation of the campus and its aging buildings has been impressive. Jill Tiefenthaler is doing wonderful things to take the College in a direction I can get behind. CC has been a great neighbor to have, and a great place to be employed. I am proud to be a part of it. I look forward to being able to engage in open conversation about the plans for the future of the Glen Avenue neighborhood to the benefit of Me, Colorado College, and the City of Colorado Springs.

sincerely,

John M. Cline III
1312 Glen Ave.

Tefertiller, Ryan

From: Jeannie Tomlinson <gbp1fan@earthlink.net>
Sent: Friday, July 10, 2015 12:02 AM
To: Tefertiller, Ryan
Subject: Glen Ave

My name is Jeannie Tomlinson and I live at 1334 Glen Ave. I strongly oppose rezoning half of my neighborhood to be used for a warehouse and receiving dock by Colorado College and the vacating of San Miguel as well. The neighborhood can't support the traffic increase that the rezoning will create. I also oppose the turn around at the end of the street. If you allow Colorado College to rezone this street, you will have allowed them to take yet another piece of history away from the tax paying citizens. I strongly oppose the city to allow the proposed changes Colorado College wants to make to their "west campus", otherwise known as the Glen Avenue neighborhood. Please deny their request!

Sincerely,

Jeannie Tomlinson

TO: Colorado Springs Planning Commission
Colorado Springs City Council
Ryan Tefertiller

Re: Colorado College Zoning Change Application for San Miguel and Glen Avenue

To Whom It May Concern:

I own the home at 311 W. San Miguel Street. I am writing to protest the Colorado College application requesting a zoning change in the neighborhood. I have signed the joint letter from the community of neighbors. This is my personal request with my concerns for the result of such a zoning change.

We are a small neighborhood; however, we are a neighborhood. In fact we are just two blocks from Wood Avenue which contains the Old North End. I hear conflicting accounts of exactly what the College intends do with their request. I do not know who to believe. What I do know is that a few years ago when Colorado College bought all of houses on one side of the 1300 block of Glen Avenue and approximately five houses in what I believe is the 200 block of San Miguel Street, the warehouse that exists today on that property is far different than the plan I heard of when that application was requested and granted. There were many mature trees that have since disappeared. The fenced in storage area erected on the site is far different from the view the neighborhood I moved into ten years ago.

The letter signed by the neighborhood outlines our collective concerns. I am writing this to emphasis that we are individuals who live here. We, each of us, have concerns as to the impact on our homes and our environment.

I am requesting the Planning Commission and the City Council reject Colorado College's application for a zoning change.

Sincerely,

Linda Pung

311 W. San Miguel Street

Colorado Springs, CO 80905

(719) 761-4447

Dear Colorado College,

My name is Christian Wright, my wife and I have lived in the W. San Miguel neighborhood for over a decade. I grew up in the old north end living at 1519 N. Nevada Ave. After I married I wanted nothing more than to own a home in this neighborhood. My home was built in 1896 and I purchased it from a man that lived in this house since 1924. I bike to work downtown, using the Monument Vally Park trail, the "bicycle highway of Colorado Springs." I love my home and my neighbors and I wish to preserve my way of life.

Who are my neighbors? Colorado College employees, City employees, retired City workers, artists, nurses, builders... and Colorado College. I have been the guest of the president of Colorado College because of my work on the award winning documentary "Return" about Professor Sonderman who escaped the Holocaust and became as acclaimed political science professor at CC.

Your President, staff and students are our neighbors. The project to turn our neighborhood into a warehouse district is a disgrace. This effectively tells us that we are good enough to work for you but not live next to you.

This proposed project is directly in opposition to the City's infill initiative. The infill projects are to "increase population density" in the as Mayor Suthers put it "the heart of Colorado Springs". A place where young professionals like myself will want to "live, work and play".

We are thrilled that the City of Colorado Springs has received a one million dollar grant for the three million dollar "legacy loop" trail project; a project started by General Palmer himself. The legacy loop will improve the west side of Monument Vally Park bringing it up to and beyond the quality of the east side of the park. Many of the homes on the east trail are on Wood Avenue, the most desirable street in Colorado Springs to live on. The legacy loop project will make our neighborhood property similarly desirable.

We are asking for the same consideration that would be given to the residents of Wood ave. CC owns plenty of property on Wood Ave. Why not rezone that property and build a warehouse there? Because Colorado College knows that the neighborhood would not stand for it. Colorado College knows it's President and Facility would never allow an eyesore like the one proposed be foisted upon them. "Not in my backyard". well it is in your backyard, we are your neighbors and we demand that you show us the same respect that we show you.

The homes owned by college back directly up to the park and the new legacy loop improvements. This is prime real estate, it is a folly for the College to turn these beautiful homes and property into a warehouse. If the college is unwilling to maintain the properties they own I am sure a residential developer would jump at the chance to restore and build on the legacy loop.

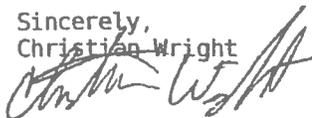
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We are united against this project. EVERY remaining resident of the West San Miguel - Glenn Street neighborhood have signed a petition in opposition of this project. We will not have the foisted upon us. We will do everything in our power to prevent the rezoning from R2.

We strongly appose the rezoning of the W. San Miguel and Glenn avenue properties from R2. This is our community and we want to preserve our way of life.

Sincerely,
Christian Wright



315 W. San Miguel St.
Colorado Springs, CO.
80905
719-633-7573
alstav@gmail.com

To whom it concerns,

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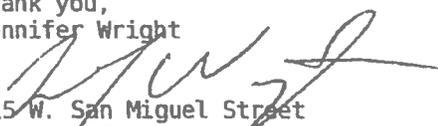
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Thank you,
Jennifer Wright



315 W. San Miguel Street
Colorado Springs, CO
migenn@gmail.com

Ken Harris
1316 Glen Ave.
Colorado Springs, Colorado 80905

To whom it may concern,

As to the zoning change for the properties on Glen Ave. and San Miguel. I'm going on record opposing the change. I feel that the College and City of Colo. Springs. need to take in account the long term issues of putting a warehouse in a historic neighborhood. It's my request that a environmental study be done on the effects on the wild life in the area. This purposed warehouse will disrupted the animals movement to the creek, change the type of birds and insects that coincide with a vegetated neighborhood. All a warehouse attracts are pigeons and sparrows. This area is the only neighborhood green area between Unitah and Fillmore with flowers, gardens and grass that is not along the creek and to take over half of that away will have a major impact on not only the wild life but what we enjoy as a neighborhood. This is part of a wet land environment. To allow the zonings change and a warehouse to be put next to the Legacy Loop Trail would be a slap in the face of the tax payers and citizens of Colorado Springs. After all isn't the Legacy Loop Trail to Beautify our City? There is already a eyesore with the cities storage yards and Warehouses along the trail.

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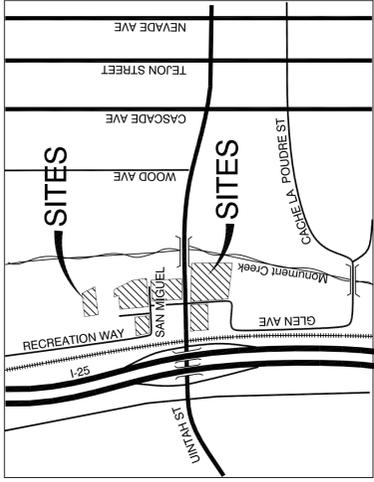
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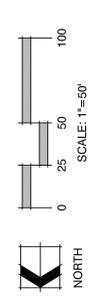
Sincerely Ken Harris,
1316 Glen Ave.



VICINITY MAP



THIS MAP IS AN ENLARGEMENT OF MAP 2 OF 3 OF THE COLORADO COLLEGE AMENDMENT TO THE MASTER PLAN 2008



Land Planning
Landscape
Architecture
Urban Design

N.E.S., Inc.
508 South Tejon Street
Colorado Springs, CO 80903
Tel. 719.471.0073
Fax 719.471.0267
www.nescolorado.com
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Colorado College
Master Plan
West Campus
Amendment 2015

DATE: 7/20/15
PROJECT MGR: T. Sirobert
PREPARED BY: B. Jackson

Master Plan
Amendment 2015

1 OF 1



6385 Corporate Drive
Colorado Springs, Colorado 80919
(719)785-0790 (719)785-0799(fax)

JOB NO. 2333.95-03
JUNE 19, 2015
PAGE 1 OF 2

LEGAL DESCRIPTION: REZONE

A PARCEL OF LAND BEING A PORTION OF LOTS 1 AND 2, BLOCK A, SCHOLZ' SUBDIVISION RECORDED IN PLAT BOOK J AT PAGE 48, RECORDS OF EL PASO COUNTY COLORADO, ALL OF LOT 3, BLOCK A, OF SAID SCHOLZ' SUBDIVISION, AND A PORTION OF LOTS 9 AND 10 HARRISON'S SUBDIVISION RECORDED IN PLAT BOOK J AT PAGE 20, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BASIS OF BEARINGS: THE NORTHERLY BOUNDARY OF LOT 1 THE COLORADO COLLEGE NORTHWEST CAMPUS FILING NO. 1 RECORDED UNDER RECEPTION NO. 211713145 RECORDS OF EL PASO COUNTY, COLORADO, BEING MONUMENTED AT BOTH END BY AN IRON PIPE AND IS ASSUMED TO BEAR N88°00'10"W, A DISTANCE OF 93.56 FEET.

COMMENCING AT THE POINT OF INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF GLEN AVENUE PLATTED AS UNIVERSITY PLACE ACCORDING TO THE PLAT OF SCHOLZ' AND HINCKLEY'S SUBDIVISION AS RECORDED IN PLAT BOOK J AT PAGE 48, RECORDS OF EL PASO COUNTY, COLORADO, WITH THE NORTHERLY RIGHT OF WAY LINE OF SAN MIGUEL STREET PLATTED AS SAN MAGUEL STREET ACCORDING TO THE PLAT OF HARRISON'S SUBDIVISION, RECORDED IN PLAT BOOK J AT PAGE 20, SAID POINT BEING THE POINT OF BEGINNING;

THENCE N07°07'35"W, ON THE EASTERLY RIGHT OF WAY LINE OF SAID GLEN AVENUE, A DISTANCE OF 435.36 FEET, TO THE NORTHWESTERLY CORNER OF LOT 1, BLOCK A, AS PLATTED IN SAID SCHOLZ' SUBDIVISION;
THENCE N87°08'25"E, ON THE NORTHERLY BOUNDARY OF SAID LOT 1, A DISTANCE OF 122.10 FEET TO A POINT WHICH IS 132.12 FEET WESTERLY OF THE NORTHEASTERLY CORNER OF SAID LOT 1;
THENCE S26°08'16"E, A DISTANCE OF 53.85 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID LOT 1, WHICH IS 117.42 FEET WESTERLY OF THE SOUTHEASTERLY CORNER OF SAID LOT 1, BEING ALSO A POINT ON THE NORTHERLY BOUNDARY OF LOT 2, BLOCK A, AS PLATTED SAID SCHLOTZ' SUBDIVISION;
THENCE N82°52'25"E ON SAID SOUTHERLY BOUNDARY AND SAID NORTHERLY BOUNDARY, A DISTANCE OF 14.41 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 375 AT PAGE 112;
THENCE S28°56'02"E, ON THE WESTERLY BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 375 AT PAGE 112, A DISTANCE OF 124.13 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 375 AT PAGE 112, SAID POINT BEING A POINT ON THE SOUTHERLY BOUNDARY OF SAID LOT 2, SAID POINT ALSO BEING ON THE NORTHERLY BOUNDARY OF LOT 3, BLOCK A, OF SAID SCHOLZ' SUBDIVISION;
THENCE S27°16'00"E, A DISTANCE OF 81.46 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID LOT 3, SAID POINT BEING THE NORTHEASTERLY CORNER OF LOT 1 AS PLATTED IN THE COLORADO COLLEGE NORTHWEST CAMPUS FILING NO. 1 RECORDED UNDER RECEPTION NO. 211713145;

THENCE ON THE BOUNDARY OF SAID LOT 1, THE COLORADO COLLEGE NORTHWEST CAMPUS FILING NO. 1 THE FOLLOWING (4) FOUR COURSES;

1. N88°00'10"W, A DISTANCE OF 93.56 FEET;
2. S07°07'35"E, A DISTANCE OF 48.43 FEET;
3. S82°52'23"W, A DISTANCE OF 56.51 FEET;
4. S07°07'35"E, A DISTANCE OF 162.72 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID SAN MIGUEL STREET;

THENCE N88°00'51"W, ON THE NORTHERLY RIGHT OF WAY LINE OF SAID SAN MIGUEL STREET
A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 1.381 ACRES

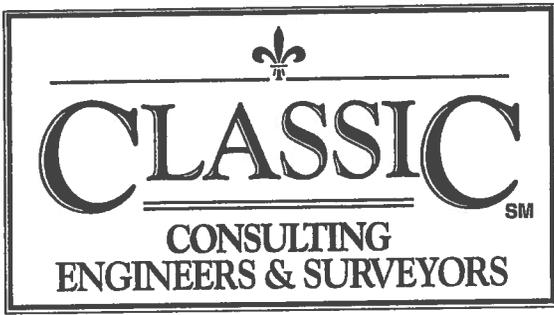
LEGAL DESCRIPTION STATEMENT:

I, DOUGLAS P. REINELT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF
COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED
UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION
AND BELIEF, IS CORRECT.



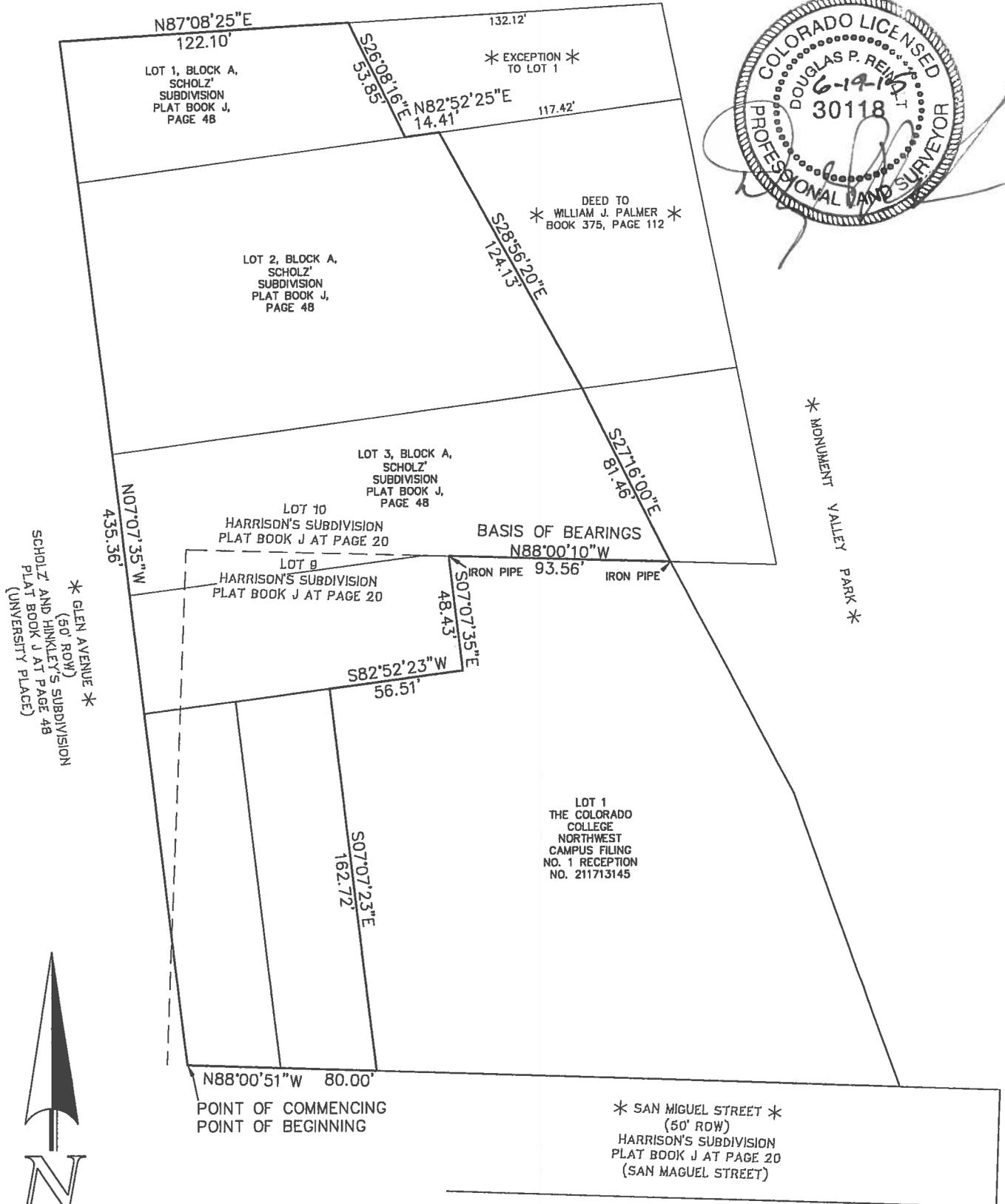
DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING
ENGINEERS AND SURVEYORS

JUNE 19, 2015
DATE



REZONE
 COLORADO COLLEGE
 CENTRAL RECEIVING
 JOB NO. 2333.95-04
 SHEET 1 OF 1
 JUNE 19, 2015

6385 Corporate Drive, Suite 101 (719)785-0790
 Colorado Springs, Colorado 80919 (719)785-0799 (Fax)



SCALE: 1" = 60'

CCES, LLC DOES NOT EXPRESS NOR IMPLY ANY WARRANTY WITH THE ABOVE WRITTEN LEGAL DESCRIPTION AND EXHIBIT. THE LEGAL DESCRIPTION WAS WRITTEN FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT DEPICT A MONUMENTED LAND SURVEY.

FIGURE 5



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Colorado Springs, Colorado 80919
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JOB NO. 2333.95-05
JULY 20, 2015
PAGE 1 OF 1

LEGAL DESCRIPTION: REZONE PARK TRACT

A PARCEL OF LAND BEING A PORTION OF LOT 3, BLOCK A, SCHOLZ' SUBDIVISION RECORDED IN PLAT BOOK J AT PAGE 48, RECORDS OF EL PASO COUNTY COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BASIS OF BEARINGS: THE NORTHERLY BOUNDARY OF LOT 1 THE COLORADO COLLEGE NORTHWEST CAMPUS FILING NO. 1 RECORDED UNDER RECEPTION NO. 211713145 RECORDS OF EL PASO COUNTY, COLORADO, BEING MONUMENTED AT BOTH END BY AN IRON PIPE AND IS ASSUMED TO BEAR N88°00'10"W, A DISTANCE OF 93.56 FEET.

COMMENCING AT THE NORTHEASTERLY CORNER OF LOT 1 AS PLATTED IN THE COLORADO COLLEGE NORTHWEST CAMPUS FILING NO. 1 RECORDED UNDER RECEPTION NO. 211713145 RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING ON THE SOUTHERLY BOUNDARY OF LOT 3, BLOCK A, SCHOLZ' SUBDIVISION RECORDED IN PLAT BOOK J AT PAGE 48, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE N27°16'00"W, A DISTANCE OF 81.46 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SAID LOT 3;

THENCE ON THE NORTHERLY, EASTERLY AND SOUTHERLY BOUNDARY OF SAID LOT 3 THE FOLLOWING (3) THREE COURSES;

1. N82°52'25"E, A DISTANCE OF 65.88 FEET;
2. S11°35'35"E, A DISTANCE OF 83.85 FEET;
3. N88°00'10"W, A DISTANCE OF 44.93 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 4,350 SQUARE FEET

LEGAL DESCRIPTION STATEMENT:

I, DOUGLAS P. REINELT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.

A handwritten signature in blue ink is written over a circular professional seal. The seal contains the text "COLORADO LICENSED PROFESSIONAL LAND SURVEYOR" around the perimeter, "DOUGLAS P. REINELT" in the center, and "7-20-15" and "30118" below the name.

DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING
ENGINEERS AND SURVEYORS

July 20, 2015
DATE

COLORADO COLLEGE

CREEKSIDE SUPPORT CENTER

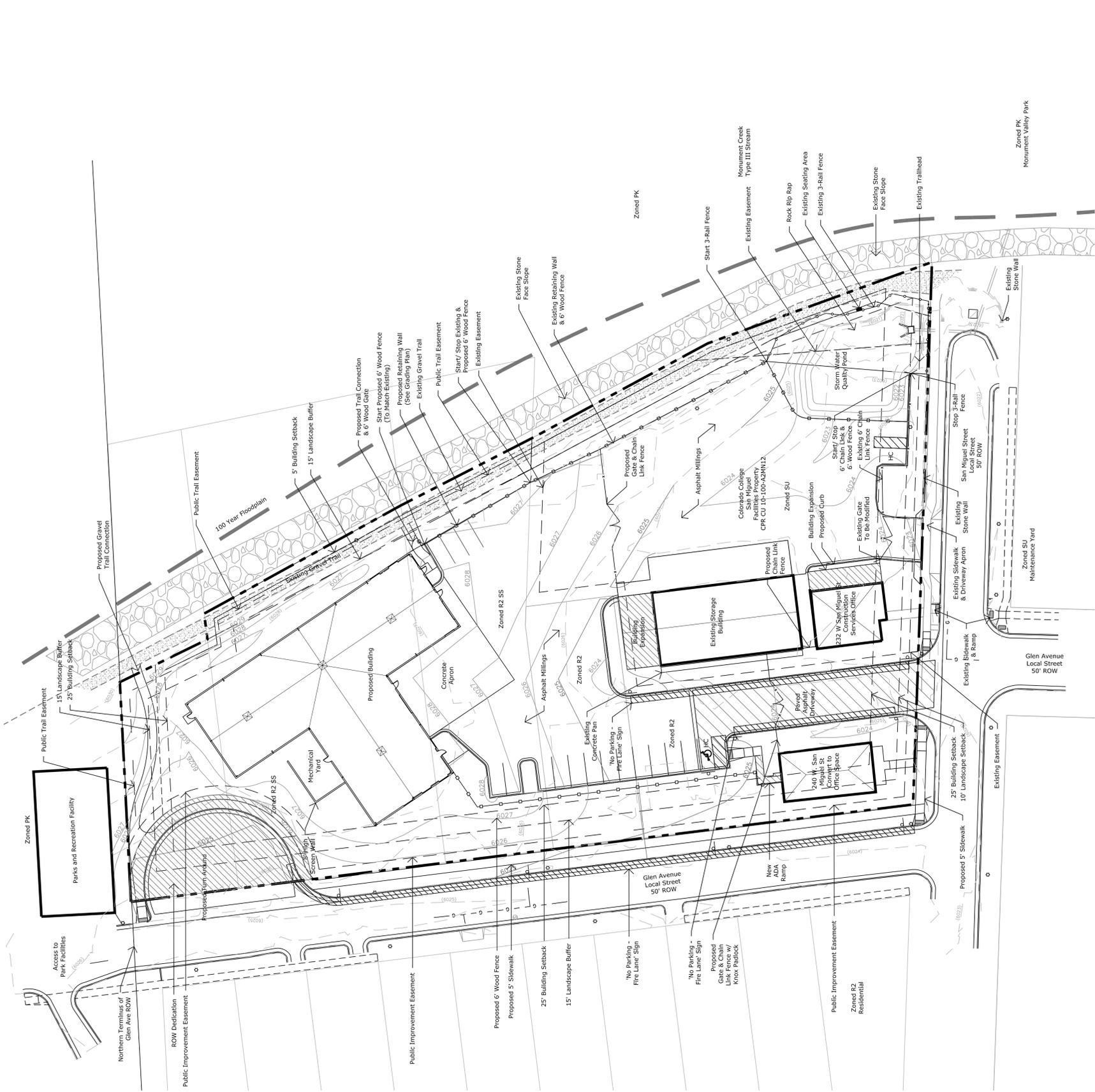
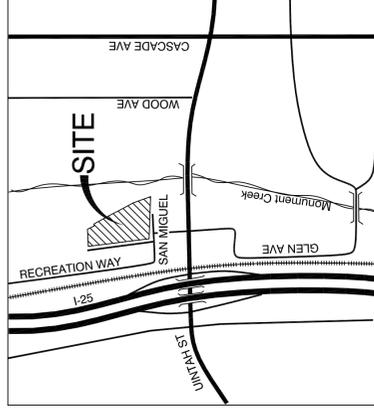


FIGURE 6

VICINITY MAP



PROPOSED LEGAL DESCRIPTION

Lot 1 Colorado College Northwest Campus Filing No. 1

SITE DATA

Owner: Colorado College
14 E. Cache La Poudre St.
Colorado Springs, CO 80903

Tax ID Number: 64072-04-001
64072-04-002
64072-04-005
64072-04-006
64072-04-007
64072-04-013

Lot Size: 96,869 SF (2.27 AC)
Colorado College
R2, R2/SS, SU/SS
SU/SS
Spring 2016
Development Schedule:
Proposed Use: Construction Offices/ Storage
(Serving Colorado College)

Building Size: 1,180 SF
-Existing Construction Office:
480 SF
-Proposed Expansion:
1,660 SF
-Existing Storage Building:
3,120 SF
-Proposed Expansion:
760 SF
3,880 SF
-Existing Bld Convert to Office:
1,322 SF
-Proposed Building:
17,785 SF

Max Building Height: 60 FT
Proposed Bldg Height (w/o Cupolas): 24 FT
Proposed Bldg Height (w Cupolas): 33 FT

Percent Building Coverage: 17,785 SF (18%)
Percent Pavement Coverage: 39,580 SF (40%)

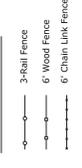
Building Setbacks:
-Front: 25 FT
-Side: 5 FT
-Rear: 25 FT

Landscape Setbacks:
-Front: 10 FT
-Side: 15 FT
-Rear: 15 FT Buffer

Parking Required: 12 (1 stall per 400 SF office)

Parking Provided: 22 (Including 2 Accessible Stalls)

LEGEND

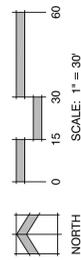


GENERAL NOTES

- The City of Colorado Springs is federally mandated to identify and monitor all storm water discharges within the City. The City accomplishes this task by requiring a Stormwater Connection Permit from the City Engineering Department. The applicant will need to contact 385-5680 to obtain this permit.
- All curb, gutter, pedestrian ramps and sidewalks posing a safety hazard or exhibiting excessive deterioration along San Miguel Street adjacent to the site will need to be removed and replaced. An on-site meeting can be set up with the City Engineering Inspector to determine what, if any improvements are required. The inspector can be reached at 385-5977.
- Streamside Variance: The request is to allow for 42.0% impervious area where 25% is permitted. The character of the site does not prohibit typical streamside habitats and extensive landscaping and buffering is provided along the perimeter of the site.
- The asphalt millings will be designed such to provide minimum CSFD apparatus leading requirements.

SHEET INDEX

- Sheet 1 of 9: Development Plan
- Sheet 2 of 9: Streamside Site Plan & Land Suitability Analysis
- Sheet 3 of 9: Streamside Sections
- Sheet 4 of 9: Demolition Plan & Tree Preservation Plan
- Sheet 5 of 9: Utilities Plan
- Sheet 6 of 9: Grading Plan
- Sheet 7 of 9: Final Landscape Plan
- Sheet 8 of 9: Stormwater Details
- Sheet 9 of 9: Building Elevations



Land Planning
Landscape
Architecture
Urban Design

N.E.S., Inc.
619 N. Cascade Avenue, Suite 200
Colorado Springs, CO 80903
Tel. 719.471.0073
Fax 719.471.0267
www.nescolorado.com
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CREEKSIDE
SUPPORT
CENTER
Colorado College

DATE: 7/23/2015
PROJECT MGR: T. SEIBERT
PREPARED BY: K. WHITFORD

SCALE

BLK# P#0

DATE: 07/23/15
BY: NES
DESCRIBTION: Revised Per City Comments

ISSUE REVISION

SHEET TITLE
DEVELOPMENT PLAN
AMENDMENT

SHEET NUMBER
1 OF 9

PLAN FILE #
CPC CU-10-001-00-A3M015



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PREPARED BY: K. WHITFORD

DATE: 07/23/15
BY: NES
DESCRIBED: Revised Per City Comments

STREAMSIDE SECTIONS

3 OF 9

CPC CU-10-00100-A3M015



FIGURE 6

P:\Colorado College\Central Receiving\Drawings\Planning\Develop\NES_OP-17-2015.dwg [Sections] 7/22/2015 5:22:26 PM Whitford



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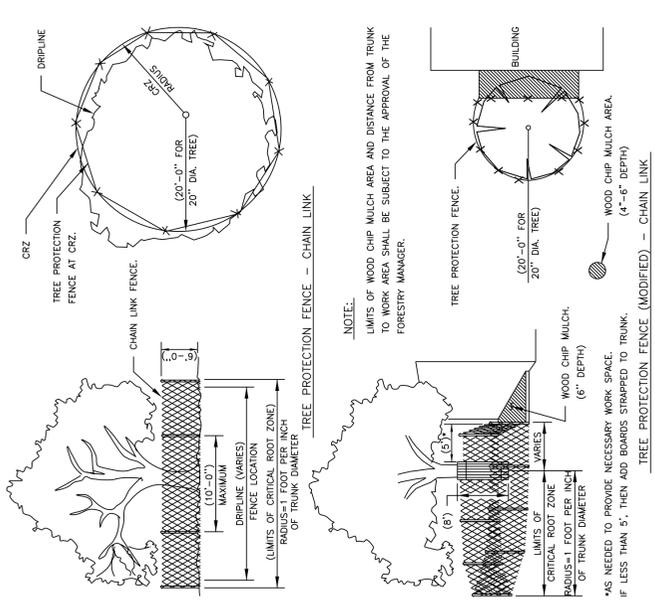
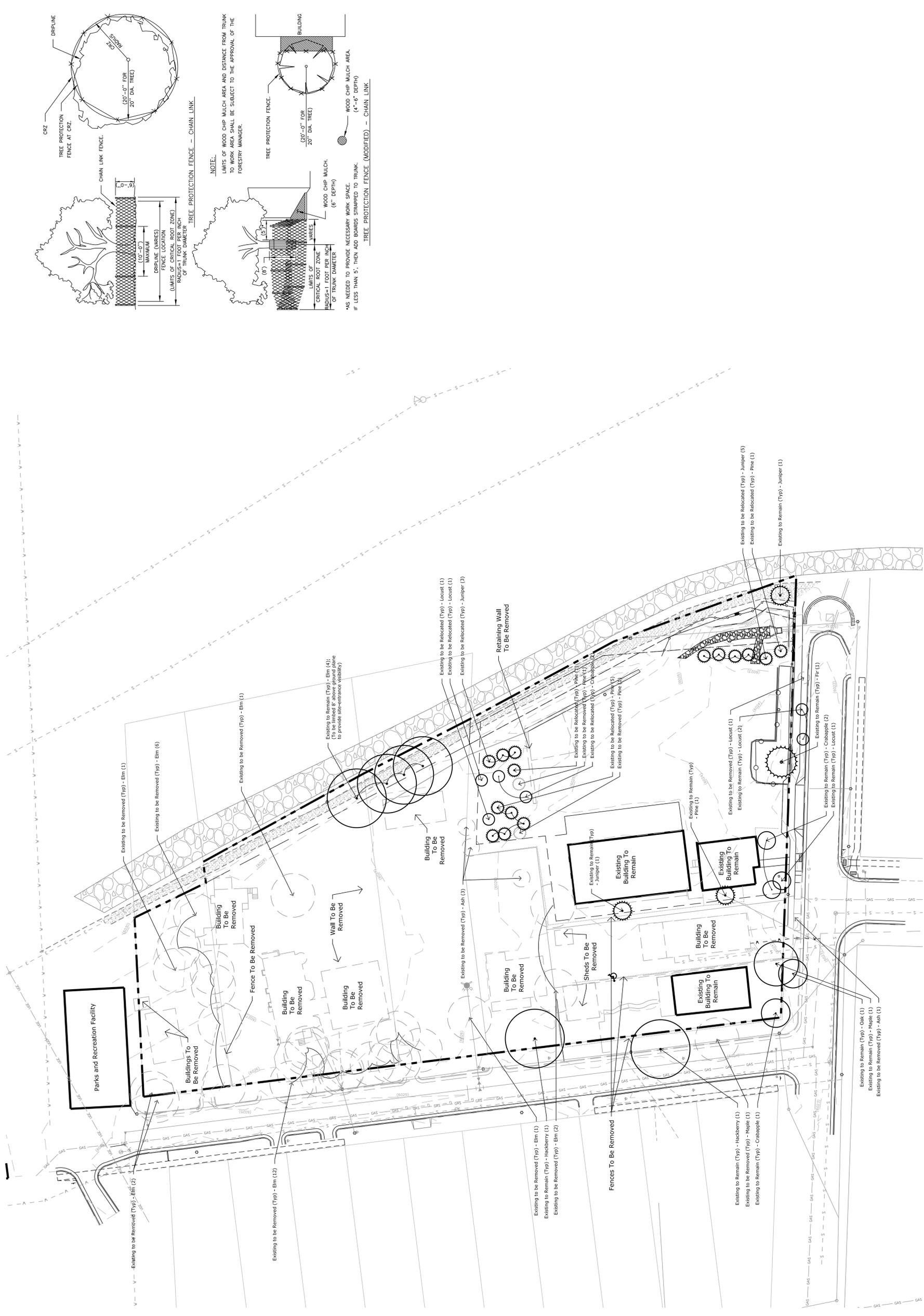
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DATE: 7/23/2015
PROJECT MGR: T. SEIBERT
PREPARED BY: K. WHITFORD

DEMOLITION PLAN &
TREE PRESERVATION PLAN

4 OF 9

CPC CU 10-00100-A3R015



NOTE:
LIMITS OF WOOD CHIP MULCH AREA AND DISTANCE FROM TRUNK TO WORK AREA SHALL BE SUBJECT TO THE APPROVAL OF THE FORESTRY MANAGER.
*AS NEEDED TO PROVIDE NECESSARY WORK SPACE, IF LESS THAN 5', THEN ADD BOARDS STRAPPED TO TRUNK.
TREE PROTECTION FENCE (MODIFIED) - CHAIN LINK

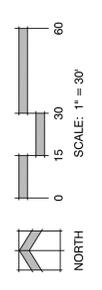


FIGURE 6



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Colorado College

DATE: 7/22/2015
PROJECT MGR: T. SEIBERT
PREPARED BY: K. WHITFORD

Site Category Calculations

Landscape Setbacks See Code Section/Policy 320 & 317			
Street Name or Classification	Width (ft.)	Tree Height (ft.)	No. of Trees (Planted / Provided)
W. San Miguel Street	18' / 10'	1' / 30'	11 / 11
North Zone Boundary	6' / 15'	1' / 30'	6 / 6

Motor Vehicle Lots See Code Section/Policy 321 & 317			
No. of Vehicles	Shade Trees (1/15 Spaces)	Length of Frontage (ft.)	203 Length of Frontage (ft.)
22	2 / 2	SM	30'

Internal Landscaping See Code Section/Policy 322 & 317			
Net Site Area (S.F.)	Percent Area (S.F.)	Internal Trees (1/500 S.F.)	Internal Trees (1/500 S.F.)
98,669 S.F.	Nonres. 5%	4,933 S.F. / 19,439 S.F.	10 / 8

Landscape Buffers and Screens See Code Section/Policy 323			
Street Name of Property Line (Elev.)	Min. Width (ft.)	Linear Footage	Evergreen Trees (1/200) Required / Provided
East Boundary	15' / 25'-35'	902'	26 / 26
Green Avenue (West Boundary) 15' / 15'		435'	22 / 22

Landscape Buffers and Screens See Code Section/Policy 323			
Length of 6 FT. Openup Structure (ft.)	Buffer Tree Abbr.	Percent Ground Plane Vsg. Req. / Provided	Percent Ground Plane Vsg. Req. / Provided
502' / 304'	EB (East Boundary)	75% / 75%	
435' / 196'	GA (Green Avenue)	75% / 75%	

NOTE: 1. ALL TREES LABELED (EVEN ON PLANS) ARE CONSIDERED EXTRA FOR CITY STANDARDS.
* Administrative Relief Requested

PLANT SCHEDULE

DECIDUOUS TREES	BOTANICAL NAME / COMMON NAME	HEIGHT	WIDTH	SIZE	COND	XERIC	QTY
Agf	Acer grandidentatum / Bigtooth Maple	30'	30"	3" Gal.	B&B	NonX	2
Coc	Celtis occidentalis / Common Hackberry	60'	50"	3" Gal.	B&B	Xeric	6
Rgl	Rhus glabra / Smooth Sumac	15'	10"	2" Gal.	B&B	Xeric	4
RY	Rhus typhina / Staghorn Sumac	25'	15"	3" Gal.	B&B	Xeric	3
Jsc	Juniperus scopulorum / Rocky Mountain Juniper	30'	15"	6" HT	B&B	Xeric	6
Jsm	Juniperus scopulorum 'Moonglow' / Moonglow Juniper	15'	10"	6" HT	B&B	Xeric	9
Ped	Pinus edulis / Pinon Pine	30'	20"	6" HT	B&B	Xeric	10
Bau	Baptisia australis / Blue Wild Indigo	4'	3"	1 GAL	CONT	NonX	12
Pla	Paeania lactiflora 'Duchesse' / Chinese Peony	3'	3"	1 GAL	CONT	NonX	10
Sra	Saccharum ravennae / Plume/Ravenna Grass	12'	4"	1 GAL	CONT	NonX	3
Snu	Sorghastrum nutans / Indian Grass	5'	4"	1 GAL	CONT	Xeric	15

LOW GROW GRASS MIX

EROSION PROTECTION/VEGETATION REQUIREMENTS
Per U.S.A. Soil Conservation Service Guidelines

- Plant Mix: A Native Low Grow Grass Mix - From Arkansas Valley Seed Co.
- Planted: 30 lbs./100 sq. ft.

Seeded Probs:

Seeded Probs:	Seeding Operation:
a. Method	a. Method
b. Seed Source	b. Seed Source
c. Clean Tillage	c. Clean Tillage
d. Soil Preparation	d. Soil Preparation
e. Fertilizer	e. Fertilizer
f. Planting Depth	f. Planting Depth
g. Other	g. Other

Establishment Probs:

Establishment Probs:	Establishment Operation:
a. Method	a. Method
b. Seed Source	b. Seed Source
c. Clean Tillage	c. Clean Tillage
d. Soil Preparation	d. Soil Preparation
e. Fertilizer	e. Fertilizer
f. Planting Depth	f. Planting Depth
g. Other	g. Other

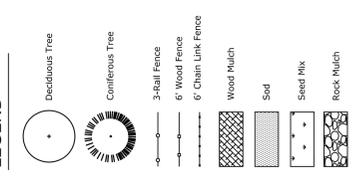
Other Probs:

Other Probs:	Other Operation:
a. Method	a. Method
b. Seed Source	b. Seed Source
c. Clean Tillage	c. Clean Tillage
d. Soil Preparation	d. Soil Preparation
e. Fertilizer	e. Fertilizer
f. Planting Depth	f. Planting Depth
g. Other	g. Other

Other Probs:

Other Probs:	Other Operation:
a. Method	a. Method
b. Seed Source	b. Seed Source
c. Clean Tillage	c. Clean Tillage
d. Soil Preparation	d. Soil Preparation
e. Fertilizer	e. Fertilizer
f. Planting Depth	f. Planting Depth
g. Other	g. Other

LEGEND



FINAL
LANDSCAPE PLAN

7 OF 9

CPC CU 10-00100-A3M115

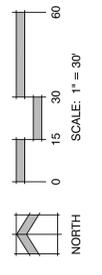
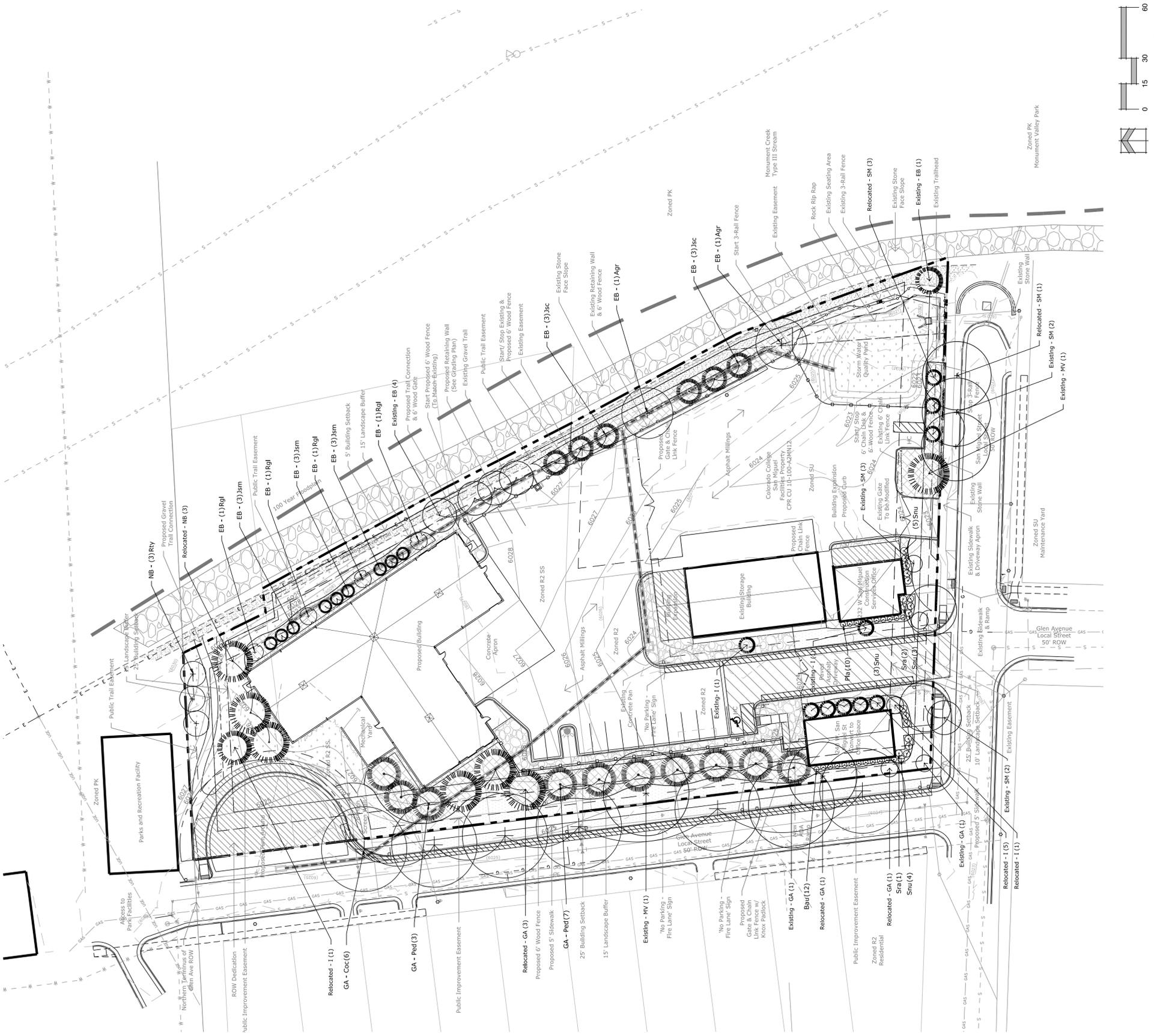


FIGURE 6



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CREEKSIDE
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Colorado College

DATE: 7/23/2015
PROJECT MGR: T. SEIBERT
PREPARED BY: K. WHITFORD

SCALE: 1/8" = 1'-0"

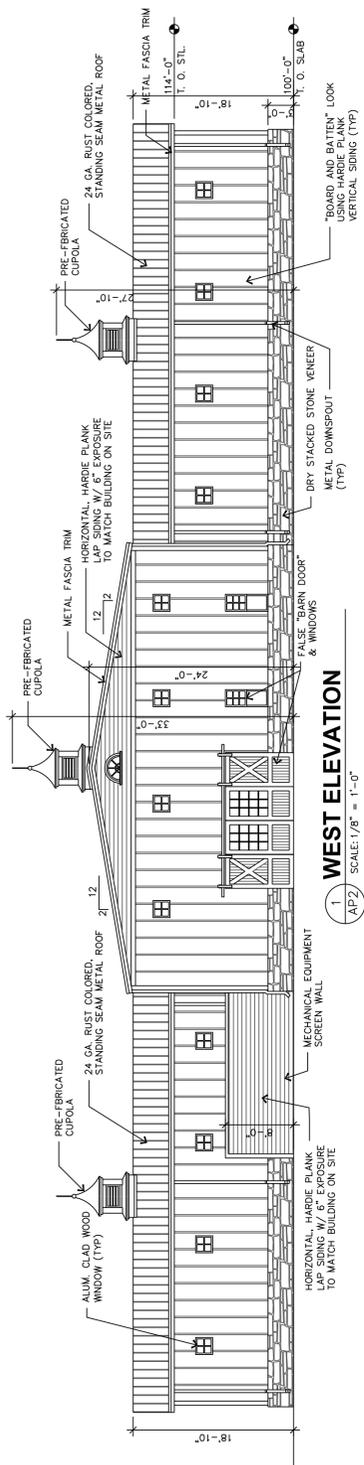
DATE: 07/23/15
BY: NES
REVISION: Revised Per City Comments

Building Elevations

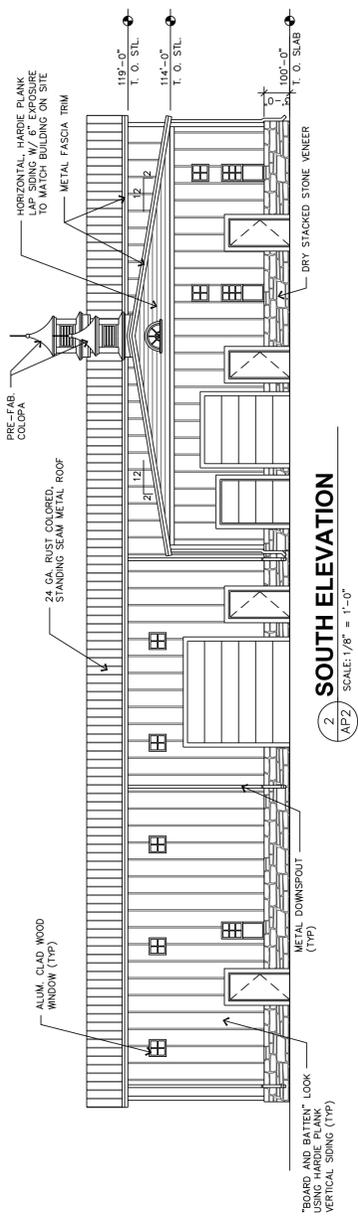
9

9 OF 9

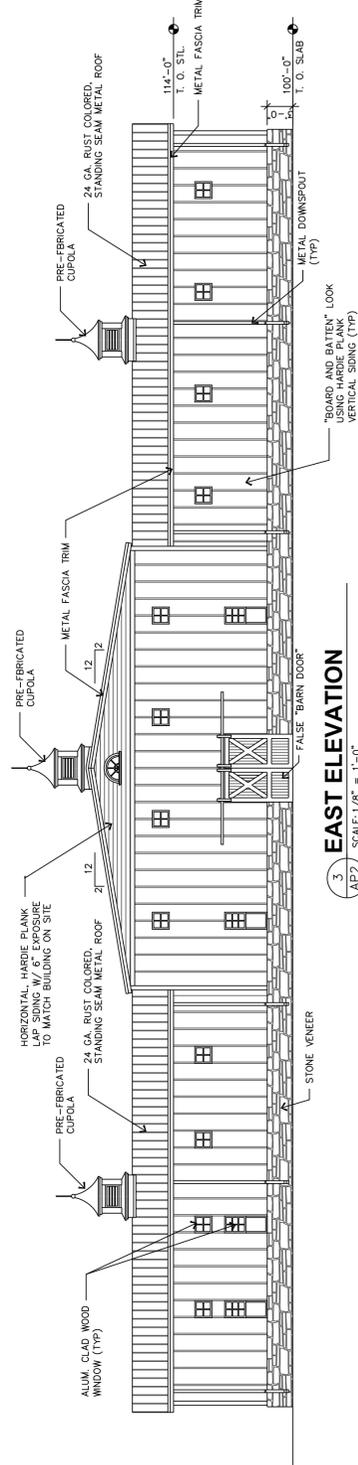
CPC CU-10-001-00-A3M015



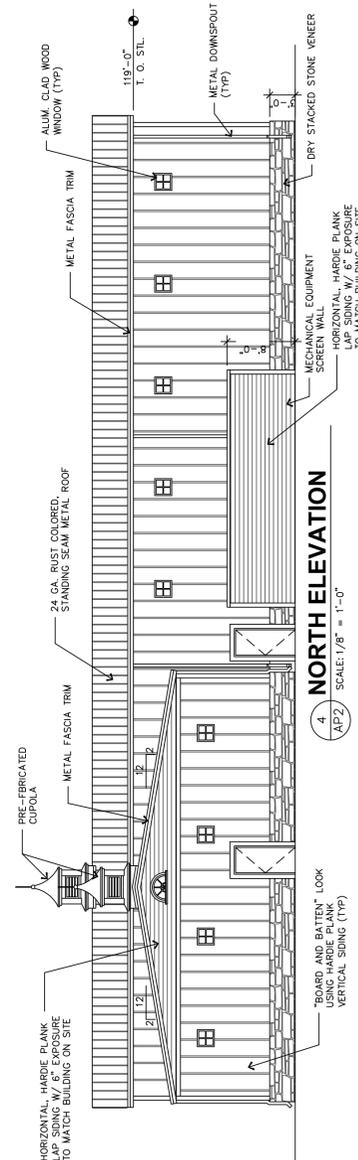
1 WEST ELEVATION
AP2 SCALE: 1/8" = 1'-0"



2 SOUTH ELEVATION
AP2 SCALE: 1/8" = 1'-0"



3 EAST ELEVATION
AP2 SCALE: 1/8" = 1'-0"



4 NORTH ELEVATION
AP2 SCALE: 1/8" = 1'-0"

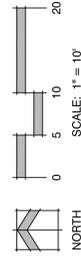
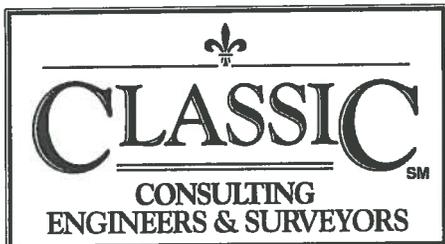


FIGURE 6



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(719)785-0790 (719)785-0799(fax)

JOB NO. 2333.95-01
JUNE 18, 2015
PAGE 1 OF 1

LEGAL DESCRIPTION: SAN MIGUEL STREET RIGHT OF WAY VACATION

ALL THAT PORTION OF SAN MIGUEL STREET, PLATTED AS SAN MAGUEL STREET, ACCORDING TO THE PLAT OF HARRISON'S SUBDIVISION, RECORDED IN PLAT BOOK J AT PAGE 20 IN THE RECORDS OF EL PASO COUNTY, COLORADO, LYING EASTERLY OF THE NORTHERLY EXTENSION OF THE EASTERLY RIGHT OF WAY LINE OF GLEN AVENUE AS SHOWN ON THE PLAT OF HARRISON'S RE-SUBDIVISION RECORDED IN PLAT BOOK J AT PAGE 51, SAID EASTERLY RIGHT OF WAY LINE BEING ALSO THE WESTERLY BOUNDARY OF LOT 7 AS PLATTED IN SAID HARRISON'S SUBDIVISION.

CONTAINING A CALCULATED AREA OF 11,637 S.F.

LEGAL DESCRIPTION STATEMENT:

I, DOUGLAS P. REINELT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.

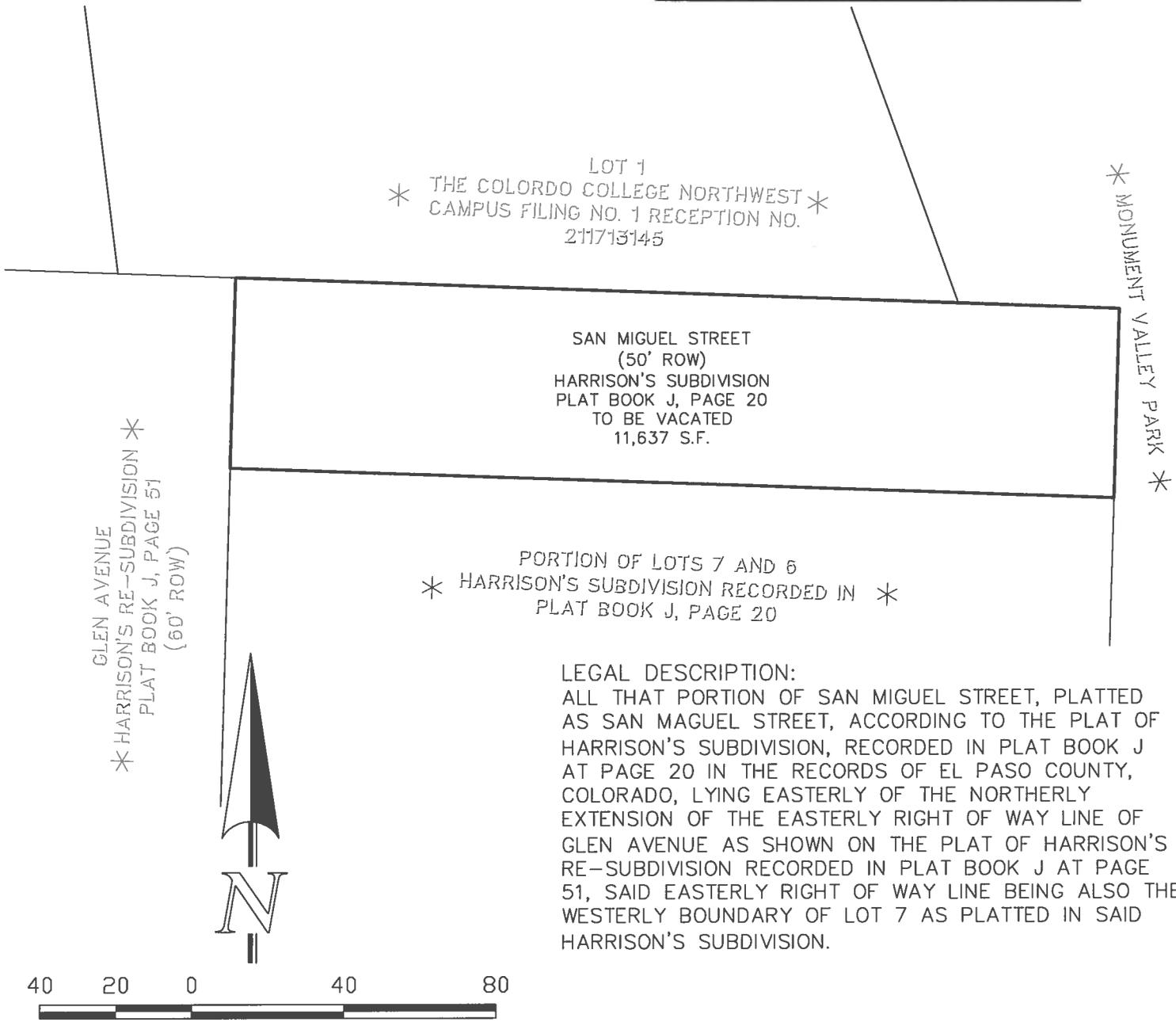
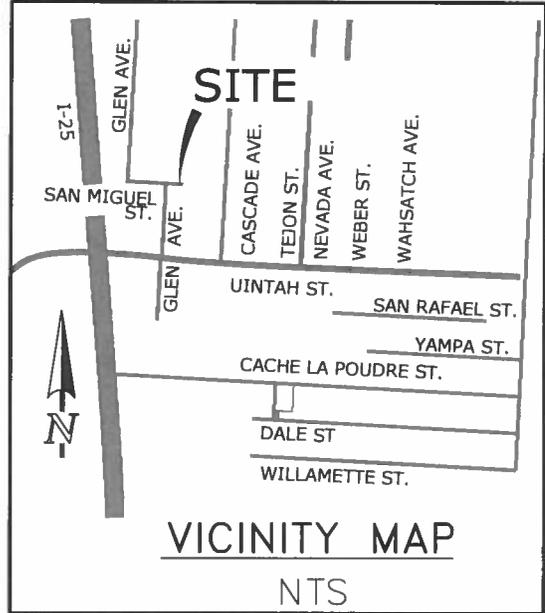
DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING
ENGINEERS AND SURVEYORS

JUNE 18, 2015
DATE



6385 Corporate Drive, Suite 101 (719)785-0790
 Colorado Springs, Colorado 80919 (719)785-0799 (Fax)

RIGHT OF WAY VACATION SKETCH
 SAN MIGUEL STREET
 COLORADO COLLEGE CENTRAL RECEIVING
 JOB NO. 2333.95
 SHEET 1 OF 1
 JUNE 18, 2015



LOT 1
 * THE COLORADO COLLEGE NORTHWEST *
 CAMPUS FILING NO. 1 RECEPTION NO.
 211713145

GLEN AVENUE
 * HARRISON'S RE-SUBDIVISION *
 PLAT BOOK J, PAGE 51
 (60' ROW)

* MONUMENT VALLEY PARK *

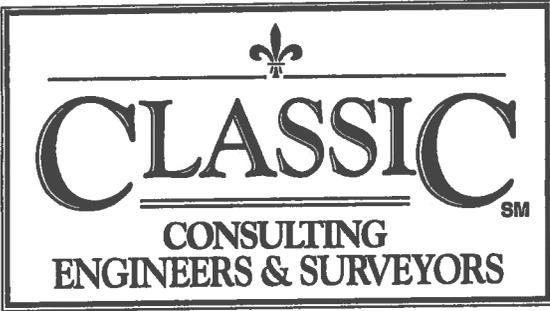
LEGAL DESCRIPTION:
 ALL THAT PORTION OF SAN MIGUEL STREET, PLATTED AS SAN MAGUEL STREET, ACCORDING TO THE PLAT OF HARRISON'S SUBDIVISION, RECORDED IN PLAT BOOK J AT PAGE 20 IN THE RECORDS OF EL PASO COUNTY, COLORADO, LYING EASTERLY OF THE NORTHERLY EXTENSION OF THE EASTERLY RIGHT OF WAY LINE OF GLEN AVENUE AS SHOWN ON THE PLAT OF HARRISON'S RE-SUBDIVISION RECORDED IN PLAT BOOK J AT PAGE 51, SAID EASTERLY RIGHT OF WAY LINE BEING ALSO THE WESTERLY BOUNDARY OF LOT 7 AS PLATTED IN SAID HARRISON'S SUBDIVISION.

SCALE: 1" = 40'

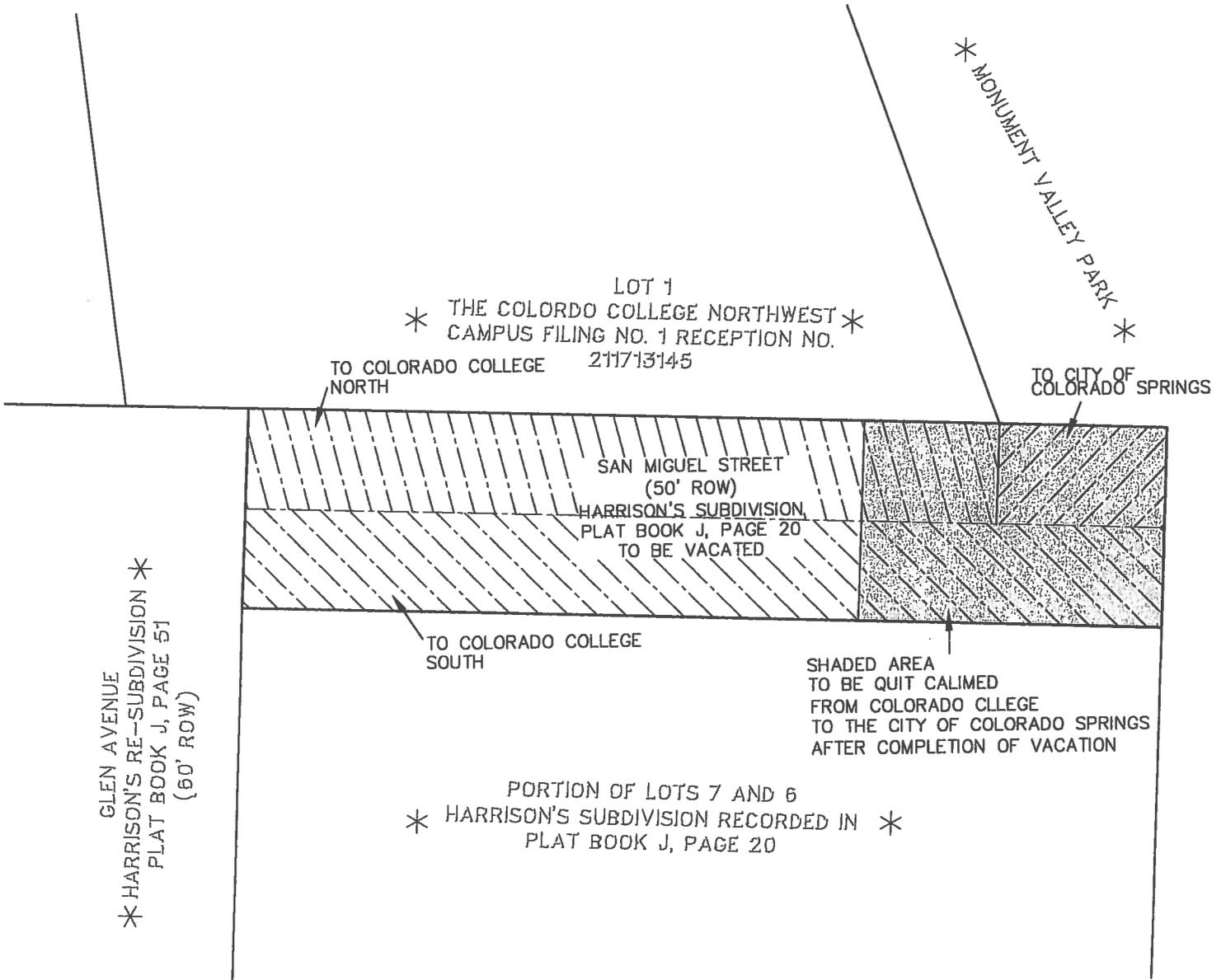
CCES, LLC DOES NOT EXPRESS NOR IMPLY ANY WARRANTY WITH THE ABOVE WRITTEN LEGAL DESCRIPTION AND EXHIBIT. THE LEGAL DESCRIPTION WAS WRITTEN FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT DEPICT A MONUMENTED LAND SURVEY. **FIGURE 7**

SAN MIGUEL STREET VACATION

COLORADO COLLEGE CENTRAL RECEIVING
JOB NO. 2333.95
SHEET 1 OF 1
JUNE 18, 2015



6385 Corporate Drive, Suite 101 (719)785-0790
Colorado Springs, Colorado 80919 (719)785-0799 (Fax)



SCALE: 1" = 40'

CCES, LLC DOES NOT EXPRESS NOR IMPLY ANY WARRANTY WITH THE ABOVE WRITTEN LEGAL DESCRIPTION AND EXHIBIT. THE LEGAL DESCRIPTION WAS WRITTEN FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT DEPICT A MONUMENTED LAND SURVEY.

FIGURE 7

CITY PLANNING COMMISSION AGENDA

ITEM NO: 7

STAFF: RYAN TEFERTILLER

FILE NO:

AR NV 15-00413(AP) – QUASI-JUDICIAL

PROJECT: 5675 MAJESTIC

APPLICANT/OWNER: ROBERT-SCOTT GENERAL CONTRACTORS, INC.

APPELLANTS: BARBARA & HENRY KOZIOL AND MARIA KOZIOL-PETKASH



PROJECT SUMMARY:

1. **Project Description:** This request represents an appeal by Barbara Koziol, Henry Koziol, and Maria Koziol-Petkash, property owners of 5673 Majestic Dr., regarding the administrative approval for a nonuse variance site plan to 5675 Majestic Dr. The approved plan allowed a 2.3 foot side yard setback where 5 feet are required on the lot. The site plan was approved on July 14, 2015, **(FIGURE 1)** and the appeal was filed within the requisite ten days. The appeal is based on several issues raised in the documentation submitted by the appellant. The property is 4,095 square feet in size, is zoned PUD/HS (Planned Unit Development with the Hillside Overlay) and is located northeast of the intersection of Flying W Ranch Rd. and Majestic Dr.
2. **Applicant's Project Statement:** **(FIGURE 2)**
3. **Planning & Development Department's Recommendation:** **Reaffirm the administrative approval of the nonuse variance site plan.**

BACKGROUND:

1. **Site Address:** 5675 Majestic Dr.
2. **Existing Zoning/Land Use:** PUD/HS (Planned Unit Development with the Hillside Overlay) / The lot is under construction for a new single-family home
3. **Surrounding Zoning/Land Use:**
 - North: PUD/HS (Planned Unit Development with the Hillside Overlay) / single-family homes
 - South: PUD/HS (Planned Unit Development with the Hillside Overlay) / single-family homes
 - East: PUD/HS (Planned Unit Development with the Hillside Overlay) / single-family homes
 - West: PUD/HS (Planned Unit Development with the Hillside Overlay) / single-family homes
4. **Comprehensive Plan/Designated 2020 Land Use:** General Residential
5. **Annexation:** Flying W Addition #1 (1971)
6. **Master Plan:** Mountain Shadows
7. **Subdivision:** Parkside at Mountain Shadows Filing No. 1 (1984)
8. **Zoning Enforcement Action:** n/a
9. **Physical Characteristics:** The 4,095 square foot lot is relatively flat and contains no significant vegetation. The lot included a single-family home that was destroyed by the Waldo Canyon Fire in 2012; a new home in under construction.

STAKEHOLDER PROCESS AND INVOLVEMENT:

Due to the applicant's desire for an expedited review and the fact that the proposed variance only impacts the adjacent owner to the east, a customized notice process was utilized. Postcards were not mailed and a poster was not posted on the site after application submittal. However, Planning Staff contacted the neighboring property owner (the appellant) and the Home Owner Association representative via phone shortly after the application was submitted. The request was explained in detail to both stakeholders and both were informed that Planning Staff would be approving the application in the coming days. Both parties were also notified via email of Staff's administrative approval and they were provided information on the appeal process and deadlines. **(FIGURE 3)** includes a number of communications with the owner and the appellant, as well as a few other stakeholder communications pertaining to the project. The standard notification process will be used prior to the City Planning Commission meeting.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES:

The subject property is a 4,095 square foot lot in the Parkside at Mountain Shadows neighborhood. In June of 2012 the neighborhood was devastated by the Waldo Canyon Fire destroying 140 of the 171 homes within the neighborhood. The 2-story, single-family home that existed on the site prior to the fire was destroyed, and after the lot changed hands twice, a plan was approved to build a ranch home on the site. The approved plan **(FIGURE 1)** illustrated a 37 foot wide home on the 47 foot wide lot, which leaves five foot sideyard setbacks to the east and west. However, when construction began in June of 2015 a decision was made by the owner's contractors to install the foundation at a slight angle to avoid some neighborhood infrastructure (e.g. cable, phone, and irrigation) on the northern portion of the lot. Unknowingly to the contractors, this decision resulted in the foundation encroaching into the eastern sideyard setback. As soon as the encroachment was verified by the owner's surveyor, discussions with City Planning were initiated, and a non-use variance application was submitted. Work on the new home has ceased during the application and appeal process.

One of the contributing factors that resulted in the home's foundation encroaching into the sideyard setback was the fact that the lot to the east is a flag lot with an extremely narrow flag stem which is approximately 10 feet wide (**FIGURE 4**). This fact, taken together with the fact that the development plan for the neighborhood has always illustrated shared driveways that span multiple lots, resulted in the driveway for 5673 Majestic (the home just to the east) consuming a significant portion of the front yard for 5675 Majestic (the subject property).

A meeting was held with City Staff immediately after the owner confirmed the encroachment into the setback to discuss options and the procedures for review of a variance request. While City Staff conveyed that support was likely the owner was strongly encouraged to communicate with the Parkside HOA and the adjacent property owner. The owner initiated those conversations with mixed results. The HOA generally supported the request for relief, but the owner of 5673 Majestic did not.

To help mitigate the impact of the encroachment, Planning Staff required that the patio at the northeast corner of the home remain uncovered, even though the original plan called for a patio cover. This would decrease both the bulk and scale of the encroachment as well as the significance of the request; if the patio had remained covered the request would have been for a 1.6 foot setback as opposed to the 2.3 foot setback with the uncovered patio.

Planning Staff provided the approval documents to the appellant and the HOA on the same day as the administrative approval. The appeal application was received on the 10th day just prior to the closing of the appeal window and includes a lengthy appeal statement (**FIGURE 5**). While the appeal statement discusses a wide range of issues, the primary concerns appear to be that the requested sideyard setback encroachment will negatively impact the current and future owners of 5673 Majestic, that the appellant believes the required criteria were not met, and that the owner's self-imposed mistake should not be rewarded with approval of the variance.

The appeal package was provided to the owner as soon as it was received by the City. In response to many of the statements within the appeal statement the owner prepared a rebuttal document (**FIGURE 6**). That document specifically counters many of the statements found within the appeal statement including: the amount of preconstruction preparation completed by the owner; drainage concerns; the size of the home under construction; building code issues; and others.

Appeal Provisions

Section 7.5.906.A.4 of the Code indicates:

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.

The appellant's justification for the appeal is found within (**FIGURE 5**).

After substantial analysis and consideration, Planning Staff has concluded that the original non-use variance approval was appropriate and met the required variance criteria, and that the appellant failed to substantiate the required appeal criteria.

STAFF RECOMMENDATION:

ITEM NO.: 7 AR NV 15-00413(AP) – APPEAL OF ADMINISTRATIVE DECISION

Deny the Appeal and reaffirm the administrative approval of the nonuse variance site plan to 5675 Majestic Dr., based upon the findings that the application complies with City Code Section 7.5.802.B, and that the Appellant has failed to substantiate the appeal criteria found in Section 7.5.906.A.4 of City Code.

**CITY OF COLORADO SPRINGS LAND USE REVIEW DIVISION
RECORD-OF-DECISION FOR A NON-USE VARIANCE**

FILE: AR NV 15-00413

DECISION DATE: JULY 14, 2015

INFORMATION

Name of Applicant: Robert-Scott G.C., Inc.
Address of Premises Involved: 5675 Majestic
Zone District: PUD/HS
Tax Schedule Number: 73154-03-007

REQUEST To allow a 2.3 foot side setback on the east side of the lot where 5 feet are required.

STAFF ANALYSIS

CITY CODE CRITERIA TO GRANT A NON-USE VARIANCE

CRITERIA MET OR NOT MET

- | | | |
|---|---|-----|
| 1. 7.5.802 (B.1) | Exceptional or Extraordinary Conditions | Met |
| The lot is extremely small at just over 4,000 square feet and narrow at only 47 feet wide. The approved plan for the neighboring lot to the east included a driveway that consumed much of the subject property's front setback and forcing the home at 5675 to be pushed toward the rear of the lot; this adjustment resulted in the foundation being constructed within the required 5 foot setback. | | |
| 2. 7.5.802 (B.2) | No Reasonable Use of Property | Met |
| The limited building envelop, presence of the neighbor's driveway on the front of the subject property, and existing foundation that has already been poured in place results in this criterion being met. | | |
| 3. 7.5.802 (B.3) | No Adverse Impact to Surrounding Property | Met |
| The home on the lot to the east is constructed at an angle with a significant setback from the shared property line. The requested encroachment will not negatively impact the adjacent property owner. The owner/builder of the subject property has agreed to keep the patio uncovered to reduce the extent of the encroachment (if the patio were covered as originally planned the setback would only be 1.6 feet, not 2.3 feet as approved). The HOA supports the request. | | |

STAFF DECISION

APPROVED: Staff approves the non-use variance request due to the required criteria being met.

July 14, 2015
DATE OF DECISION


STAFF MEMBER

APPLICANTS: THE DECISION PERTAINS ONLY TO THE APPLICATION YOU SUBMITTED. YOU MUST COMPLY WITH ALL OTHER APPLICABLE REQUIREMENTS OF THE CITY OF COLORADO SPRINGS AND THE REGIONAL BUILDING DEPARTMENT. A COPY OF THE RECORD-OF-DECISION AND APPROVED SITE PLAN SHALL BE SUBMITTED IN CONJUNCTION WITH A BUILDING PERMIT APPLICATION. THIS VARIANCE DOES NOT SUPERSEDE OR NULLIFY PRIVATE COVENANTS THAT MAY LAWFULLY IMPOSE OTHER RESTRICTIONS ON THE USE OF YOUR PROPERTY.

*****IMPORTANT*****

THE VARIANCE SHALL BE VOID IF ALL REQUIRED PERMITS ARE NOT OBTAINED WITHIN TWELVE (12) MONTHS OF THE FINAL APPROVAL DATE.



July 14, 2015

Robert-Scott G.C., Inc.
2760 Brogans Bluff Dr.
Colorado Springs, CO 80919
Attn: Scott Hente

Re: 5675 Majestic Non-Use Variance
AR NV 15-00413

Dear Mr. Hente,

Planning Staff has approved the requested non-use variance on July 14, 2015. This approval is subject to the following conditions:

1. The approved non-use variance allows a 2.3 foot setback from the proposed home to the eastern property line where 5 feet are required by the Parkside at Mountain Shadows PUD plan.
2. The patio shown at the northeastern corner of the home is to be uncovered per this approval. Covering the patio in the future would require a new non-use variance.
3. The non-use variance shall be void if required permits are not obtained within twelve (12) months of the final approval date.

Copies of the approved documents are enclosed. Please attach one (1) copy of the approved Site Plan to each of the two (2) sets of construction drawings submitted to the Regional Building Department in conjunction with the building permit application.

As previously discussed, all administrative approvals are subject to a 10 day appeal window. I will inform you if an appeal of this decision is filed within the necessary timeframe.

Please feel free to contact me at 385-5382 if you have any questions regarding this approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Tefertiller".

Ryan Tefertiller, AICP
Planning Manager

Cc: Development Review CAB Office Files (AR NV 15-00413)
Development Review Enterprise Office

Enclosure: Record of Decision

Supplemental information a Nonuse Variance at 5675 Majestic:

B. Criteria For Granting: The following criteria must be met in order for any nonuse variance to be granted:

1. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district; and

The adjoining property at 5673 Majestic has a driveway that significantly crosses onto the property (see attached Approved Site Plan). Because of this driveway encroachment, the house at 5675 Majestic had to be “pushed” farther back on the lot. However, due to the positioning of telephone, cable TV, and landscape irrigation that was placed at the back of the lot after the Waldo Canyon Fire, an angled excavation had to be performed. (See the attached photo showing “old” irrigation lines – the new ones were placed immediately adjacent to these). As a result, the foundation was angled which pushed the eastern edge of the new foundation into the side setback (See the attached Foundation Asbuilt).

2. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief;

The dimensions of the lot, combined with the driveway that encroaches from the other lot and the location of new utilities does not permit the house to be built per the approved site plan (attached).

3. That the granting of the variance will not have an adverse impact upon surrounding properties.

The house that is adjacent to the eastern edge of this property (5673 Majestic) angles away from the property and at the rear has 34 feet from its corner to the edge of the property. In addition, there are no public or private utilities that are in the setback for 5675 Majestic.

Attachments

- 1. Approved Site Plan for 5673 Majestic**
- 2. Photo showing eastern edge of 5675 Majestic**
- 3. Foundation Asbuilt for 5675 Majestic**
- 4. Approved Site Plan for 5675 Majestic**

Tefertiller, Ryan

From: Tefertiller, Ryan
Sent: Tuesday, July 14, 2015 4:46 PM
To: 'Koziol-Petkash, Maria'
Subject: RE: Variance for 5675 Majestic - Ref: File Number AR NV 15-000413
Attachments: Buttress Picture.pdf; Scanned from a Xerox multifunction device.pdf; Scanned from a Xerox multifunction device.pdf

Hello Maria,

Thanks for the revised photos; that is helpful. Scott Hente also provided a photo showing his interpretation of the property line relative to the buttress wall – it is obviously close to the property line (see attached). Regardless, after much discussion with Scott and with the Parkside HOA, I have issued an approval to Scott's variance application. However, please note that I did require that the patio at the rear corner of the building remain uncovered; this reduces the encroachment by over half a foot. I've attached the approval documents so you have them for your records. Please let me know if you have any questions about my approval or your options going forward. As we've discussed previously, you have a 10 day appeal window that will expire on July 24th.

Thanks for your patience and understanding on this process,
Ryan

Ryan Tefertiller, AICP – Planning Manager
City of Colorado Springs
Land Use Review Division
719-385-5382

From: Koziol-Petkash, Maria [mailto:maria.koziol@verizon.com]
Sent: Monday, July 13, 2015 7:17 PM
To: Tefertiller, Ryan
Cc: Wolf, Dennis; mkpetkash@gmail.com
Subject: RE: Variance for 5675 Majestic - Ref: File Number AR NV 15-000413

Ryan,

Attached are two new photos of the property showing the surveyor stake in the foreground and the tape running to the stake at the back. If you have any concerns about the accuracy of these photos I would ask again, as I did on Friday when we first spoke, that you would come out and take a look at the property.

To answer your other question, the stake with an orange flag to the right of the tape is not a surveyor stake. I believe that was put in place to let the excavator know how far he could dig in that corner. The surveyor stakes recently placed by JR Engineering are tall with pink tape and are clearly marked "Lot 7" which is our lot. Mr. Hente admitted to making an error in his assumption as to where the north east property corner was. The first time I spoke with him he and his excavator insisted it was the green electrical box which you can see in the photo's is to the far right of the property stake.

Furthermore we are discussing property boundary adjustments with Mr. Hente and his partner.

Thank you,

Maria Koziol-Petkash
719-648-3416

From: Tefertiller, Ryan [mailto:RTefertiller@springsgov.com]
Sent: Monday, July 13, 2015 11:56 AM
To: Koziol-Petkash, Maria
Cc: Wolf, Dennis
Subject: RE: Variance for 5675 Majestic - Ref: File Number AR NV 15-000413

Hello Maria,
Thanks for following through with expedited comments to this application. While I know the builder was hoping your support his request, I also know that he appreciates the timely input. One question I have for you regarding your photos... is that a surveyor stake with an orange flag a couple feet to the right of the tape? While I see the surveyor stake at the back corner of the property, the photo would be more helpful if it clearly included the stake in the foreground, near the photographer, so the viewer could be sure the tape is correctly run along the property line. You're right that the buttress wall should not cross the property line onto your lot, but we have often approved these type of sub-surface elements in setbacks in the past, especially in neighborhoods like Parkside that have such tight lots. The intent of building setbacks is to mitigate bulk and scale and provide adequate light and air to surrounding properties; subsurface elements like foundations buttresses and window wells, do not impact the intent of our setback standards. Thanks again and let me know your thoughts on my photo questions,
Ryan

Ryan Tefertiller, AICP – Planning Manager
City of Colorado Springs
Land Use Review Division
719-385-5382

From: Koziol-Petkash, Maria [mailto:maria.koziol@verizon.com]
Sent: Monday, July 13, 2015 11:43 AM
To: Tefertiller, Ryan
Cc: Wolf, Dennis
Subject: Variance for 5675 Majestic - Ref: File Number AR NV 15-000413

Ryan,

We are strongly opposed to this variance. A 1.6 foot setback is not acceptable. In addition, you can see in the attached photo's a portion of the buttress of his foundation is clearly on our property.

Please update me as soon as possible.

Thank you,
Maria Koziol-Petkash
719-648-3416

On Fri, Jul 10, 2015 at 10:12 AM, Tefertiller, Ryan <RTefertiller@springsgov.com> wrote:

Hello Maria,

Thank you for your time this morning to discuss the variance at 5675 Majestic next door to your home. As promised, I'm following up with a number of documents that will help inform your opinions and decisions on this issue:

- I've attached two PDFs of the variance submittal for 5675 Majestic. The file number is AR NV 15-000413. This is an administrative application which means that I, as the project planner, can take formal action to approve or deny the request. While I know you have concerns about the request and are opposed to approval, it would be helpful to get your thoughts and concerns in writing for the project file.
- Appeal application – I've also attached the form that is used for appeal of administrative decisions. The 2nd, 3rd and 4th pages of the document provide information about the submittal requirements, the process, and the criteria for an appeal application. Feel free to write or call if you have questions about those items.
- I've also attached a checklist for a property boundary adjustment. Obviously, this application requires the coordination and cooperation of both property owners. I just wanted you to have an idea of what goes into an application like a PBA.

Thanks again for your thoughts and consideration on this; I'll look for your response on Monday.

Ryan

Ryan Tefertiller, AICP – Planning Manager

City of Colorado Springs

Land Use Review Division

719-385-5382

Tefertiller, Ryan

From: Knight, Don
Sent: Thursday, July 16, 2015 7:08 PM
To: Tefertiller, Ryan; Wysocki, Peter; Gaebler, Jill
Subject: RE: Issue in Mountain Shadows

Ryan,

Thanks for the history. Could you make sure this e-mail gets in the formal packet if the 5763 Majestic owner decides to appeal as this becomes a quasi-judicial issue if she does?

Don Knight
Colorado Springs City Council, District 1
107 N Nevada Ave, Ste 300
Colorado Springs, CO 80901
719-385-5487
719-368-0729 (cell)

From: Tefertiller, Ryan
Sent: Thursday, July 16, 2015 7:21 AM
To: Wysocki, Peter; Gaebler, Jill
Cc: Knight, Don
Subject: RE: Issue in Mountain Shadows

Hi Jill and Don,

I've been working closely with both property owners over the last couple weeks to address the situation. The builder, Scott Hente, of Robert Scott General Contractors was approved to build a home at 5675 on the 5' side setbacks for both sides of the lot (it is fairly narrow at only 47' wide). However, when the foundation was poured, an error was made; the foundation is slightly skewed which caused the back corner of the home to encroach into the sideyard setback leaving a 2.3 foot setback where 5' are required. The next door neighbor at 5673 Majestic owns a home that has a significant setback from that same property line (roughly 15' to 20' toward the rear of the lot) since her home was built at an angle. I've communicated with the neighbor a couple times and she is opposed to allowing the foundation to stay as it for a few reasons. That said, I approved the variance to allow the foundation to stay as is, but required what had been a covered patio at the rear corner of the house to remain uncovered (if covered the variance would have been for a 1.6 foot setback instead of a 2.3 foot setback). The Parkside at Mountain Shadows HOA supports this compromise. The neighbor was informed of my actions on Tuesday (see attached) and she has the opportunity to appeal that decision to Planning Commission (or potentially City Council after that).

I hope I didn't go into too much detail for you. Feel free to contact me if you have additional questions,
Ryan

Ryan Tefertiller, AICP – Planning Manager
City of Colorado Springs
Land Use Review Division
719-385-5382

From: Wysocki, Peter
Sent: Wednesday, July 15, 2015 10:35 PM
To: Gaebler, Jill
Cc: Knight, Don; Tefertiller, Ryan
Subject: RE: Issue in Mountain Shadows

Hi Jill,

Planning is aware of the situation. The builder has applied for a variance. I am copying Ryan Tefertiller as he is working on this issue and can give you an update. Thanks.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: "Gaebler, Jill" <jgaebler@springsgov.com>
Date: 07/15/2015 8:41 PM (GMT+01:00)
To: "Wysocki, Peter" <PWysocki@springsgov.com>
Cc: "Knight, Don" <dknight@springsgov.com>
Subject: Issue in Mountain Shadows

Hi Peter,

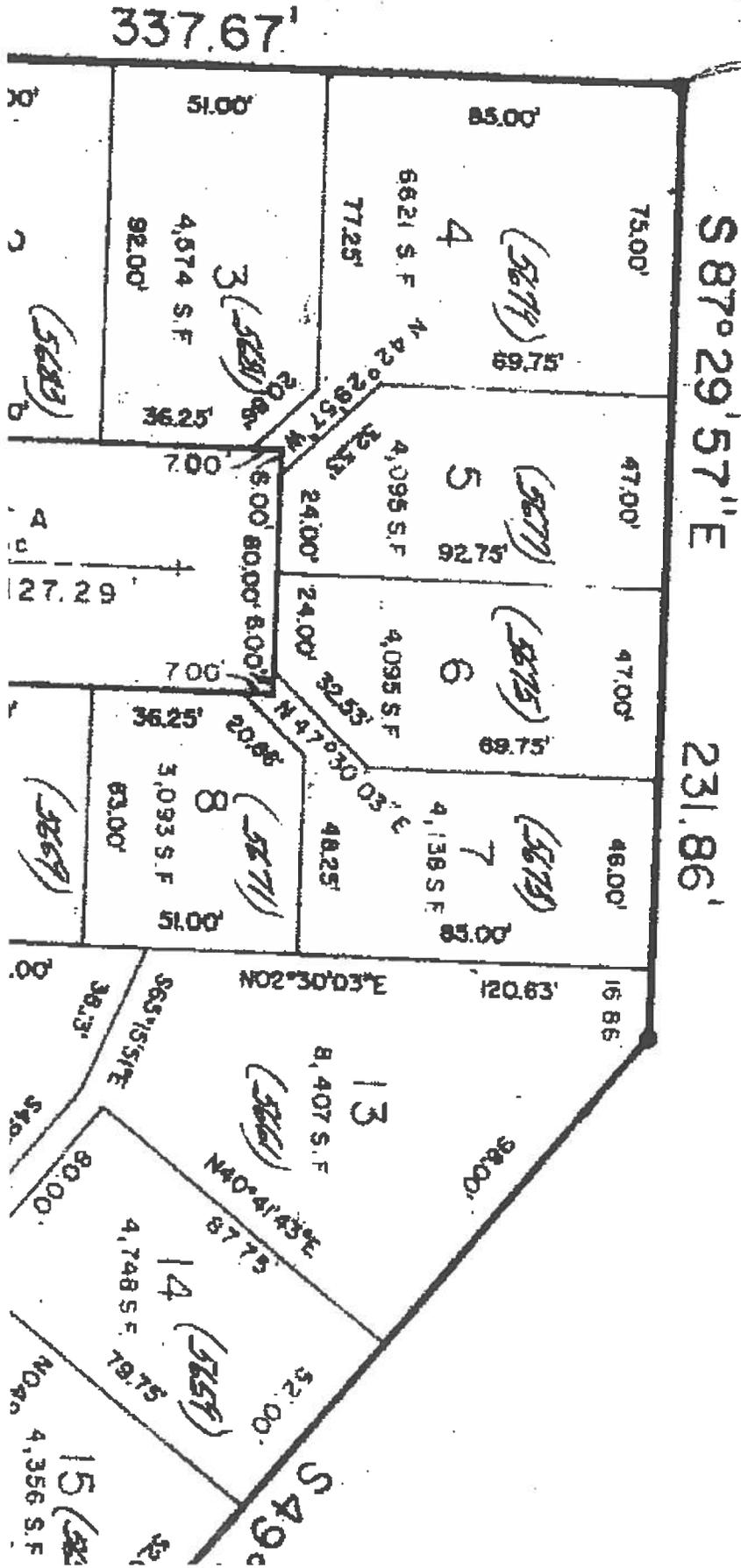
I have been contacted by a friend whose mother-in-law lives at 5665 Majestic. It seems the house being built next door has placed its foundation too close or actually on her property. The property in question is 5675 Majestic. They have been trying to reach a settlement with the owner to no avail and have been told by the city, according to my friend, that the offending property can just get a variance.

I'm not sure what the facts are but would like to see if the City is aware of this issue and if there is any recourse for the property owner. I would appreciate any assistance you can provide. I am also copying Don Knight on this email as both of these properties lie in his council district.

Thanks,

Jill Gaebler
President Pro Tem
Council Member – District 5
City of Colorado Springs
719-685-6364 - cell

D (EXISTING 80' R.O.W.)
NY LOT IS
ING W RANCH



I. U. D.
 NW cor. The Meadows
 Sub F. I. No. 1

FIGURE 4

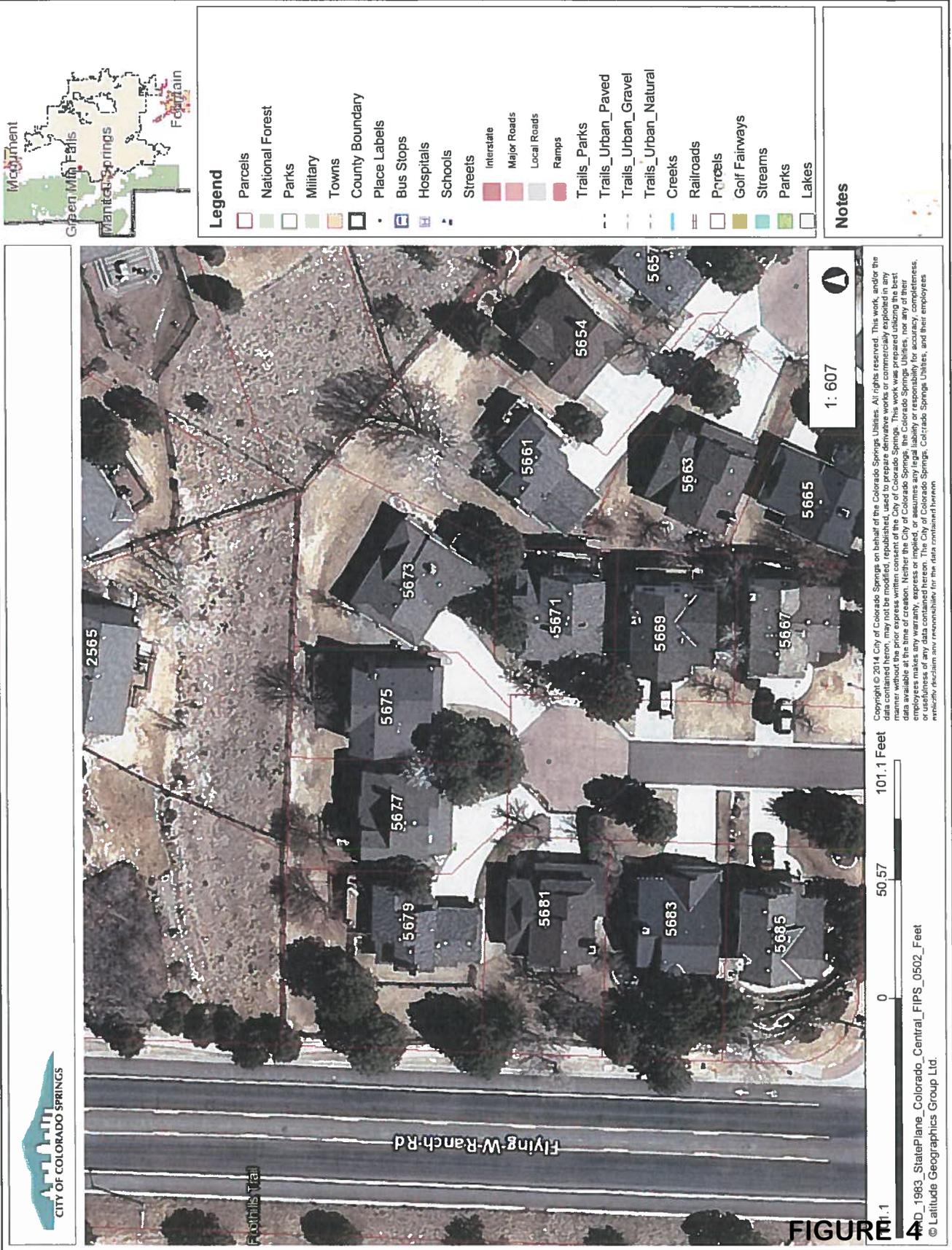




FIGURE 4



FIGURE 4

LAND USE REVIEW DIVISION
PLANNING & DEVELOPMENT TEAM



APPLICATION FORM FOR APPEAL OF ADMINISTRATIVE DECISION

Appellant: Barbara Kozioł Henry F. Kozioł
Maria Kozioł-Petkash Telephone 719-648-3416 Fax _____
Address: 5673 Majestic Dr. Zip Code 80919 e-mail mkpetkash@gmail.com

Premises Involved:

City Planning File Number (if applicable): AR NV 15-00413

Address: 5675 Majestic Dr.

Direction from nearest street intersection _____

Tax Schedule No. 73154-03-007 Acreage _____

(The tax schedule number can be obtained from the El Paso County Tax Assessor located at 27 E. Vermijo Avenue on the 2nd Floor; phone: 520-6600 or at their web site <http://www.land.elpasoco.com>)

Date of Receipt of Notice and Order or Date of Final Administrative Decision 7-14-15

Appeal of Decision Regarding:

- Development/Landscape Plan _____ Subdivision Plat _____ Notice and Order _____
- Hillside Site Plan _____ Administrative Relief _____ Non-Conforming Use _____
- Sexually Oriented Business _____ Temporary Use Permit _____ Relocation payments _____
- Similar Use Determination _____ Property Boundary Adjustment _____
- Preservation Area Boundary Adjustment _____ Building Permit to Unplatted Land _____
- Building Permit prior to Platting _____ Historic Preservation Board Determination _____
- Home Occupation Permit _____ Human Service Establishment _____
- Other: variance to allow encroachment to side setback

OFFICIAL CITY PLANNING USE:

Fee Receipt # <u>26241 26921</u>	Date Application Accepted <u>7/24/15</u>
Completed Form <input checked="" type="checkbox"/>	Intake Staff <u>Rym Tefertiller</u>
Appeal Statement (2) <input checked="" type="checkbox"/>	Vicinity Map <input checked="" type="checkbox"/>
Authorization <input checked="" type="checkbox"/>	Copy of Notice and Order (if applicable) _____
Applicant informed of Poster Pickup Date? Yes <input type="checkbox"/> No <input type="checkbox"/>	If Yes, Date of Poster Pickup _____
Notification Options: Waive Notification _____	Adjacent _____ 500' _____ 1,000' _____
Assigned to: <u>Rym Tefertiller</u>	(Notice to be sent at time of CPC/CC Hearing only)

OWNER/APPLICANT AUTHORIZATION:
The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Barbara Kozioł
Maria Kozioł-Petkash 7-24-15
Signature of Appellant Date

PRE-APPLICATION CONFERENCE:

A pre-application conference with the planning staff is not mandatory for these applications. However, if you would like a pre-application meeting, please call 385-5905 and one will be scheduled for you.

PROJECT TRACKING

City Planning maintains an internet-based project tracking system (LUIStrack) that reflects all significant processing benchmarks associated with each development application. Go to <http://www.springsgov.com/luispublic/luispublic.asp> to search for your application in LUIStrack project tracking.

PUBLIC NOTICE:

The following public notice requirements will be imposed in conjunction with the review of these applications:

- Written notification to the adjoining property owners within 500 or 1,000 feet (at planner's discretion) of the property site will be required. City Planning will coordinate with the applicant on the required postage amount with the postage amount required to be paid when the applicant picks up the public notice poster.
- A public notice poster will be provided to the applicant a minimum of ten (10) days prior to the public hearing date. The proposed project site must be posted, by the applicant for a minimum of ten (10) consecutive days. The poster should be posted in a very visible location on the site, which can be viewed by passing motorists and/or pedestrians without trespassing. The applicant is required to complete the affidavit (a copy will be attached to the poster) attesting to the specific dates that the site was posted. The applicant must check the site occasionally to confirm that the property continues to be posted throughout the posting period. If the poster is no longer in good shape or has disappeared from the site, please contact the City Planning Office at 385-5905 for a replacement poster.

FEES:

An application review fee will be required to accompany these applications (checks payable to City of Colorado Springs). The fee schedule is as follows:

Appeal of Administrative Decision to Planning Commission	\$176
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If you are indigent, your fee may be waived; please ask the planning staff for an Indigent Fee Waiver form if you wish to apply for this fee waiver.

APPLICATION REQUIREMENTS:

This application should be submitted to the City of Colorado Springs-Planning Office at 30 South Nevada Avenue, Suite 301. All applications must be completed in full and accompanied by the following information:

APPLICANT

PLANNER

- | | | |
|------------|--|-------|
| <u>MKP</u> | 1. Two (2) copies of an APPEAL STATEMENT identifying the following: <ul style="list-style-type: none"> • A clear DESCRIPTION of the appeal. The file number, ordinance and/or provision must be identified and a brief summary of facts. • A JUSTIFICATION based on the review criteria as set forth in Section 7.5.906 Justifying why the appeal should be approved. | _____ |
| <u>MKP</u> | 2. A VICINITY MAP showing the parcel outlined with the adjacent streets within the neighborhood noted on a separate 8½" x 11" page. | _____ |
| <u>MKP</u> | 3. A copy of the NOTICE and ORDER from the issuing agency (if applicable). | _____ |
| | 4. City Planning, City Planning Commission and/or the City Council may require other ADDITIONAL INFORMATION for this application as needed. | |

INFORMATION REGARDING APPEAL OF A NOTICE and ORDER:

If you are appealing a Notice and Order issued by an official of the City of Colorado Springs, you are stating that one or both of the following are true:

1. You are not in violation of City Code and you believe the official is in error; and,
2. The abatement period is unreasonable and should be lengthened.

INFORMATION REGARDING APPEAL OF A NOTICE AND ORDER, continued:

A perfected appeal shall operate as a stay of the enforcement process unless the City Agency which issued the Notice and Order certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare or the violation is of such a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site. You should take no further action regarding the alleged violation during this stay of proceedings. Do not continue construction, add on or otherwise modify your property or buildings. If you do, it is at your own risk and a completed project will not guarantee automatic approval. In no event will a variance be granted upon appeal from any order, requirement, decision or determination. Any variance will require the filing of a separate application and payment of applicable fees.

INFORMATION REGARDING AN APPEAL OF AN ADMINISTRATIVE DECISION:

An individual aggrieved by a decision made by an administrative officer of the City may appeal such a decision by filing a written notice specifying briefly the grounds of the appeal within ten (10) days from the date of mailing, posting, or personal service of notice of the decision. City Planning shall place the appeal on the Planning Commission agenda at the next regularly scheduled meeting occurring at least twenty-one (21) days but not more than forty-eight (48) days thereafter. After the public hearing, the Planning Commission shall have the power to affirm, reverse, or modify such decisions.

In accordance with the Zoning Code, individuals filing appeals of an administrative decision made by City Planning staff must substantiate the following in written form:

1. Identify the explicit ordinance provisions which are in dispute.
2. Show that the administrative decision is incorrect because of one or more of the following:
 - a) It was against the express language of the Zoning Ordinance, or
 - b) It was against the express intent of the Zoning Ordinance, or
 - c) It is unreasonable, or
 - d) It is erroneous, or
 - e) It is clearly contrary to law.
3. 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.

Investigation: City Planning shall investigate the application and the facts bearing on the case to provide the information necessary for action consistent with the intent, purpose and requirements of the Zoning Code. City Planning shall report the findings to the Planning Commission.

Appearance: If making an appearance of record, the following persons, are hereby defined as parties and shall be entitled by themselves or through a representative to participate in a public hearing before the Planning Commission:

1. The applicant or the appellant;
2. Either the owner or lessee of property of agent for the owner or lessee which is directly affected by the matter which is before the reviewing authority;
3. Any person, organization, group or governmental entity who demonstrate to the Planning Commission that they have a significant interest in the subject matter of the hearing;
4. Any member of the City administration.

The "appearance of record" shall mean either:

1. An oral statement sufficiently identifying the person making the same or by his representative made at the hearing, or
2. A written statement giving the name and address of the person making the appearance signed by their representative and filed with the Planning Commission either prior to the beginning of the hearing or when permitted by the Planning Commission.

FINAL DISPOSITION:

In consideration of an appeal, the Planning Commission may affirm, reverse or modify an administrative decision under their jurisdiction in accordance with of the Zoning Code. After receiving testimony, the Planning Commission shall announce its decision at the conclusion of the public hearing. The decisions shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety and welfare. The Planning Commission may recommend conditions, which are necessary and reasonable in order to further, the purpose of the Zoning Code. Such conditions may include, but are not limited to, setbacks, from adjacent uses or property lines, landscaping, screening, placement and size of signs, placement and amount of parking and access restrictions.

Appealing a Decision of the Planning Commission:

The decision of the City Planning Commission to approve or deny an application may be appealed to the City Council within ten days from the date of the public hearing decision. The appeal must be in writing and should be submitted to the City Clerk at 30 South Nevada Avenue, Suite 101 along with a \$175.00 non-refundable fee. The appeal must include the file number of the item and specify briefly the grounds for the appeal. If a perfected appeal is filed within this ten-day period, the decision to approve or deny will be suspended until the appeal process is finalized.

Upon receipt of the subsequent appeal, the City Clerk shall schedule a public hearing before the City Council at the next meeting occurring at least thirteen (13) days thereafter. City Council has the power to refer any matter appealed back to Planning Commission for further consideration or affirm, reverse or modify the action of the Planning Commission. In all matters before the City Council relating to the actions of the Planning Commission, the entire file from City Planning pertaining to such matters shall be made a part of the record of the City Council. The file shall include but not be limited to Planning Commission minutes, maps, drawings, departmental reports and application. If the appellant wants to submit additional exhibits to Council to include in the record, the original of such exhibit and twelve (12) copies must be submitted to the City Clerk. If the exhibits are electronic, a disk must be given to the City Clerk. All exhibits are kept for a maximum of ten (10) working days after the time of appeal has expired.

At the public hearing, City Planning staff will summarize their recommendation and the Planning Commission's recommendation for the record. The appellant may present an argument in support of their position. An individual who has not appealed may present an argument in support of the appellant's position. A short rebuttal by the applicant shall be limited to issues raised during the preceding argument. Final comments from the applicant and all other parties are allowed only by permission of the Mayor. Final comments from City staff and staff's recommendation shall conclude the hearing. All questions will be directed through the Mayor who will then direct the question to the appropriate person. Council may then make a decision on the matter or delay the decision. If final action is not taken at the public hearing, the Mayor will advise the audience when the matter will be considered.

Appealing a Decision of the City Council:

Once City Council has made a final decision to grant or deny an appeal, the administrative process shall be deemed to be exhausted. Any subsequent appeal must be made to the court.

DO NOT REMOVE THIS PAGE – IT MUST BE KEPT WITH THE ORIGINAL APPLICATION FORM!

The City of Colorado Springs-Planning Group is committed to ensuring that all of our services are accessible to those with disabilities. We encourage participation by all individuals. If you have a disability, advance notification of any special needs will help us better serve you. Please call City Planning at 385-5905 to request any special service that you may require. A one (1) week advance notice to allow us to accommodate your request is appreciated.

APPEAL STATEMENT

Nonuse Variance Approval for 5675 Majestic (Schedule number 73154-03-007)

Appellants: Barbara Koziol, Henry F. Koziol, and Maria Koziol-Petkash

Reviewer: Ryan Tefertiller

Preparer: Barbara Koziol, Henry F. Koziol, and Maria Koziol-Petkash

As you know we own the property located at 5673 Majestic Drive. We are appealing the non-use variance granted on July 14, 2015, to Robert-Scott G.C., Inc., for the property identified above. The variance cannot be allowed to stand because it fails in every possible respect to comply with the legal requirements for a grant of a non-use variance.

This situation is simple. Mr. Hente and his excavator excavated a hole for the foundation in the wrong place. After the foundation was in we began questioning the proximity of it to the driveway and I pointed out there could be a problem with the back north east corner of the foundation as well. Mr. Hente and his excavator asserted they were within the boundary at the front by the driveway and claimed the rear boundary was located where the phone box was located (it was not). The excavator was very nasty in his communications even though he was relying on a totally wrong boundary marker. Mr. Hente acknowledged he had made a mistake regarding the rear property corner the next day, after obtaining a copy of the Site Plan of our lot from Vantage Homes. He should have known he was building the house in the wrong location before he excavated and before he placed forms and before he poured the foundation. Non-Use variances are simply not allowed in cases where the variance is being sought due to pure negligence and bad building practices. Mr. Hente is building a house in the wrong spot and is blaming everyone else for his mistake.

When reading this, please remember that the variance as stated as a “2.3 foot side yard setback where 5 feet are required” is misleading. The foundation set back is 2.3 feet, the home’s roof, gutters, and downspouts will be much closer to our property than 2.3 feet and may be closer to 12-15 inches. That is unacceptable for the reasons stated herein.

The Variance Fails to Meet the Intent and Purpose of the Colorado Springs Zoning Code

In pertinent part, the expressly stated intent and purpose of the Colorado Springs Zoning Code is “to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise, excessive traffic, [and] incompatibility of uses. See section 7.2.102 “Intent and Purpose of Zoning Code.”

The Zoning Code’s objective is to address land use questions “with reasonable consideration to the character of each zone district and . . . with a view to encouraging the most appropriate use of land throughout the City.” It is also intended to provide safety from dangers, “to improve housing standards; . . . and in general to promote health, safety and general welfare” of City residents. See Section 7.2.102.

The purpose of variances is to grant relief in the absence of which an owner would have an inability to reasonably utilize property due to exceptional or extraordinary circumstances or conditions which are applicable to the property in question that do not generally apply to similarly located properties. See City Zoning City section 7.5.801.

Based on these broad and sweeping objectives, it is clear that the Zoning Code is meant to be applied to address truly unique circumstances and protect all property owners, not just address mistakes by unprepared builders.

The Zoning Code should therefore be applied in a manner that complies with its overall intent and objectives to achieve betterment for the City rather than elevating one individual's isolated error over my property rights and value. That is especially true when that error could have been easily avoided with the simple use of the customary building technique of actually locating property corners before digging holes and before installing foundations based on a belief that a phone box is located at a property corner and when the error is shown to that builder before any permanent work is done. Mr. Hente could have confirmed the property boundaries before setting forms, and could have confirmed the property boundaries before completing the foundation and before waterproofing it. He only confirmed property boundaries after we started asking questions about the location of his foundation and his error in not doing this validation before installing the foundation is not related to any of the variance approval criteria. It is gross negligence. Variances are not intended to cure gross negligence. This is the exact circumstances a variance is not allowable by law.

Colorado Springs City Code section 7.5.802: NONUSE VARIANCES states in paragraph B that the following criteria must each be met in order for any nonuse variance to be granted. This is not permissive, but mandatory. Each of the conditions must be met as each condition is followed with the conjunctive word "and".

1. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district.

The planner erroneously stated this condition was met because he stated the lot dimensions were small. That is not enough. Builders build on small lots all the time and still keep their construction well within the boundaries and the setbacks. This is not an "extraordinary or exceptional physical condition that does not generally exist in nearby properties" as many adjoining lots in that subdivision are similarly "small". The surrounding lots are of the following sizes:

- Lot 5 - 4095 Sq feet.
- Lot 6 - 4095 Sq feet. (Lot at issue)
- Lot 8 - 3104 Sq feet.
- Lot 9 - 3212 Sq feet.
- Lot 10 - 3559 Sq feet.

Compared to some of the surrounding lots, Mr. Hente's lot is actually very large, not extremely small. There is plenty of room for him to build in the lot setbacks without this variance. This does not meet the criteria.

The planner stated that our driveway consumed much of the property and forced the home to be pushed back. That may be partially true, but that did not force the home to be angled improperly on the lot which caused the encroachment. The home would have fit within the setbacks and this variance would be maybe unnecessary if the builder had placed the side foundation walls parallel with the lot boundaries and not angled the home on the property under the mistaken belief that the telephone box was the lot corner. The lot is 47 feet wide. The planned house is 37 feet wide. It would have fit if the builder used the correct property boundary.

The planner stated our driveway consumed much of the property and forced the home to be pushed back but that the driveway was part of an "approved plan". The "approved plan" for our property includes a driveway that the builder (Vantage Homes) installed partially on Mr. Hente's property. The plat map does state that lots 6 and 7 have shared common access, but just how it is "shared" was nowhere stated in any recorded documents nor any documents given to us at the time of purchase. The driveway was apparently installed without Mr. Hente's permission and he could have done anything he liked with the driveway so long as he did not prohibit our access. If he felt it was an encroachment or hindrance to construction, Mr. Hente could have removed or relocated it. Had Mr. Hente done any pre-construction staking or investigation, he would have seen this problem and been able to address it with Vantage or us. He chose not to investigate anything, just to start building. The driveway is not a permanent feature that had any effect on the location of the house and the house could have been located anywhere on the lot without regard to the driveway. Once again, Mr. Hente's mistaken belief about the driveway is not an "extraordinary or exceptional physical condition" because it is easily remedied. This removable driveway encroachment does not meet the criteria.

Contrary to the planner, the now existing foundation did not have to be constructed within the 5 foot setback by Mr. Hente for a number of reasons. First, Mr. Hente and his excavator chose the wrong boundary line and went ahead building in the wrong place on the lot. Second, had the builder used the correct boundary line and not the phone box they thought was on the boundary to determine the location of the boundary and the building envelope 5 feet inside the lot line, they could have had the side walls parallel the boundary line and the foundation would not be a problem. That would have solved all the problems. Third, they could have removed part of the driveway and used the front part of the lot. Fourth, they could have designed a smaller home for the rather large lot that would have fit on it, like a two story design. Whatever home was built there before the fire, fit on the lot just fine. Pushing the foundation back because of the encroaching driveway does not meet the criteria.

As you know, various guidelines exist for applying any of the criteria for nonuse variance applications. These can be considered to see if circumstances "have been established by the evidence in determining whether the applicable criteria have been met". For this section these are as follows:

1. Extraordinary or Exceptional Physical Conditions:
 - a. The physical conditions of the property shall not be conditions general to the neighborhood or surrounding properties - Not met, all the physical conditions of this site are general to the neighborhood or surrounding properties.

b. The unique physical conditions of the property may be its size, shape, location, topography, soils - Not met, the lots size, shape, location, topography, soils are general to the neighborhood or surrounding properties.

c. The unique physical conditions of the property may be the size or location of existing structures on the property if such structures are not self-imposed conditions - Not met, the problem being complained of in terms of the location of an existing structure is purely a self-imposed condition. They built the foundation in the wrong place. Period.

d. The unique physical conditions may be certain on site or off site environmental features which may positively or negatively affect the property in question, including, but not limited to, adjacent land uses, traffic, noise, views and location of significant natural, architectural or historic features - Not met, there are no unique physical conditions, on site or off site, that weigh in favor of a variance. This was a flat building lot that used to have a house on it and the current house would have fit had the builder not angled it on the lot. Nothing unique at all about it.

2. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief.

There are no “extraordinary or exceptional physical condition of the property” that prevent reasonable use. The planner claims this criteria was met because of the limited building envelope size (refuted above - it is just like surrounding lots and the house would have fit in the building envelope if not angled on the lot), the driveway location (refuted above - it can be removed or relocated and the plat clearly showed that to be true) and the existing foundation had been poured (shown to be the builder’s own mistake - a self imposed condition). There are plenty of reasonable uses of the lot without the variance. The foundation can be removed and a smaller home built within the setbacks. The foundation can be modified on this one side to allow it to stay within the setbacks or even on both the sides and back. In this case, the idea that there is no “reasonable use” without this variance is completely refuted. It may cost Mr. Hente and his excavator money to solve the problem, but that alone is not a consideration for a variance. See below. This criteria is not met.

For this section, the various guidelines for applying the criteria to see if circumstances “have been established by the evidence in determining whether the applicable criteria have been met” are as follows:

2. No Reasonable Use:

a. The demonstrated extraordinary or exceptional physical conditions of the property must directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations - Not met, there are no “demonstrated extraordinary or exceptional physical conditions of the property that directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations”. The property is a relatively flat building lot. It can very easily be used for a building a home (again) without the variance by using a foundation that has a smaller footprint. The existing foundation

can be modified. The existing foundation can be removed and replaced and the lot used for any number of reasonable uses. There is no inability to use this lot without the variance.

b. The concept of less reasonable use may be considered if a neighborhood standard exists and if it is demonstrated that the property in question has a less reasonable use by comparison with proximate and similar properties in the same zoning district - Not met, the lot can be built upon with a home that will meet the neighborhood standard even without the variance and such other construction will not be a less reasonable use by comparison with proximate and similar properties, such as ours. Other smaller lots are in the neighborhood and are built on or are being built on, one by Mr. Hente himself (being lot 8 containing 3104 square feet, almost 1,000 square feet less than this lot). A two story home can be built that could be much larger than the existing home and would be in the same zoning district because it is next door to our home. The home would have fit if it was not angled due the builder's mistake.

c. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use - This one is met and weighs against the variance, the inconvenience to the builder to have to fix his problem and the cost involved with doing so, which will reduce his return on investment, do not eliminate reasonable use of the lot and do not support the variance. This is a self-imposed problem caused by the builder's lack of preparation.

d. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use - This one is met and weighs against the variance, the variance is being sought to correct a self-imposed condition, being a violation of City codes and ordinances for putting the foundation in the wrong spot. This is as discussed above.

e. Knowledge, or lack of knowledge, of zoning restrictions and physical site constraints at the time the property is purchased is immaterial to evidence of no reasonable use of the property - this one is met and weighs against the variance, Mr. Hente's lack of knowledge concerning physical site constraints does not support the variance.

3. That the granting of the variance will not have an adverse impact upon surrounding properties.

The planner claims this criteria was met because our house is "built at an angle with a significant setback" from this property. This is not true. In fact, at the front corner of our house, there is less than the minimum ten feet from our house to Mr. Hente's house. That is not a "significant setback" and is less than the required set back. Our house meets the 5 foot setback, Mr. Hente's does not. This has an adverse effect on us.

The planner claims, without any support whatsoever, that the variance will not negatively impact the adjacent property owner, us. That is not true. The proximity of the new home to our home will negatively impact us because the new home is too close to our home and that decreases our property value. Further, part of the foundation buttress wall actually intrudes into our property and is legally a continuing trespass. That negatively impacts us. Agreeing to not cover a patio so that the setback is an additional 8 inches does not reduce the negative impact on

our property as the patio will, at ground level be just over 27 inches from our property line, not the 60 inches required. That is another huge detriment.

Further, the variance cannot be allowed to stand because it allows the new foundation buttress wall to actually encroach past the property boundary into our property. That is a continuing trespass that would be cured by overturning the grant of the variance and forcing the builder to build a home within the setbacks on a lot that is easily buildable with proper design and care.

The perimeter drain around the new foundation buttress wall will also be a continuing trespass on our property and that legally cannot remain on our property but would be resolved if the variance was overturned.

With only about a 27 inch setback from the property line at the back corner of the foundation, the house drainage cannot meet general engineer's recommendations for 5 feet or more of positive drainage away from the house so as to protect the foundation from being flooded or damaged by water accumulating along the foundation wall and entering the basement. We all know how water can harm basements especially if it encounters expansive soils so close to the foundation. If the foundation is damaged by water, it will hurt the new owners.

It appears from the drawing attached to AR NV 15-00413 that the back patio or back structure of the home will be much closer than 27 inches to the boundary line and may be more like 18 inches away. That is very troubling for all the reasons stated herein and that adversely impacts us.

With the variance granted, water from the new roof may sheet flow onto our property since the roof will be much closer to our property than the foundation located a mere 27 inches or so from our property. Given even a small roof overhang of say 12", the roof will be may 15" off of our property. That is unacceptable. Also, the water from the gutters and downspouts may be directed in concentrated flows onto our property and that can cause significant damage to our landscaping and even our home. Winter ice build-up can also be a problem when there is only that small a space between properties and the roof overhang is very close to our property line. Water and ice can also be a nuisance or a continuing trespass on our property, all of which negatively impacts our property because of the variance.

The window well for the basement window at the back of the basement wall will also most likely continue to encroach onto our property as a continuing trespass, and if it is made smaller to avoid the trespass, it may not meet the safety requirements for egress in the case of an emergency or fire. We believe that the building code requires a minimum of 30" and more likely 36-40 inches for the safety window well. Finally, even if the window well does not encroach and is not a safety hazard, if left in place, and based on future landscaping growth on our lot, no one may be able to access our property to get out of the window well, meaning it will remain an ongoing fire / safety hazard to occupants of the new home. The clearly does not support a variance.

The proximity of the new home to the boundary line will increase fire hazards as it provides very limited space for fire fighting and very close proximity between the combustible materials in our home and landscaping and the new home. Remember, the foundation is 27 inches or so off the boundary the actual roof may be much closer at the back corner by the patio, maybe 15" away.

The entire length of the home itself, not just a porch or a roof overhang, also literally encroaches on the easement platted along the side lot line. That is the dashed line on the drawing stamped "approved". Those easements cannot be used to their full potential by public utility providers, placing more risk and burden on our home easement area if the other side lot line cannot be used for utility line extensions. How the title companies or utility provides will deal with that is to be seen. It will affect the new owners and us alike.

We also question how the home will be constructed and maintained by the new owners. The extreme proximity to the lot line does not allow the builder to have his men and equipment on that side of the house to finish building it. The variance does not allow for continued construction of the home as the back corner of the foundation is under two feet from the property line. That means that all construction workers and their equipment must stay within that small area to work on the house. That is not enough room for safe scaffolding, ladders, or people and equipment. The builder cannot safely erect scaffolding or safely use ladders as they will trespass on our property. Overturning the variance will solve these problems too.

We are not sure how Mr. Hente will back fill the foundation with equipment without trespassing.

Also, the future owners will have to try to maintain the house and its landscaping in an area almost too small to walk in without trespassing. The new owners will not be able to safely maintain that side of their home without trespassing. It is impossible for the home to remain in its current location which makes it very harmful to our property both during construction and after it is sold.

The HOA support does not matter in the variance process. The HOA is a legal entity. The HOA does not own our home or any other home. It owns common areas that are not at all impacted by this variance. The variance has no detrimental impact on the HOA. It is easy for the HOA to support a request that doesn't hurt it but adversely affects us.

For this section, the various guidelines for applying the criteria to see if there is "no adverse impact upon surrounding properties" are as follows:

a. The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding properties - Not met, the variance will be significantly detrimental to our health and safety and welfare as well as that of the occupants of the new home.

b. The granting of a variance shall not be inconsistent with any plans adopted by the City - Not met, the variance is inconsistent with the city code provisions cited herein, the City's master plan objectives for safe environments, and building code safety requirements.

c. The granting of a variance shall not weaken the general purpose of this Zoning Code or its regulations - Not met, this is very epitome of what is not allowed by a variance. This is a builder who created a wholly self-imposed problem he will not take responsibility for and which he blames on others. There are significant safety and legal issues that will continue and have to be resolved in court if the variance is allowed to stand and those issues contravene the very purpose of the Zoning Code which is to provide for safe housing and protect all residents, not just builders. The Zoning Code has the intent and purpose to “protect property values”, protect citizens from “dangers”, “improve housing standards . . . and in general to promote health, safety and general welfare” of City residents. The variance contravenes this.

d. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property - Maybe met, the variance was seemingly as limited as possible but improperly granted when none of the criteria were met.

The variance approval in the face of the arguments shown above shows evident partiality and a refusal to apply the approval criteria as mandated by the City Code. The City Code mandates that all of the approval criteria “must” be met. In reality none of the criteria have been met in this case. You can see that the variance was improperly granted and was granted in direct contravention of the approval criteria.

For all of these reasons, the Appellants respectfully request that you reverse the decision to approve the nonuse variance and deny the variance as not meeting the criteria, harming our property, creating significant future safety issues, and generally forcing us to address all of these concerns in litigation that can be avoided by your proper application of the code provisions discussed herein.

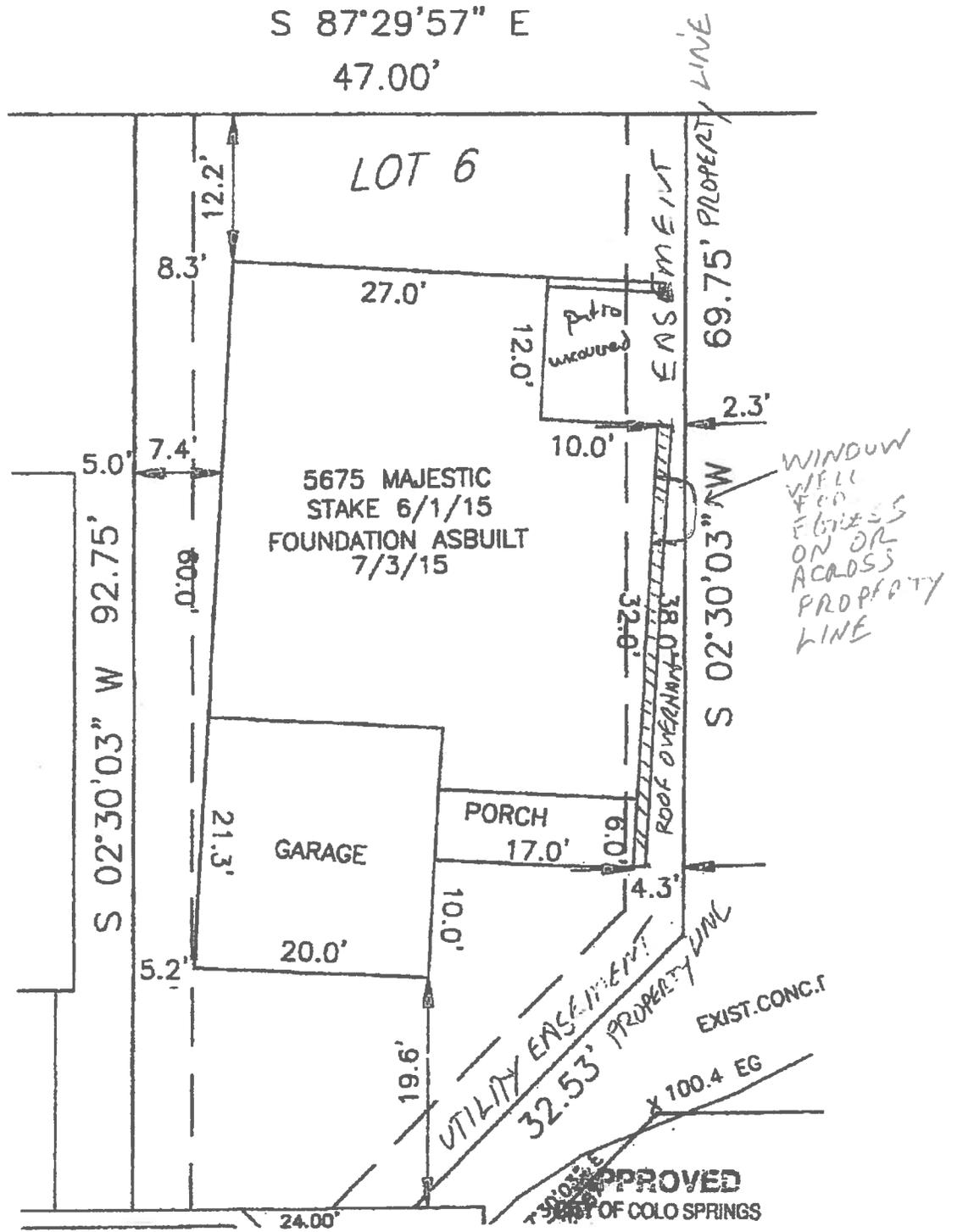
We have attached various documents to assist in your review process and we are happy to answer any questions or provide more information.

Thank you for your consideration.


Barbara Koziol


Henry F. Koziol,


Maria Koziol-Petkash



SCALE: 1" = 10'

APPROVED
 CITY OF COLO SPRINGS
 JUL 14 2015
 BY CITY PLANNING

Owner/Applicant: Robert-Scott General Contractors, Inc
 TSN: 73154-03-007
 Address 5675 Majestic
 Legal Description: Lot 6, Block 1, Parkside @ Mountain Shadows #1
 Zone: PUD/H5
 Variance - 2.3' sideyard setback where 5' are required

AR NU 15-00413
 FIGURE 5



PLANNING & DEVELOPMENT TEAM
Land Use Review Division

July 14, 2015

Robert-Scott G.C., Inc.
2760 Brogans Bluff Dr.
Colorado Springs, CO 80919
Attn: Scott Hente

Re: 5675 Majestic Non-Use Variance
AR NV 15-00413

Dear Mr. Hente,

Planning Staff has approved the requested non-use variance on July 14, 2015. This approval is subject to the following conditions:

1. The approved non-use variance allows a 2.3 foot setback from the proposed home to the eastern property line where 5 feet are required by the Parkside at Mountain Shadows PUD plan.
2. The patio shown at the northeastern corner of the home is to be uncovered per this approval. Covering the patio in the future would require a new non-use variance.
3. The non-use variance shall be void if required permits are not obtained within twelve (12) months of the final approval date.

Copies of the approved documents are enclosed. Please attach one (1) copy of the approved Site Plan to each of the two (2) sets of construction drawings submitted to the Regional Building Department in conjunction with the building permit application.

As previously discussed, all administrative approvals are subject to a 10 day appeal window. I will inform you if an appeal of this decision is filed within the necessary timeframe.

Please feel free to contact me at 385-5382 if you have any questions regarding this approval.

Sincerely,

Ryan Tefertiller, AICP
Planning Manager

Cc: Development Review CAB Office Files (AR NV 15-00413)
Development Review Enterprise Office

Enclosure: Record of Decision

**CITY OF COLORADO SPRINGS LAND USE REVIEW DIVISION
RECORD-OF-DECISION FOR A NON-USE VARIANCE**

FILE: AR NV 15-00413

DECISION DATE: JULY 14, 2015

INFORMATION

Name of Applicant: Robert-Scott G.C., Inc.
Address of Premises Involved: 5675 Majestic
Zone District: PUD/HS
Tax Schedule Number: 73154-03-007

REQUEST To allow a 2.3 foot side setback on the east side of the lot where 5 feet are required.

STAFF ANALYSIS

CITY CODE CRITERIA TO GRANT A NON-USE VARIANCE

CRITERIA MET OR NOT MET

- | | | |
|---|---|-----|
| 1. 7.5.802 (B.1) | Exceptional or Extraordinary Conditions | Met |
| The lot is extremely small at just over 4,000 square feet and narrow at only 47 feet wide. The approved plan for the neighboring lot to the east included a driveway that consumed much of the subject property's front setback and forcing the home at 5675 to be pushed toward the rear of the lot; this adjustment resulted in the foundation being constructed within the required 5 foot setback. | | |
| 2. 7.5.802 (B.2) | No Reasonable Use of Property | Met |
| The limited building envelop, presence of the neighbor's driveway on the front of the subject property, and existing foundation that has already been poured in place results in this criterion being met. | | |
| 3. 7.5.802 (B.3) | No Adverse Impact to Surrounding Property | Met |
| The home on the lot to the east is constructed at an angle with a significant setback from the shared property line. The requested encroachment will not negatively impact the adjacent property owner. The owner/builder of the subject property has agreed to keep the patio uncovered to reduce the extent of the encroachment (if the patio were covered as originally planned the setback would only be 1.6 feet, not 2.3 feet as approved). The HOA supports the request. | | |

STAFF DECISION

APPROVED: Staff approves the non-use variance request due to the required criteria being met.

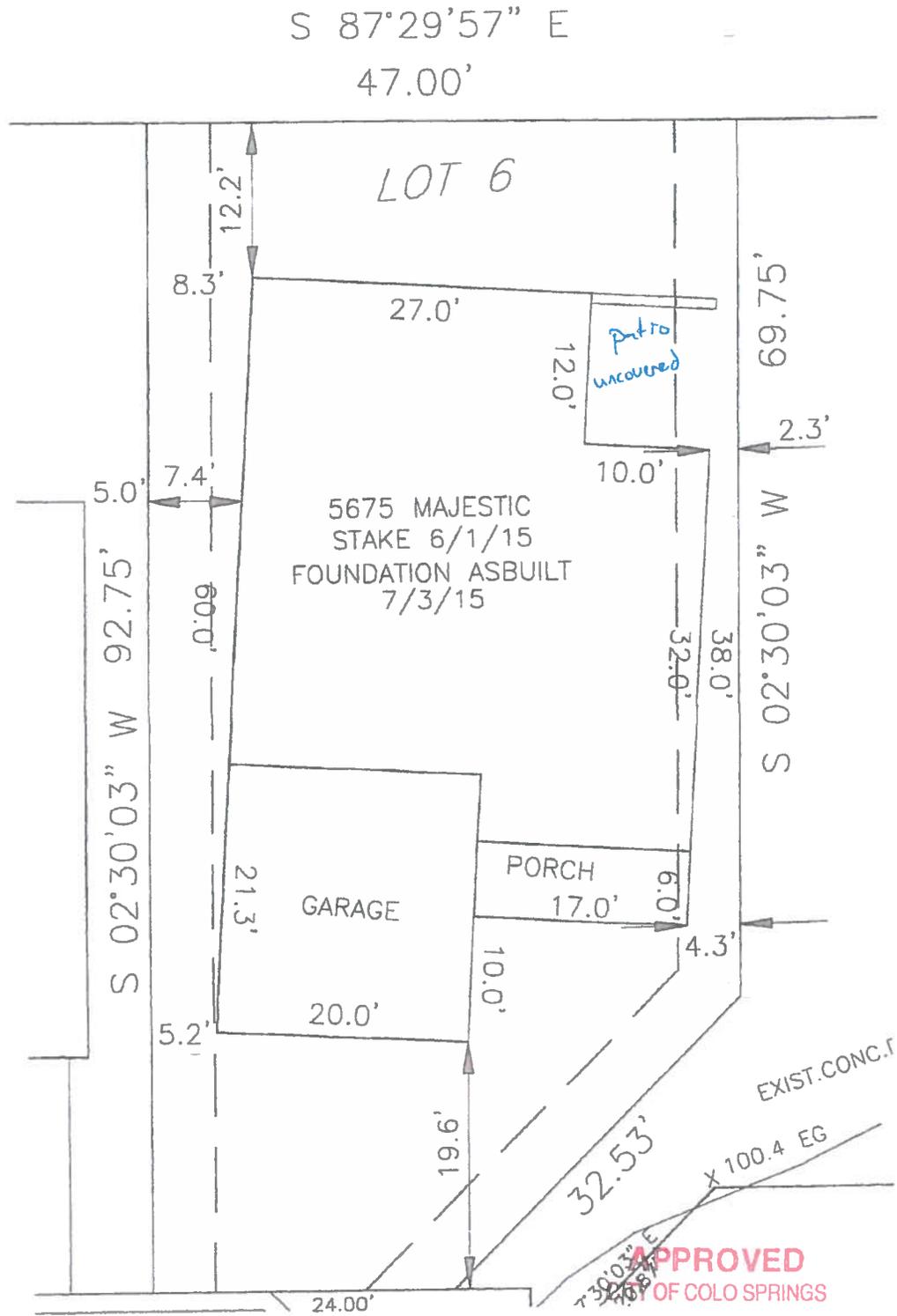
July 14, 2015
DATE OF DECISION


STAFF MEMBER

APPLICANTS: THE DECISION PERTAINS ONLY TO THE APPLICATION YOU SUBMITTED. YOU MUST COMPLY WITH ALL OTHER APPLICABLE REQUIREMENTS OF THE CITY OF COLORADO SPRINGS AND THE REGIONAL BUILDING DEPARTMENT. A COPY OF THE RECORD-OF-DECISION AND APPROVED SITE PLAN SHALL BE SUBMITTED IN CONJUNCTION WITH A BUILDING PERMIT APPLICATION. THIS VARIANCE DOES NOT SUPERSEDE OR NULLIFY PRIVATE COVENANTS THAT MAY LAWFULLY IMPOSE OTHER RESTRICTIONS ON THE USE OF YOUR PROPERTY.

*******IMPORTANT*******

THE VARIANCE SHALL BE VOID IF ALL REQUIRED PERMITS ARE NOT OBTAINED WITHIN TWELVE (12) MONTHS OF THE FINAL APPROVAL DATE.



SCALE: 1" = 10'

Owner/Applicant: Robert-Scott General Contractors, Inc

TSN: 73154-03-007

Address 5675 Majestic

Legal Description: Lot 6, Block 1, Parkside @ Mountain Shadows #1

Zone: PUD/H5

Variance - 2.3' sideyard setback
where 5' are required

AR NU 15-00413

FIGURE 5

CITY OF COLORADO SPRINGS
 General Application Form

GENERAL INFORMATION

Project Name: Partiside Re-Build Existing Zone: P4D/H5 Acreage: 408 sq ft

Site Address: 5675 Majestic Direction from Nearest Street Intersection: Northeast of Majestic + Flying W Ranch Road

Tax Schedule Number(s): 73154-03-007

TYPE OF PLAN(S) - Check all that apply.

<input type="checkbox"/> 2020 Land Use Map Amendment	<input type="checkbox"/> Master Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM
<input type="checkbox"/> Administrative Relief	<input checked="" type="checkbox"/> Nonuse Variance
<input type="checkbox"/> Amendment to Plat Restriction	<input type="checkbox"/> Preservation Easement Adjustment
<input type="checkbox"/> Annexation	<input type="checkbox"/> Property Boundary Adjustment
<input type="checkbox"/> Building Permit to Unplatted Land	<input type="checkbox"/> Street Name Change
<input type="checkbox"/> Building Permit Prior to Platting	<input type="checkbox"/> Subdivision Plat <input type="checkbox"/> PP <input type="checkbox"/> FP <input type="checkbox"/> PFP
<input type="checkbox"/> CMRS No. <input type="checkbox"/>	<input type="checkbox"/> Subdivision Waiver (Design/Process)
<input type="checkbox"/> Concept Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM <input type="checkbox"/> PUP	<input type="checkbox"/> Use Variance <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM
<input type="checkbox"/> Conditional Use <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM	<input type="checkbox"/> Vacation of Plat
<input type="checkbox"/> Development Agreement (PUD Zone)	<input type="checkbox"/> Vacation of Public Right-of-Way
<input type="checkbox"/> Development Plan <input type="checkbox"/> New <input type="checkbox"/> MJ <input type="checkbox"/> MN <input type="checkbox"/> MM <input type="checkbox"/> PUD	<input type="checkbox"/> Waiver of Replat
<input type="checkbox"/> Landscape Plan <input type="checkbox"/> Preliminary <input type="checkbox"/> Final <input type="checkbox"/> Irrigation	<input type="checkbox"/> Zone Change <input type="checkbox"/> PUZ Proposed Zone: <input type="checkbox"/>

Note: MJ = Major Amendment; MN = Minor Amendment; MM = Minor Modification

PROJECT SUMMARY: Briefly describe the proposed project, including commercial, office and industrial square footage and/or residential lots or dwelling units.

Variance to allow an encroachment into the site setback on the eastern edge of the property (see attached criteria)

OWNER/APPLICANT ACKNOWLEDGEMENT OF RESPONSIBILITIES:

The signature(s) hereby certify that the statements made by myself and constituting part of this application are true and correct. I am fully aware that any misrepresentation of any information on this application may be grounds for denial of this application. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval. The applicant/owner by his or her signature understands and agrees that he or she is responsible for the completion of all on-site and off-site improvements as shown and approved on the final plan (including landscaping, paving, lighting, etc) prior to receiving a Certificate of Occupancy.

I, as the owner, wish to receive copies of all correspondence regarding this project.

Robert Scott Signature of Owner 6 July 2015 Date Robert Scott Signature of Applicant 6 July 2015 Date

CONTACT INFORMATION

Applicant: Robert-Scott G. Co., Inc. Phone: 719-499-6752 Fax: 719-599-3770

Address: 2760 Brogans Blatt Dr City: Colorado Springs State: CO

Zip Code: 80917 E-Mail: rshomes@comcast.net

Owner: same as applicant Phone: Fax:

Address: City: State:

Zip Code: E-Mail:

PLANNER AUTHORIZATION TO SUBMIT PROJECT: (CITY USE ONLY)

Applicable Checklists Administrative (AR) Project blurb
 Planning Commission (CPC)

Distribution Buckslip Attached Application Assigned to: Ryan Teffertiller Date: 7/7/15

Payment \$ 221.00 Newly Assigned File No(s): AR NV 15-00413

Receipt No.: 20856

APPLICATION REQUIREMENTS



5/4/2010

Nonuse Variance

REVIEW CRITERIA: Applications for nonuse variances must meet all of the criteria listed in the Zoning Code before an application can be approved. As a guide to applying any of the criteria for nonuse variance applications, the applicant may consider any or all of the following circumstances in determining whether the applicable criteria have been met:

1. Extraordinary or Exceptional Conditions:

- a. The physical conditions of the property shall not be conditions general to the neighborhood or surrounding properties.
- b. The unique physical conditions of the property may be its size, shape, locations, topography, soils; or,
- c. The unique physical conditions of the property may be the size or location of existing structures on the property if such structures are not self-imposed conditions; or
- d. The unique physical conditions may be certain on-site or off-site environmental features which may positively or negatively affect the property in question, including but not limited to, adjacent land uses, traffic, noise, views and location of significant natural, architectural, or historic features.

2. No Reasonable Use:

- a. The demonstrated extraordinary or exceptional physical conditions of the property must directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations.
- b. The concept of less reasonable use may be considered if a neighborhood standard exists and if it is demonstrated that the property in question has a less reasonable use by comparison with proximate and similar properties in the same zoning district.
- c. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use.
- d. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use.
- e. Knowledge, or lack of knowledge, of zoning restrictions and physical site constraints at the time the property is purchased is immaterial to evidence of no reasonable use of the property.

3. No Adverse Impact:

- a. The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding properties.
- b. The granting of a variance shall not be inconsistent with any plans adopted by the City.
- c. The granting of a variance shall not weaken the general purpose of the Zoning Ordinance or its regulations.
- d. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property.

Code Section/Plan Number to be varied: Code/Plan Requirement:

Request:

Code Section/Plan Number to be varied: Code/Plan Requirement:

Request:

Code Section/Plan Number to be varied: Code/Plan Requirement:

Request:

SUBMITTAL CHECKLIST: The following items will need to be included in any Nonuse Variance review submittal.

- | | |
|---|--------------------------|
| Applicant | Planner |
| <input type="checkbox"/> General Development Application Form | <input type="checkbox"/> |
| A Project Statement identifying the following: (# TBD by Planner) | |
| <input type="checkbox"/> 1. A clear description of the proposed development. If this is an amendment, describe the changes proposed from the currently approved plan; and | <input type="checkbox"/> |
| <input type="checkbox"/> 2. A Justification based on the review criteria addressing why the proposed project should be approved. | <input type="checkbox"/> |
| <input type="checkbox"/> 1 copy of a Black Line of the proposed project, reduced to 11" x 17", or a .pdf | <input type="checkbox"/> |
| <input type="checkbox"/> A legal description of the proposed project | <input type="checkbox"/> |
| <input type="checkbox"/> A vicinity map showing the parcel outlined with the adjacent streets within the neighborhood noted on a separate 8 1/2" x 11" page. | <input type="checkbox"/> |

FIGURE 5

PLAN CONTENT REQUIREMENTS: The content of the development plan must include the following information.

Applicant	Planner
<input type="checkbox"/> Indication of the scale (i.e. 1" = 20') and a bar scale	<input type="checkbox"/>
<input type="checkbox"/> North arrow	<input type="checkbox"/>
<input type="checkbox"/> Property lines and dimensions	<input type="checkbox"/>
<input type="checkbox"/> Size and location of all existing easements	<input type="checkbox"/>
<input type="checkbox"/> Existing and proposed structures and dimensions	<input type="checkbox"/>
<input type="checkbox"/> Setbacks of all existing and proposed structures from property lines	<input type="checkbox"/>
<input type="checkbox"/> Other improvements (i.e. driveways, parking areas, sidewalks, curblines, fences, etc.)	<input type="checkbox"/>
<input type="checkbox"/> Height of all existing and proposed structures	<input type="checkbox"/>
<input type="checkbox"/> Elevation drawing of proposed structure for any height variance request	<input type="checkbox"/>
<input type="checkbox"/> Type, dimension and size of signage (if applicable)	<input type="checkbox"/>
<input type="checkbox"/> Elevation drawing of proposed sign for any sign variance	<input type="checkbox"/>
<input type="checkbox"/> Number of existing and proposed off-street parking spaces and parking ratio used (if applicable)	<input type="checkbox"/>
<input type="checkbox"/> Legend in the lower right-hand corner which must contain the following information:	<input type="checkbox"/>
<input type="checkbox"/> Name, address and phone number of both applicant and owner	<input type="checkbox"/>
<input type="checkbox"/> Property address	<input type="checkbox"/>
<input type="checkbox"/> Lot size in square feet	<input type="checkbox"/>
<input type="checkbox"/> Square footage of each structure, both existing and proposed	<input type="checkbox"/>
<input type="checkbox"/> Lot coverage of each structure, both existing and proposed and a total amount of lot coverage	<input type="checkbox"/>

Supplemental information a Nonuse Variance at 5675 Majestic:

B. Criteria For Granting: The following criteria must be met in order for any nonuse variance to be granted:

1. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district; and

The adjoining property at 5673 Majestic has a driveway that significantly crosses onto the property (see attached Approved Site Plan). Because of this driveway encroachment, the house at 5675 Majestic had to be “pushed” farther back on the lot. However, due to the positioning of telephone, cable TV, and landscape irrigation that was placed at the back of the lot after the Waldo Canyon Fire, an angled excavation had to be performed. (See the attached photo showing “old” Irrigation lines – the new ones were placed immediately adjacent to these). As a result, the foundation was angled which pushed the eastern edge of the new foundation into the side setback (See the attached Foundation Asbuilt).

2. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief;

The dimensions of the lot, combined with the driveway that encroaches from the other lot and the location of new utilities does not permit the house to be built per the approved site plan (attached).

3. That the granting of the variance will not have an adverse impact upon surrounding properties.

The house that is adjacent to the eastern edge of this property (5673 Majestic) angles away from the property and at the rear has 34 feet from its corner to the edge of the property. In addition, there are no public or private utilities that are in the setback for 5675 Majestic.

Attachments

- 1. Approved Site Plan for 5673 Majestic**
- 2. Photo showing eastern edge of 5675 Majestic**
- 3. Foundation Asbuilt for 5675 Majestic**
- 4. Approved Site Plan for 5675 Majestic**



City of Colorado Springs Planning Department Fee Receipt

[Return to Worksheet List](#)

<u>Application</u>	<u>Department</u>	<u>Amount</u>	<u>Applicant</u>	<u>AnnexDisc</u>
Non-Use Variance-Residential; Land Use Review Only	Land Use Review	\$221.00		
<u>Total Fees</u>		<u>\$221.00</u>		

Planner:
Date: 7/8/2015
Intake Staff: Ryan Tefertiller
Receipt Number: 26856
Check Number: 7460
Amount: \$221.00
Received From: Robert Scott General Contractors

Planning and Development Distribution Form

Directions: Planners select at least one check box under each section to determine the application distribution.

Planner Intake Date: 7/7/15

Admin Receive Date: 7-8-15

Project Name: 5675 Majestic

1. PUBLIC NOTICE:

- 150 feet
 500 feet
 1,000 feet
 modified (attach modified buffer) *Ryan to communicate with neighbor + HOA*
 No public notice

2. Date buckslip comments are due (14 calendar days after submittal): N/A

3. HOA ():

6 - Ryan to contact

HOA number or numbers - note HOA number or write N/A

- Check for full-size plan to be sent to HOA
 Check for Traffic, Drainage or Geo-Hazard reports to be sent to HOA

4. STANDARD DISTRIBUTION: Choose one application – delete all other applications under #4.

Waiver of Replat

Hard Copy Full sized plans

	<input type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	2 copies
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	

Non Use Variance

Full sized plans

	<input checked="" type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	2 copies
9	<input type="checkbox"/> Fire Prevention	
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	
3	<input type="checkbox"/> CONO – Electronic Distribution ONLY	rhoover.cos@comcast.net

Amendment to Plat Restriction

Full sized plans

	<input checked="" type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	2 copies
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	

Building Permit Prior to Platting

Full sized plans

	<input type="checkbox"/> None	
23	<input type="checkbox"/> Flood Plain / Enumerations	
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	

FIGURE 5

Building Permit to Unplatted Land

Full sized plans

	<input type="checkbox"/> None	
23	<input type="checkbox"/> Flood Plain / Enumerations	
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	

Land Use Map Amendment

Full sized plans

	<input type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	2 copies
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	
67	<input type="checkbox"/> Comprehensive Planning	

Electronic plans

45	<input type="checkbox"/> Traffic Engineering	
13	<input type="checkbox"/> Parks & Recreation	
3	<input type="checkbox"/> CONO – Electronic Distribution ONLY	rhoover.cos@comcast.net

Property Boundary Adjustment

Full sized plans

	<input type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	2 copies
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	
66	<input type="checkbox"/> Real Estate Services	

Preservations Boundary Map Area Adjustment

Full sized plans

	<input type="checkbox"/> None	
29	<input type="checkbox"/> Wildlife Office	
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	

Street Name Change

Full sized plans

	<input type="checkbox"/> None	
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	

Electronic plans

11	<input checked="" type="checkbox"/> CSPD
23	<input type="checkbox"/> Flood Plain / Enumerations
33	<input type="checkbox"/> USPS
48	<input type="checkbox"/> Street Division

FIGURE 5

Waiver of Subdivision Ordinance & Subdivision Ordinance Procedure Waiver

Full sized plans

	<input type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	2 copies
9	<input type="checkbox"/> Fire Prevention	
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	
19	<input type="checkbox"/> Qwest	

Electronic plans

48	<input type="checkbox"/> Street Division
25	<input type="checkbox"/> County Health Department

Vacation

Full sized plans

	<input type="checkbox"/> None	
85	<input type="checkbox"/> Utilities Development Services	2 copies
24	<input type="checkbox"/> DR&S	
65	<input type="checkbox"/> Zaker Alazzeh/Steve Kuehster, Traffic Eng (MC 460)	
19	<input type="checkbox"/> Century Link	

Electronic plans

48	<input type="checkbox"/> Street Division
23	<input type="checkbox"/> Flood Plain / Enumerations

5. SCHOOL DISTRICT:

Electronic plans

	<input checked="" type="checkbox"/> None	
36	<input type="checkbox"/> School District #2	
68	<input type="checkbox"/> School District #3	
37	<input type="checkbox"/> School District #11	
38	<input type="checkbox"/> School District #12	
39	<input type="checkbox"/> School District #20	
69	<input type="checkbox"/> School District #22	
41	<input type="checkbox"/> School District #49	

6. MILITARY INSTALLATION (if within 2 mile buffer):

Electronic Version

	<input checked="" type="checkbox"/> None	
84	<input type="checkbox"/> Fort Carson	
46	<input type="checkbox"/> NORAD	
26	<input type="checkbox"/> USAFA	
75	<input type="checkbox"/> Peterson	

7. OPTIONAL DISTRIBUTION (Depending on Location of Site):

Hard Copy Full sized plans

	<input checked="" type="checkbox"/> None	
27	<input type="checkbox"/> CDOT (adjacent to CDOT ROW)	Traffic Report, Drainage Report
34	<input type="checkbox"/> Colorado Geological Survey	Geo-Hazard Report, Drainage Report, Development Plan
18	<input type="checkbox"/> Streamside Area Overlay	
15	<input type="checkbox"/> Hillside Overlay	
42	<input type="checkbox"/> Historic Preservation Area Overlay	
44	<input type="checkbox"/> Development Review Enterprise	Coordinated Sign Plans to Kurt if Submitted
67	<input type="checkbox"/> Comprehensive Planning	Corridor Plans in progress

Electronic plans

20	<input type="checkbox"/> Airport Overlay	
63	<input type="checkbox"/> El Paso County Dev. Services Division	Review of plans within 1/2 mile of a County/City boarder
43	<input type="checkbox"/> Wescott Fire District (adjacent only)	
70	<input type="checkbox"/> Woodmen Road Metro District	
71	<input type="checkbox"/> Falcon Fire Protection District	
72	<input type="checkbox"/> Black Forest Fire Protection District	
81	<input type="checkbox"/> Broadmoor Fire Protection District	
80	<input type="checkbox"/> CSURA – Urban Renewal	
70	<input type="checkbox"/> Woodmen Heights Metro District	
92	<input type="checkbox"/> Forestry	
3	<input checked="" type="checkbox"/> CONO	rhoover.cos@comcast.net

8. LAND USE REVIEW:

Hard Copy Full sized plans

<input checked="" type="checkbox"/> Planner	Traffic Report, Drainage Report, Geo-Hazard Report
---	--

Total # of Plans: 2

Special notes or instructions:

FIGURE 5

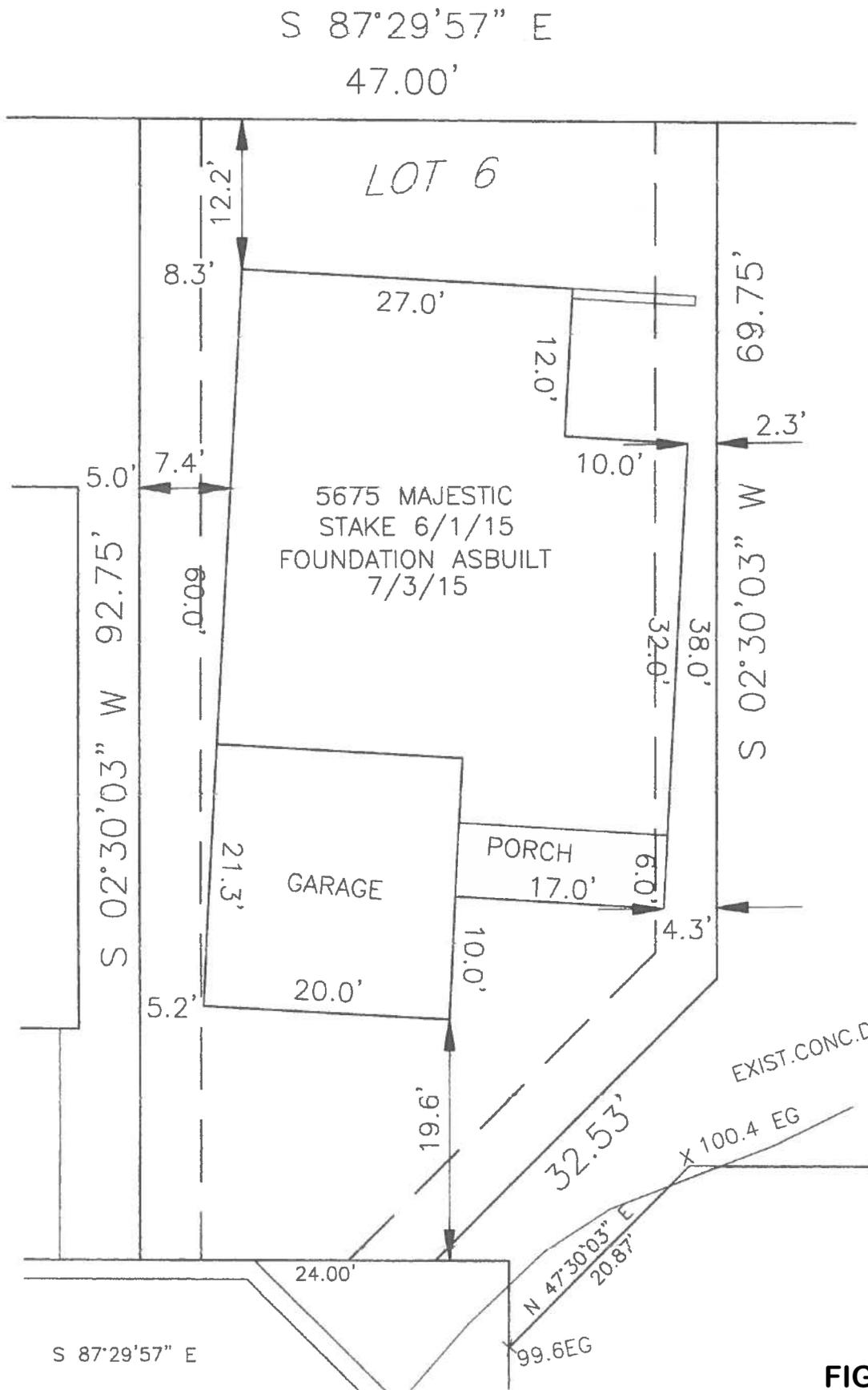
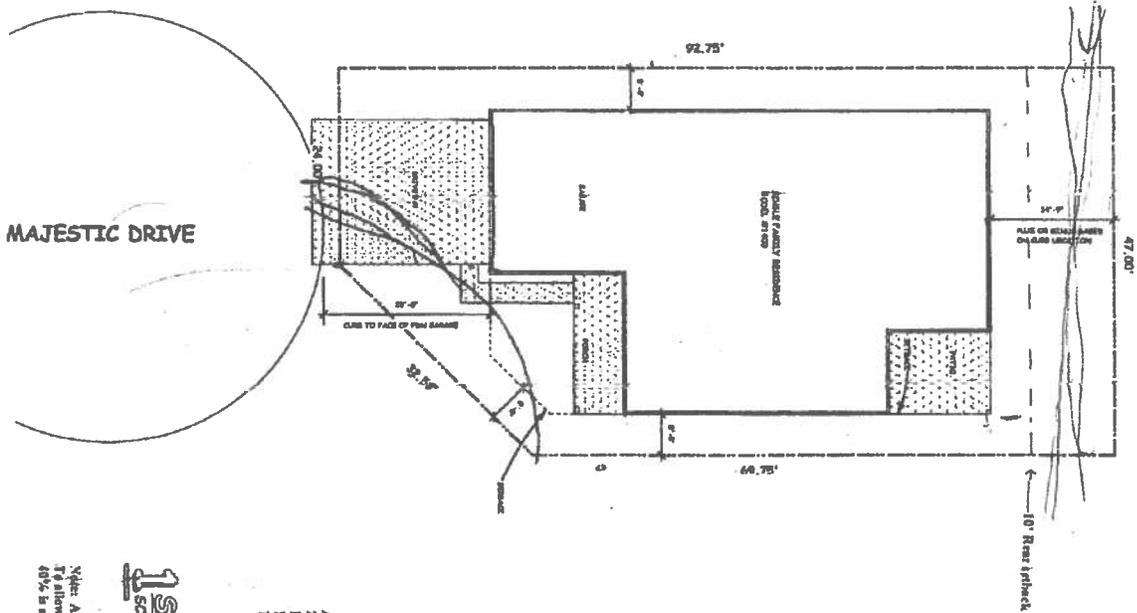


FIGURE 5



MAJESTIC DRIVE

Note: All B15-00176 was approved to allow 45% lot coverage to meet 40% is allowed

1 SITE PLAN
 SCALE: 1" = 10'-0"

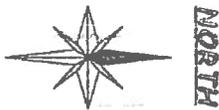
Address: 5675 Majestic
 Zone: TUD I1B
 Plat: Front Plat 1800 sq ft
 Lot Coverage: 45%
 Lot Size: 4059 sq ft

LOT COVERAGE:
 Maximum: 45%

TAX ID:
 7114-d-007

LEGAL DESCRIPTION:

Approx. or actual area shown herein shall be subject to a survey of the lot, and the lot owner shall be responsible for providing the necessary information to the City Department of Public Works.



WALDO CANYON FIRE RECONSTRUCTION - "MOUNTAIN SHADOWS"



APPROVED
 CITY OF COLO SPRINGS
 APR 13 2015
 BY CITY PLANNING

CSFD

2015-0333 HS-1

APPROVED
 APR 17 2015
 N/A
 APR 17 2015
 RHD Examination
 RHD Registration

Letty, Sila, Rangel de Munoz
 SWANSON STINE
 FIRE DEPARTMENT
 PLAN REVIEW

GENERAL DRAWING
 Description and Specifications
 This drawing is a general drawing and is not to be used for construction purposes. It is intended for informational purposes only. The user of this drawing is responsible for obtaining all necessary permits and approvals from the appropriate authorities. The user of this drawing is also responsible for ensuring that all dimensions and specifications are correct and that the drawing is used in accordance with its intended purpose. The user of this drawing is also responsible for ensuring that all dimensions and specifications are correct and that the drawing is used in accordance with its intended purpose.

MODEL # 1055

ROBERT SCOTT GENERAL CONTRACTORS
 2760 BIRDANS BLUFF DRIVE
 COLORADO SPRINGS, CO. 80919
 719-599-3770
Site MAJESTIC DRIVE
 COLORADO SPRINGS, COLORADO 80919

FIGURE 5

<p>TIM HAMILTON, ARCHITECT (719) 332-3742 tim@timhilton@yahoo.com</p>	<p>REVISIONS</p> <table border="1"> <tr><td> </td><td> </td><td> </td></tr> </table>																<p>TITLE SITE PLAN</p>	<p>SHEET NO. 5 of 11</p>



FIGURE 5



FIGURE 5

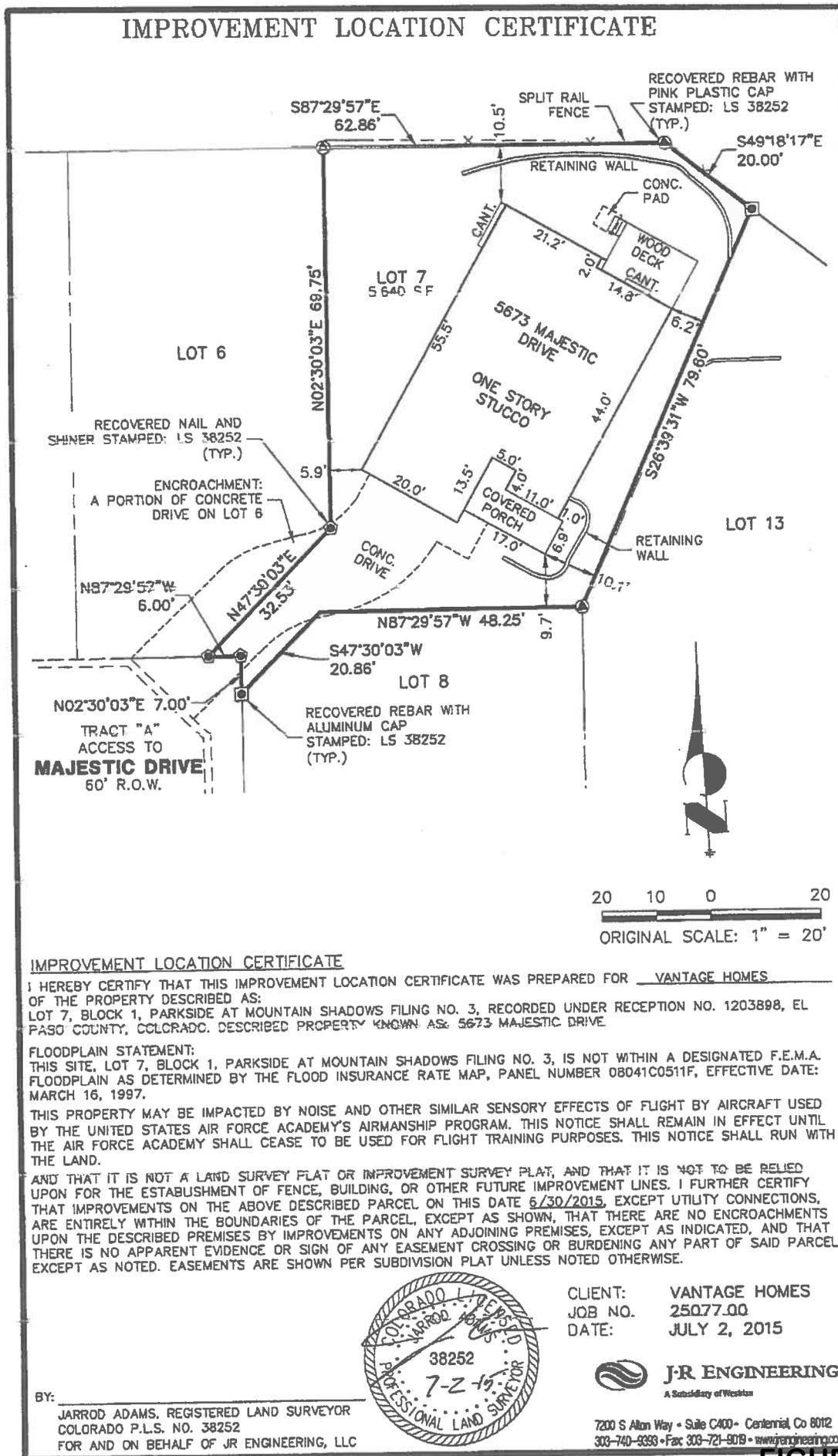
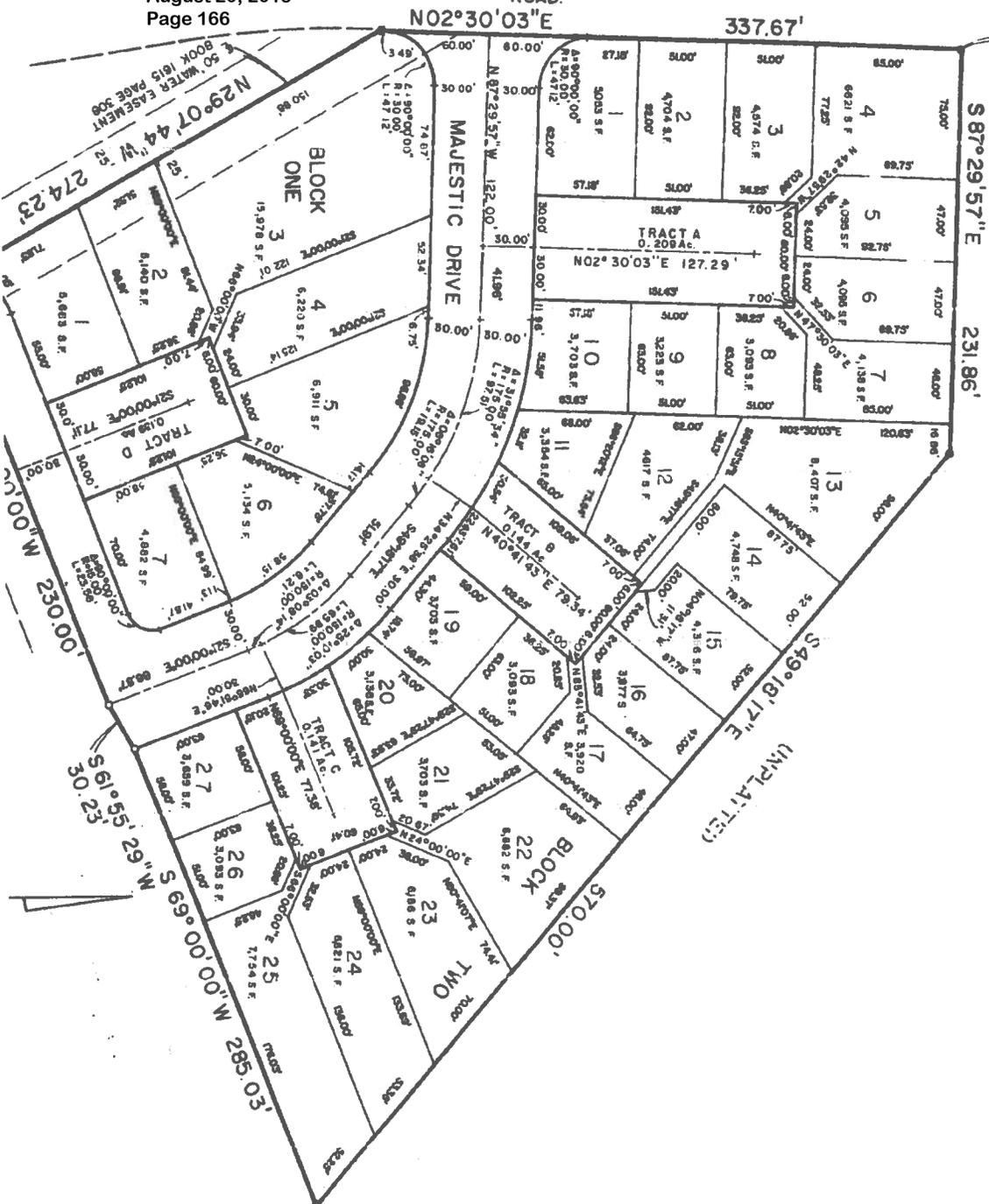


FIGURE 5



P.O.B.
 NW cor. The Meadows
 Sub. Fil. No. 1

- NOTE:
1. NOTICE - According to Colorado law, you must commence a legal action based upon any defect in this survey within 11 years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.
 2. Bearings shown hereon are relative to a bearing, N89°20'15" on the south line of the southeast quarter of Section 15 Township 13 South, Range 67 West of the 6th Principal Meridian, El Paso County, Colorado.
 3. All lot lines are parallel or perpendicular to the boundary lines unless otherwise noted.
 4. ● indicates found rebar and cap L.S. No. 17669.
 5. ○ indicates set rebar and cap L.S. No. 6169.
 6. All interior lot corners set rebar and cap L.S. No. 6169.
 7. Tract A-D shall be designated as a utility and ingress and egress easement. Ownership and maintenance shall be vested in The Homeowner's Maintenance Association.
 8. The approval of this replat vacates all prior plats for the area described by this replat.

EASEMENTS:
 Unless shown greater in width, both sides of all side lot lines are hereby platted with a five (5) foot easement for public utilities only, and both sides of all rear lot lines are hereby platted with a seven (7) foot easement for drainage purposes and public utilities only, with the sole responsibility for maintenance being vested with the property owners.

Analysis and Rebuttal of an Appeal to an Administrative Decision on a Nonuse Variance to Allow an Encroachment on a Side Setback at 5675 Majestic

Introduction: The design and initial development of the Parkside neighborhood has created numerous challenges to its rebuilding in the wake of the Waldo Canyon Fire. The neighborhood was designed and developed, in the early 1980's, in a manner that would never be allowed under current criteria. Houses were sited, in some cases, without due regard to existing property lines or setbacks; public and private utilities were routed in an inconsistent manner; and significant encroachments were made with regards to landscaping and drainage items.

In spite of these obstacles, there has been a great sense of cooperation between the City of Colorado Springs, builders, the Parkside Homeowners Association, and most of the residents in attempting to rebuild the 141 homes lost in the fire. All of these entities have had to deal with the colliding aspects of modern design criteria applied to outdated and inconsistent development standards, all while coping with the issues surrounding the rebuilding of a neighborhood that was devastated by a natural disaster.

Robert Scott General Contractors, Inc. is very familiar with the nuances and difficulties of rebuilding in Parkside. Robert Scott has obtained 15 Building Permits in Parkside, 12 of which have been completed; Robert Scott intends to build an additional seven homes in Parkside. As a result of our experience in the neighborhood, we have had to deal with issues unlike any we have ever had in building in any other neighborhood in Colorado Springs.

5675 Majestic: This address was not unique in Parkside in that there were obstacles that had to be overcome. The most significant obstacle with this particular house was the fact that the adjoining house (5673 Majestic) was allowed to place an extensive amount of their driveway on our property. So much of the driveway was placed on the property that it prohibited the building of our City approved site plan. Instead of raising this driveway as an issue, Robert Scott General Contractors made the decision to push the house at 5675 Majestic back a couple of feet (while still staying within all approved setbacks) so that no part of the existing driveway would have to be removed. We have dealt with other issues like this in Parkside and have always felt that the need to be a "good neighbor" was the proper approach in rebuilding the neighborhood.

In moving the house back, both our excavator and foundation crew discovered that the recently installed cable TV, phone lines, and irrigation system were placed along the back of the property at an angle to the property line. So as not to damage those lines, the foundation was angled to match those lines. However, this "angling" of the foundation caused the eastern boundary of the property to encroach into the normal 5 foot setback.

After the foundation was installed, we suspected that there might be an issue with the setback. We contacted our surveyor who verified that there was an encroachment and he completed an "asbuilt" drawing (Atch 1) to accurately depict what was the actual condition. We immediately contacted the City Planning staff, the adjoining property owner, and the Parkside HOA. While the City and the HOA have been understanding and are supportive of our request for a variance,

the adjoining property owner has rebuffed all of our attempts to arrive at a mutually beneficial compromise and has filed the appeal to the City's Administrative Decision. The various attempts to arrive a compromise solution will be discussed during the Planning Commission presentation.

In their appeal, the adjoining property owners have made several misstatements. The following is a discussion and rebuttal of those misstatements:

1. **Several comments regarding using wrong property corners and not following the “customary building technique of actually locating property corners before digging...”**

The house was staked in accordance with “customary building techniques” and the attached staking notes (Atch 2), dated June 1, 2015, which was accomplished at the time of the staking, shows all property corners and the siting of the house within all setbacks. It was these staking notes, along with research done prior and subsequent to the staking, that showed the significant effect that the driveway had on our property.

2. **“The home’s roof, gutter, and downspouts will be much closer to our property than 2.3 feet...”**

Both the City’s development codes and the local building codes allow the roof, gutters, and downspouts to intrude into the setback, the same as they do on the adjoining property owner’s house. As a matter of fact, one of the gutters on the other side of the appellants’ house had to be extended with its drainage lines coming onto another property that we own, without our permission. See the picture at Atch 3. But we realized the extenuating circumstances of Parkside and didn’t contest this trespass.

3. **“The planner stated that our driveway consumed much of the property and forced the home to be pushed back. That may be partially true, but that did not force the home to be angled improperly...”**

The very fact that the driveway “consumed much of the property” is the genesis of the problem. If the driveway had been installed solely within the boundaries of the adjoining property, none of the subsequent issues would have been encountered.

4. **Several comments regarding building a smaller home or building a two-story.**

There has been much publicity, all widely reported in the media (see Atchs 4 & 5) regarding the building of two story’s versus ranches in Parkside. 5675 Majestic is specifically approved, per the original development plan, as a “Ranch Plan”. While we could have applied for a variance to build a two story, we have encountered significant opposition from adjoining property owners when we have suggested doing this on other lots in the neighborhood. We made a conscious decision to build the style of house that was already approved for the lot.

5. **Comments regarding not meeting certain circumstances for the issuance of a nonuse variance, specifically,**

a. **“The unique physical conditions of the property may be the size or the location of existing structures on the property if such structures are not self-imposed conditions.**

This is most certainly the case. As previously mentioned, the adjoining property owner’s driveway on our property is the cause of this issue. And we didn’t build their driveway.

b. **“The unique physical conditions...may positively or negatively affect the property in question, including...adjacent land uses...”**

Again, this applies. The utility lines in the back of the property, that service adjoining properties, are the reason the house was angled, after it was pushed back on the lot.

6. **“The proximity of the new home to our home will negatively impact us because the new home is too close to our home...”**

Even with the encroachment of the setback, the average distance between the two houses along the adjoining property line is approximately 22.5 feet. This greatly exceeds the separation between houses in most of the rest of Parkside.

7. **“...part of the foundation buttress wall actually intrudes into our property...”**

No, it does not. See the picture at Atch 6.

8. **“...the (uncovered) patio will...be just over 27 inches from our property line, not the 60 inches required”**

Uncovered patios and decks, at or near ground level, are not required to be outside the setback area. Even the appellant’s own ground level deck was approved so as to encroach into their side setback. See Atch 7.

9. **“We all know how water can harm basements especially if it encounters expansive soils so close to the foundation. If the foundation is damaged by water, it will hurt the new owners”**

Any future liability with a new owner is the responsibility of Robert Scott General Contractors, Inc. and is a contractual relationship between us and our customer. Simply stated, it is not the concern of an adjoining property owner. But to this point, all soils testing and open excavations were done in strict accordance with State Law and local building regulations. No expansive soils were detected on site.

10. Comments regarding window wells and building codes.

The required egress window wells (minimum of 36 inches in depth) are located on the back of the property and do not affect the appellant's property to the side. The side window wells are just for light and ventilation purposes and are only 24 inches in depth.

11. Comments regarding the use of the setback for public utilities.

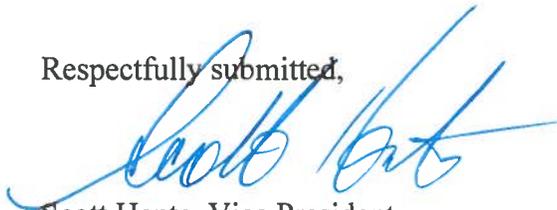
All public utilities in that specific area of Parkside are already installed and not located within the setback area.

12. "The HOA support does not matter in the variance process"

With regards to Parkside, it most certainly does. All landscaping that will be installed between the two houses will be maintained by the HOA and any liability associated with maintaining the area between the houses will be the responsibility of the HOA.

On another significant note, the support of the HOA is very telling. The HOA is very cognizant of the unique characteristics of Parkside and is understanding of the compromises that have to be made by all parties to see the area rebuilt.

Respectfully submitted,



Scott Hente, Vice President
Robert Scott General Contractors, Inc.

7 Attachments

1. Depiction of the "Asbuilt" Foundation
2. June 1, 2015 Staking Notes
3. Picture of Appellant's Drainage
4. Colorado Springs Gazette Article of December 8, 2014
5. Colorado Springs Independent Article of September 17, 2014
6. Picture of Buttress Wall w/Property Line Superimposed
7. Approved Site Plan for 5673 Majestic

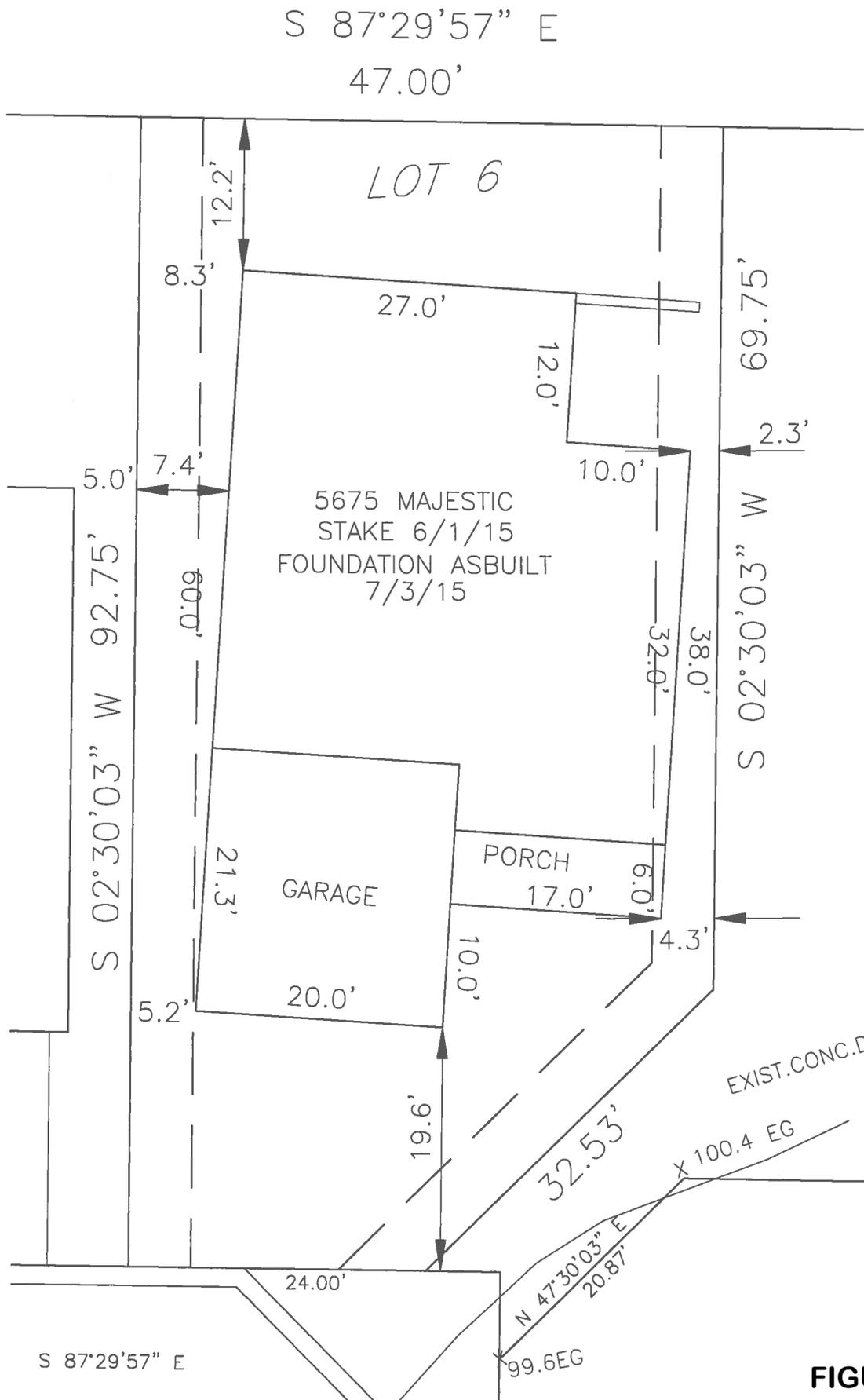
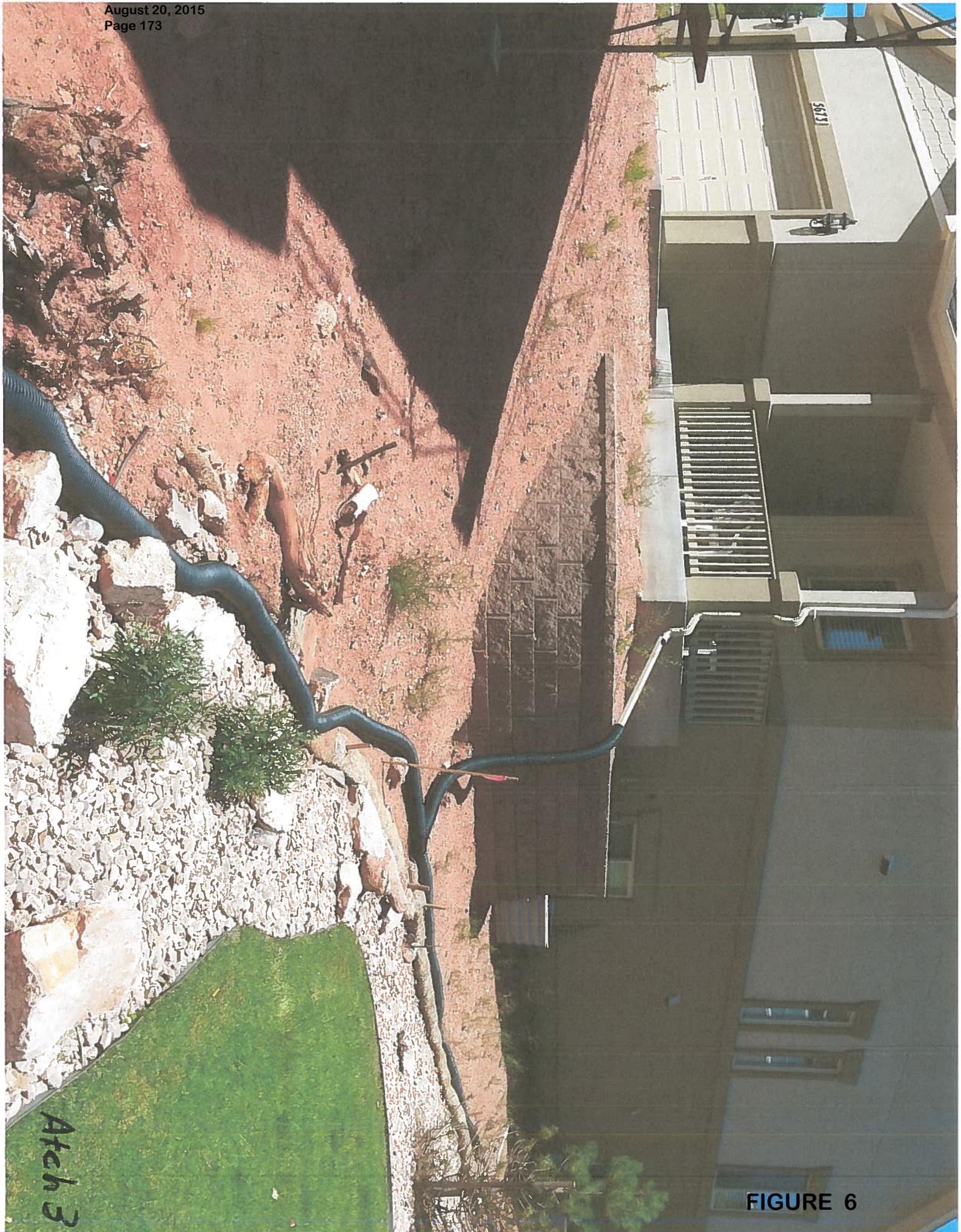


FIGURE 6
Atch 1



Atch 3

FIGURE 6

COLORADO SPRINGS NEWS, SPORTS & BUSINESS

HELLO, SCOTT

Long forgotten development plan raises rebuilding issues for Waldo Canyon fire victims

By **Ryan Maye Handy** (/author/ryan-maye-handy) • [✉ \(mailto:ryanmaye.handy@gazette.com\)](mailto:ryanmaye.handy@gazette.com) Updated: December 8, 2014 at 10:30 am • 3



For more than 20 years, Parkside resident Donald Meaney's house had a view of the hillsides west of Mountain Shadows. After the Waldo Canyon fire destroyed most of his neighborhood, Meaney designed and rebuilt a new home - one that preserved the best of the old: the view.

But a year after Meaney moved in, the picture window in his upstairs art studio faces the brown stucco wall of a home that Meaney thinks should never have been built.

Meaney's view is just one casualty of the complexities of rebuilding Parkside, the neighborhood most devastated by the 2012 Waldo Canyon fire. When the fire decimated nearly 90 percent of the 178-home neighborhood, it also laid bare a garbled 1987 development plan that had significant differences to what developers built.

But, per city ordinance, that plan was the template for re-creating Parkside. After an unexpected disaster, an otherwise normal city planning protocol has had an unforeseen consequences: Builders could reconstruct homes that never existed. Although different from the home that burned, the two-story home next to Meaney sailed through the city permitting process without amendments or alerts to neighbors, unlike other homes that changed elevation in Parkside.

The new home follows all city requirements, city officials say, and there is no appeals process for Meaney or his fellow disgruntled neighbor, Debby Zawacky, who has yet to rebuild her home. Both say their personal recovery from the fire will be stymied as long as the house stands.

"We lost everything, and we wanted to come back to our prior environment," Meaney said. "You don't buy into a neighborhood and expect a natural disaster."

Parkside peculiarities

Arch 4
FIGURE 6

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When Parkside residents talk about being "close" to their neighbors, they mean more than neighborhood familiarity and sharing house keys. Constructed in the mid-1980s, the homes in Parkside were built sometimes mere feet apart, a careful mix of two-story and ranch-style homes.

After its main developer North American Homes went bankrupt before the subdivision was finished, a new developer took over.

The fire prompted an examination of Parkside's development plan that had never been done. Planners found that homes had been built over property lines. Ranch-style homes were built where the development plan called for a two-story home. Ultimately, when it came to rebuilding, the city of Colorado Springs turned to the last record of what Parkside was meant to look like - a development plan from 1987.

The city pays little attention to the details of development plans - style of homes, for instance - as long as they follow setback and height regulations, said Peter Wysocki, director of the city's Planning Department. Although the 1987 plan was submitted after much of Parkside had been built, it shows some two-story homes where single-story homes had been built and cul-de-sacs with six houses where only five were built.

Meaney believes the discrepancies were a copier error made more than 30 years ago, an error that cost him his view.

"The 1987 plans were changed by accident to accommodate a fence . and those plans were made official," Meaney said. "But the changes in homes were never made official."

Because the city has no way of knowing how or why the plan changed, the mystery of the differences in the 1987 plan that replaced a 1984 plan is likely to endure, Wysocki said.

"We have no reason to believe there was a discrepancy," Wysocki added. "We have no evidence that it was erroneously approved by the city, that it was a mistake.

"And we have followed that plan since 1987."

The consequences

The different plan likely would have gone unnoticed, as it had for decades, had it not been for the Waldo Canyon fire.

As a strictly organized homeowners association, Parkside residents were told they could rebuild their former homes or change their layouts. But since many homeowners and contractors were rebuilding Parkside - instead of just one developer - a careful balance had to be struck to avoid blocking views.

Like their neighbors, Meaney and Zawacky relied on submitted permits to guide their rebuilding.

When Jim Howery, owner of Synergy Homes, was approved in August 2013 to rebuild a single-story home next to Meaney's at 5623 Majestic Drive, both he and Zawacky planned accordingly. But by March, the home had been changed to a two-story, according to records obtained by Meaney. Howery did not return calls from The Gazette requesting information about the change.

The home built by Howery, now listed for sale, wasn't the only one that changed in Parkside. At least three homes in the neighborhood rebuilt with two stories required an amendment to the development plan, Wysocki said. All the neighbors in those cases were notified of the changes to the plan, per city code. But not every change required a notice.

Meaney and Zawacky said they first realized the change to their neighbor's home as it was being built. While the home was different from its predecessor, the 1987 development plan allowed Howery to build the two-story home without an amendment, Wysocki said.

"If the proposed home meets the city's building height standards (and) building setbacks, we review the permit or application and approve. And actually regional building issues the building permit," Wysocki said.

"What's getting lost in this discussion is that the homebuilder obviously is relying on that 1987 plan as well," he added.

The loss of a mountain view is a hazard of living on the west side, particularly in Parkside, a suburban neighborhood unlike any other in Mountain Shadows, said James Mayerl, a former city senior planner for west of Interstate 25.

"The problem with Parkside is, it's not spread out," Mayerl said. "It's very tight with good-sized homes. On the west side, you want spaciousness and separation, and Parkside isn't quite like that."

Also, the city has never required what planners call an "as-built" record of the development plan; even after it has been rebuilt, Parkside will not have a new plan on city record, Wysocki said. Instead, the Pikes Peak Regional Building Department keeps records of zoned properties and permits.

Decades after the change to Parkside's plan, Mayerl, who started working at the city in the mid-1980s, also can't recall how it happened.

"I don't think we did anything wrong," he said. "We followed the process and somehow the plans got changed 27 years ago to allow a two-story home on the property."

Mountain Shadows is among many west-side areas - Broadmoor Bluffs to the south and Peregrine to the north, for example - that face fire hazards. It's not impossible, then, that another neighborhood could find itself facing a similar conundrum as Parkside when it comes to development plans, Mayerl said.

What's next

After months of meeting with Wysocki, probing Parkside's development history and being told they can't appeal the two-story house, Meaney and Zawacky have found a sympathetic ear in City Councilman Don Knight.

On Monday, the City Council will discuss in executive session the city's refusal to allow Meaney and Zawacky to appeal.

Since the matter would be considered a semijudicial one, Knight said he does not know the specifics of Meaney and Zawacky's complaint. But he does not understand why they can't appeal the construction of Howery's home.

Knight said the city attorney won't discuss the issue at the council.

"There is no process for them to appeal an issuance of a building permit for a single-family home," Wysocki said. "Those, of course, are reviewed administratively, and they are what we consider a 'use by right.' Use by right means that if it meets city standards, that the city has no justification or authority to deny the building permit."

Knight disagrees and thinks that appeals of administrative decisions - such as approving building permits - should go through the City Council, according to city code.

"If we deny them the right of appeal, the only option they have is to take it to court," Knight said.

Meanwhile, the two Parkside neighbors do not intend to take "no" for an answer.

"There is something broken in (the process). How can you say that's fair to either Don or myself when we lost everything in the fire?" Zawacky said. "I am positive that Don and I feel strong enough about this that we will keep going."



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Attack of the monster homes

Parksiders say their subdivision's being overrun with towering houses

By Pam Zubeck @PZubeck

When Don Meaney rebuilt his home in Parkside at Mountain Shadows, after the Waldo Canyon Fire destroyed it in June 2012, he included a big window in his second-story art studio. But now his view of the foothills is gone.

"I'm going to be looking at a stucco wall," he says, because of a neighboring house under construction.

On the other side of that house, Deb Zawacky will gaze out her kitchen window into a master bedroom.

Although both are 20-year returning residents who have paid attention in the fire's aftermath, they're powerless. City officials say the builder is entitled to erect a two-story home to replace the one-story that burned.

The issue underscores the dramatic change underway in Parkside, where the Waldo fire claimed about 140 of 178 homes. Since then, 77 lots have changed hands, records show, meaning some are moving in without a sense of the cottage feel that once defined Parkside. And homes up to 50 percent bigger than those destroyed by the fire are emerging in boxy designs that have left longtime residents unsettled.

No appeal

Meaney and Zawacky say they should have been notified that the house next to them, at 5625 Majestic Drive, would have two stories. Zawacky says she's attended nearly every homeowners meeting since the fire and recalls being assured by the city that if major changes occurred in reconstruction, neighbors would be asked for feedback.

In some cases, that's happened. But not for her and Meaney. The two-story Majestic house will double in size, to 2,125 square feet — yet city planning director Peter Wysocki says in an email that's not a change worthy of triggering the notification of neighbors.

That's because when Parkside's original 1984 development plan was amended in 1987, one change was to allow a two-story home there, Wysocki says. When the fire occurred and the home's owner sold the lot to Synergy Homes LLC, the builder was entitled to rebuild with two stories, he says; it doesn't matter that a one-story house had been there since two years before the 1987 amendment was approved.

As for a 10-day appeal period, Wysocki says that lapsed after the building permit was issued March 17.

Meaney and Zawacky, who were expecting a one-story ranch to be built, say they weren't even aware a building permit had been issued until construction began in July.

Meaney says that when he tried to speak with Jim Howery with Synergy, Howery shrugged and said the taller home is allowed. Synergy Homes didn't return calls seeking comment, and the office address listed in state business filings has a "by appointment only" sign on its door.

Bigger, but better?

Arch 5
FIGURE 6

Parkside was initially built as a subdivision of clustered homes on lots of 4,500 square feet or less — some are only 3,100 square feet — where residents rely on a homeowners association to handle landscaping and other services.

Because the development plan limits height to 30 feet and the footprint to 40 percent of the lot, builders are replacing some other single-story homes with two-story houses. On Hot Springs Court, half of the six homes bordering the cul-de-sac have grown in square footage by more than 30 percent. One is 51 percent bigger. A pair of big square homes on another Majestic Drive cul-de-sac have been rebuilt up to 54 percent larger than their predecessors, prompting some residents to call them "the twin towers."

Terry Rector, who rebuilt his home, says the sizes are exaggerated by the small lots. "Because they're so compact, it really stands out," he says. "So what you end up with is big, boxy high-risers. ... It's goofy."

Sandy and Jack Morgan lived in Parkside years ago, left, and then decided to build there after the fire. Unlike homes around them, theirs replicates a ranch destroyed in the fire. The Morgans' builder was former City Council president Scott Hente, a partner in Robert Scott Custom Homes.

Hente is building his eighth and ninth houses in Parkside and has purchased another 12 lots. He says Parkside has lost its neighborhood feel, but it's not all bad. The new homes are more diverse than the old, he says, due to the large number of builders involved. And those builders are merely responding to a market demand for bigger homes.

Aware of the 5625 Majestic controversy, Hente says he probably would have consulted neighbors. "The last thing I want to do is have a new homeowner be at odds with his neighbors the day he moves in for no fault of his own," he says. "I would never want to put one of my potential customers in that situation."

Meaney and Zawacky, meanwhile, say what's especially hard to swallow is that the new home at issue reportedly is being built on speculation, meaning there's no buyer yet.

"This spec house," Zawacky says, "should not have more rights than two 20-year returning residents."

— zubeck@csindy.com

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FIGURE 6
Atch 6

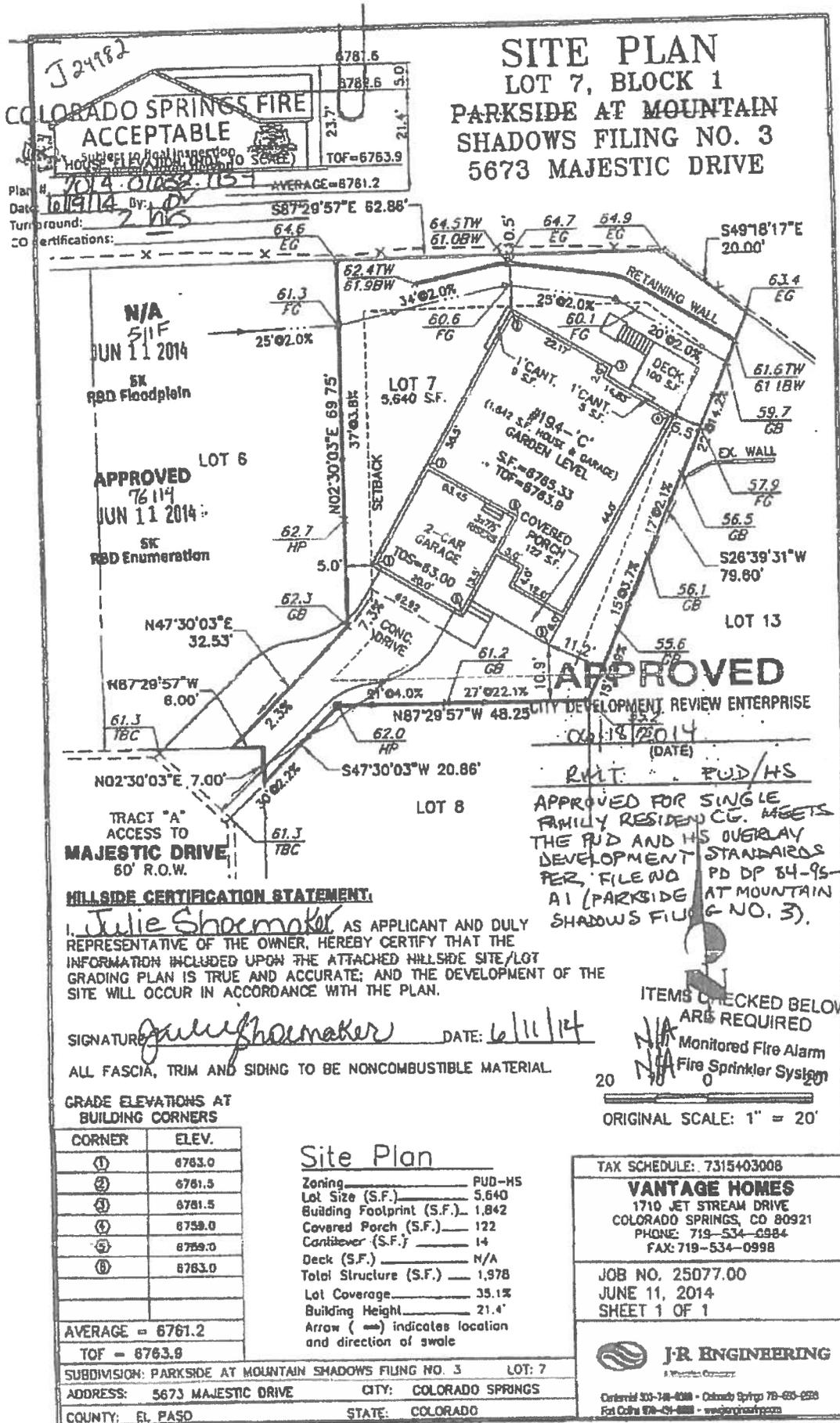


FIGURE 6
 Arch 7