



# **CITY PLANNING COMMISSION AGENDA**

**THURSDAY, NOVEMBER 20, 2014  
8:30 A.M.**

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

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# CITY PLANNING COMMISSION MEETING PROCEDURES

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**MEETING ORDER:**

The City Planning Commission will hold its regular meeting on **Thursday, November 20, 2014 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.springsgov.com](http://www.springsgov.com).

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## CITY PLANNING COMMISSION COMPREHENSIVE PLAN AND REVIEW CRITERIA

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### **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.

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## CITY PLANNING COMMISSION APPEAL INSTRUCTIONS

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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, Colorado Springs, CO 80903) by:

**Monday, December 1, 2014**

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, NOVEMBER 20, 2014**

1. Approval of the Record of Decision (minutes) for the September 18 and October 16, 2014 City Planning Commission Meetings
2. Communications
3. Consent Calendar (Items A.1-C) ..... Page 8
4. Unfinished Business Calendar (Items 4.A-4.C)..... Page 36  
     New Business Calendar (Items 5.A – 6.C)..... Page 77  
     Appendix – Review Criteria ..... Page 170

<b>CONSENT CALENDAR</b>		
<b>ITEM NO.</b>	<b>PROJECT DESCRIPTION</b>	<b>PAGE NO.</b>
<p><b>ITEM NO.: A.1</b> CPC ZC 14-00098</p> <p><b>ITEM NO.: A.2</b> CPC DP 14-00099 (Quasi-Judicial)</p> <p><b>PARCEL NO.:</b> 6307000017</p> <p><b>PLANNER:</b> Lonna Thelen</p>	<p>Request by Obering, Wurth &amp; Associates on behalf of Tudor Land Company for consideration of the following development applications:</p> <ol style="list-style-type: none"> <li>1. A zone change from A/HS/SS (Agricultural with Hillside and Streamside Overlays) to R/HS (Estate, Single Family Residential with Hillside Overlays). The zone change will be only for the 0.5 acres to be used for a new single-family home site.</li> <li>2. A development plan consisting of 4.9 acres that will cover whole site.</li> </ol> <p>The subject property is located northwest of Commerce Center at Tudor Road and addressed as 7500 Tudor Road.</p>	8
<p><b>ITEM NO.: B</b> CPC ZC 14-00079 (Quasi-Judicial)</p> <p><b>PARCEL NO.:</b> 5305215030</p> <p><b>PLANNER:</b> Larry Larsen</p>	<p>Request by Rivers Development on behalf of Nextop Holdings, LLC for consideration of a change of zone classification from PUD/AO (Planned Unit Development with Airport Overlay) to PK/AO (Public Park with Airport Overlay). The property consists of 4.59 acres and is located within the Trails at Forest Meadows development approximately 1,200 feet northwest of Cowpoke Road and Dry Needle Place.</p>	15
<p><b>ITEM NO.: C</b> CPC CU 14-00112 (Quasi-Judicial)</p> <p><b>PARCEL NO.:</b> 7413106024</p> <p><b>PLANNER:</b> Mike Schultz</p>	<p>A request by Julie Wolfe, Westside Assisted Living for the consideration of a Conditional Use for a Human Service Facility (assisted living). The applicant is proposing to add one (1) additional bed to the current operation (from 15 beds to 16 beds). The subject property is located at 816 W. Kiowa Street, is currently zoned R-2/UV (R-2 with use variance) and consists of .214 acres.</p>	22

## UNFINISHED BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p><b>ITEM NO.: 4.A</b> CPC ZC 14-00076</p> <p><b>ITEM NO.: 4.B</b> AR CP 11-00482-A1MJ14</p> <p><b>ITEM NO.: 4.C</b> CPC DP 14-00077 (Quasi-Judicial)</p> <p><b>PARCEL NO.:</b> 6325400021</p> <p><b>PLANNER:</b> Lonna Thelen</p>	<p>A request by NES, Inc. on behalf of Carefree &amp; Powers SW, Inc. for consideration of the following development applications:</p> <ul style="list-style-type: none"> <li>A. A change of zone classification from PBC/AO (Planned Business Center with Airport Overlay) and R-5/AO (Multi-Family Residential with Airport Overlay) to PBC/AO (Planned Business Center with Airport Overlay) to allow for a fast food restaurant (Popeye's).</li> <li>B. A major amendment to the concept plan to add a fast food restaurant;</li> <li>C. A development plan to allow a 2,405 sq.-ft. fast food restaurant (Popeye's).</li> </ul> <p>The property consists of 4.48 acres and is located southeast of Rio Vista and North Carefree Circle.</p>	36

## NEW BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p><b>ITEM NO.: 5.A</b> CPC A 13-00112</p> <p><b>ITEM NO.: 5.B</b> CPC PUZ 14-00063</p> <p><b>ITEM NO.: 5.C</b> CPC PUP 14-00064 (Quasi-Judicial)</p> <p><b>PARCEL NO.:</b> 6307200015 6307200016</p> <p><b>PLANNER:</b> Meggan Herington</p>	<p>Request by M.V.E., Inc. on behalf of Dusty Hills, Inc. for consideration of the following development applications:</p> <ul style="list-style-type: none"> <li>1. Dusty Hills Addition Annexation,</li> <li>2. Establishment of the PUD/HS zone district (Planned Unit Development with Hillside Overlay, Single Family Residential, 1.2 dwelling units per acre, 35 foot maximum building height),</li> <li>3. The Dusty Hills Concept Plan the allowing the development of 23 single family residential lots with open space tracts and public roads.</li> </ul> <p>The subject property consists of 27.74 acres and is located north of Woodmen Road, and east and south of Woodmen Court.</p>	77

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p><b>ITEM NO.: 6.A</b> CPC MP 02-00254-A3MJ14</p> <p><b>ITEM NO.: 6.B</b> CPC ZC 14-00080</p> <p><b>ITEM NO.: 6.C</b> CPC CP 14-00081 (Quasi-Judicial)</p> <p><b>PARCEL NO.:</b> 5306200003</p> <p><b>PLANNER:</b> Larry Larsen</p>	<p>Request by NES, Inc. on behalf of the RMG-RS Holdings, LLC for consideration of the following development applications:</p> <ol style="list-style-type: none"> <li>1. An amendment to the Powerwood No. 2 Master Plan to allow a change of land use designation from office/industrial to multi-family residential use.</li> <li>2. A change of zone district classification from A/AO/SS (Agricultural with Airport and Streamside Overlays) to R-5/AO/SS (Multi-Family Residential with Airport and Streamside Overlays).</li> <li>3. A concept plan for Powerwood No. 2 North that would allow for construction of a 482 unit multi-family residential project to include 18 residential buildings with a maximum height of 45 feet, a clubhouse with a pool, parking areas, private access drives, landscaping and Cottonwood Creek Open Space with drainage facilities.</li> </ol> <p>The property consists of 29.61 acres and is located northwest of Tutt Boulevard and Sorpresa Lane.</p>	<p>151</p>

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**CITY PLANNING COMMISSION AGENDA**

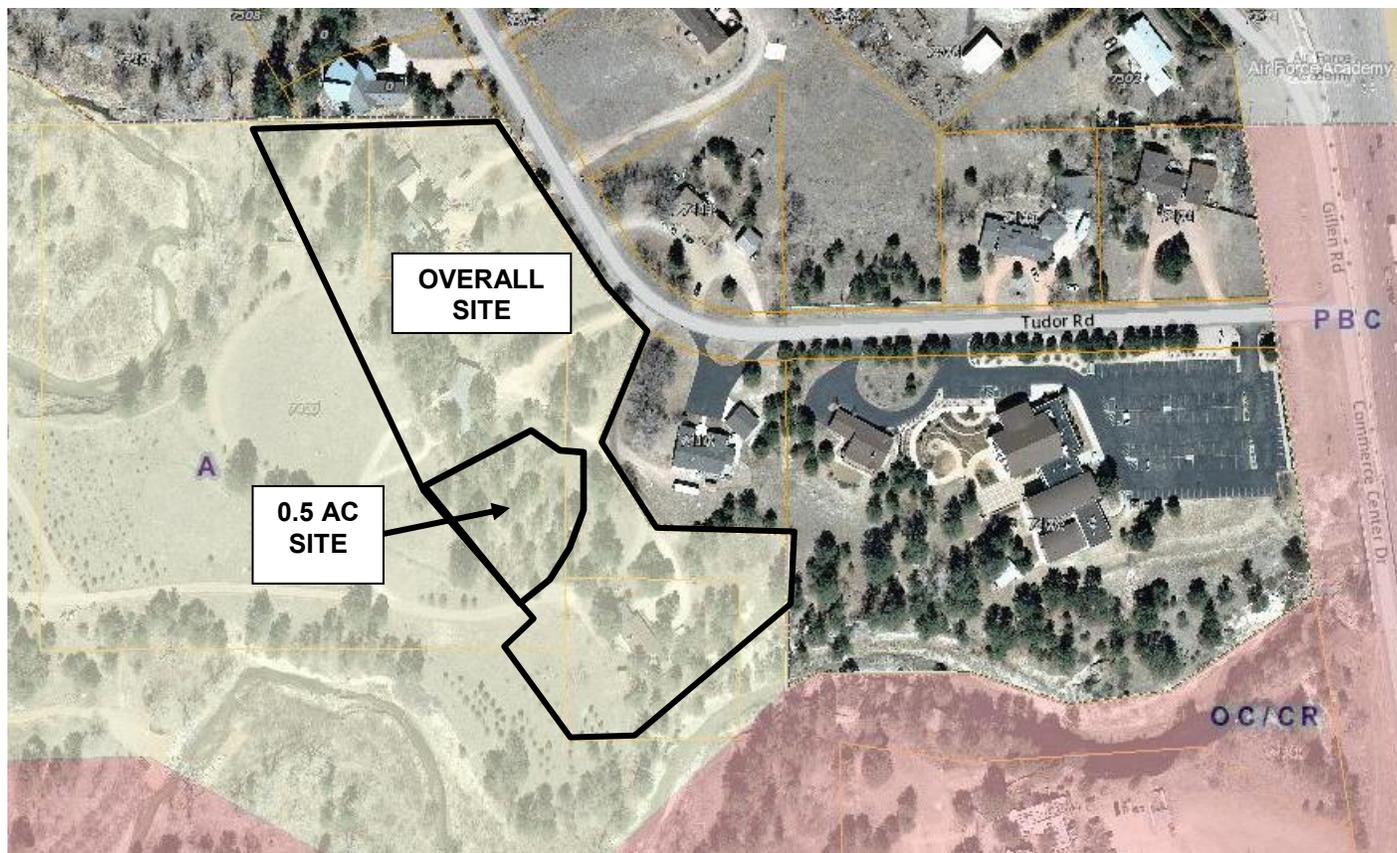
**ITEM NO: A.1, A.2**

**STAFF: LONNA THELEN**

**FILE NO(S):**

**CPC ZC 14-00098 – QUASI-JUDICIAL**  
**CPC DP 14-00099 – QUASI-JUDICIAL**

**PROJECT: TUDOR LAND COMPANY**  
**APPLICANT: OBERING, WURTH & ASSOCIATES**  
**OWNER: TUDOR LAND COMPANY**



### **PROJECT SUMMARY:**

1. **Project Description:** This project includes concurrent applications for a development plan for a 4.9-acre site located west of Commerce Center Drive and south of Tudor Road a zone change for 0.5 acre. There are three existing homes on the site 7420, 7500, 7502 Tudor Road. These homes were built prior to annexation on unplatted lots. With this project, the property owner would build one additional single-family home. The development plan for the overall site proposes four single-family lots (three existing lots and one new lot); however, the zone change and an administrative final plat are for the new lot consisting of 0.5 acre. For future planning purposes and to ensure compliance with the master plan, a three phased plan has been shown on the development plan to include the three (3) existing residences, the proposed residence and potential expansion area for new single family homes.

The applicant is requesting a zone change from A/HS (Agriculture with Hillside Overlay) to R/HS (Estate Single-Family Residential with Hillside Overlay) for 0.5 acres; the remaining 4.4 acres will remain zoned A/HS. In addition, the applicant is proposing a development plan for 4.9 acres of 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:** 7500 Tudor Road
2. **Existing Zoning/Land Use:** A/SS/HS / vacant
3. **Surrounding Zoning/Land Use:**  
North: County / single-family  
South: A and OC / single-family and vacant  
East: County / single-family  
West: A / single-family
4. **Comprehensive Plan/Designated 2020 Land Use:** General Residential
5. **Annexation:** Tudor Land Company Addition #1, 1988
6. **Master Plan/Designated Master Plan Land Use:** Tudor Land Company Master Plan / single family
7. **Subdivision:** The site is currently unplatted.
8. **Zoning Enforcement Action:** No enforcement cases
9. **Physical Characteristics:** The site proposed for the single-family residence has a relatively flat area on the north portion of the site and then slopes steeply to the south. The site also has existing evergreen vegetation.

**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 20 property owners within a customized buffer area of between 500 and 1,000 feet. No neighborhood comments were received.

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

1. **Review Criteria / Design & Development Issues:**  
This project has been proposed to construct a single-family home near the existing single-family home at 7500 Tudor Road. The Tudor Land Company Master Plan encompasses three existing single family homes, the Margarita at Pine Creek restaurant, and a large acreage of vacant land with Monument Creek running through

the property. The Master Plan is 85.6 acres in total. To the north and east of the property is county land that is used for large lot single-family.

The zone change and development plan are specific to the lot that is to be created for the new single-family residence. The existing large tract of unplatted land has Hillside and Streamside Overlay. The 0.5-acre lot that is to be created will have Hillside Overlay on it, but will not have a Streamside Overlay due to the fact that the streamside buffers will not touch the new lot. The Hillside Overlay requires a development plan to be submitted. Staff has visited the property with the applicant to determine a location to site the house that is least impactful on the hillside characteristics of the property. The site has significant existing vegetation in the form of evergreen trees and scrub oak. In addition, the south half of the lot has a steep slope as the property slopes down to the creek. The home has been located at the top of the slope and includes a walkout basement to compliment the grade of the property.

The development plan document is also serving as future planning for the property. The future road location to access the existing homes and future residential homes are proposed. The plan also notes the potential lot configuration of the currently unplatted lots and notes the location of the future home sites.

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.

*Strategy LU 502d: Plan Residential Areas to Conserve Natural Features*

Plan neighborhoods in areas that contain significant natural features and environmental constraints to conserve those features through lower average densities or clustering of development.

The comprehensive plan for this area shows general residential. The proposed plan to develop a single-family home is in compliance with the comprehensive plan. The comprehensive plan encourages infill in undeveloped areas and preservation of natural features. The property to be developed preserves the existing hillside characteristics and is within an infill area.

3. Conformance with the Area's Master Plan:

The property is part of the Tudor Land Company Master Plan. The property is master planned for 2-4 dwelling units per acre. The proposed R zoning designation and single-family development falls within the density range allowed.

**STAFF RECOMMENDATION:**

**Item No: A.1                    CPC ZC 14-00098 – ZONE CHANGE**

**Approve** the zone change for Tudor Land Company from A/SS/HS (Agriculture with Streamside and Hillside Overlays) to R/HS (Estate Single-Family Residential with Hillside Overlay), based upon the finding that the zone change complies with the review criteria in City Code Section 7.5.603.B.

**Item No: A.2                    CPC DP 14-00099 – DEVELOPMENT PLAN**

**Approve** the development plan for Tudor Land Company, based upon the finding that the development plan complies with the review criteria in City Code Section 7.5.502.E, subject to compliance with the following technical and/or informational plan modifications:

**Technical and Informational Modifications to the Development Plan:**

1. Under zone district proposed zoning note "Proposed zoning for Lot 1 P&P subdivision R/HS Ordinance # \_\_\_\_\_".
2. Revise the phasing note as follows:

<u>Phase</u>	<u>Zone</u>	<u>Improvements</u>
Phase I	R/HS	new construction of a single-family home
Phase II	A/HS	Property to be rezoned to R/HS and platted. This will occur when a building permit is required for changes to the existing home or new construction. This phase involves property addresses 7502, 7500, and 7420 Tudor Road.
Phase III	A/HS	This includes the access roadway and potential future single family home development.

1. Identify and label the line in the lot for 7500 Tudor Road which is connected to the water main in Tudor Road.
2. Show the proposed utility services on the Preliminary Utility Plan and ensure separation requirements are met.
3. Label what appears to be a retaining wall(s).
4. The existing 20-foot utility easement needs to meet current standards, which require a 30-foot utility easement. The new 30-foot easement will need to use the current terms and conditions.



**Obering, Wurth & Associates**  
**Consulting Civil Engineers**  
**Professional Land Surveyors**

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1046 Elkton Drive · Colorado Springs, Colorado · 80907 · Phone 719-531-6200 Fax 719-531-6266

City of Colorado Springs  
Community Development Dept.  
30 S. Nevada Ave., Suite 105  
Colorado Springs, CO  
Attn: Lonna Thelen

Re: Application for Development  
Plan, Zone Change and Plat  
Tudor Land Company Property  
A Portion of Parcel C  
Project No. 14013

**PROJECT STATEMENT**

**PROJECT DESCRIPTION:**

The project consists of a Development Plan application for approximately 4.9 acres of the Easterly portion of Parcel C included in the Tudor Land Company Master Plan approved by the City Planning Commission 02/04/88 and by City Council on 04/12/88. The approved Master Plan indicates Parcel C to be developed into a Residential use with 2-4 DU/Acre. The property included in the Development Plan application is adjacent to existing Tudor Road, a public right of way, and contains three (3) existing single family residences and one (1) proposed single family residence. Concurrent with the Development Plan application is a Zone Change application for the 0.5 acre proposed single family residence lot from A-HS/SS to R-HS. A Subdivision Plat application (P & P Subdivision Filing No. 1) for this 0.5 acre lot is also proposed.

For purposes of this application, the subject portion of Parcel C of the Master Plan has been divided into three (3) phases. Phase 1 includes the single family lot proposed to be rezoned and platted. Access to this lot is proposed to be provided from an existing asphalt driveway from Tudor Road with an appropriate Ingress/Egress Easement being granted. Phase 2 includes the existing single family residences which are proposed to remain unchanged. Phase 3 includes the Westerly remainder of Parcel C and a future public roadway from Tudor Road to provide access to this remainder area. The future roadway is shown for information only and is not proposed to be constructed until such time as Phase 3 is developed. Phase 3 is not a part of this application and a separate application will be prepared when/if this parcel is developed. Phase 3 is currently being utilized for tree conservation. There are no current plans to change this use in the near future, however, the approved Master Plan indicates a future residential use.

**JUSTIFICATION:**

The proposed development conforms to the approved Master Plan for the area. The Master Plan indicated residential use in the 2-4 DU/Acre range. The proposed lot consists of 0.5 Acres (2 DU/Acre). The existing residences consist of approximately 1 acre minimum future lots (a 1 DU/Acre min.). The surrounding land uses on the North, South and East are also residential. The site lies adjacent to an existing public road right-of-way which will provide

adequate access via an existing paved driveway. The proposed lots lie outside of both the Streamside overlay limits and the Monument Creek floodplain. The proposed lot is an infill between two existing residential homes. No significant natural features will be impacted by this proposed development. A public wastewater main exists along the South side of the proposed lot and public water and gas mains exist within Tudor Road adjacent to the proposed development. These existing utilities are suitable to provide adequate service for the site. No new public utilities are anticipated to be required.

**ISSUES:**

The issues raised during the pre-application process include the following:

**Access to the Westerly Portion of Parcel C.**

A public right of way has been shown from Tudor Road to the Westerly portion of Parcel C. This roadway is a 47' right of way with 5' easements on each side (Minor Residential Local Street). Finished contours have been shown and the grade will not exceed the maximum permitted grade of 10%. A 28' wide asphalt MAT width is provided which is adequate to serve a maximum of 20 single family residences. This roadway is not anticipated to be improved until/unless the Westerly portion of Parcel C is developed and is not a part of this Development Plan Application.

**Areas of slope in excess of 25%.**

The area of slopes in excess of 25% has been shown. These areas consist of the slope along the Westerly edge of the existing/proposed residences. For the lot to be platted as a part of this development, the majority of the slope area is within the 35' rear setback area and as such is not anticipated to be disturbed. The remainder of the slope area will be disturbed only to the extent necessary to construct the new residence.

On behalf of the Tudor Land Company, and as their agent in this matter, Obering, Wurth & Associates (**OWA**) requests favorable consideration of these applications. If there are any questions or comments, please contact the undersigned.

Obering, Wurth & Associates (**OWA**)



Roland G. Obering, P.E. & P.L.S.

Cc: Tudor Land Company, Bob Tudor & Pati & Peter Burlison  
Walker Strategies, LLC, Kevin Walker, President  
Signature Homes, Marty Brinegar, P.M.

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**CITY PLANNING COMMISSION AGENDA**

**ITEM NO: B**

**STAFF: LARRY LARSEN**

**FILE NO: CPC ZC 14-00079 - QUASI-JUDICIAL**

**PROJECT: "PK" ZONING FOR NEIGHBORHOOD PARK AT TRAILS EAST**

**APPLICANT: RIVERS DEVELOPMENT**

**OWNER: NEXTOP HOLDINGS, LLC**



**PROJECT SUMMARY:**

1. Project Description: This project includes a change of zoning from PUD/AO (Planned Unit Development with Airport Overlay) to PK/AO (Public Park with Airport Overlay) (**FIGURE 1**). The property is located within the Trails at Forest Meadows development project, approximately 1,200 feet northwest of the Cowpoke Road and Dry Needle Place intersection or immediately east of the Canary Circle and Loftwood Road and consists of 4.59 acres.

The application, if approved, will allow for the future development of the Trails at Forest Meadows Neighborhood Park. This change of zoning was a requirement of the City Parks and Recreation Advisory Board when it approved the park's master plan and design.

2. Applicant's Statement: (**FIGURE 2**)
3. Planning and Development Department's Recommendation: Approval of the application.

**BACKGROUND:**

1. Site Address: Not applicable.
2. Existing Zoning/Land Use: PUD/AO (Planned Unit Development with Airport Overlay / vacant. (**FIGURE 3**)
3. Surrounding Zoning/Land Use:  
North: PUD/AO (Planned Unit Development with Airport Overlay) / Vacant (Planned: Residential)  
South: PUD/AO (Planned Unit Development with Airport Overlay) / Single-family residences.  
East: PUD/AO (Planned Unit Development with Airport Overlay) / Vacant (Planned: Residential)  
West: PUD/AO (Planned Unit Development with Airport Overlay) / Vacant (Planned: Residential)
4. Comprehensive Plan/Designated 2020 Land Use: General Residential
5. Annexation: Woodmen Heights No. 4 (2004)
6. Master Plan/Designated Master Plan Land Use: Woodmen Heights / Park
7. Subdivision: Unplatted.
8. Zoning Enforcement Action: None.
9. Physical Characteristics: The majority of the site slopes towards the northwest. The site has no significant vegetation (grasses and shrubs) or natural features.

**STAKEHOLDER PROCESS AND INVOLVEMENT**: No public notice or distribution was deemed necessary. However, this application was required by and was reviewed and coordinated with by the City Parks and Recreation Department

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

1. Design and Development Issues: None. No significant issues or concerns have been identified.
2. Conformance with the City Comprehensive Plan: The zone change and development plan is consistent with the City Comprehensive Plan. The Plan's 2020 Land Use Map identifies this area as a "General Residential".

The following City Comprehensive Plan goals, objectives and policy statements apply to this project:

Policy LU 201: Promote a Focused, Consolidated Land Use Pattern: Locate new growth and development in well-defined contiguous areas in order to avoid leapfrog, scattered land use patterns that cannot be adequately provided with City services.

Objective LU 5: Develop Cohesive Residential Areas: Neighborhoods are the fundamental building block for developing and redeveloping residential areas of the city. Likewise, residential areas provide a structure for bringing together individual neighborhoods to support and benefit from schools, community activity centers, commercial centers, community parks, recreation centers, employment centers, open space networks, and the city's transportation system. Residential areas also form the basis for broader residential land use designations on the citywide land use map. Those designations distinguish general types of residential areas by their average densities, environmental features, diversity of housing types, and mix of uses. Residential areas of the city should be developed, redeveloped and revitalized as cohesive sets of neighborhoods, sharing an interconnected network of streets, schools, parks, trails, open spaces, activity centers, and public facilities and services.

Policy LU 501: Plan Residential Areas to Integrate Neighborhoods into the Wider Subarea and Citywide Pattern: Plan, design, develop, and redevelop residential areas to integrate several neighborhoods into the citywide pattern of activity centers, street networks, environmental constraints, parks and open space, school locations and other public facilities and services.

Strategy N 203f: Develop Gathering Places: Plan and develop a landscaped, outdoor center for each new neighborhood in conjunction with schools, parks, recreational facilities, supporting retail uses, community centers, neighborhood life centers or other civic or institutional uses to function as a focal point and gathering place for the public.

*It is the finding of the City Planning and Development Staff that the zone change for the neighborhood park is consistent with the City's Comprehensive Plan 2020 Land Use Map, as to be amended, and the Plan's goals, objectives and policies for General Residential use.*

3. Conformance with the Area's Master Plan: This project is located within the Woodmen Heights Master Plan, and the area is designated for park use.

*It is the finding of the City Planning and Development Staff that the zone change for the neighborhood park is consistent with the Woodmen Heights Master Plan.*

4. Zone Change to Public Park (PK): The existing zoning for this area is PUD/AO (Planned Unit Development with Airport Overlay). The proposed zone is PK/AO (Public Parks with Airport Overlay).

Zone change requests are reviewed based upon the zone change criteria found in City Code Section 7.5.603.B. Further, zone changes to Public Parks are reviewed based upon the establishment and development of a PK zone using the criteria found in City Code Section 7.3.402.B.

*It is the finding of the City Planning and Development Staff that the zone change meets the zone change criteria found in City Code Section 7.5.603.B and 7.3.402.B.*

**STAFF RECOMMENDATION:**

**Item No: B    CPC ZC 14-00079 – Change of Zone District**

**Approve** the change of zoning district from PUD/AO (Planned Unit Development with Airport Overlay) to PK/AO (Public Park with Airport Overlay), based upon the finding that it complies with the review criteria of City Code Sections 7.5.603.B. and 7.3.402.B.

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# PARK SITE

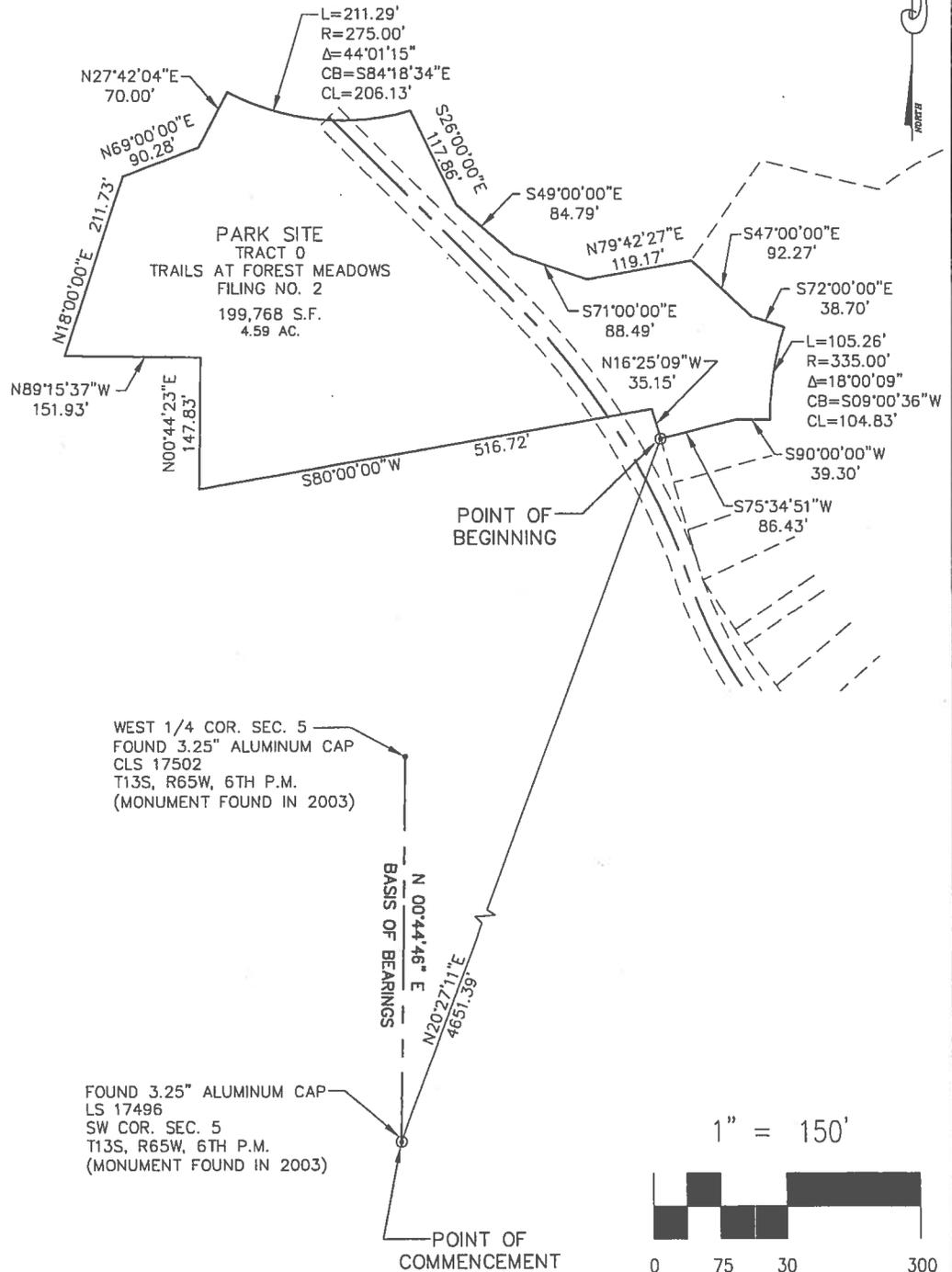


EXHIBIT  
 EASMT #2  
 JOB NO. 08-025  
 DATE PREPARED: MAY 30, 2014



102 E. PICES PEAK AVE. STE. 304  
 COLORADO SPRINGS,  
 COLORADO 80903

719.955.5485  
 1.719.444.8427

SHEET 1 OF 1

**FIGURE 1**



13530 Northgate Estates Dr.  
Suite 200  
Colorado Springs, CO 80921  
Phone: 719.598.5190  
Fax: 719.598.5194

August 4, 2014

### **Zone Change Project Statement**

**Description:**

The zone change will take the tract of land described in the attached legal description from PUD to PK zoning per the requirement of the Parks and Recreation Advisory Board on March 13, 2014.

**Justification:**

The land use will be consistent with the approved master plan, concept plan, and development plan and will follow the recommendations of the Parks and Recreation Advisory Board.

**Issues:**

No issues.

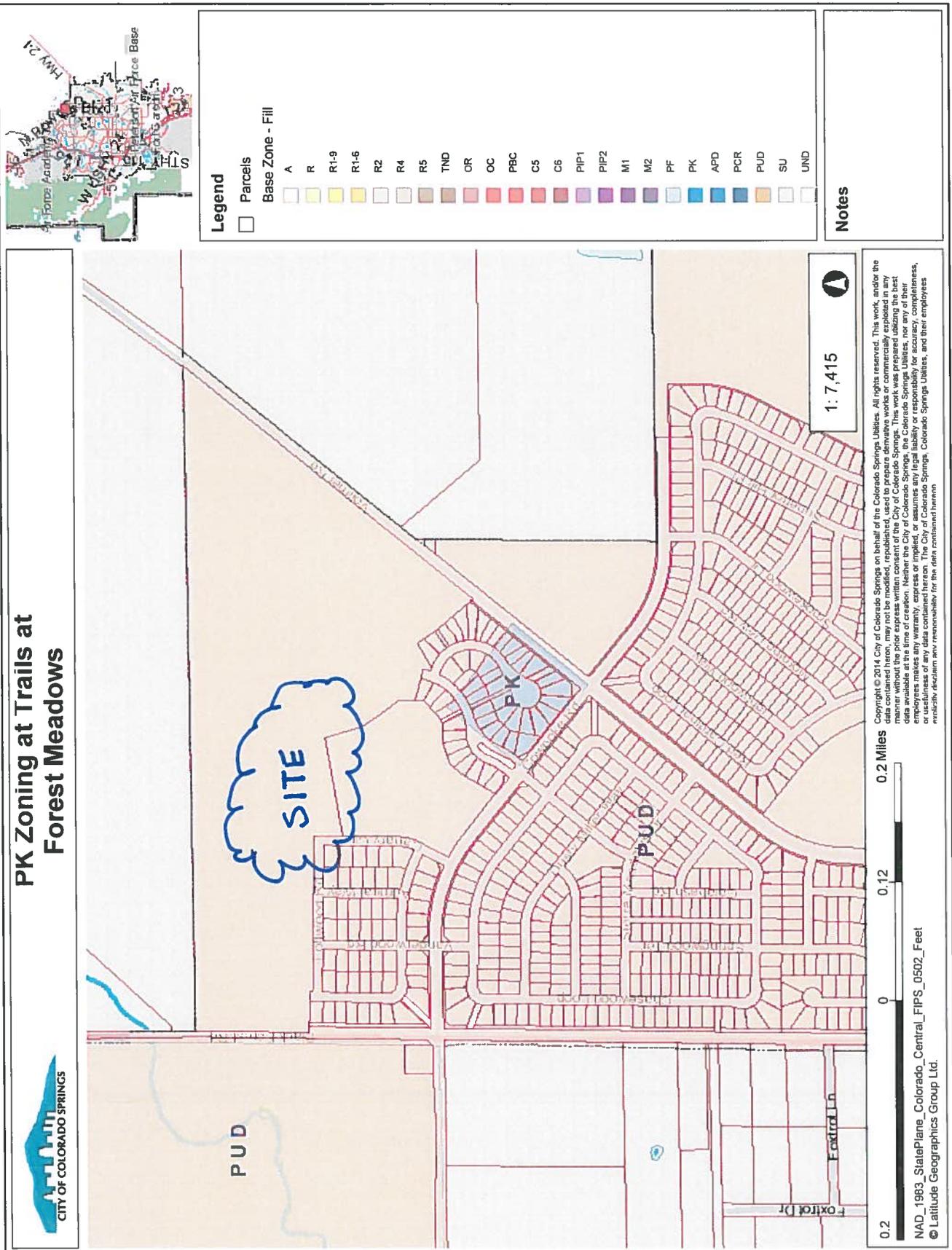


FIGURE 3

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**CITY PLANNING COMMISSION AGENDA**

**ITEM: C**

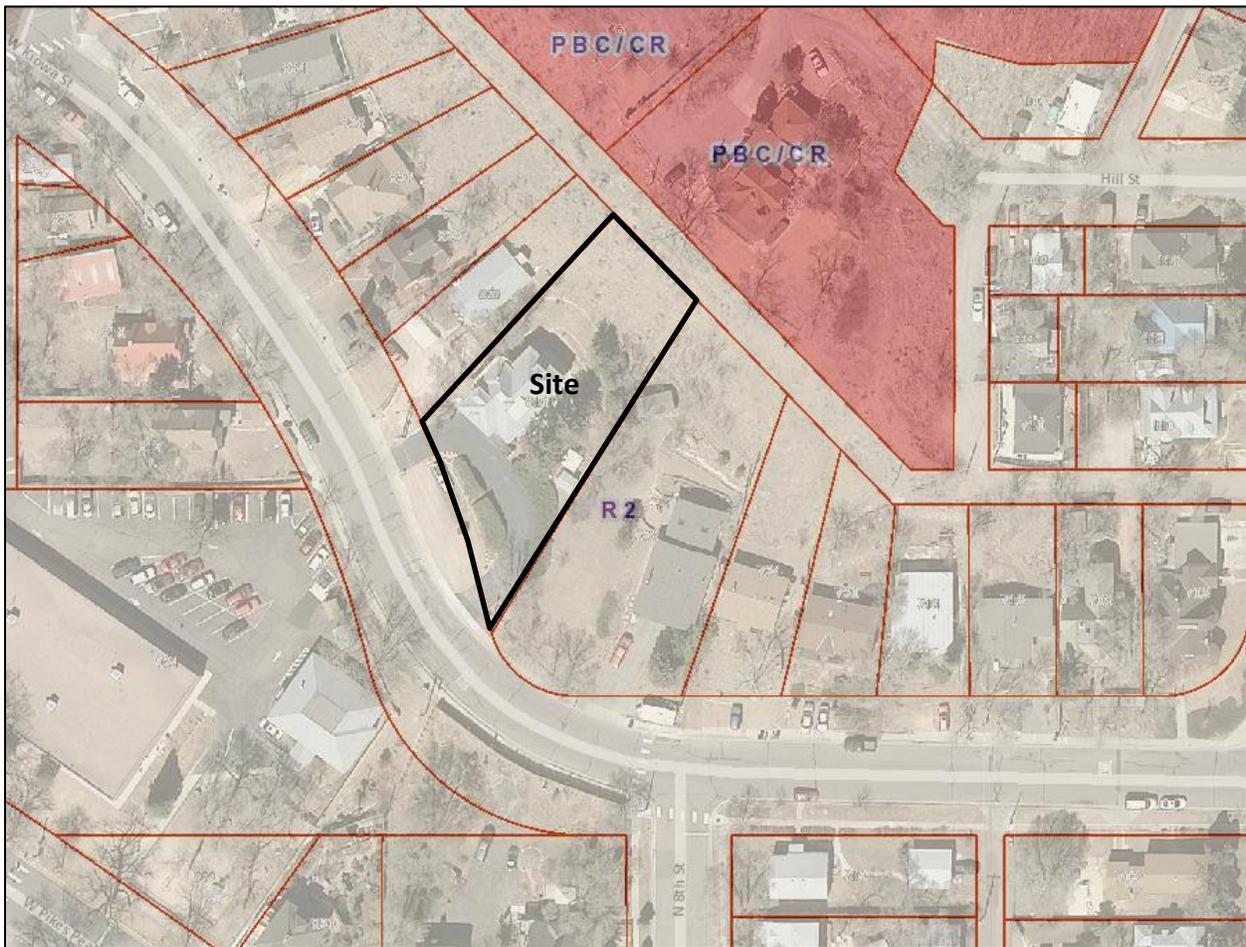
**STAFF: MICHAEL SCHULTZ**

**FILE NO:**  
**CPC CU 14-00112 – QUASI-JUDICIAL**

**PROJECT: WESTSIDE ASSISTED LIVING**

**APPLICANT: JULIE WOLFE**

**OWNER: 816 W. KIOWA LLC**



### **PROJECT SUMMARY:**

1. Project Description: This proposal is to formally recognize the Westside Assisted Living as a human service facility within the R-2/uv (Two-family Residential with use variance) zone district and to allow up to 16 residential beds within the facility.
2. Applicant's Project Statement: **(FIGURE 1)**.
3. Planning and Development Department's Recommendation: Approve the conditional use and development plan **(FIGURE 2)** for the human service facility within the R-2/uv zone district subject to the technical and information items described below.

### **BACKGROUND:**

1. Site Address: 816 W. Kiowa Street
2. Existing Zoning/Land Use: R-2/uv / assisted living facility
3. Surrounding Zoning/Land Use: *North*: PBC / Event Center (The Pinery at the Hill)  
*South*: R-2 / Elementary School and Residential  
*East*: R-2 / Single-family Residential  
*West*: R-2 / Single-family Residential
4. Comprehensive Plan/Designated 2020 Land Use: General Residential.
5. Annexation: Original Town of Colorado Springs, 1872.
6. Master Plan/Designated Master Plan Land Use: Westside Master Plan / Residential Low Density.
7. Subdivision: Prospect Heights Addition.
8. Zoning Enforcement Action: None.
9. Physical Characteristics: The property slopes from north to south with the house sitting above the roadway. A circular driveway provides access, off-street parking occurs between the driveway and the sidewalk.

### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

Notification postcards were mailed to 104 property owners located within 500 feet of the property and a poster was placed on the subject property shortly after the application was submitted.

Because the Westside Assisted Living facility has been in operation for 30 years at the same location and the request is to formally recognize the use and to add one (1) additional bed to its capacity, staff was agreeable to immediately bring forward the request. At the time of this report, staff had not received any comments or questions regarding the request.

### **ANALYSIS OF REVIEW CRITERIA / MAJOR ISSUES / COMPREHENSIVE PLAN AND MASTER PLAN CONFORMANCE:**

1. Review Criteria/Design and Development Issues:

The current use has been operating as a human service facility/assisted living home under the name Westside Assisted Living home in the same location for over 30 years. Prior to the operation the property had received a use variance in 1983 to operate a boarding house, which is defined as (1982 definition): “A building, other than a hotel, where, for compensation, either paid directly or indirectly, lodging and meals are provided for not more than fifteen (15) roomers in addition to members of the family.”

Staff reviewed the prior use variance along with the City’s authorization in March 1996 to utilize the home as an assisted living facility; as well the City providing approval of up to 15 residents in 2002 (**FIGURE 3**). Staff determined that the owner should submit a conditional use request in order to: a) formally recognize the Human Service Facility use within the R-2 (which requires a conditional use); and b) allow the increase in the number of residents within the home from 15, the prior approved capacity, to 16 residents.

The Colorado Department of Public Health and the Regional Building Department have both signed off on the proposed increase in beds from 15 to 16 (**FIGURE 4**).

The property and use generally blends into the existing neighborhood; staff is requesting that the applicant provide a fenced enclosure around the dumpster, located out front of the home, as well as providing some type of screening (either low fence, or landscaping, or combination of) along Kiowa regarding the gravel parking area.

## 2. Conformance with the City Comprehensive Plan:

The proposed request meets several objectives and policies within the City Comprehensive Plan as well as maintaining the existing character of the General Residential as designated within the 2020 Land Use Map. The specific objectives within the City Comprehensive Plan include:

*Objective LU 2:* Develop a land use pattern that preserves the City’s natural environment, livability and sense of community.

*Objective LU 3:* Develop a mix of interdependent, compatible and mutually supportive land uses.

*Objective LU 6:* Meet the housing needs of all segments of the community.

*Policy LU 602:* Integrate Housing with Other Supportive Land Uses.

## 3. Conformance with the Area’s Master Plan:

The human service facility/assisted living home is in conformance with the General Residential designation within the Westside Master Plan.

**STAFF RECOMMENDATION:**

**Item: C                      CPC CU 14-00112 – Conditional Use**

**Approve** the conditional use for a human service facility within the R-2 (Two-family Residential) zone district for the property located at 816 W. Kiowa Street, based on the findings that the conditional use application complies with the criteria found in Section 7.5.704 of the City Zoning Code, and is subject to the following technical and informational modifications listed below:

**Technical and/or Informational Modifications to the Conditional Use:**

1. Note the City File number (CPC CU 14-00112) in the lower right hand corner of each of the plan pages.
2. Note that 16 residents is the maximum approved capacity for the facility.
3. Provide a fenced enclosure around the dumpster to screen from the public; show location and note detail on the development plan.
4. Clearly delineate the property line location and general lot dimensions on the plan.
5. Add contact information on the development plan.
6. Clarify the number of parking stalls (even approximate) on the gravel area and within the driveway.

## Westside Assisted Living

### PROJECT STATEMENT

For over 30 years Westside Assisted Living (“Westside”) has been in continual operation at 816 West Kiowa Street in Colorado Springs CO. Westside prides itself in its ability to create a homelike environment for all residents, while also providing superior care and staffing levels commonly associated with larger facilities. Westside currently has a full-time administrator and a caregiving staff that generally consists of at least 8-10 professional caregivers.

The existing facility has 9 bedrooms and could conceivably accommodate more than 16 residents. However, there are currently no plans for expansion of the physical structure. Nor are there any plans to accommodate more than 16 residents.

At the heart of this project statement is the humble request to add one bed, and go from a residential assisted living home licensed for 15 beds to one licensed for 16 beds.

Since the census of every assisted living home fluctuates from time to time, we know from past experience that the addition of one resident would be virtually imperceptible to those in the surrounding neighborhood and thusly would be of a very nominal if not indistinguishable impact.

The home already has the size, staffing level, and structural accommodations (parking, fire escape, sprinkler system, etc. - please see attached sign off from the Building Department) to comfortably add one additional resident. Additionally, Westside has been experiencing significant demand from various organizations in the area that are in need of the type & quality of care that Westside provides. Westside has built a sterling reputation over the years providing a valuable service to the community and we would love the opportunity to modestly expand the lives we can care for.

We sincerely appreciate your consideration!

## COVER SHEET



Vicinity Map

Project Name – Westside Assisted Living, Applying for 16 Beds

Owner – Your 2<sup>nd</sup> Home LLC

Applicant – Julie Wolfe

Date Prepared – 10/3/14

Acres of Lot – 0.214

Legal Description – R-2/UV

Site Address – 816 W. Kiowa St, Colorado Springs CO

Tax Schedule – 7413106024

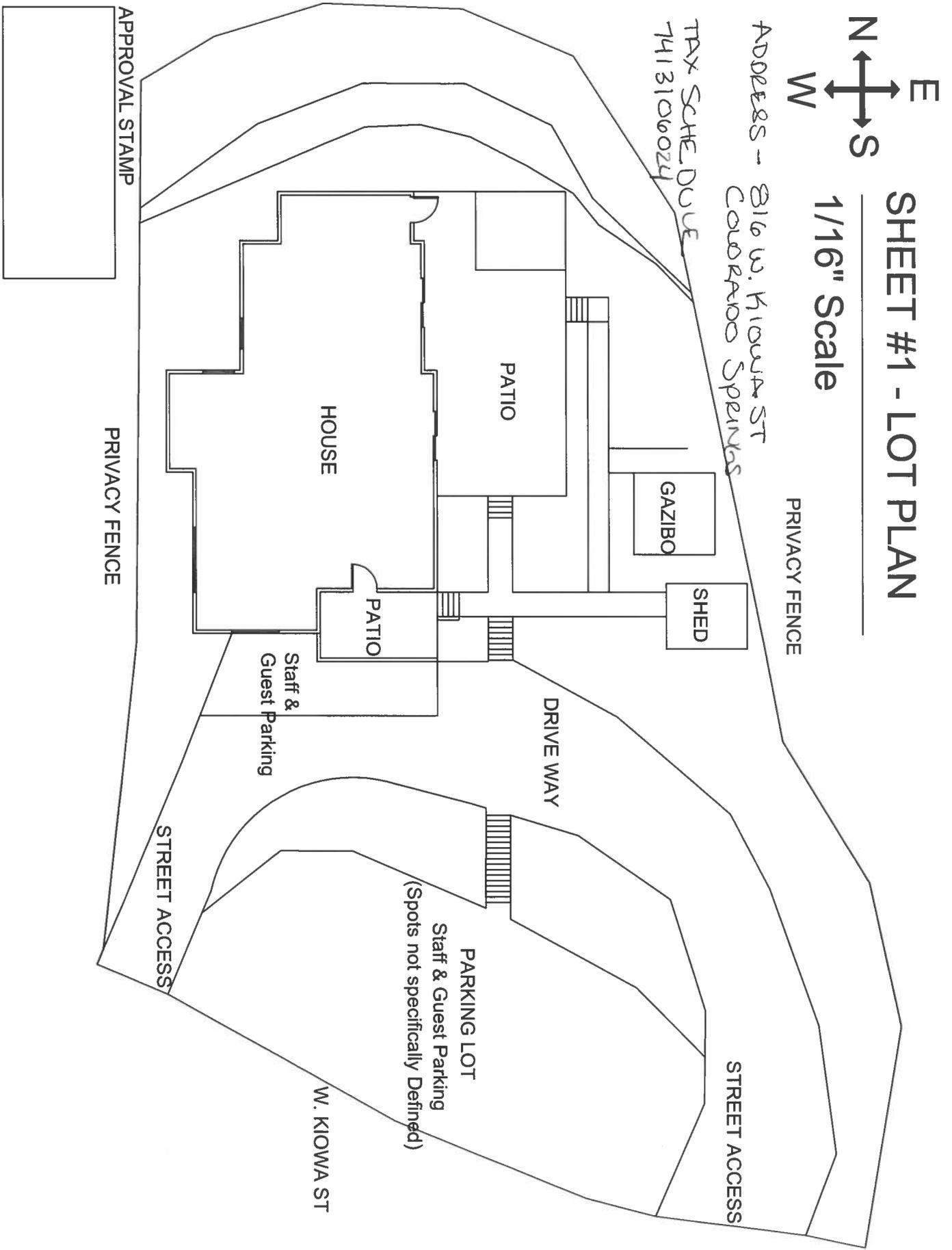
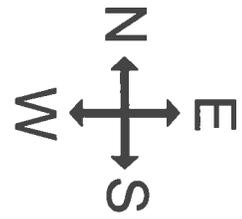
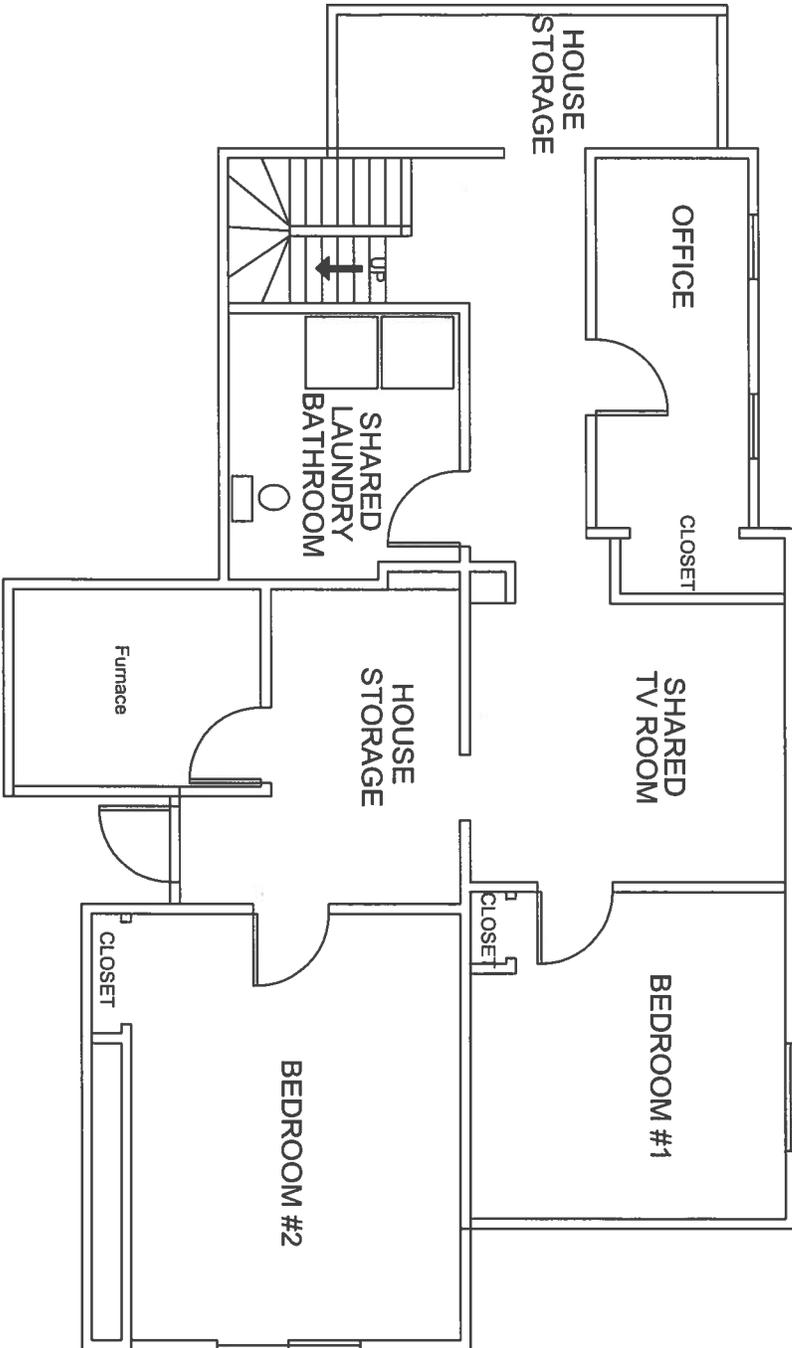


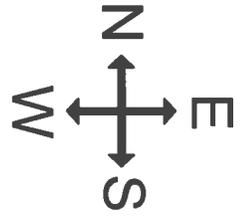
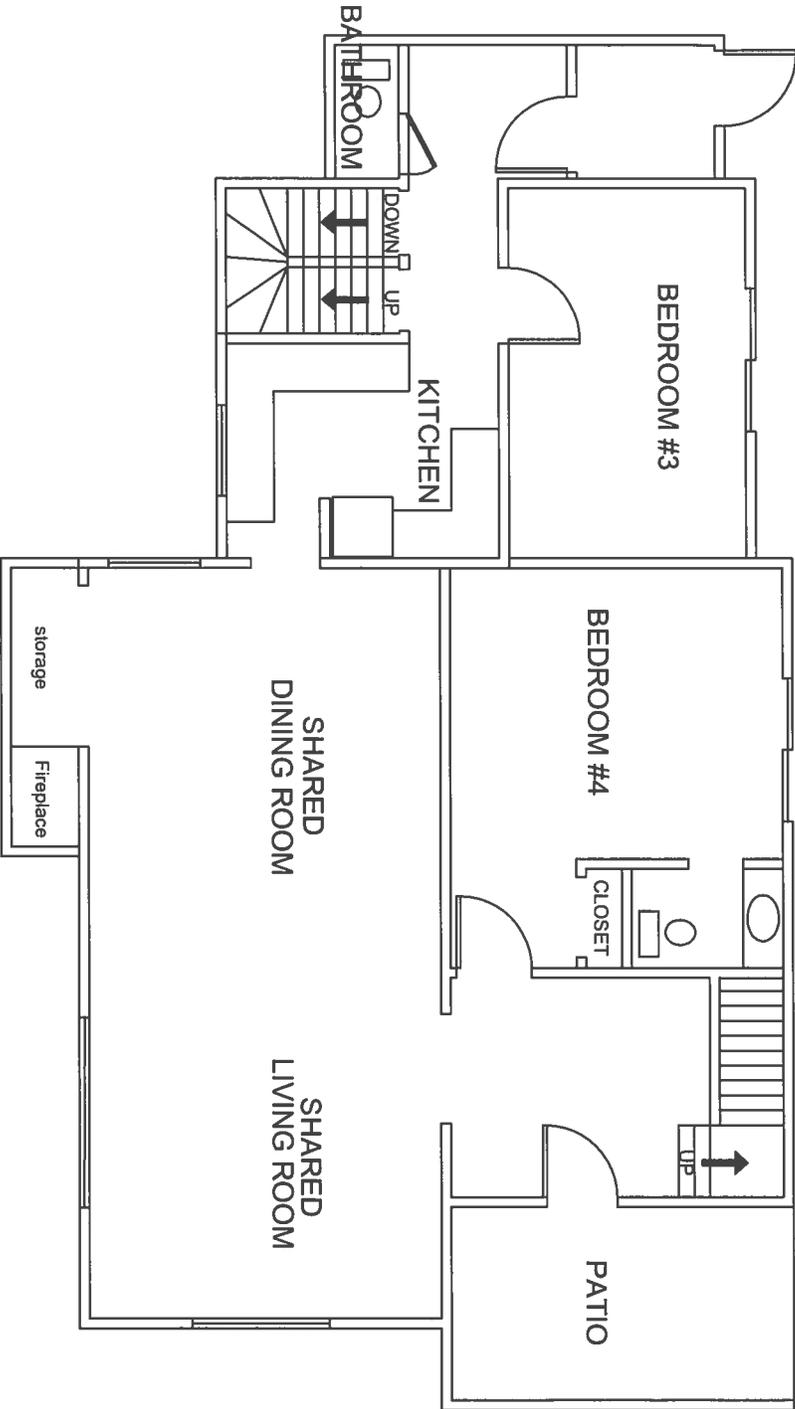
FIGURE 2



**SHEET #2 - BASEMENT**  
**1/8" Scale**

ADDRESS - 816 W. K10WA ST  
COUNCIL BLUFFS IOWA  
TAX SCHEDULE -  
7413106024

**FIGURE 2**

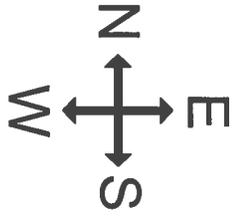
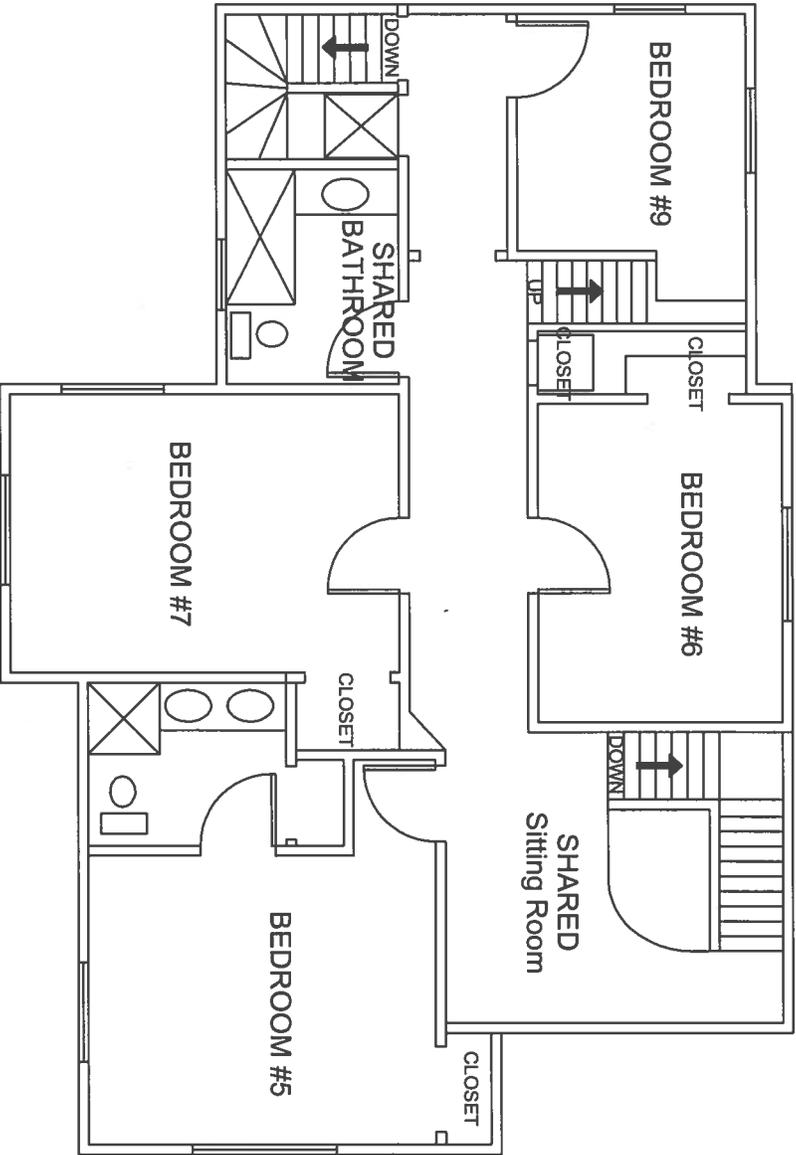


SHEET #3 - 1ST FLOOR

1/8" Scale

ADDRESS - 816 W. KILBOURN  
COLORADO SPRING  
TRA SCHEDULE  
7413106024

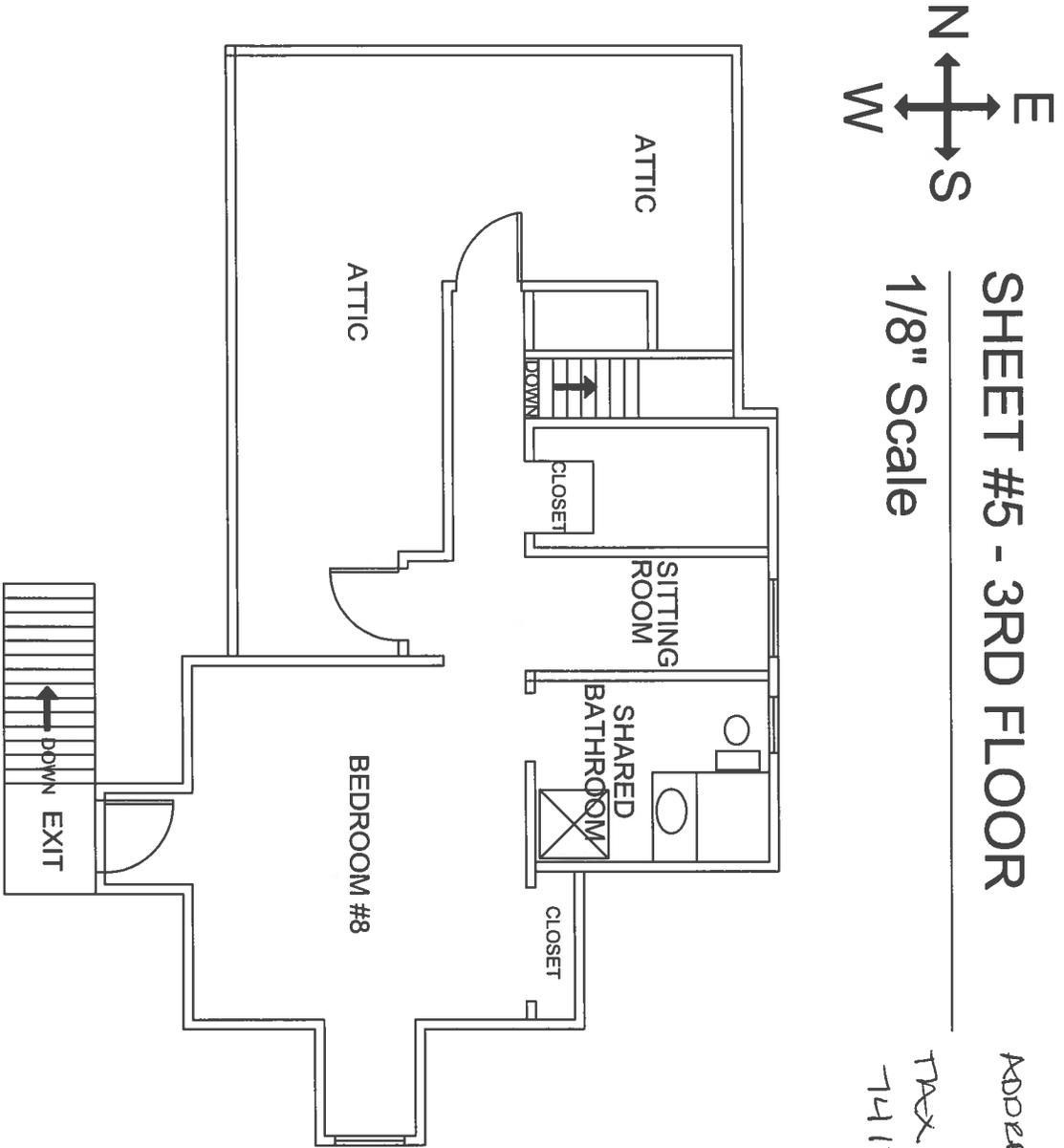
FIGURE 2



**SHEET #4 - 2ND FLOOR**  
**1/8" Scale**

ADDRESS - 816 W. KILWORTH ST  
COLUMBIANA SPRINGS  
TAX SCHEDULE  
7413106024

**FIGURE 2**



ADDRESS - 816 W. HILWA ST  
COLORADO SPRINGS  
TAX SCHEDULE  
7413106024

FIGURE 2



PLANNING & DEVELOPMENT  
LAND USE REVIEW DIVISION

August 5, 2014

Ms. Julie Wolfe  
Westside Assisted Living  
816 W. Kiowa Street  
Colorado Springs, CO 80905

Re: Westside Assisted Living Expansion

Dear Ms. Wolfe:

This letter is written with regards to your request for approval of an expansion to the existing Westside Assisted Living establishment located at 816 W. Kiowa Street.

After extensive discussions with both Planning staff and Land Use Review management, we cannot approve your request for expansion at the aforementioned establishment due to the following reasoning:

1. The current operation of Westside Assisted Living under City Code is classified as a Human Service Facility since it houses more than nine (9) residents. The zoning for the property at 816 W. Kiowa Street is currently R-2 (Two Family Residential) and as such does not permit a Human Service Facility without approval of a Conditional Use prior to operation. A copy of this portion of the City Code is included for your review;
2. There is an approved Use Variance at the site from 1983 for a Boarding House with four conditions of approval with one being that the number of guest rooms cannot exceed seven (7); copy of the approved resolution included for your review. Based on the site plan and information from the Colorado Department of Public Health and Environment, it appears that there are nine (9) bedrooms at the facility which violates that condition of approval;
3. The Use Variance approved in 1983 was specifically for a Boarding House and we can find no documentation in the Land Use Review files showing a change of use from a Boarding House to a Human Service Establishment.

We received the copies of the licensure documentation that you provided from the Colorado Department of Public Health and Environment showing City Planning's authorization in March of 1996 and copies of the State license for the establishment showing fifteen (15) residents in 2002 and 2003. Consequently, approval existed since at least 2002 for fifteen (15) residents and the City will honor the State licensure and continue to allow a maximum of fifteen (15) residents at the establishment.

To increase the number of residents at this establishment, you would need to apply for approval of a Conditional Use. The first step in the process is to have a pre-application meeting with one of the Planners for the area and they can let you know the process, the type of applications required, the application fee and time frames. I've included a pre-application meeting request should you want pursue this option. The request for a Conditional Use is reviewed by Land Use Review planners with notification both posted at the site and sent out to the surrounding neighborhood. Once the review is complete, the application is scheduled, heard and decided by the Planning Commission at a public hearing.

Ms. Julie Wolfe, Westside Assisted Living  
Re: Westside Assisted Living Expansion  
August 5, 2014  
Page 2

If you have any questions, need further information or clarification or would like to schedule a pre-application meeting with one of the Planners, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzann H. Matz". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Suzann H. Matz  
Program, Revocable and Human Service Coordinator

enclosures

HEALTH FACILITIES AND EMERGENCY  
MEDICAL SERVICES DIVISION  
4300 Cherry Creek Drive South  
Denver, CO 80246  
Voice: 303-692-2836 Fax: 303-753-6214  
www.healthfacilities.info

State Licensure Program  
**ASSISTED LIVING RESIDENCES**



**BUILDING DEPARTMENT**  
Sign off for Local Authorities

*Written evidence of compliance with local building codes must be obtained prior to issuance of a state license for operation of a health facility. Contact the city or county department in your area and have the director or designee sign below. The original signed form must be returned to Health Facilities and Emergency Medical Services Division (HFEMSD) as part of your application packet.*

**SECTION A: TO BE COMPLETED BY THE APPLICANT**

PURPOSE OF APPLICATION:  
 Initial  
 New Secured Unit  
 Increase in Beds: From 15 To 16  
 Change of Location: From \_\_\_\_\_ To \_\_\_\_\_

**SECTION B: TO BE COMPLETED BY THE APPLICANT**

Name of Facility: WESTSIX ASSISTED LIVING (CLAY... 2ND FLOOR)  
Address: 216 W. VILLOWAY ST, COLORADO SPRINGS, EL PASO  
City: \_\_\_\_\_ County: \_\_\_\_\_  
No. of Licensed Beds Requested: 16  
Name of Person to Contact: JULIE WILCOX Phone: (303) 573-8000 Fax: (816) 553-2327

**SECTION C: TO BE COMPLETED BY THE CITY/COUNTY BUILDING DEPARTMENT**

Building Department having Jurisdiction: Pikes Peak Regional Bldg Dept  
The above-named facility meets the requirements for building approval:  YES [ ] NO  
(If "no" please explain on a separate attachment.)  
Signature: [Signature] Date: 5-27-14  
Name of Person to Contact: Brett Phillips Phone: (719) 327-2880 Fax: ( )  
Address: 2880 International Cir., Colorado Springs, CO 80910

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# UNFINISHED BUSINESS CALENDAR

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## CITY PLANNING COMMISSION AGENDA

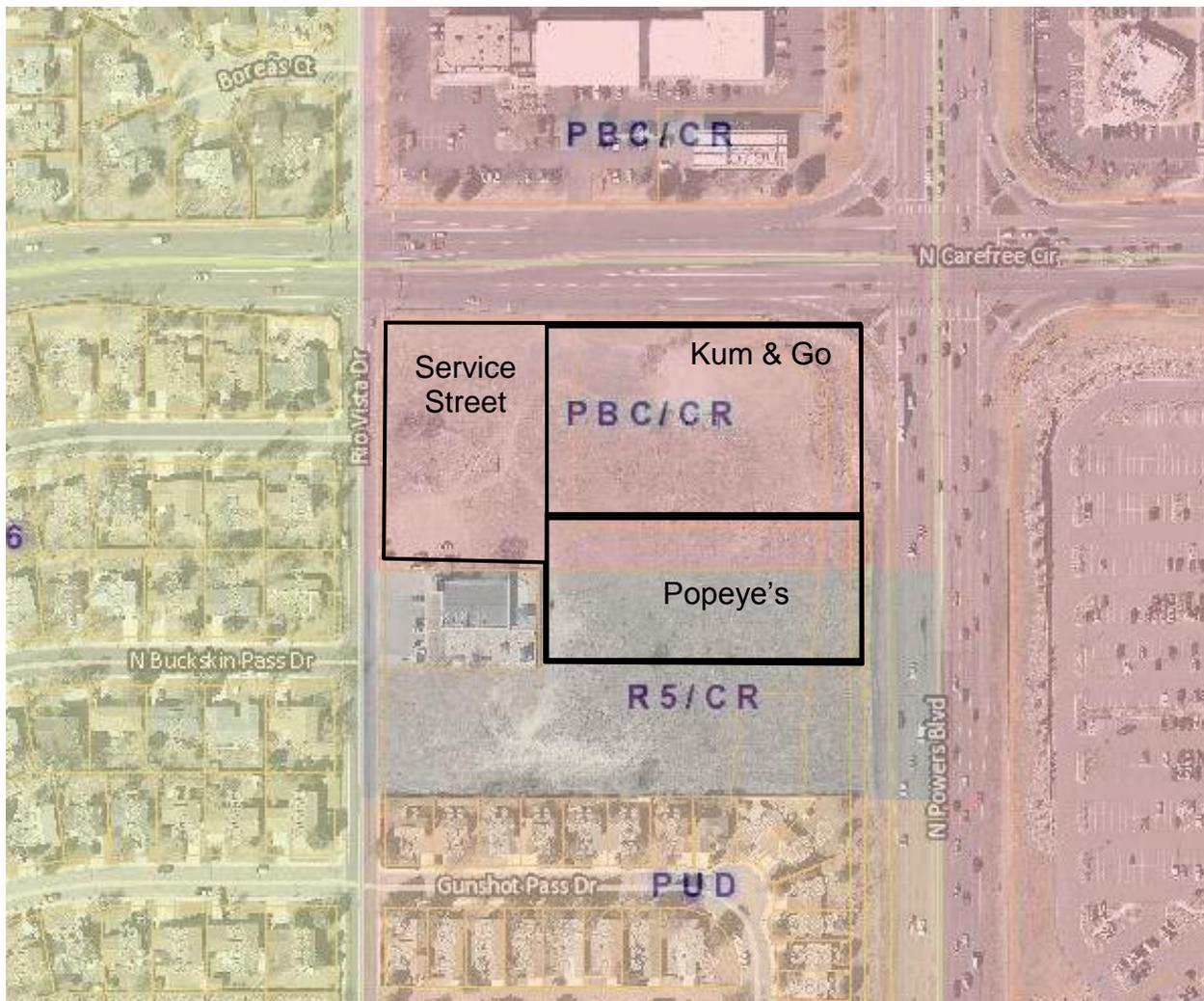
ITEM NO: 4.A-4.C

STAFF: Lonna Thelen

FILE NO(S):

CPC ZC 14-00076 – QUASI-JUDICIAL  
AR CP 11-00482-A1MJ14 – QUASI-JUDICIAL  
CPC DP 14-00077 – QUASI-JUDICIAL

**PROJECT:** POPEYE'S RESTAURANT  
**APPLICANT:** NES INC.  
**OWNER:** CAREFREE & POWERS LLC



### **PROJECT SUMMARY:**

1. Project Description: This item was heard at the October 16, 2014 City Planning Commission meeting, but a final decision was not made due to the fact that the site was not posted according to City Code posting requirements. A new hearing will be held at the November 20, 2014 City Planning Commission meeting and the site will be posted according to City Code.

This project includes concurrent applications for a zone change, a major concept plan amendment, and a development plan for a 4.48-acre site located southwest of Powers Boulevard and N. Carefree Circle. A final plat is being processed administratively. The 4.48 acres represents the entire area of the concept plan. The development plan is for Popeye's Restaurant and only for 1.3 acres of the 4.48 acre site. The zone change is for 0.92 acres of the 1.3 acres of the Popeye's site, to rezone that portion from R-5 to PBC.

The applicant is requesting a zone change from R-5/cr/AO (Multi-family Residential with Conditions of Record and Airport Overlay) to PBC/AO (Planned Business Center with an Airport Overlay) for 0.92 acres. In addition, the applicant is proposing a concept plan amendment and a development plan for a fast food restaurant. **(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: To be determined
2. Existing Zoning/Land Use: PBC/R-5 / vacant
3. Surrounding Zoning/Land Use:  
North: PBC / commercial  
South: PUD / one-and-two family residential  
East: PBC / commercial  
West: R1-6 / single-family residential
4. Comprehensive Plan/Designated 2020 Land Use: New/Developing Corridor and General Residential
5. Annexation: Sparks Addition, 1971
6. Master Plan/Designated Master Plan Land Use: Colorado Country / Commercial and Multi-family/Office
7. Subdivision: Colorado Country Filing No. 14 and a portion of unplatted property to be platted as Colorado Country Filing No. 15.
8. Zoning Enforcement Action: No open enforcement cases.
9. Physical Characteristics: The Kum & Go is developed and landscaping along Rio Vista Drive and N. Carefree Circle has been installed. The northern 1/3 of the proposed Popeye's site has a fence and landscaping. This will be revised per the Popeye's plans. The remainder of the Popeye's site is vacant and slopes slightly to the south.

**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 136 property owners within 500 feet. In addition, a neighborhood meeting was held on August 25, 2014. Thirteen people attended the neighborhood meeting. Comments from three neighborhood members were received **(FIGURE 3)**. The neighborhood brought up concerns about traffic, noise, odor, trash, lights, and rezoning the R-5 property to PBC. A petition is also included in Figure 3 that is signed by 88 homeowners and renters representing 67 homes in the neighborhood in opposition to the project. The same posting and notification process will be utilized prior to the CPC public hearing.

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

1. Review Criteria / Design & Development Issues:

This project is located south of the existing Kum & Go at the southwest corner of Powers Boulevard and N. Carefree Circle and east of the existing La Petite Academy Day Care. The project includes a zone change to rezone a portion the property from R-5 to PBC to allow for a fast food restaurant, a concept plan amendment to add the entire area of Popeye's into the concept plan and to change the existing layout of the concept plan to match the proposal for Popeye's, and a development plan for a 2,405 square-foot Popeye's restaurant with a drive-through facility. A final plat is being processed administratively.

The site currently contains PBC zoning from N. Carefree Circle south to a line even with the northern boundary of La Petite Academy Day Care. From the northern boundary of La Petite Academy Day Care, the property is zoned R-5 south to the existing single-family and duplexes located to the south of the property. The applicant is requesting to extend the PBC zone district boundary line south to be even with the southern boundary of the La Petite Academy Day Care. The transition from north to south includes a commercial zone district and a multi-family residential zone district, prior to going to single-family and duplexes. This transition in zoning is promoted by the City Zoning Code. To ensure that the remaining R-5 zone district provided enough land to be developed with a use allowed in the R-5 zone district, staff required the applicant to provide conceptual layouts. **FIGURE 4** shows a layout for townhomes, apartments, and assisted living that could be developed on the remaining R-5 zoned property. During the neighborhood meeting and in the public comments received, the neighborhood has expressed opposition to the zoning being extended further south and is concerned that the next request from the applicant will be to rezone the remaining R-5 to PBC. Staff has reviewed this concern and believes that the remaining R-5 is adequate to provide a buffer from PBC to single-family and duplex and will not likely be supportive of a zone change for the remaining R-5 property to PBC.

The development plan for Popeye's includes a standard fast food restaurant layout with a drive-through facility. The parking requirements and drive-through distances are met on-site. The site slopes to the south and has two (2) low retaining walls at the south end of the site to create a level site for development. A landscape buffer has been extended all the way along the southern property line to create a buffer between the residentially-zoned property to the south and the proposed fast food restaurant.

Neighborhood concern for the traffic, noise, odor, trash, and lights associated with the Popeye's restaurant were brought up during the review process. The lights onsite are required to be full cut-off and direct rays of light are not to extend past the property line. The trash enclosure was extended from 6 feet to 8 feet in height to help minimize the chance that the trash would blow out of the trash enclosure. To address the smell concern, the applicant has agreed to put a Captiveaire Pollution Control Unit with an odor removal module attached to the exhaust system on the roof of the restaurant. The noise from the site will be related to the activity on the site and will not be excessive above the noise created by Powers Boulevard and the surrounding commercial uses. Popeye's has agreed to limit hours of operation to close by 10 pm for the restaurant and 11 pm for the drive thru. The traffic concern was evaluated by the City Traffic Engineer. The additional traffic associated with Popeye's was determined to be reasonable and not

exceed the capacity of Rio Vista Dr. and N. Carefree Circle. In addition, a traffic count was completed for the stretch of Rio Vista just west of the property to determine current traffic levels. The City Traffic Engineer determined that the counts from the study were within the volume design limits for a collector street. See **FIGURE 5** for the applicant's response to these issues.

Staff concludes that the review criteria for the zone change, development plan and concept plan amendment have been met. The proposed project meets the Comprehensive Plan objectives and is not injurious to surrounding properties.

2. Conformance with the City Comprehensive Plan:

*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.

*Objective LU 3: Develop A Mix of Interdependent, Compatible, and Mutually Supportive Land Uses.*

Over the past several decades, the location and design of development have created a pattern of isolated, disconnected, single-purpose land uses. An alternative to this type of land use pattern is one that integrates multiple uses, shortens and reduces automobile trips, promotes pedestrian and bicycling accessibility, decreases infrastructure and housing costs, and in general, can be provided with urban services in a more cost-effective manner.

*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.

The site under review is proposes a land use that would allow a diversity of land uses in this area. The existing gas station and commercial site to the north in addition to the proposed fast food restaurant will serve the surrounding neighborhood. The site is considered an infill site; the surrounding properties have been developed and the infrastructure is existing to serve the new facility.

3. Conformance with the Area's Master Plan:

The Colorado Country Master Plan shows this area as commercial and multi-family/office. The designation between commercial and multi-family / office is consistent with the existing PBC and R-5 zone districts. The master plan is considered

implemented and the change to the master planned use does not require an amendment to the master plan. The change to the concept plan still allows for an area of multi-family use adjacent to the existing single-family and duplex that would allow for a development to be built to buffer the existing residential from the proposed fast food restaurant.

**STAFF RECOMMENDATION:**

**Item No: 4.A CPC ZC 14-00076 – ZONE CHANGE**

**Approve** the zone change for Popeye’s Restaurant, based upon the finding that the zone change complies with the review criteria in City Code Section 7.5.603.B.

**Item No: 4.B AR CP 11-00482-A1MJ14 - CONCEPT PLAN**

**Approve** the concept plan amendment for Popeye’s Restaurant, based upon the finding that the concept plan amendment 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:

- Change the concept plan area for Service Street to reflect the Service Street plan, not the retail configuration.

**Item No: 4.C CPC DP 14-00077 – DEVELOPMENT PLAN**

**Approve** the development plan for Popeye’s Restaurant, based upon the finding that the development plan complies with the review criteria in City Code Section 7.5.502.E, subject to compliance with the following conditions and technical and informational plan modifications:

Conditions of Approval on Development Plan:

1. Submit and receive approval for a minor modification to the Kum & Go development plan showing the change to the parking configuration and the new access from Kum & Go to Popeye’s.
2. Submit and receive approval for a minor modification to the Service Street development plan showing the change to the lot configuration.

Technical and Informational Modifications to the Development Plan:

1. Label Powers Boulevard and note that it is public.
2. Include the ordinance number for the new PBC zone district.
3. The elevation material colors are called out as SW-1 or EP-1, include a table showing the material and color of the callouts.
4. The landscape easement is labeled, but the lines are not called out. Call out the line location for the landscape easement.
5. Ensure all references to platting reference Filing No. 14 as the current plat and Filing No. 15 and the proposed plat.
6. Ensure the drawing shows the tract and lot configuration as proposed with Filing No. 15.
7. Change the note “temporary edge of asphalt until further development to the south” on page 1 to “edge of asphalt”.
8. Add sufficient shrub material to meet 75% living ground coverage between the two retaining walls on the east side of the site.







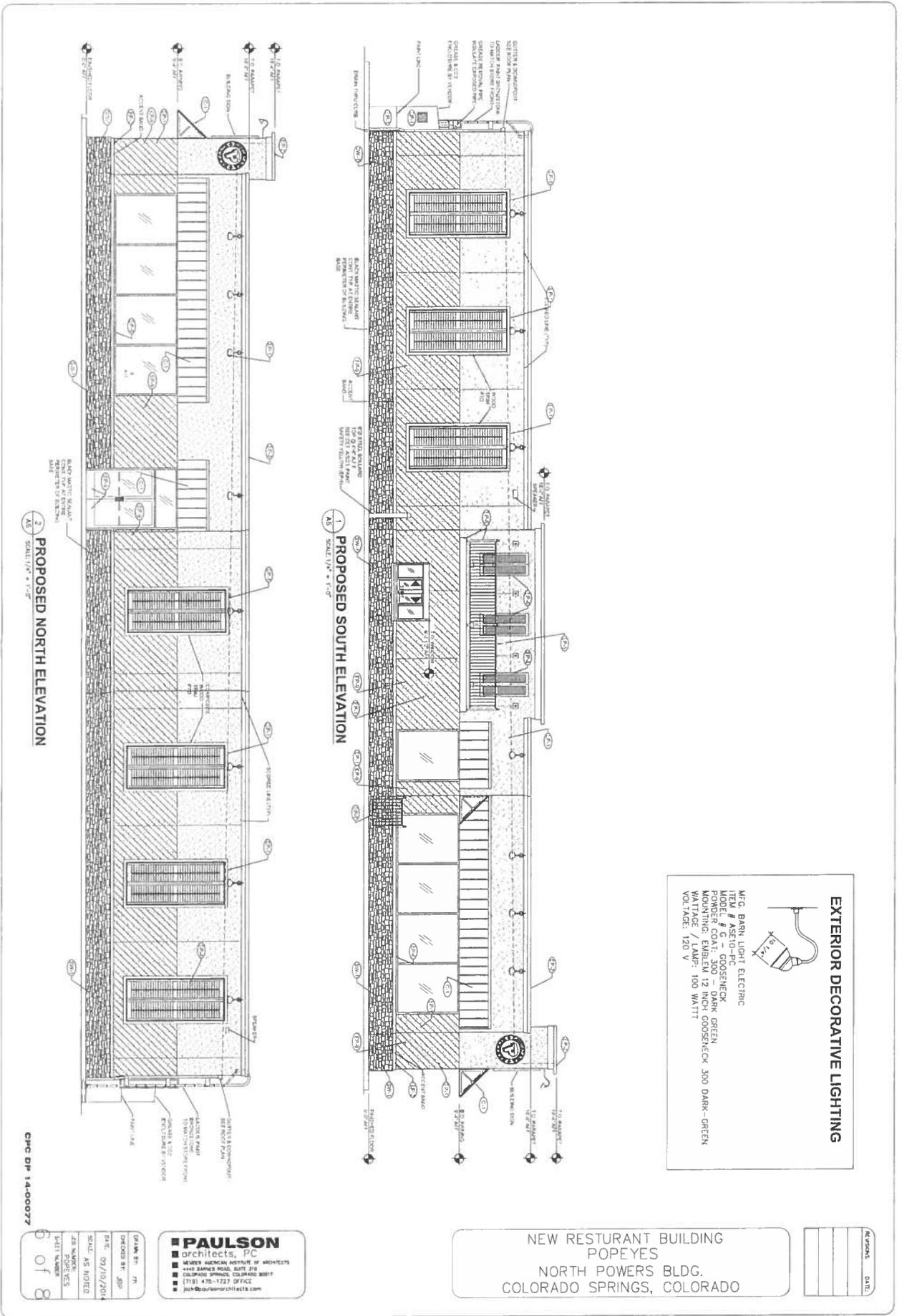


FIGURE 1

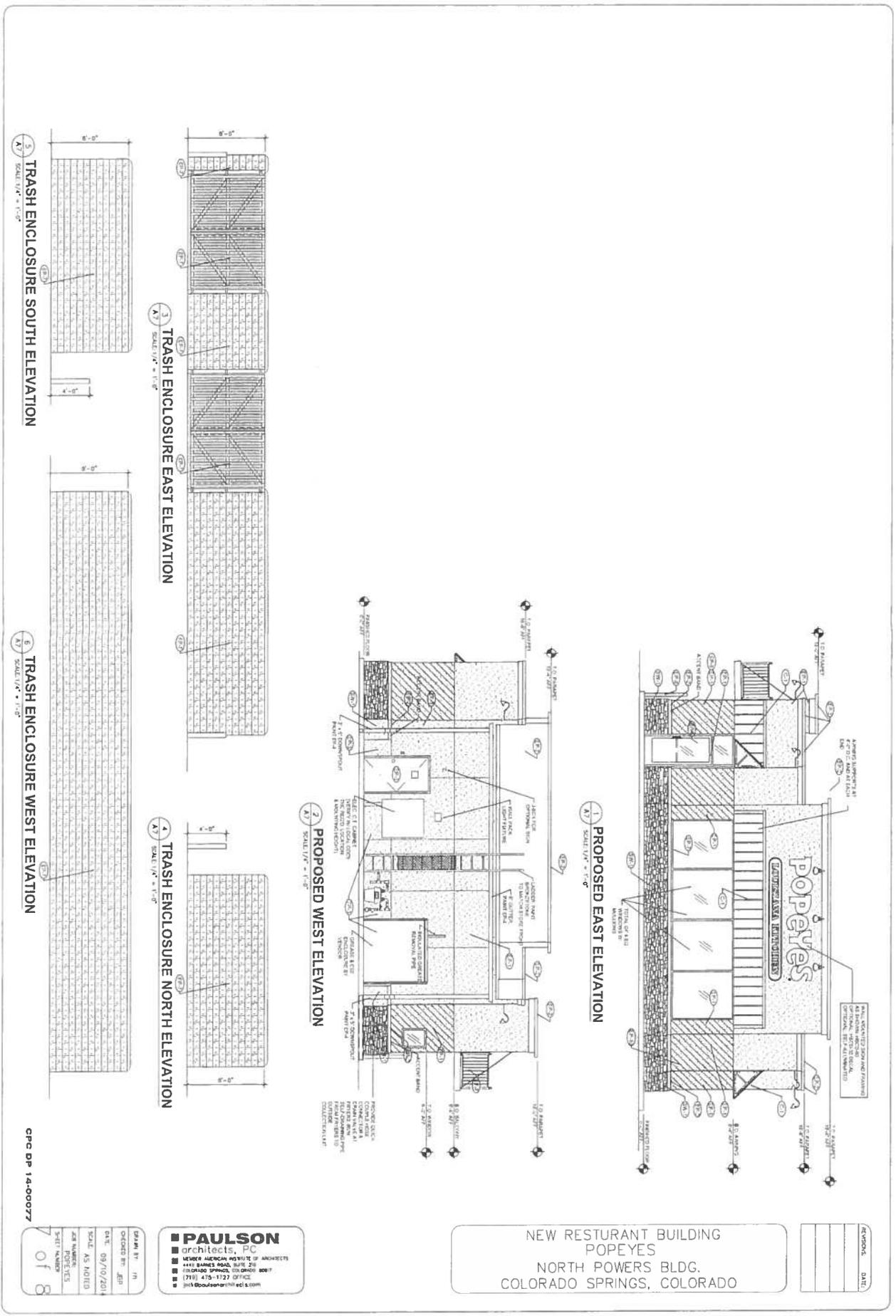


FIGURE 1

## POPEYE'S RESTAURANT

### SOUTHWEST POWERS BOULEVARD & NORTH CAREFREE CIRCLE

#### PROJECT STATEMENT

JUNE 2014

#### 1. PROJECT DESCRIPTION

This 1.33 acre site is located to the southeast of North Carefree and Rio Vista Drive. The parcel is bounded to the north by a Kum & Go convenience store/gas station, to the east by Powers Boulevard, and to the south by vacant land zoned R-5, which is currently under the same ownership as the application site. An "out lot" parcel developed as La Petite Academy Day Care lies to the west of the site. La Petite Academy is in the R-5 Zone. The land use to the west of Rio Vista Drive and to the south of the R-5 zoned land is single family detached homes. To the north, northeast and east, land use is commercial and zoned PBC.

There are three applications covered by this project statement:

- **Zone change** - The property currently straddles two zoning districts; Planned Business Centre (PBC) to the north and Multi-family Residential (R-5) to the south. The application proposes to rezone the southern two thirds of the site from R-5/cr AO to PBC/cr AO, incorporating the property into the larger PBC zone district to the north.
- **Concept Plan Amendment** – This proposes an amendment to the approved Southwest Powers Blvd & North Carefree Concept Plan (AR CP 11-00482) to incorporate the application site into the Concept Plan for the larger PBC zoned parcel and to implement layout changes to the northern part of the site that lies within the approved Concept Plan boundary.
- **Development Plan** - The Development Plan proposes the construction of a 2,405 square foot Popeye's restaurant with a drive-thru facility and associated parking and landscaping.

The site will utilize the existing access points for the commercial parcel to the north, which include an all movement intersection on Rio Vista Drive and a right in/right out only access on North Carefree Circle. The internal grid of driveways then provides access to the restaurant site. The existing parking spaces along the southern boundary of the Kum & Go property are within the boundary of the application property. This area is to be reconfigured to incorporate the parking, half of the shared driveway, and an additional vehicular access into the restaurant site. These changes are reflected in the amendment to the approved Concept Plan for Southwest Powers Blvd & North Carefree.

An area of 1.8 acres of R-5 zoned land will remain to the south of the application site. A detention pond is located in the south eastern corner of the site, leaving approximately 1.45 acres of developable land. Attached to this statement are three illustrative layouts that demonstrate the viability of developing the remaining R-5 area for a selection of permitted R-5 uses; providing adequate access, parking, and setbacks.

## 2. PROJECT JUSTIFICATION

### 2.1 Zone Change

The proposed rezoning of this property meets the requirements of Section 7.5.603 of the Zoning Code as follows:

**3.1.1. The action will not be detrimental to the public interest, health, safety, convenience or general welfare.** The proposed commercial use is compatible with the adjacent commercial center and is an appropriate use at the intersection of an expressway (Powers Boulevard) and a principal arterial road (North Carefree Circle). The amenity of the single family residential properties to the south of the site will not be materially affected by the proposed development, as the remaining R-5 zoned land will continue to provide an appropriate land use transition and substantial buffer between the commercial and residential areas. An expanse of 150 feet will remain between the boundary of the residential neighborhood and the southern boundary of the application site. This distance increases to 250 feet when measured from the edge of the proposed Popeye's restaurant to the nearest home to the south. A landscape setback of 20 feet is proposed along the southern boundary of the development to provide a buffer and screening between the proposed commercial use and future uses on the adjacent R-5 zoned property.

**3.1.2. The proposal is consistent with the goals and policies of the Comprehensive Plan.** The site is within an area designated as "New/Developing Commercial Corridors" on the City's 2020 Land Use Map. These are "corridors that have recently developed, or are now in the process of developing, with major retail uses, services, and strip centers accessible exclusively by automobile and characterized by large dominating parking lots." Strategy LU 701f encourages new commercial development in these corridors to take place in activity centers that incorporate a mix of uses and avoid large, single-use buildings and dominating parking areas. The application proposal achieves this objective.

Strategy LU 302c of the Comprehensive Plan promotes compatibility and appropriate transitions between land uses that vary in intensity and scale. A 20 foot landscape buffer is proposed between the restaurant site and the adjacent R-5 zoned property. The R-5 zone itself will provide a transition between the existing and proposed commercial uses and the single family residential area to the south. In the context of Mixed Use zoning, Section 7.3.710 of the Zoning Code indicates that the R-5 permitted uses of day care services, human service establishments, retirement homes, and multi-family can provide a gradual transition between commercial development and less intensive adjoining uses, such as single family detached homes.

**3.1.3. 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.** The Master Plan for this area is implemented.

**3.1.4. For MU zone districts the proposal is consistent with any locational criteria for the establishment of the zone district, as stated in article 3, "Land Use Zoning Districts", of this chapter. (Ord. 94-107; Ord. 97-111; Ord. 01-42; Ord. 03-157; Ord. 12-76).** The proposal is not in an MU zone district.

### **3.2 Concept Plan Amendment**

The amendment to the Concept Plan satisfies the relevant review criteria set out in Section 7.5.501.E of the Zoning Code as follows:

**3.2.1. Will the proposed development have a detrimental effect upon the general health, welfare and safety or convenience of persons residing or working in the neighborhood of the proposed development?** See response under 3.1.1 above. The proposed restaurant will provide an amenity to people living and working in the vicinity of the development.

**3.2.2. Will the proposed density, types of land uses and range of square footages permit adequate light and air both on and off the site?** The density of development proposed on this site is very low, with an FAR of only 0.05 and building height of approximately 18 feet (height varies). The remainder of the site is parking, driveways, and landscaping. This will allow for adequate light and air circulation.

**3.2.3. Are the permitted uses, bulk requirements and required landscaping appropriate to the type of development, the neighborhood and the community?** The proposed commercial use is compatible with the adjacent commercial center and is an appropriate use within the designated "new/developing commercial corridor" along Powers Boulevard. The relationship of the proposed restaurant to adjacent residential uses is similar to the development to the north of North Carefree Circle. The proposed restaurant is similar in scale to existing commercial properties in the vicinity. The building will be approximately 18 feet high, and will have little impact in terms of its bulk on surrounding properties. The proposed 20 foot landscape buffer along the southern boundary of the development will screen the proposed building and associated activities on the site from existing and proposed residential areas to the south.

**3.2.4. Are the proposed ingress/egress points, traffic circulation, parking areas, loading and service areas and pedestrian areas designed to promote safety, convenience and ease of traffic flow and pedestrian movement both on and off the site?** The traffic to and from the site will be channeled to the existing access/egress points on Rio Vista Drive and North Carefree Circle via internal shared driveways. No new access points will be created on City streets. All the streets and drives provide logical, safe and convenient vehicular access to the facilities within the project. The perimeter parking is angled to promote ease of traffic flow and safety. Loading areas are not required for the proposed use.

**3.2.5. Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?** The projected traffic from the proposed Popeye's restaurant can be adequately and safely accommodated within the capacity of adjacent street. The public facilities to serve the land uses on this site are already planned and in place. The proposed 2,405 square foot restaurant will not overburden these facilities.

**3.2.6. Does the proposed development promote the stabilization and preservation of the existing properties in adjacent areas and surrounding residential neighborhoods?** The proposed restaurant maintains a complimentary and appropriate mix of uses on this commercial site that serves the surrounding commercial and residential neighborhoods.

**3.2.7. Does the concept plan show how any potentially detrimental use to use relationships (e.g., commercial use adjacent to single-family homes) will be mitigated? Does the development provide a gradual transition between uses of differing intensities?** The proposed restaurant structure is located toward the eastern side of the site so that the existing detention pond on the adjacent property will

provide a physical separation between the new building and the residential properties to the south. The building will be approximately 18 feet high, and will have little impact in terms of its bulk on surrounding properties. The 20 foot landscape buffer on the southern boundary will screen the proposed building and associated activities on the site from existing and proposed residential areas to the south.

The proposed development will not be detrimental to the amenity of the neighboring residential properties to the south of the site, as the remaining R-5 zoned land will continue to provide an appropriate land use transition and substantial buffer between the commercial zone and single family residential areas. A distance of 150 feet will remain between the boundary of the residential neighborhood and the southern boundary of the application site, increasing to 250 feet when measured from the edge of the proposed Popeye's restaurant to the nearest home to the south.

**3.2.8. Is the proposed concept plan in conformance with all requirements of this Zoning Code, the Subdivision Code and with all applicable elements of the Comprehensive Plan? Yes - see responses under 3.1 above.**

### **3.3 PUD Development Plan**

The PUD Development Plan satisfies the relevant review criteria set out in Section 7.5.502.E of the Zoning Code as follows:

**3.3.1. Will the project design be harmonious with the surrounding land uses and neighborhood?** The project design is integrated with the commercial development to the north, utilizing the existing access/egress points onto Rio Vista Drive and North Carefree Circle and common driveways within the site. A landscape setback of 20 feet is proposed along the southern boundary of the development to provide a buffer and screening between the proposed commercial use and future uses on the adjacent R-5 zoned property.

**3.3.2. 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?** See response to 3.2.3 and 3.2.5 above.

**3.3.3. Will the structures be located to minimize the impact of their use and bulk on adjacent properties?** See response to 3.2.3 and 3.2.7 above.

**3.3.4. 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?** See response to 3.2.7 above. The proposed landscape buffer along the southern boundary of the site exceeds City standards.

**3.3.5. Will vehicular access from the project to the streets outside the project be combined, limited, located, designed and controlled to channel traffic to and from such areas conveniently and safely and in such a manner which minimizes traffic friction, noise and pollution and promotes free traffic flow without excessive interruption?** See response to 3.2.4 above.

**3.3.6. Will all the streets and drives provide logical, safe and convenient vehicular access to the facilities within the project?** See response to 3.2.4 above.

**3.3.7. Will streets and drives within the project area be connected to streets outside the project area in such a way that discourages their use by through traffic?** There is no opportunity for cut through traffic in this project.

**3.3.8. Will adequately sized parking areas be located throughout the project to provide safe and convenient access to specific facilities?** The parking requirement for restaurants is 1 space per 100 square feet, which in this case equates to 24 spaces. The development plan shows 35 spaces, which exceeds the minimum code requirement.

**3.3.9. Will safe and convenient provision for the access and movement of handicapped persons and parking of vehicles for the handicapped be accommodated in the project design?** The development plan identifies two handicapped parking spaces and these are located adjacent to the building entrance for ease of access to the restaurant.

**3.3.10. Will the design of streets, drives and parking areas within the project result in a minimum of area devoted to asphalt?** Asphalt paving is proposed for parking and circulation space.

**3.3.11. Will pedestrian walkways be functionally separated from vehicular traffic and landscaped to accomplish this? Will pedestrian walkways be designed and located in combination with other easements that are not used by motor vehicles?** Sidewalks are provided to facilitate safe pedestrian movement between the site and the rest of the commercial center.

**3.3.12. Does the design encourage the preservation of significant natural features such as healthy vegetation, drainage channels, steep slopes and rock outcroppings? Are these significant natural features incorporated into the project design?** There are no significant natural features on this site.

## Thelen, Lonna

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**From:** Dan & PJ <Danandpj@comcast.net>  
**Sent:** Tuesday, September 02, 2014 3:43 PM  
**To:** Thelen, Lonna  
**Subject:** Comments Regarding N. Carefree & Powers

Lonna,

We own our home at 5760 Gunshot Pass Drive, adjacent to the property being considered for rezoning. We chose this home eighteen years ago because of the friendliness and unique charm of this neighborhood.

The zone change and acceptance of the development plan to build a Popeye's restaurant would greatly affect the quality and health safety of life for those living nearby.

Reasons include:

- It would result in a much higher traffic volume along Rio Vista, which has significantly increased already with the building of the Kum & Go. This causes congestion with cars and service trucks turning into and out of the daycare and gas station and would increase even more with a fast-food restaurant with a constant flow of traffic.
- This would create a significant amount of trash around our properties from littering and wind carrying refuse from dumpsters or outdoor trash cans, which results in a safety and health concern (organic waste from this type of business will attract rodents and other pests) for those of us living adjacent to this property. The trash and rotting food in the empty lot has been a concern with just the gas station on the corner and would become significantly greater with a fast food restaurant even closer to our homes.
- It would create lower air quality in our homes and on our property due to emissions from the restaurant. Rather than enjoying time in our yards and in our homes, we would have a constant smell of fried food.
- It would result in greater noise, which is inherent in a drive through business i.e. loudspeakers and people yelling orders etc. In addition to the increased commercial lighting directly behind our homes that would interrupt our daily activities.

We believe that the person or persons made the decision to purchase this parcel knowing that the southern half of this property was zoned for multifamily dwellings. We understand that it makes good business sense to have the entire parcel zoned PBC, but it is not in harmony with the residential neighborhood adjacent to it. We did inquire, prior to purchasing, what the adjoining property was zoned for. We were told it was zoned for multifamily dwellings. With this in mind, we proceeded with the purchase of our home. We would have looked elsewhere if the adjoining property was zoned PBC.

If this zoning change request were to be approved, this would be detrimental to the neighborhood and an even greater detriment to the adjoining home owners. We therefore strongly oppose rezoning of this property from R-5/cr to PBC/cr.

Sincerely,

Dan and PJ O'Sullivan  
5760 Gunshot Pass Dr.  
Colorado Springs, CO 80917  
Email [dano80917@gmail.com](mailto:dano80917@gmail.com)

## Thelen, Lonna

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**From:** Shirley Robbins <sdrobbins@icloud.com>  
**Sent:** Friday, August 29, 2014 1:00 AM  
**To:** Thelen, Lonna  
**Subject:** COMMENTS REGARDING POPEYE'S RESTAURANT

DEAR MS. THELEN,  
I WOULD LIKE TO SUBMIT COMMENTS REGARDING THE POPEYE'S RESTAURANT BEING PROPOSED NEAR THE COME-AND-GO MARKET ON LOT NEAR NORTH CAREFREE AND RIO VISTA.

I AM NOT IN FAVOR OF THIS PROPOSAL. I LIVE AT 5740 GUNSHOT PASS AND THE LOCATION OF THE RESTAURANT WOULD BE IN CLOSE PROXIMITY TO THE BACK OF MY HOME.

THE REASONS I OBJECT TO THE PROPOSAL ARE THE FOLLOWING:

1. THE NOISE THAT WOULD BE GENERATED BY TRAFFIC COMING AND GOING TO THE RESTAURANT WOULD SIGNIFICANTLY ADD TO THE NOISE THAT ALREADY EXISTS DUE TO TRAFFIC ON POWERS, NORTH CAREFREE AND RIO VISTA, AS WELL AS THAT FROM THE COME-AND-GO MARKET. THE REGULAR TRAFFIC NOISE IS TOLERABLE. HOWEVER, THERE ARE A LARGE NUMBER OF VEHICLES IN THIS AREA WHO HAVE MODIFIED THEIR EXHAUST SYSTEM TO BE UNBEARABLY LOUD. THE RESTAURANT WILL VERY LIKELY DRAW EVEN MORE OF THESE VEHICLES WHICH WOULD BE A TREMENDOUS DISTURBANCE TO THOSE OF US WHOSE HOMES BACK UP TO THE PROPOSED SITE.
2. THE LIGHTS FROM THE RESTAURANT WOULD COMBINE WITH THE BRIGHTNESS OF THE LIGHTS OF THE COME-AND-GO MARKET MAKING IT TWICE AS BRIGHT. THE LIGHTS SHINE INTO THE WINDOWS OF THE HOMES IN THE AREA MAKING IT DIFFICULTY TO SLEEP.
3. IT IS WELL KNOWN THAT FAST FOOD RESTAURANTS GENERATE AN ODER FROM THE GREASE USED TO FRY THE FOOD. THE CONSTANT SMELL COMING FROM THE POPEYE'S RESTAURANT WOULD BE SICKENING TO SAY THE LEAST. I CAN'T IMAGINE HAVING TO SMELL THAT EVERY TIME I OPEN MY WINDOWS OR GO OUTSIDE.
4. FINALLY, THE LOT BEHIND OUR HOMES PROVIDES A SMALL BARRIER BETWEEN US AND THE MEGA-COMMERCIAL ELEMENT IN THE AREA. LOOKING OUT OF MY BACK WINDOWS TO THE VIEW OF A POPEYE'S RESTAURANT WOULD FEEL LIKE THE COMMERCIALISM IN THE ARE WOULD BE ENCROACHING UPON THE PEACE AND TRANQUILITY OF MY HOME AND NEIGHBORHOOD. I UNDERSTAND THAT IT IS INEVITABLE THAT THE LOT BE DEVELOPED IN SOME WAY. AS A COMPROMISE, I WOULD NOT OBJECT TO SOMETHING LIKE A PROFESSIONAL OFFICE BUILDING BEING BUILT THERE. IT WOULD BE A LOT LESS INTRUSIVE AND WOULD NOT DRAW NIGHT-TIME TRAFFIC.

I WOULD GREATLY APPRECIATE CONSIDERATION BEING GIVEN TO MY OBJECTIONS. I WORKED VERY HARD AND MADE A LOT OF SACRIFICES TO PURCHASE MY HOME. THIS IS A GREAT NEIGHBORHOOD AND I LOVE LIVING HERE. IT WOULD MAKE ME VERY SAD TO SEE THE QUALITY OF MY NEIGHBORHOOD BE NEGATIVELY AFFECTED BY ALLOWING A FAST FOOD RESTAURANT TO BE BUILT SO CLOSE TO OUR HOMES.

THANK YOU,

SHIRLEY ROBBINS  
5740 GUNSHOT PASS  
COLORADO SPRINGS, CO 80917  
PH: 719-213-1772

3.

## Thelen, Lonna

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**From:** Mary Kurth <marykurth@live.com>  
**Sent:** Monday, September 01, 2014 5:59 PM  
**To:** Thelen, Lonna  
**Subject:** Comments Regarding N. Carefree & Powers

Dear Lonna,

Thank you for accepting comments from the residents neighboring the lot at N. Carefree & Powers that is currently being considered for re-zoning, a new development plan and amendment to the concept plan. My family and I live at 5720 Gunshot Pass Drive and our house backs directly to the piece of land we are referencing.

A large concern we have with the current applications is the zone change of any part of the property that is currently R5 to PBC. We feel that the land owners wish to re-zone the entire lot eventually and are just doing so one small piece at a time until there is not enough space left for a multi-family residential structure and adequate parking, etc. The land owners indicated that they had conducted a feasibility study in regards to the remaining property being able to be developed as an R5 lot, however that was not provided and we feel it should have been. We would like to see a concept plan showing that this change would still allow for the development of the southern portion of the property as it is currently zoned.

One of the requirements for a zone change is that the action will not be detrimental to the public interest, safety, health, convenience or general welfare and we do not believe this zone change and concept plan indeed meets that requirement. The public interest that should be most considered would be that of the residents of the existing neighborhood. The greater interest lies in keeping the area a residential neighborhood without the existence of retail or commercial development on land that is intended for residential development. The zone change and acceptance of the development plan to build a Popeye's restaurant would greatly affect the quality of life for those living nearby. Reasons include:

- It would result in a much higher traffic volume along Rio Vista, which has significantly increased already with the building of the Kum & Go. This causes congestion with cars turning into and out of the daycare and gas station and would increase even more with a fast-food restaurant with a constant flow of traffic. The amount of traffic along Rio Vista that is using it as essentially a frontage road to avoid Powers is much greater than the City Traffic Engineer realizes based on her comments at the neighborhood meeting held on August 25<sup>th</sup> which gives me great concern about how additional traffic will be handled, or not handled.
- This would create a significant amount of trash around our properties from littering and wind carrying refuse from dumpsters or outdoor trash cans, which results in a safety and health concern for those of us living adjacent to this property. The trash and rotting food in the empty lot has been a concern with just

the gas station on the corner and would become significantly greater with a fast food restaurant even closer to our homes.

- It would create lower air quality in our homes and on our property due to emissions from the restaurant. Rather than enjoying time in our yards and in our homes, we would have a constant smell of fried food.
- It would result in greater noise and commercial lighting directly behind our homes that would interrupt our daily activities.

When we bought our house in 2009, we specifically looked into the zoning of this lot as we did not wish to own a house that backed up to a commercial lot of any sort. We hope that the city planning division sees that the zone change is not in the best interest of the general public, potentially does pose a safety and health hazard to the neighboring residences and is greatly detrimental to the general welfare of the property owners adjacent to this lot. We strongly urge the City of Colorado Springs to deny the applicant's request. We plan to show through a petition and gathering of support from neighbors that there is a significant amount of opposition to this zone change and development plan and hope that the city will make the decision that is in the best interest of the residents of the surrounding neighborhood, rather than a single land owner.

Regards,

Bryan and Mary Kurth

5720 Gunshot Pass Drive  
(719) 229-8984

## Thelen, Lonna

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**From:** Robert K <rakski@msn.com>  
**Sent:** Sunday, September 07, 2014 9:47 AM  
**To:** Thelen, Lonna  
**Subject:** Re-zoning: SW Corner of N. Carefree Circle & N. Powers Blvd.

REF: Re-zoning southwest corner N. Carefree Circle & N. Powers Blvd. (Popeye's south of the Kum & Go)

I am opposed to a new retail outlet (Popeye's Fast Food) to be located near to the already busy intersection of Rio Vista Drive and North Carefree Circle.

Since, the new Kum & Go has been in business, exiting off of Mosquito Pass Drive has become more hazardous.

If additional Popeye's customer traffic is added to Rio Vita Drive; I will be forced to drive to Buckskin Drive or further to the south to exit my neighborhood safely on to Rio Vista Drive. This will add gasoline cost to my household budget; I am retired on a fixed income.

It will also add traffic to the residential streets in the neighborhoods south of Mosquito Pass Drive. My neighbors have expressed the same exiting route.

It would not be wise to make Rio Vista Drive more congested and hazardous; since, Rio Vista Drive is mostly a residential street. This could add to the City's liabilities in respect to good traffic engineering safety.

(signed)

Robert A. Kalkowski, RA  
5541 Mosquito Pass Drive  
Colorado Springs, CO 80917-4711  
(719) 574-3145

## Thelen, Lonna

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**From:** Mary Kurth <marykurth@live.com>  
**Sent:** Tuesday, September 16, 2014 7:52 PM  
**To:** Thelen, Lonna; Robert K; Dan & PJ  
**Subject:** RE: Popeye's resubmittal

Hi Lonna,

Thank you for the information and keeping us informed. I will notify the neighbors I have information for as to the date and time since several that live up Mosquito Pass and Buckskin Pass that would like to be involved are not included in the most recent mailings as we discussed.

I'd like to request too that you re-pull the list for future mailings, like for the October hearing, rather than use the same list if possible because the houses on both sides of us were sold in the last couple months and the new owners have not received any mailings regarding anything going on (the Service Street Public Hearing notice, the neighborhood meeting mailing, etc.) That way if there are any others that were missed as well they are included for the mailing regarding the hearing in October.

I'm really disappointed to see that the only thing in the attached document regarding traffic states that the City Traffic Engineer took the view that any traffic problems that may exist on Rio Vista are not a land use related issue as that is simply not the fact. If it was, then we would not have seen the significant increase in traffic that we have since the opening of the Kum & Go. If her view that the traffic along Rio Vista is entirely neighborhood traffic, then that would not explain the cars that go all the way through from South Carefree to North Carefree without turning, and it would mean that the only people entering the Kum & Go parking lot from the entrance on Rio Vista are those who live directly off Rio Vista and there is no way that would produce the volume of business they get on any given day through that entrance.

The problem is that all of the following is occurring on Rio Vista within a 500 foot space:

- Southbound cars on Rio Vista are trying to turn left into the Kum & Go
- Southbound cars on Rio Vista are trying to turn left into the day care
- Northbound cars on Rio Vista are trying to turn left onto Buckskin or Mosquito Pass
- Northbound cars are stopped and lined up waiting for the light to change at North Carefree
- Northbound cars are turning right into the daycare and Kum & Go entrances
- Cars are exiting the Kum & Go entrance turning both north and south
- Cars are exiting the Day care entrance turning both north and south

Furthermore, there are no left hand turn lanes on Rio Vista for northbound traffic turning onto Buckskin or Mosquito Pass or for southbound traffic turning into the daycare or Kum & Go so this stops all traffic behind them as they yield to oncoming traffic. All of this will be made worse with the automotive repair shop contributing additional traffic to this small space along Rio Vista and adding a fast food restaurant that would draw in additional traffic would likely overburden the existing street and space there on Rio Vista. Especially because all traffic coming in from Powers would be turning left onto Rio Vista from North Carefree (unless they do a u-turn at North Carefree).

Regarding the comments about the Popeye's on Austin Bluffs having had no complaints regarding lights, odors or noise other than the one instance, I feel that it is likely because people don't know how or who to submit a formal complaint to, thus the restaurant owners are simply unaware of any issues neighbors may have with the restaurant. Furthermore, of the 9 homes along Indianpipe Circle which are closest to the Popeye's, all but one have been purchased by the current home owners since the opening of the restaurant and therefore they were able to make the decision to purchase their home knowing it was next to a fast food restaurant. That is not the case for us along Gunshot Pass Drive. It's the opposite actually; we purchased our homes knowing that the land adjacent to ours was zoned for residential purposes because we specifically did not want to live next to a commercial property.

I will plan to present these and all of our concerns to the City Planning Commission as well at the public hearing but I appreciate you including them in the preliminary aspects of the process as well.

Thank you,

Mary

Mary Kurth  
Independent Business Owner - Mary Kay  
(719) 229-8984  
[www.marykay.com/marymesward](http://www.marykay.com/marymesward)

> From: Lthelen@springsgov.com  
> To: marykurth@live.com; rakski@msn.com; Danandpj@comcast.net  
> Subject: Popeye's resubmittal  
> Date: Mon, 15 Sep 2014 18:17:33 +0000  
>  
> Good morning,  
> You are receiving this email because you expressed concern about the Popeye's project proposed south of the Kum & Go at N Carefree & Powers. I've attached the resubmittal letter that addresses the comments raised, the revised development plan, and the revised concept plan.  
> This item will be scheduled for the October 16th City Planning Commission meeting.  
> Let me know by September 23, 2014 if you have any additional concerns on this project or if you have further questions.  
> Thanks,  
> Lonna  
>  
> Lonna Thelen, AICP, LEED AP  
> Planner II  
> P 719-385-5383  
>

## Thelen, Lonna

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**From:** Mary Kurth <marykurth@live.com>  
**Sent:** Tuesday, September 16, 2014 5:59 PM  
**To:** Thelen, Lonna  
**Cc:** sdrobbins@live.com; Dan O'Sullivan; mkmrolson@q.com  
**Subject:** N. Carefree & Powers Project  
**Attachments:** Petition with Signatures as of 9.14.15.pdf

Dear Lonna,

Attached is a petition, written by several of the home owners along Gunshot Pass, opposing the zone change, development plan and concept plan for the property located on the Southwest corner of North Carefree & Powers Blvd. Due to prior commitments and the limited time we were given between the meeting on August 25th and now (which is when you indicated you'd like to receive this petition), we were only able to collect signatures over the weekend of September 13th & 14th. So you will find signatures from 88 home owners and renters representing 67 homes along the residential streets closest to the property. We plan to continue to collect signatures over the next month from those who we were unable to connect with thus far in order to show the City Planning Commission compelling evidence that the majority of home owners and residents in the surrounding neighborhood are opposed to the zone change, concept plan and development plan submitted by the owners of the property.

Please notice that the owners of *every* home adjacent to the property along the southern border have signed the petition, as we will be the individuals most impacted by this decision. We hope that the City will realize the negative impact this development would have on the hundreds of residents in the nearby homes and therefore vote in favor of the multitude of property owners opposed to these changes rather than voting in favor of the one property owner submitting these applications.

Please let me know if you have any questions.

Thank you,

Mary

Mary Kurth  
Independent Business Owner - Mary Kay  
(719) 229-8984  
[www.marykay.com/marymesward](http://www.marykay.com/marymesward)

Petition to Deny Zone Change, Concept Plan and Development Plan for  
Property Located at the Southwest Corner of North Carefree Circle & Powers Blvd.

Background: The undeveloped southern portion of the property located on the Southwest corner of Powers Blvd. and North Carefree (El Paso County Assessor Schedule # 6325400021) is zoned R-5 (multi-family residential). The owner of the property, CAREFREE & POWERS SW, INC., has submitted the following applications to the City of Colorado Springs, Land Use Review Division:

File No.: CPC ZC 14-00076 – A zone change from R-5 (multi-family residential) to PBC (Planned Business Center)  
File No.: AR CP 11-00482-A1MJ14 – A major amendment to the concept plan to add a fast food restaurant  
File No.: CPC DP 14-00077 – A development plan for Popeye’s Restaurant  
File No.: CPC FP 14-00078 – a final plat for two lots

If these applications are approved, the owner plans to construct a Popeye’s restaurant south of the existing Kum & Go and east of the existing daycare center. A significant number of homeowners and neighbors adjacent to, and nearby the property, wish for this land to remain zoned R5 and oppose the concept and development plans for a zone change and a Popeye’s Restaurant to be built. We feel a zone change to this property for any commercial use would negatively and significantly affect our neighborhood. We oppose the above referenced applications for the following reasons:

- The proposed changes are not harmonious to the surrounding residential neighborhood and would result in a decreased quality of life for those living in the area due primarily to the traffic, increased activity, noise, lights, trash and odor that would result from a fast food restaurant being built.
- This development plan would result in a significant increase in traffic on Rio Vista and North Carefree. This would include an increase in traffic noise, volume and congestion which will be a burden to those living in the neighborhood and would overburden the capacity of Rio Vista. This will pose an unnecessary danger to children playing and elderly walking in the neighborhood on either side of Rio Vista between North Carefree and South Carefree.
- The proposed changes would result in an increase in activity in this residential neighborhood all hours of the day and most hours of the night, which would result in a decreased feeling of safety among those already living in the surrounding neighborhood. There is potential for an increase in criminal activity as there would be more non-residents in the neighborhood and harder for neighbors to identify suspicious activity.
- The building of a fast food restaurant would cause an increase in noise and light pollution. The reduced noise and light in a residential area as compared to a commercial area is a large factor many of us took into consideration when we purchased our home. We want to keep our neighborhood residential and continue to have minimal light and noise.
- Fast food restaurants, such as a Popeye’s Restaurant, cause significant air pollution including cooking odors, greasy fume and fallout, and emissions of fine particulate matter. Studies have shown that many odorous hydrocarbons or VOCs (volatile organic compounds) are formed in the cooking process and emissions of such particulate matter have adverse health implications. The neighbors in the area would be forced to breath in these odors and fumes 7 days a week, 12-16 hours per day.
- The proposed landscaping and fences do not provide an adequate buffer from undesirable views, noise, lighting, odors and littering that will negatively impact the adjoining properties. There is already a problem with blowing trash, littering and rotting food refuse on this property since the Kum & Go was built.
- The zone change and addition of a fast food restaurant would significantly decrease property values for the homeowners in the area.
- There was no concept plan provided showing the remaining portion of the property as it might be developed with R5 zoning. As a neighborhood, we are concerned that the property owner is attempting to piece-meal the lot and re-zone one portion at a time resulting in the undeveloped portion being unable to be developed for a multi-family residential purpose.

Petition: We, the undersigned, ask the City of Colorado Springs Land Use Review Division, City Planning Commission and City Council to deny the following development applications: File No.: CPC ZC 14-00076, File No.: AR CP 11-00482-A1MJ14, File No.: CPC DP 14-00077, File No.: CPC FP 14-00078 in regards to the property on the Southwest corner of North Carefree Circle and North Powers Boulevard (Schedule #6325400021).

Date	Printed Name	Address
9/7/14	Mary Kurth	5720 Gunshot Pass Drive
Signature		Phone/E-Mail
		marykurth@live.com 719.229.8984
Date	Printed Name	Address
9/7/14	Bryan Kurth	5720 Gunshot Pass Drive
Signature		Phone/E-Mail
		bryankurth@hotmail.com 719.313.1537
Date	Printed Name	Address
	Steven M. Hornyak	5730 Gunshot Pass Drive
Signature		Phone/E-Mail
		stevehornyak@gmail.com 719.235-6859
Date	Printed Name	Address
9/13/14	Shirley Robbin	5740 Gunshot Pass
Signature		Phone/E-Mail
		sdrobbins@live.com 719-213-1772
Date	Printed Name	Address
9-14	Gertrude Wagner	5750 Gunshot Pass Dr. 80917
Signature		Phone/E-Mail
		719-596-7930
Date	Printed Name	Address
9-13-14	Joy Gutierrez	5785 Gunshot Pass Dr 80912
Signature		Phone/E-Mail
		—
Date	Printed Name	Address
9/13/14	Peggy Hester	5765 Gunshot Pass Dr 80917
Signature		Phone/E-Mail
		(719) 591-2262
Date	Printed Name	Address
9/13/14	Brandon Mann	5745 Gunshot Pass Dr 80917
Signature		Phone/E-Mail
		P 719432 5642
Date	Printed Name	Address
13 SEPT 14	JOE FURLOWE	5725 GUNSHOT PASS DR
Signature		Phone/E-Mail
		joe753@hotmail.com

Date	Printed Name	Address
9/13/2014	Rosalba M. Wilzenburga	5753 Gunshot Pass Dr.
Signature		Phone/E-Mail
		719-432-5842 Rosalbamorales@comcast.net
Date	Printed Name	Address
9/13/2014	Debra A. Henry	5643 Gunshot Pass Dr.
Signature		Phone/E-Mail
		719-433-2929 Debra.Henry2@gmail.com
Date	Printed Name	Address
9/13/14	James Brown	5511 Gunshot Pass Drive
Signature		Phone/E-Mail
Date	Printed Name	Address
9/13	Dennis Westery	5481 Gunshot Pass Dr.
Signature		Phone/E-Mail
	Dennis Westery	
Date	Printed Name	Address
12/24/14	MARK S. RIDDER	5455 GUNSHOT PASS DR CO S, CO 80917
Signature		Phone/E-Mail
		572-0923 / MARK - NORMA D @ MSN.COM
Date	Printed Name	Address
	NORMA D. RIDDLE	5455 Gunshot Pass Dr.
Signature		Phone/E-Mail
	Norma D. Riddle	
Date	Printed Name	Address
13/9/14	Amy Cook	5460 Gunshot Pass Dr.
Signature		Phone/E-Mail
Date	Printed Name	Address
7/13/14	CHRIS BLESMAN	5480 GUNSHOT PASS DR COLORADO SPRINGS CO 80917
Signature		Phone/E-Mail
		719 660 4205
Date	Printed Name	Address
9/13/14	Zachary H. Blesman	5460 Gunshot Pass Dr Colorado Springs CO 80917
Signature		Phone/E-Mail
		(719) 492-6331
Date	Printed Name	Address
9/13/14	Julie Blesman	5460 Gunshot Pass Dr. Colorado Springs, CO 80917
Signature		Phone/E-Mail
		(719) 573-0355

Date	Printed Name	Address
9/13	Russell Moad	5484 Gunshot Pass Dr
Signature		Phone/E-Mail
		Piece of korn@icloud.com
Date	Printed Name	Address
9/13	Theresa James	5504 Gunshot Pass Dr
Signature		Phone/E-Mail
		freedawn@hotmail.com
Date	Printed Name	Address
9/13/14	Heather Quinlan	5524 Gunshot Pass Dr.
Signature		Phone/E-Mail
		hwoolstein@yahoo.com
Date	Printed Name	Address
9/13/14	John Woodard	5531 Gunshot Pass Dr
Signature		Phone/E-Mail
		j.woodard@msn.com
Date	Printed Name	Address
9/13/14	SHARNA QUINLAN	5524 Gunshot PASS DR
Signature		Phone/E-Mail
		SQUINLAN@MFCPINC.COM
Date	Printed Name	Address
9/13/14	Alise D. Hunter	5554 Gunshot Pass Drive
Signature		Phone/E-Mail
		rockies.fan.forever@live.com
Date	Printed Name	Address
9/13/14	David E. Vandenburg	5561 Gunshot Pass Dr. Colorado Springs CO 80917
Signature		Phone/E-Mail
		719-322-7972 vandeb@live.com
Date	Printed Name	Address
13 Sept	Amy Sanchez-Mtz	5603 Gunshot Pass 80917
Signature		Phone/E-Mail
		719-576-2991 vase.baer@yahoo.com
Date	Printed Name	Address
13 Sept	Vernon Q Reynolds	5610 Gunshot Pass Dr
Signature		Phone/E-Mail
		719-373-8188 1ee.reynolds1971@gmail.com
Date	Printed Name	Address
13/sep	Ursula M Brooks	5630 Gunshot Pass Dr. 80917
Signature		Phone/E-Mail
		Bevs2119@msn.com

Date SEP. 13, 14	Printed Name ROBERT A. KALKOWSKI	Address 5541 MOSQUITO PASS DRIVE
Signature 	Phone/E-Mail 574-3145 / rakski@msn.com	
Date Sep 13 2014	Printed Name Mary E. Olson	Address 5511 Mosquito Pass Dr. 80917
Signature 	Phone/E-Mail 719-637-1756	
Date Sep 14 2014	Printed Name Michael F. Olson	Address 5511 Mosquito Pass Dr 80917
Signature 	Phone/E-Mail 719-6371756 MKMROLSON@q.com	
Date 9/14/14	Printed Name Martin Longoria	Address 5534 Mosquito Pass Dr.
Signature 	Phone/E-Mail martin.longoria@outlook.com	
Date	Printed Name Curtis Hanelor	Address 5533 Mosquito Pass Dr. 80917
Signature 	Phone/E-Mail	
Date 9/14	Printed Name FOY C. HINTON	Address 5471 Mosquito Pass Dr
Signature 	Phone/E-Mail FOYHINTON@LIVE.COM	
Date 9/14	Printed Name DEBRA HINTON	Address 5471 Mosquito Pass Dr.
Signature 	Phone/E-Mail	
Date 9/14/14	Printed Name GARRICK A. BAYER	Address 5521 MOSQUITO PASS DR. COL. SPRINGS, CO 80917
Signature 	Phone/E-Mail 719-243-8222 gabayercos@gmail.com	
Date 9/14/14	Printed Name THOMAS W. GROUNDER	Address 5544 MOSQUITO PASS DR COS, CO 80917
Signature 	Phone/E-Mail 719-287-0539	
Date 9/14/14	Printed Name Adam Horkert	Address 5594 Mosquito Pass Dr
Signature 	Phone/E-Mail 763-607-3269	

Date	Printed Name	Address
9/14/14	Barbara Gees	5642 Mosquito Pass Dr.
Signature		Phone/E-Mail
Date	Printed Name	Address
9/14/14	Zachary Aafort	5561 Mosquito Pass Dr.
Signature		Phone/E-Mail
		631-525-2692
Date	Printed Name	Address
9/14/14	Ashleigh Miller	5501 Mosquito Pass Dr.
Signature		Phone/E-Mail
		<del>706</del> 706 697 5221
Date	Printed Name	Address
9/14/14	Judith Bayer	5521 Mosquito Pass Dr.
Signature		Phone/E-Mail
Date	Printed Name	Address
9/14/14	DAVID WHEAT	5504 Mosquito Pass Dr.
Signature		Phone/E-Mail
		mosquitolodge@comcast.net
Date	Printed Name	Address
9-14-14	SUSAN OLNEY	5504 Mosquito Pass Dr.
Signature		Phone/E-Mail
Date	Printed Name	Address
9/14/14	Jacqueline Krapp	5514 Mosquito Pass Dr.
Signature		Phone/E-Mail
		Jackie.krapp@gmail.com
Date	Printed Name	Address
Signature		Phone/E-Mail
Date	Printed Name	Address
Signature		Phone/E-Mail

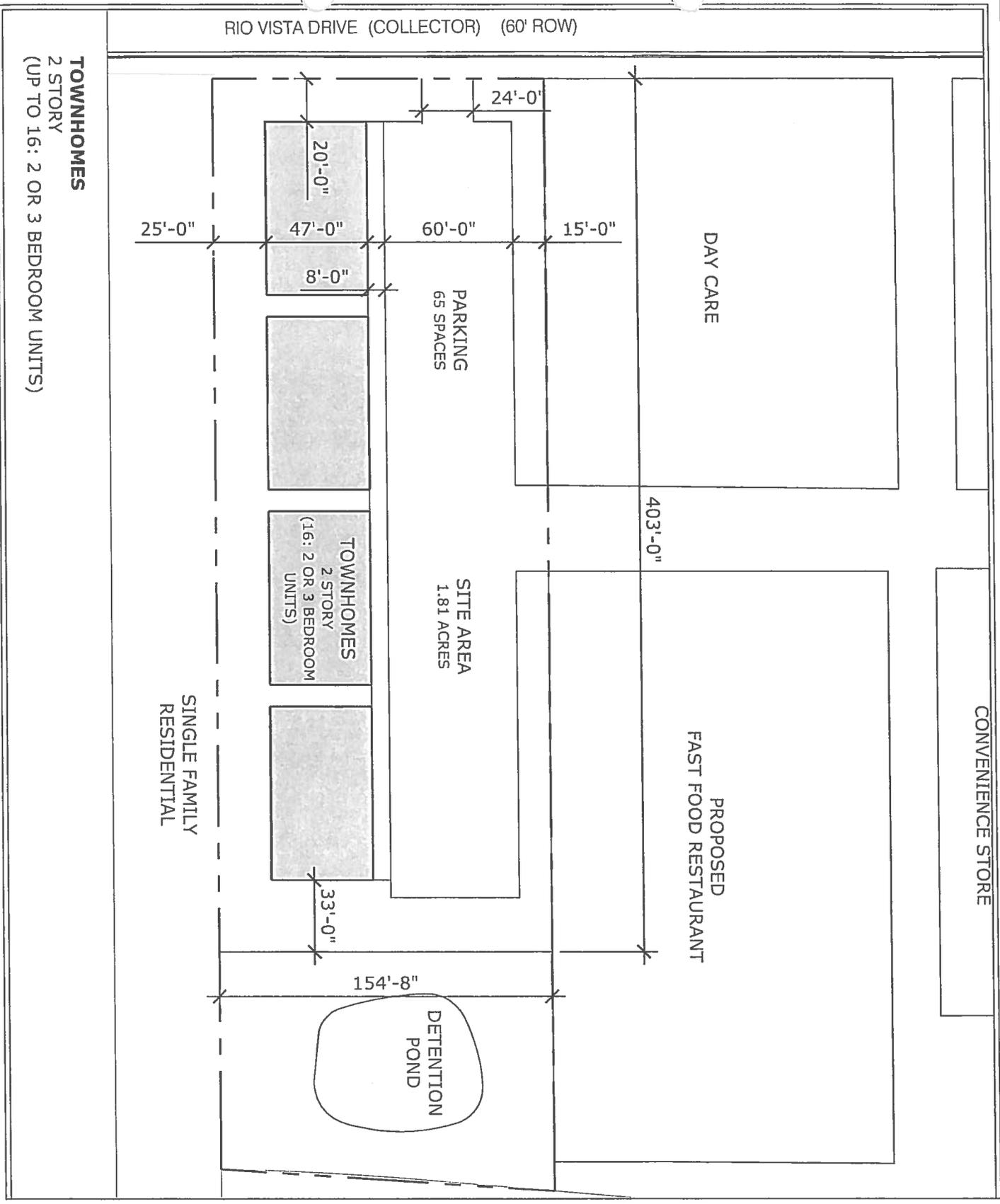
Date	Printed Name	Address
9-14	Cynthia Haigler	5533 MOSQUITO PASS DR
	<i>Cynthia Haigler</i>	Phone/E-Mail
		—
	Robert Nebinger	5460 Mosquito Pass Dr
	<i>Robert Nebinger</i>	Phone/E-Mail
		719-287-2467 RTNebinger@gmail.com
	Angela Nebinger	5460 Mosquito Pass Dr
	<i>Angela Nebinger</i>	Phone/E-Mail
		719 964 0843 ANebinger@gmail.com
9-14	Karlene Hammann	5441 Mosquito Pass Dr
	<i>Karl Ham</i>	Phone/E-Mail
		719 646-9596 Karlene512s@aol.com
7-14	Brian DeFord	5444 Mosquito Pass Dr.
	<i>B. D. Ford</i>	Phone/E-Mail
		719-659-8938 Brian.DeFord@yale.com
9/14	Micnelle DeFord	5444 MOSQUITO PASS DR
	<i>Micnelle DeFord</i>	Phone/E-Mail
		(719) 660-1178 MicnelleDeFord@parco.com
9/14	Bryan Roland	5468 Mosquito Pass Dr.
	<i>Bryan Roland</i>	Phone/E-Mail
		bryanroland@gmail.com
9/14	EDGAR BEAUN	5472 MOSQUITO PASS DR
	<i>Edgar Beaun</i>	Phone/E-Mail
		596-7343
9/14	Kristi Crander	5544 Mosquito Pass Dr.
	<i>Kristi Crander</i>	Phone/E-Mail
		307-761-2152 KristiCrander3440@comcast.net
9/14	SHAWN WATKINS	5611 MOSQUITO PASS DR
	<i>Shawn Watkins</i>	Phone/E-Mail
		—

Date 7-13-2014	Printed Name RANDALL S JOHNSON	Address 5640 GUNSHOT PASS DR
Signature 		Phone/E-Mail 719-591-2637
Date 9-13-14	Printed Name Karen Olerich	Address 5624 N. Buckskin Pass Dr
Signature 		Phone/E-Mail —
Date 14 Sept 14	Printed Name Constance L. Williams	Address 5750 Gunshot Pass Dr.
Signature 		Phone/E-Mail 719 591 - 5714
Date 14 Sept 2014	Printed Name Clarence J. Williams Jr.	Address 5750 Gunshot Pass Dr.
Signature CJ Williams Jr.		Phone/E-Mail (719) 591-5714 clarencewilliamsJT@yahoo.com
Date 9-14-14	Printed Name P. J. O'Sullivan	Address 5760 Gunshot Pass Dr
Signature 		Phone/E-Mail 719 591-6025
Date 9-14-14	Printed Name DAN O'Sullivan	Address 5760 Gunshot Pass Dr
Signature 		Phone/E-Mail 719 591-6025
Date 9/14/14	Printed Name Christine Dieringer	Address 5770 Gunshot Pass Dr.
Signature 		Phone/E-Mail 719-550-9177 cdieringer@aol.com
Date 9/14/14	Printed Name Judy Stevenson	Address 5820 Gunshot Pass Dr.
Signature Judy Stevenson		Phone/E-Mail —
Date 9/14/14	Printed Name DENNIS SKINNER	Address 5810 GUNSHOT PASS DR
Signature 		Phone/E-Mail SKINMAN@JUNO.COM
Date 9/14/14	Printed Name Mel Salazar	Address 5565 N Buckskin Pass Dr
Signature Mel Salazar		Phone/E-Mail 719-293-8779

Date	Printed Name	Address
	José Salazar	5641 Buckskin Pass DR
Signature		Phone/E-Mail
		—
Date	Printed Name	Address
	Jalissa Sanchez	5641 Buckskin Pass DR
Signature		Phone/E-Mail
		—
Date	Printed Name	Address
9/14 2014	F.M. SWIDER	5555 BUCKSKIN PASS DR. N
Signature		Phone/E-Mail
Date	Printed Name	Address
9/14	(Callie Ruffledge)	5521 N. Buckskin Pass
Signature		Phone/E-Mail
		719-211-4909
Date	Printed Name	Address
9/14	Peter Harman	3521 N. BUCKSKIN DR
Signature		Phone/E-Mail
		719 2014435
Date	Printed Name	Address
9/14	APRIL HARMAN	3521 N BUCKSKIN PASS
Signature		Phone/E-Mail
		719 287 1777
Date	Printed Name	Address
9/14	Andy Heldman	5522 N. Buckskin Pass Dr
Signature		Phone/E-Mail
		719-596-3432
Date	Printed Name	Address
7/14	Blanca S Dudak	5515 N. Buckskin Pass Dr
Signature		Phone/E-Mail
		Blanca45@gmail.com
Date	Printed Name	Address
9/14	Kenneth Courtney	5505 N. Buckskin Pass DR.
Signature		Phone/E-Mail
		Kensite55@yahoo
Date	Printed Name	Address
4/14	Bonnie Shartzner	5532 N. Buckskin Pass Dr.
Signature		Phone/E-Mail
		abshartzner@aol.com

Date	Printed Name	Address
9/14/14	Donna Shvartz	5532 Buckskin Pass
Signature		Phone/E-Mail
		(719) 243-2741
Date	Printed Name	Address
	Brett Shartzer	5532 Buckskin Pass
Signature		Phone/E-Mail
		(209) 400-1692
Date	Printed Name	Address
	ROBERT E COYNE	5552 BUCKSKIN PASS W
Signature		Phone/E-Mail
		719-597-1081 COYNE62@GMAIL.COM
Date	Printed Name	Address
9/14/14	Roger Henry	5643 Gunshot Pass Drive
Signature		Phone/E-Mail
		719-433-2928 Rog.Henry@gmail.com
Date	Printed Name	Address
9/14/14	Kelli Remmert	5710 Gunshot Pass Dr.
Signature		Phone/E-Mail
		719-246-0907 Kellij.363@yahoo.com
Date	Printed Name	Address
Signature		Phone/E-Mail
Date	Printed Name	Address
Signature		Phone/E-Mail
Date	Printed Name	Address
Signature		Phone/E-Mail
Date	Printed Name	Address
Signature		Phone/E-Mail

Date 9/14/14	Printed Name Martha Mendoza	Address 579. 201-5243 59206 Gunshot Pass
Signature 		Phone/E-Mail montesmartha86@yahoo.com
Date 09-14-2014	Printed Name JASON HOWCROFT	Address 5950 GUNSHOT PASS DRIVE
Signature 		Phone/E-Mail HOWCROFTJA@YAHOO.COM
Date 9/14/14	Printed Name Larry Evans	Address 5781 Stony Pass Dr.
Signature 		Phone/E-Mail 719 661 9200
Date 9/14/14	Printed Name JEROME DSUNDEE II	Address 5775 STONEY PASS DR.
Signature 		Phone/E-Mail 719 963-8156
Date 9/14/14	Printed Name Linda Baxter	Address 6010 Gunshot Pass
Signature 		Phone/E-Mail 951) 741-8019
Date 9/14/14	Printed Name JEFF HALL	Address 5739 Hermit Pass
Signature 		Phone/E-Mail 719-574-2534
Date 9/14/14	Printed Name Pam Edmonds	Address 5771 Front Creek Pass
Signature 		Phone/E-Mail 437-1103
Date	Printed Name	Address
Signature		Phone/E-Mail
Date	Printed Name	Address
Signature		Phone/E-Mail
Date	Printed Name	Address
Signature		Phone/E-Mail



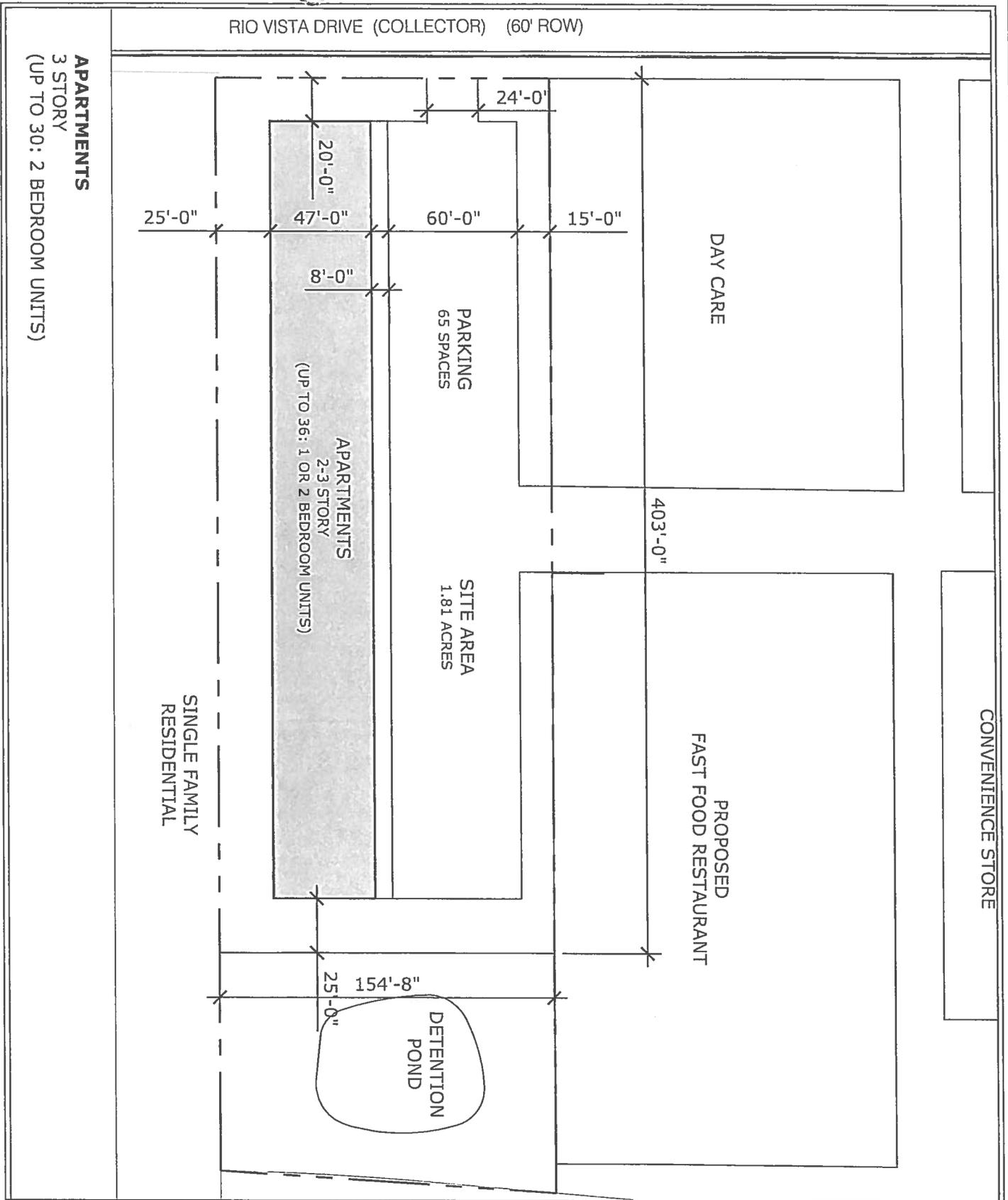
**R-5 ZONED PROPERTY AT RIO VISTA DRIVE/ N. CAREFREE CIRCLE**  
 ILLUSTRATIVE LAYOUT OF ALLOWABLE USES: *TOWNHOMES*

DATE 7-17-14



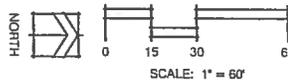
N.E.S. Inc.  
 508 South Tejon Street  
 Colorado Springs, CO 80903  
 Tel. 719.471.0073  
 Fax 719.471.0267  
 www.nescolorado.com

**FIGURE 4**



**R-5 ZONED PROPERTY AT RIO VISTA DRIVE/ N. CAREFREE CIRCLE**  
 ILLUSTRATIVE LAYOUT OF ALLOWABLE USES: APARTMENTS

DATE 7-17-14

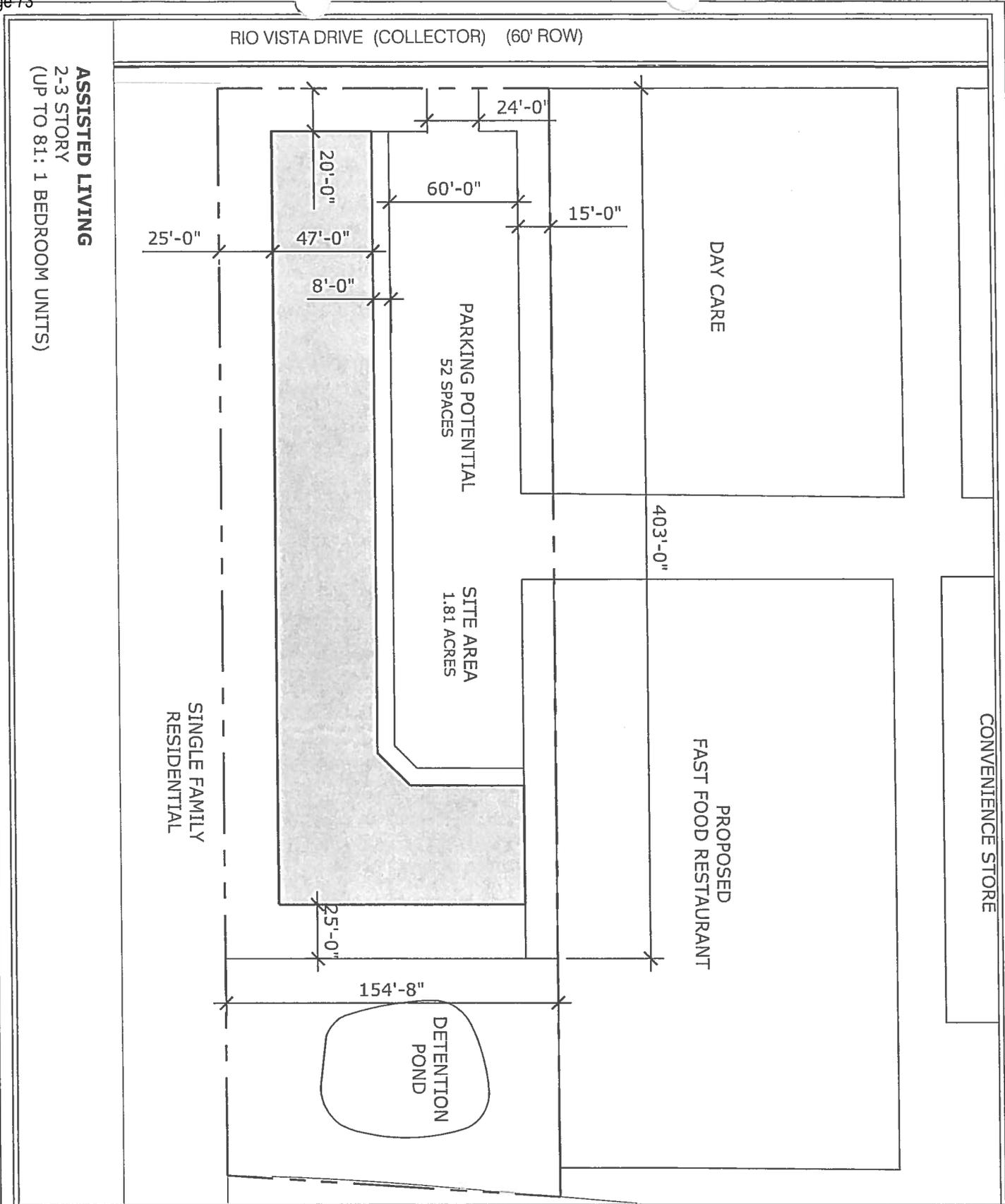


N.E.S. Inc.  
 508 South Tejon Street  
 Colorado Springs, CO  
 80903

Tel. 719.471.0073  
 Fax 719.471.0267

www.nescolorado.com

**FIGURE 4**



**R-5 ZONED PROPERTY AT RIO VISTA DRIVE/ N. CAREFREE CIRCLE**  
 ILLUSTRATIVE LAYOUT OF ALLOWABLE USES: *ASSISTED LIVING*

DATE 7-17-14



N.E.S. Inc.  
 508 South Tejon Street  
 Colorado Springs, CO 80903

Tel. 719.471.0073  
 Fax 719.471.0267

www.nescolorado.com

**FIGURE 4**

## RESPONSE TO NEIGHBOR'S COMMENTS

Rezoning: Concern is expressed regarding the principle of rezoning from R-5 to PBC, encroachment of the commercial area closer to the existing residential, and the viability of redeveloping the reduced R-5 parcel. As explained in the Project Statement accompanying the Popeye's application, the remaining R-5 zoned land between the extended commercial and residential areas will continue to provide an appropriate land use transition and substantial buffer. An expanse of 150 feet will remain between the boundary of the residential neighborhood and the southern boundary of the application site. This distance increases to 220 feet when measured from the edge of the proposed Popeye's restaurant to the nearest residential property boundary to the south. Additional buffer and screening is proposed along the southern boundary of the Popeye's site, comprising a 20-foot landscape setback planted with trees and shrubs and a 6-foot cedar fence.

The Concept Plan amendment appropriately refers solely to the existing/proposed PBC zone district. The owner has not included the residual R-5 area into the Concept Plan as there are currently no plans, either firm or aspirational, for that parcel. An area of 1.8 acres of R-5 zoned land will remain which, excluding the detention pond in the south eastern corner of the site, leaves approximately 1.45 acres of developable land. Three illustrative layouts that demonstrate the viability of developing the remaining R-5 area for a selection of permitted R-5 uses, including town homes, apartments, and an assisted living facility, were provided with the original submittal. These demonstrate that development of the remaining R-5 area is feasible, with adequate access, parking, and setbacks provided. This information is openly available in the City's public file for these applications. We attach these feasibility studies again for clarification.

Traffic: The City's Traffic Engineer took the view that any traffic problems that may exist on Rio Vista Drive are not a land use related issue. The City's Traffic Engineer has committed to undertaking a study of the traffic volumes and speed on Rio Vista to establish if and what traffic calming measures are required. Traffic issues relating to noise from individual vehicles with modified exhaust systems is a matter for the Police. There is no evidence to support the implication that a Popeye's restaurant would specifically attract customers with such vehicles.

Noise/Light/Odor: The subject site is located at the intersection of Powers Boulevard and North Carefree Circle, with a Kum & Go service station adjacent to its northern boundary. We consider that the activities and light from the proposed Popeye's restaurant would be barely discernible in the context of the ambient noise and light levels from these busy streets and the 24/7 Kum & Go operation.

Popeye's operate an existing restaurant and drive-thru at 3450 Austin Bluffs Parkway. This facility has single-family and multi-family residential development immediately adjacent to its northern boundary, with only 40 feet separation between the restaurant and the nearest residential lot. The restaurant has been operational since 1982. During that time there have been no complaints regarding activities on the site and, in particular, no complaints relating to lighting or odors. One complaint was received in relation to the volume of the ordering speaker, which is located at the north-east corner of the property, directly behind the homes. This was addressed immediately by management to the satisfaction of the neighbor, and the volume control for the speaker is now within a locked box that cannot be accessed by employees. We attach an exhibit of the Popeye's at Austin Bluffs that shows the proximity of the residential properties to the restaurant.

Notwithstanding the above comments, Popeye's/the Owner are willing to initiate the following measures to offset the neighbors' specific operational concerns.

**Noise/Activity:**

Popeye's are willing to limit operating hours to 10:00 PM for the restaurant and 11:00 PM for the drive-thru. This is a reduction from the hours noted at the neighborhood meeting of 10:00 PM for the restaurant and 12:00 AM for the drive-thru.

The volume of the ordering speaker will be controlled by management and volume adjustment will be within a locked box that cannot be adjusted by employees.

**Lighting:**

Four parking lot lights are proposed; two on the southern boundary facing away from the neighbors, one on the western boundary, and one on the northern boundary. The light on the northern boundary is positioned so it will be screened from the homes to the south by the restaurant building. As requested by City Planning, the light poles will be 20 feet tall with full cut-off light fixtures, which will mitigate light effusion.

Based on the proposed closing of the drive-thru at 11:00 PM, the operator proposes the following lighting schedule to minimize the impact on the residents to the south:

1. Parking lot lights on the west and south sides will go off at 11:15 PM
2. Parking lot lights on the north side will go off at 12:15 AM (giving the employees time to get to their cars)
3. The interior lighting in the service/kitchen area will stay on 24 hours. There are no windows in this area other than the small pick-up window. The dining area lights will go off at 10:30 PM.
4. Exterior building lights (goosenecks) will go off at 12:15 AM
5. Building signage will go off at 11:00 PM (closing)
6. Pole signage will go off at 11:00 PM (closing)
7. Drive-thru menu signage will go off at 11:00 PM (or as soon as the last car is through the drive-up).

Neighbor's expressed concern that the proposed parking lot lighting would be more intense than for a multi-family residential development. This is not the case, as similar lighting levels are required for multi-family and commercial uses, with the exception that multi-family parking lot lights would be required to remain on throughout the night for safety.

**Odor:**

Popeye's will install a Captivaire Pollution Control Unit with Odor Removal module to reduce the odor emanating from the building. Details are attached and more information is available at <http://captiveaire.com/CatalogContent/PollutionControl/PCU/index.asp>.

As noted above, odor has not been an issue at other facilities in the area where residential properties are located much closer to the restaurant than is the case in this situation. The nearest property to the proposed Popeye's is approximately 220 feet away (restaurant to residential property line). The Pollution Control Unit will be attached to the exhaust system on the roof of the Popeye's building,

approximately 32 feet above the first floor grade of the nearby homes (15 foot grade change, plus 17 foot building height). The warm air and odors from the cooking process will have a tendency to rise and are not likely to filter down to the residents, 220 feet away and 32 feet below the restaurant.

**Trash:**

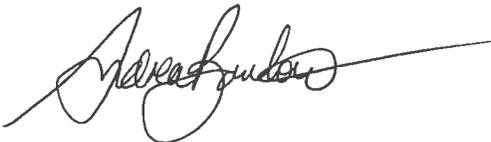
The location of the trash enclosure in the northwest corner of the site should limit trash escaping on to the vacant land to the south. In order to further reduce this prospect, the following additional measures are proposed:

1. An increase in the height of the trash enclosure to 8-feet.
2. There will be two to three trash collections a week, but additional collections will be arranged as necessary to avoid excessive trash accumulation in the containers.
3. Trash will be picked-up on and around the site every morning by Popeye's staff prior to opening.
4. The Owners of the vacant property to the south will monitor the site and will address any trash accumulation issues.

Three full-size copies and one 11 X 17 of the revised development plan, one full-size and one 11 X 17 of the concept plan, and one full-size and one 11 X 17 of the final plat are enclosed as requested. Please confirm that these applications will be placed on the October 16, 2014 City Planning Commission meeting agenda.

If you have any questions or would need to arrange a meeting to discuss this review letter, you may contact me at 884-1370.

Sincerely,



**Andrea Barlow, AICP**  
**Project Manager**  
**N.E.S. Inc.**

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# NEW BUSINESS CALENDAR

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## CITY PLANNING COMMISSION AGENDA

ITEM NOS: 5.A-5.C

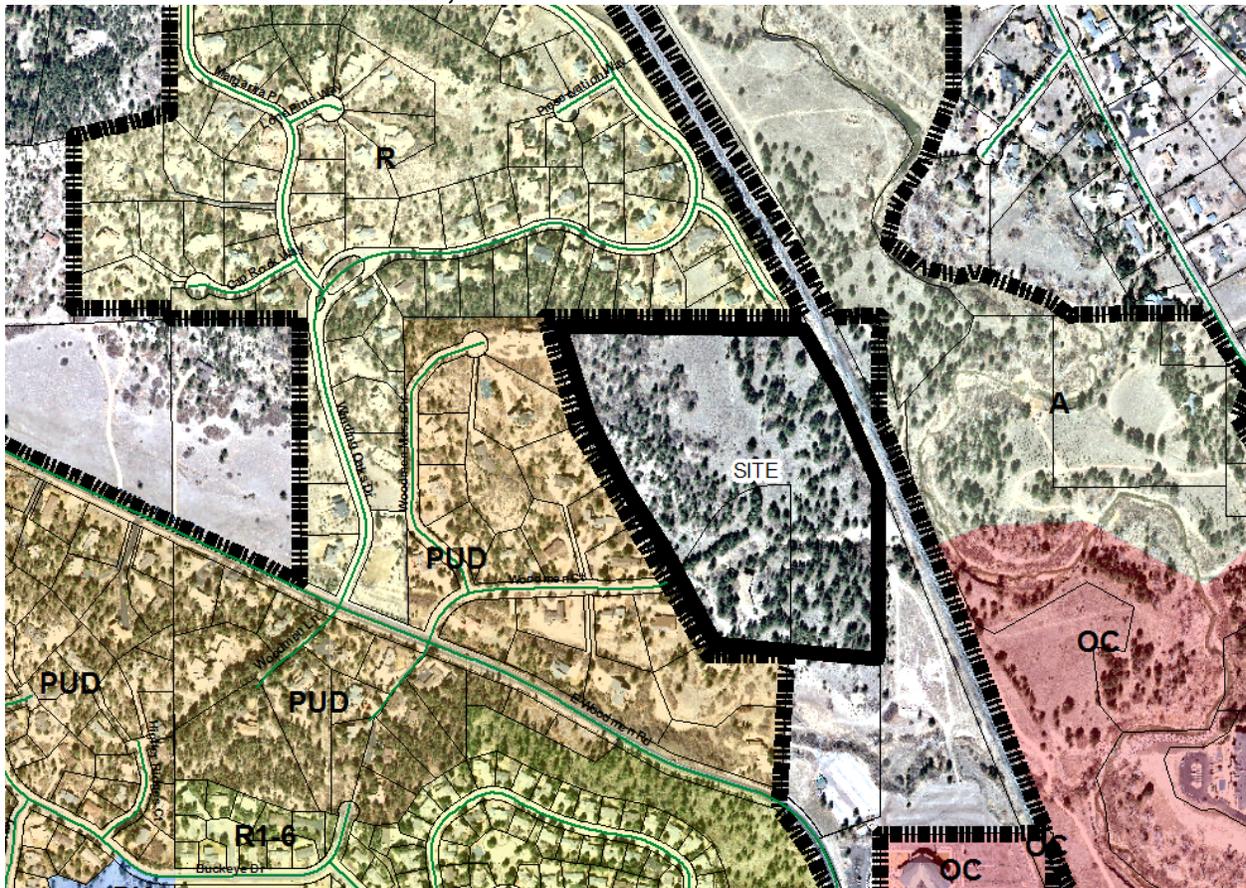
STAFF: MEGGAN HERINGTON

FILE NO(S):  
CPC A 13-00112 – LEGISLATIVE  
CPC PUZ 14-00063 – LEGISLATIVE  
CPC PUP 14-00064 – QUASI-JUDICIAL

**PROJECT:** DUSTY HILLS ADDITION

**APPLICANT:** MVE, INC.

**OWNER:** DUSTY HILLS, INC.



### **PROJECT SUMMARY:**

1. Project Description: This project includes concurrent applications for annexation, zoning and a concept plan for 27.74 acres located north of Woodmen Road, east and south of Woodmen Court and directly west of the railway line.

Zoning will establish a PUD/HS (Planned Unit Development with Hillside Overlay) zone for the property. The PUD will allow single family residential development with a maximum density of 0.83 dwelling units per acre and a 35-foot maximum building height.

The associated concept plan illustrates the layout of 23 single family residential lots ranging in size from 18,260 square feet to 5.23 acres. The 5.23-acre lot includes the existing home on the property that will remain. Significant open space tracts and public roads are also included. **(FIGURE 1)**

2. Applicant's Project Statement: **(FIGURE 2)**
3. Planning and Development Department's Recommendation: Staff recommends approval of the applications.

### **BACKGROUND:**

1. Site Address: The existing home is addressed at 95 Woodmen Court; the surrounding vacant land is addressed as 0 Woodmen Court.
2. Existing Zoning/Land Use: The 22.25 acre parcel is vacant. The other parcel is 5.24 acres in size and includes a single-family residence.
3. Surrounding Zoning/Land Use:
  - North: R/Single-Family Lots
  - South: County/Vacant property owned by Woodmen Valley Chapel
  - East: A/Rail Corridor and Monument Creek
  - West: PUD/Single-Family Lots
4. Comprehensive Plan/Designated 2020 Land Use: There is no 2020 Land Use designation because it is not yet in the City.
5. Annexation: The property is not yet annexed.
6. Master Plan/Designated Master Plan Land Use: There is no existing or planned master plan for this property.
7. Subdivision: The property is not platted.
8. Zoning Enforcement Action: None
9. Physical Characteristics: A majority of the property is vacant. There is one home on a 5.24-acre parcel included in the request. The property has significant hillside characteristics including sloping topography and significant vegetation.

### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public process included posting the site and sending postcards to property owners within 500 feet and posting notice of two neighborhood meetings and the public hearing.

The applicant held two public meetings. The first was a pre-application neighborhood meeting on February 20, 2014. Staff notified 32 neighbors of the meeting and approximately 35 attended. Concerns from the neighbors included lot sizes, increased traffic, and building design.

When the applications were formally submitted to City Land Use Review on June 24<sup>th</sup>, staff realized that notices for the original neighborhood meeting had not been sent to all of the neighbors reflected on the 500 foot buffer map. Because of this, staff requested that the

applicant hold a second neighborhood meeting. That meeting was held on July 17<sup>th</sup> and was attended by approximately 20 neighboring residents. Concerns at this meeting echoed those heard previously including density, traffic, and the design of future homes and covenants. The applicant also met with the Woodmen Oaks Homeowners Association (HOA) as a third opportunity to introduce the project to the neighborhood.

The originally submitted design connected Woodmen Court through the property. Numerous emails were received from concerned neighbors based on the neighborhood impact of connecting these long time dead-end streets. Because of the initial neighbor concerns, the applicant redesigned the project to cul-de-sac Woodmen Court at the north end of the project. Initially, all review agencies, including City Fire, supported the cul-de-sac design. However, as of the preparation of this report, the City Fire Department conducted additional research on the area and made the determination on November 3, 2014 that Woodmen Court would be required to connect through this project for public safety purposes.

Neighborhood issues and the overall redesign of the project are addressed in the following sections of this report. Neighborhood comments are attached as **FIGURE 3**.

Staff also sent the plans to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, City Finance, Police and E-911, and the US Air Force Academy.

As stated above, City Fire has made the final determination that for purposes of emergency access and improved ingress/egress for the Woodmen Oaks neighborhood, Woodmen Court will be required to connect through the Dusty Hills project.

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

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

The request is to annex the property into the municipal limits of the City of Colorado Springs and develop 22 new home sites. The overall density of the project is 0.83 dwelling units per acre. The concept plan illustrates an extension of the western leg of Woodmen Court through the development to connect to the northern section of Woodmen Court. All roads are public. Open space tracts will be maintained by a future HOA.

The draft annexation agreement is attached as **FIGURE 4**. This agreement is fairly simple and is largely following the model annexation agreement utilized by the City. There are no off-site requirements for this project.

#### **PUD/HS Zoning**

The zoning request is to zone the property PUD/HS (Planned Unit Development with a Hillside Overlay). The PUD allows a single family residential density of 0.83 dwelling units per acre and a maximum building height of 35 feet. This PUD density is compatible with surrounding residential densities and is in conformance with the review criteria for zone changes found in City Code Section 7.5.603.B and the establishment and development of a PUD zone criteria found in City Code Section 7.3.603.

#### **PUD Concept Plan**

The concept plan includes 23 single family lots ranging in size from 18,260 square feet to 5.23 acres. The 5.23 acre lot includes the existing home on the property that will

remain. The plan contains 6.53 acres of preservation and open space to be owned and maintained by a future HOA. Woodmen Court will connect through the project. Any future construction will require the submittal of a Hillside Development Plan to be reviewed and approved administratively.

#### Traffic, Fire and Roadway Design

The plats and plans for the neighboring subdivisions, Woodmen Mesa and Woodmen Oaks, show Woodmen Court connecting through this property. The original concept plan submitted for this site did include the Woodmen Court connection. The supporting traffic study stated that the additional 22 lots would generate 209 additional average daily trips within the existing neighborhood. The traffic study also estimated an additional 300 background trips from the existing Woodmen Oaks neighborhood for a total of approximately 509 trips south on Woodmen Court through the Woodmen Mesa neighborhood. All intersections in the area function at acceptable levels.

A majority of the comments to staff from the Woodmen Mesa residents and several Woodmen Oaks residents were that they did not want Woodmen Court to connect because of traffic concerns. Because of this, Land Use Review staff worked closely with City Traffic, Fire, and Police to determine that a cul-de-sac design as presented in **FIGURE 5** of this report was an acceptable design. Fire originally supported the cul-de-sac with the condition that all homes have fire monitoring systems. City Police (E-911) worked with the applicant on additional road naming for the shorter, eastern cul-de-sac.

When staff began to prepare the staff materials and notify neighbors of the impending City Planning Commissions Hearing, several Woodmen Oaks neighbors expressed concerns with the cul-de-sac compromise and felt that since the roads were shown to connect on previous plans that a connection should be made. The connection is shown on the overall development plan for Woodmen Oaks and the homeowners had an expectation for a secondary access point. Several emails also stated that during the development of Woodmen Oaks in 1996, the home purchasers were promised a second connection in the future and that was through the Dusty Hills parcel.

Based on this additional information, Land Use Review staff did reach out to City Fire to verify their supportive comments of the cul-de sac and to verify any previous history and discussions with Woodmen Oaks. City Fire researched the area in greater detail. The Fire Marshall has now made the decision that Woodmen Court is required to connect with the development of Dusty Hills. Woodmen Court has been determined to be a needed secondary neighborhood connection thorough Woodmen Oaks and is required for public safety. The supported concept plan layout is proposed as **Figure 1**.

#### Compatibility

As stated previously, the Dusty Hills project lies between two separate subdivisions; Woodmen Mesa to the west and Woodmen Oaks to the north. Considerable comment has been received from these residents regarding compatibility, density and lot size.

Woodmen Oaks is zoned R (Residential Estate) with the Hillside Overlay. The R zone district allows a minimum lot size of 20,000 square feet. There are a number of open space tracts within the Woodmen Oaks neighborhood. The development plan average lot size is two-thirds of an acre (or 29,040 square feet). The smallest lots are approximately 23,000 square feet in size.

Woodmen Mesa was zoned PUD/HS (Planned Unit Development with Hillside Overlay) with annexation in 1978. The PUD ordinance allows a residential density of 1.42 dwelling units per acre. The average lot size is one acre.

The Dusty Hills PUD proposes a maximum density 0.83 dwelling units per acre. The minimum lot size is 18,260 square feet and there is only one interior lot at that minimum size. The average lot size is 36,590 square feet. That equates to 80% of the lots being larger than one-half acre.

By comparing the overall density of the three neighborhoods, the Dusty Hills proposal is within similar averages and densities as the two existing neighborhoods. Staff does find that the proposed density for the Dusty Hills development is compatible with the existing residential neighborhoods, and therefore, finds that the concept plan meets the PUD concept plan review criteria as set forth in City Code Section 7.3.605

2. Conformance with the City Comprehensive Plan:

Comprehensive Plan 2020 Land Use Map: Since the property is not located within the City, it is not indicated with a land use on the 2020 Land Use Map; however, the surrounding property to the north, east and west is designated as General Residential.

**Policy CIS 202: Annexation will be a Benefit to the City of Colorado Springs**  
Evaluate proposed annexations to determine if the request is a benefit to the City.

**Policy LU 201: Promote a Focused, Consolidated Land Use Pattern**

Locate new growth and development in well-defined contiguous areas in order to avoid leapfrog, scattered land use patterns that cannot be adequately provided with City services.

**Policy LUM 213: Potential Annexation Areas**

Utilize the Potential Annexation Area designation for areas that are likely to be incorporated by the City.

**Objective LU 5: Develop Cohesive Residential Areas**

Neighborhoods are the fundamental building block for developing and redeveloping residential areas of the city. Likewise, residential areas provide a structure for bringing together individual neighborhoods to support and benefit from schools, community activity centers, commercial centers, community parks, recreation centers, employment centers, open space networks, and the city's transportation system. Residential areas also form the basis for broader residential land use designations on the citywide land use map. Those designations distinguish general types of residential areas by their average densities, environmental features, diversity of housing types, and mix of uses. Residential areas of the city should be developed, redeveloped and revitalized as cohesive sets of neighborhoods, sharing an interconnected network of streets, schools, parks, trails, open spaces, activity centers, and public facilities and services.

**Policy LU 501: Plan Residential Areas to Integrate Neighborhoods into the Wider Subarea and Citywide Pattern**

Plan, design, develop, and redevelop residential areas to integrate several neighborhoods into the citywide pattern of activity centers, street networks, environmental constraints, parks and open space, school locations and other public facilities and services.

**Objective N 1: Focus On Neighborhoods**

Create functional neighborhoods when planning and developing residential areas. Regard neighborhoods as the central organizing element for planning residential areas. Rely on neighborhood-based organizations as a means of involving residents and property owners in the decision-making process.

**Objective CCA 6: Fit New Development into the Character of the Surrounding Area**

Often the overall character of a new development is not realized until the project is completed. This can lead to unintended impacts and incompatible development. Applicants for new developments need to clearly identify how their projects will fit into the character of the surrounding area and the community as a whole with respect to height, scale, bulk, massing, roof forms, signage, overall site design, pedestrian and vehicular access, and relation to the public right-of-way.

**Policy CCA 601: New Development Will Be Compatible with the Surrounding Area**

New developments will be compatible with the surrounding land uses and will complement the character and appearance of adjacent land uses.

*It is the finding of the Land Use Review Division that the Dusty Hills annexation, zoning and concept plan will substantially conform to the City Comprehensive Plan 2020 Land Use Map and the Plan's goals and objectives.*

3. Conformance with the Area's Master Plan:  
There is no master plan for this area.

**STAFF RECOMMENDATION:**

**ITEM NO.: 5.A CPC A 13-00112 – ANNEXATION**

**Approve** the Dusty Hills Annexation, based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 with the following condition of approval:

1. The final annexation agreement signed by the owners must be submitted to staff prior to scheduling the City Council Hearing.

**ITEM NO.: 5.B CPC PUZ 14-00063 – ESTABLISHMENT OF THE PUD ZONE**

**Approve** the establishment of the PUD/HS (Planned Unit Development: Detached Single-Family Residential, 0.83 Dwelling Units Per Acre, 35 Foot Maximum Building Height) zone district, based upon the findings that the zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B) and the criteria for the establishment and development of a PUD zone as set forth in City Code Section 7.3.603.

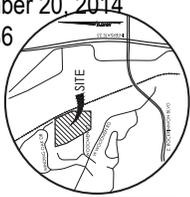
**ITEM NO. : 5.C                    CPC PUP 14-00064 – DUSTY HILLS PUD CONCEPT PLAN**

**Approve** the Dusty Hills PUD Concept Plan, as shown in Figure 1, based upon the findings that the PUD concept plan meets the review criteria for PUD concept plans as set forth in City Code Section 7.3.605 with the following condition:

1. Prior to the approval of a future Hillside Development Plan, the City-approved Engineering Geologic Hazards Study shall be reviewed and approved by the Colorado Geologic Survey (CGS). Any costs associated with that State review will be the responsibility of the developer/property owner.
2. Update the overall density as shown on page one to read 0.83 dwelling units per acre.
3. Update Note #3 to remove the statement that the future HOA will maintain the pedestrian connection at the northeast corner of the site.







VICINITY MAP  
 BENCHMARK



SCALE: 1"=60' 1/8"=150'

**MVE, INC.**  
 ENGINEERS, SURVEYORS  
 1903 Heavy Street, Suite 1000 | Colorado Springs, CO 80909 | 719.635.5739

DESIGNED BY: CCC  
 DRAWN BY: MW  
 CHECKED BY: [Name]  
 DATE: 8/13/2013

DUSTY HILLS

CPI-1  
 CONCEPT PLAN

51298  
 MVE PROJECT  
 -CP-PS  
 MVE DRAWING

NOVEMBER 10, 2014  
 SHEET 2 OF 2

CPC PUP 14-00064

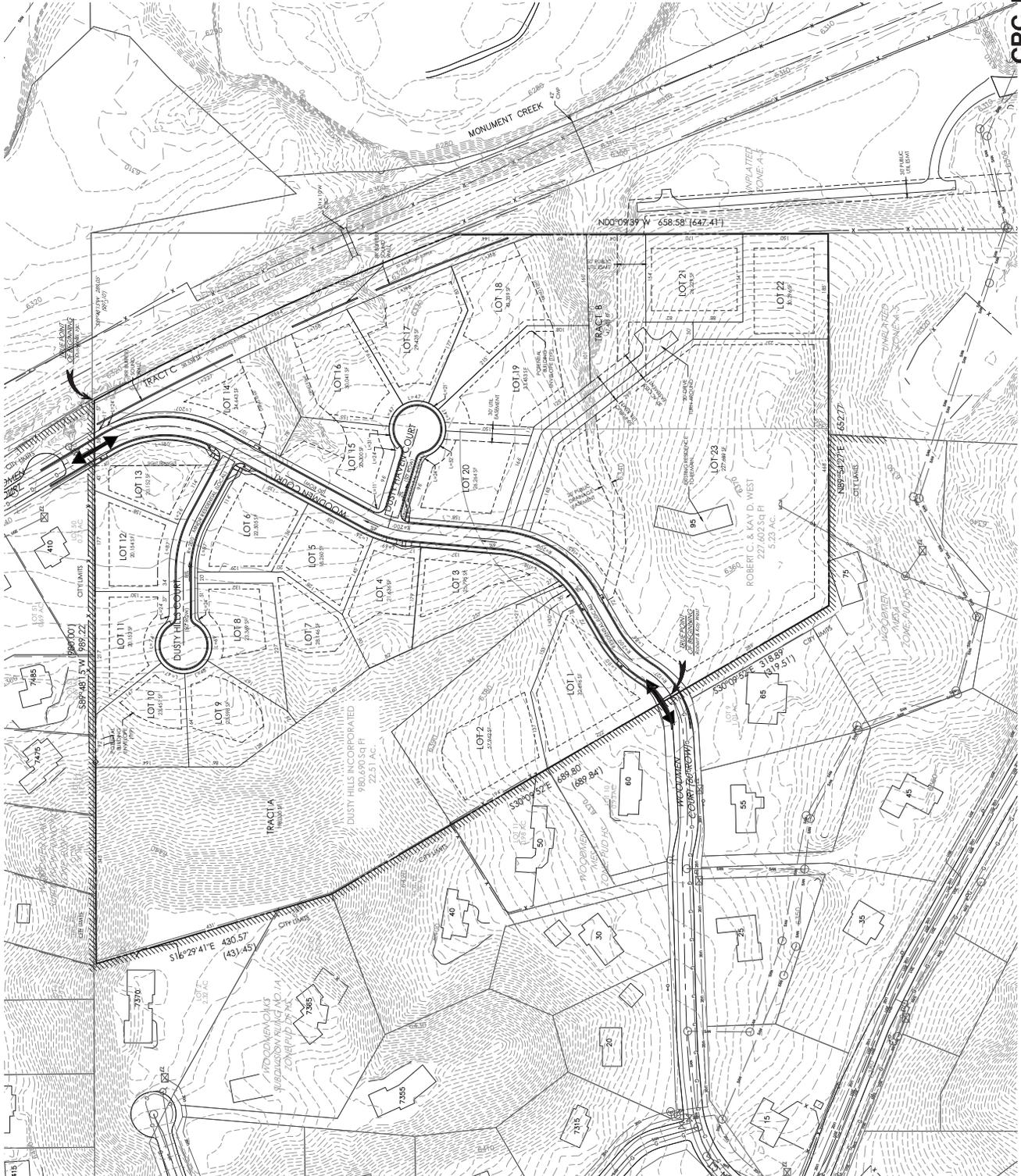


FIGURE 1



**ZONING LEGAL DESCRIPTION – DUSTY HILLS ANNEXATION**

TWO TRACTS OF LAND LOCATED IN THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 7, TOWNSHIP 13 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPLE MERIDIAN, EL PASO COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

**DUSTY HILLS INCORPORATED TRACT**

COMMENCING AT THE NORTH  $\frac{1}{4}$  CORNER OF SAID SECTION 7 (FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 7 BEARS S89°48'15"W, 2705.88 FEET, BASIS OF BEARING); THENCE S89°48'15"W, 289.05 FEET ALONG THE NORTH LINE OF THE NORTHWEST  $\frac{1}{4}$  OF SAID SECTION 7 TO THE EASTERLY CORNER OF WOODMEN OAKS SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED AS PLAT BOOK F-5, AT PAGE 176 OF THE RECORDS OF EL PASO COUNTY, COLORADO TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUE S89°48'15"W, 989.22 FEET ALONG THE NORTH LINE OF THE NE  $\frac{1}{4}$  OF THE NW $\frac{1}{4}$  OF SAID SECTION 7 TO A POINT ON THE EASTERLY LINE OF WOODMEN MESA SUBDIVISION FILING NO. 1A, A SUBDIVISION RECORDED AT RECEPTION NO. 201189258 OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE S16°29'41"E, 430.57 FEET ALONG AN EASTERLY LINE OF SAID WOODMEN MESA SUBDIVISION FILING NO. 1A TO THE SOUTHEAST CORNER THEREOF,

THENCE S30°09'52"E, 689.80 FEET ALONG AN EASTERLY LINE OF WOODMEN MESA, A SUBDIVISION RECORDED AT PLAT BOOK K-3, AT PAGE 76 OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE NORTHEASTERLY, 59.26 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST TO A POINT TANGENT, SAID ARC HAVING A RADIUS OF 126.61 FEET, A CENTRAL ANGLE OF 26°49'05", AND BEING SUBTENDED BY A CHORD THAT BEARS N46°14'54"E, 58.72 FEET;

THENCE N32°50'22"E, 229.52 FEET TO A POINT OF CURVE TO THE RIGHT;

THENCE NORTHEASTERLY AND EASTERLY, 298.81 FEET ALONG THE ARC OF SAID CURVE TO A POINT TANGENT, SAID ARC HAVING A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 57°04'05", AND BEING SUBTENDED BY A CHORD THAT BEARS N61°22'24"E, 286.61 FEET;

*Page 1 of 3*

**Engineers • Surveyors**

**1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736**

**Fax 719-635-5450 • e-mail [mve@mvecivil.com](mailto:mve@mvecivil.com)**

**FIGURE 1**

THENCE N89°54'27"E, 51.43 FEET;

THENCE S00°05'33"E, 646.05 FEET;

THENCE N89°54'27"E, 342.07 FEET;

THENCE N00°09'39"W, 658.58 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF THE DENVER & RIO GRANDE WESTERN RAILWAY AS RECORDED UNDER BOOK 65, AT PAGE 37, OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE NORTHWESTERLY, 694.19 ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID RAILWAY AND THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST TO THE TRUE POINT OF BEGINNING, SAID ARC HAVING A RADIUS OF 5494.75 FEET, A CENTRAL ANGLE OF 07°14'19" AND BEING SUBTENDED BY A CHORD THAT BEARS N24°47'04"W, 693.73 FEET;

AREA = 22.51 ACRES (980,690 SQ.FT.) MORE OR LESS.

TOGETHER WITH:

**ROBERT & KAY WEST TRACT**

COMMENCING AT THE NORTH ¼ CORNER OF SAID SECTION 7 (FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 7 BEARS S89°48'15"W, 2705.88 FEET, BASIS OF BEARING); THENCE S89°48'15"W, 1278.27 FEET ALONG THE NORTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 7 AND ALONG A SOUTHERLY LINE OF WOODMEN OAKS SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED AS PLAT BOOK F-5, AT PAGE 176 OF THE RECORDS OF EL PASO COUNTY, COLORADO TO THE NORTHEAST CORNER OF WOODMEN MESA SUBDIVISION FILING NO. 1A, A SUBDIVISION RECORDED AT RECEPTION NO. 201189258 OF THE RECORDS OF EL PASO COUNTY, COLORADO, THENCE S16°29'41"E, 430.57 FEET ALONG AN EASTERLY LINE OF SAID WOODMEN MESA SUBDIVISION FILING NO. 1A TO THE SOUTHEAST CORNER THEREOF; THENCE S30°09'52"E, 689.80 FEET ALONG AN EASTERLY LINE OF SAID WOODMEN MESA, A SUBDIVISION RECORDED AT PLAT BOOK K-3, AT PAGE 76 OF THE RECORDS OF EL PASO COUNTY, COLORADO TO THE TRUE POINT OF BEGINNING;

THENCE NORTHEASTERLY, 59.26 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST TO A POINT TANGENT, SAID ARC HAVING A RADIUS OF 126.61 FEET, A CENTRAL ANGLE OF 26°49'05", AND BEING SUBTENDED BY A CHORD THAT BEARS N46°14'54"E, 58.72 FEET;

*Page 2 of 3*

**M.V.E., Inc. • Engineers • Surveyors**  
**1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736**  
**Fax 719-635-5450 • e-mail [mve@mvecivil.com](mailto:mve@mvecivil.com)**

**FIGURE 1**

THENCE N32°50'22"E, 229.52 FEET TO A POINT OF CURVE TO THE RIGHT;

THENCE NORTHEASTERLY AND EASTERLY, 298.81 FEET ALONG THE ARC OF SAID CURVE TO A POINT TANGENT, SAID ARC HAVING A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 57°04'05", AND BEING SUBTENDED BY A CHORD THAT BEARS N61°22'24"E, 286.61 FEET;

THENCE N89°54'27"E, 51.43 FEET;

THENCE S00°05'33"E, 646.05 FEET;

THENCE S89°54'27"W 310.70 FEET TO A POINT ON EASTERLY LINE OF SAID WOODMEN MESA;

THENCE N30°09'52"W, 318.89 FEET ALONG THE EASTERLY LINE OF SAID WOODMEN MESA TO THE TRUE POINT OF BEGINNING.

AREA = 5.23 ACRES (227,602 SQ.FT) MORE OR LESS.

**Prepared By:**  
**M.V.E., Inc.**  
**1903 Lelaray Street, Suite 200**  
**Colorado Springs, CO 80909**  
August 13, 2013

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*Page 3 of 3*

**M.V.E., Inc. • Engineers • Surveyors**  
**1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736**  
**Fax 719-635-5450 • e-mail mve@mvecivil.com**

**FIGURE 1**



November 10, 2014

## **PROJECT STATEMENT**

### DUSTY HILLS for Annexation, Concept Plan, PUD Zone Change

The owners of the property known as Dusty Hills, located at 95 Woodmen Court intend to annex the property into the City of Colorado Springs, apply zoning of PUD HS (Planned Unit Development with Hillside Overlay) for a Single-Family Residential Use and obtain approval of a Concept Plan for the property. Applications for Annexation, Concept Plan and PUD zone Change are hereby submitted to facilitate the approval of the proposed development in accordance with the zoning code of the City of Colorado Springs.

The site is located in The Northeast  $\frac{1}{4}$  Of The Northwest  $\frac{1}{4}$  Of Section 7, Township 13 South, Range 66 West Of The 6th Principle Meridian, El Paso County, Colorado. The property is west of the Denver & Rio Grande Rail Road, northeast of Woodmen Road and and south of Winding Oaks Drive. Woodmen Court, originating from Woodmen Road, terminates at the western boundary of the site. Also, Woodmen Court, originating from Winding Oaks Drive, terminates at the northern boundary of the site. The dead-end streets are platted as straight-through rights-of-way terminating at the Dusty Hills property line and not as cul-de-sac streets. The adjacent plats provide for Temporary Turnarounds at the dead-ends.

The Dusty Hills site encompasses approximately 27.74 acres. The El Paso County Assessor's Schedule Numbers for the site consist of 63072-00-016 and 63072-00-015. The site is partially developed with one residence one the site. Besides the area immediately surrounding the residence, the majority of the site appears in a natural condition with trees, brush and native grasses evident throughout. All ground cover is in fair to good condition. Certain utility mains including water, sanitary sewer, gas, electric and communications are located in the Woodmen Court rights-of-way that terminate at the property lines. The property is adjacent to single family residential development including Woodmen Oaks Subdivision Filing No. 1 and Woodmen Mesa. The two previously mentioned subdivisions are located within the City Limits of Colorado Springs.

The proposed Concept Plan sets forth the proposal for 23 Single-Family Residential lots on the site with one open space tract and one open space/utility/access tract. One of the proposed 23 lots will contain the existing residence which will have an area of 5.23 acres. The remaining proposed 22 lots range in size from 18,260 square feet to 57,942 square feet with an average of 36,590 square feet. Access will be obtained by extending the existing southwestern and northeastern dead-ends of Woodmen court into the property. The Concept Plan indicates lots accessing the extended Woodmen Court and two short cul-de-sac roads connecting from

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***1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736***  
***Fax 719-635-5450 • e-mail mve@mvecivil.com***

**FIGURE 2**

DUSTY HILLS Project Statement  
November 10, 2014  
Page 2

Woodmen Court. Colorado Springs Utilities has facilities nearby that are accessible for extension into the site. The existing water mains which are capped at each dead-end of existing Woodmen Court, will be connected through the subdivision to meet looping requirements of Colorado Springs Utilities and enhance water pressures and flow rates in the area. A Homeowner's Association will provide maintenance of the proposed open space and structure for architectural standards within the site.

Potential issues mentioned in the October 12, 2012 Pre-Application meeting include water and sanitary sewer utility service and overall lot density. Colorado Springs Utilities water lines exist in Woodmen Court at both the west and north boundaries. Connecting the two dead end lines will improve flows and circulation in the system, while providing adequate water service within the site, which proposed lots are lower than the surrounding properties. Sanitary Sewer may be extended to the site from the south in cooperation with the adjacent property owner. The average proposed lot size is significantly greater than 20,000 square feet in area and the site contains significant dedicated open space.

Traffic volumes were another issue raised at neighborhood meetings. Projected traffic volumes for Woodmen Court with the addition of the Dusty Hills development are well within the city's criteria for local residential streets. Traffic volumes will increase from existing, but not beyond the design capacity and purpose of the existing street. The addition of the existing lots to Woodmen Court will not present a hazard to the existing residents using the public street. Traffic volumes will not extend beyond that of any other compliant local residential streets in the Colorado Springs.

The proposed annexation and development project may be considered an in-fill project, being located in El Paso County and adjacent to City of Colorado Springs jurisdiction on three sides. The intent is for the the proposed development to be compatible and complimentary to the existing surrounding residential development which is already located in the City of Colorado Springs.

The proposed zoning of PUD HS (Planned Unit Development with Hillside Overlay) will allow the proposed single-family residential use, allow flexibility of lot sizing and development requirements in this terrain. The Hillside Overlay will provide preservation of sensitive natural features of the site.

The proposed Dusty Hills Annexation, Zoning and Concept Plan will allow for use of the subject property that is compatible in use and quality to the adjacent existing developments and provides a benefit to the City of Colorado Springs as an efficient infill project.

Z:\51298\Documents\Correspondance\51298 Project Statement 11-10-14.odt

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1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736  
Fax 719-635-5450 • e-mail mve@mvecivil.com***

**FIGURE 2**

**From:** Lacey, Brett  
**Sent:** Friday, November 07, 2014 3:52 PM  
**To:** Herington, Meggan  
**Subject:** RE: Dusty Hills Subdivision

I am disappointed to see that David states we have changed our position. Our position did not change. As we discussed, we had a position some years ago but due to a lack of communication and congruency among records... Smitty, after further research reverted to the original position. David's comment stirred the pot considerably.

**BRETT T. LACEY**  
**FIRE MARSHAL**  
**COLORADO SPRINGS FIRE DEPARTMENT**  
Internationally Accredited Agency, CFAI  
Office: 719.385.7355  
Fax: 719.385.7355  
[blacey@springsgov.com](mailto:blacey@springsgov.com)

*"Providing the highest quality problem solving and emergency service to our community since 1894."*



Internationally Accredited Agency 2013-2018

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**From:** Herington, Meggan  
**Sent:** Friday, November 07, 2014 3:23 PM  
**To:** Lacey, Brett  
**Cc:** Wysocki, Peter  
**Subject:** FW: Dusty Hills Subdivision  
**Importance:** High

Brett, the applicant broke the news to the neighbors. This is the response to that news.

Meggan

---

**From:** Steve Bach [<mailto:stephenbach@comcast.net>]  
**Sent:** Friday, November 07, 2014 3:09 PM  
**To:** Bob Garner  
**Cc:** David Gorman; Candace Seaton; Herington, Meggan  
**Subject:** Re: Dusty Hills Subdivision

Bob, Pls call me (258.0442).

Sent from my iPhone

On Nov 7, 2014, at 1:05 PM, Bob Garner <[garner@highlandcommercial.com](mailto:garner@highlandcommercial.com)> wrote:

Steve,

Can you call me about this.

This is another instance of Fire we have discussed.

As you know, I would not bother you with such an issue if it were not important.

**Bob Garner**

Principal, Commercial Broker  
[garner@highlandcommercial.com](mailto:garner@highlandcommercial.com)

**NAI Highland, LLC**

Two North Cascade Avenue, Suite 300  
Colorado Springs, CO 80903  
[www.highlandcommercial.com](http://www.highlandcommercial.com)

**Direct +1 719 667 6866**  
Mobile +1 719 650 1333  
Main +1 719 577 0044  
Fax +1 719 577 0048

<image001.jpg>

---

**From:** David Gorman [<mailto:daveg@mvecivil.com>]  
**Sent:** Friday, November 7, 2014 12:31 PM  
**To:** 'Candace Seaton'  
**Cc:** 'Beverly singleton'; Bob Garner; [mmg514@yahoo.com](mailto:mmg514@yahoo.com); [markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com); [jslenk@gmail.com](mailto:jslenk@gmail.com); 'Bryan Shannon'; 'Herington, Meggan'; 'Cathy van Diemen'; 'James Singleton'; 'John and Alyce Fertig'; 'John Morse'; 'John Whitley'; 'John Whitley'; 'Lizzie Leitz'; 'Make and Dawn Carnel'; 'Mel and Sandy Downs'; 'Mike Thomas'; 'Ralph and Sheila Parkin'; 'Rochelle Shannon'; 'Rose Culley'; 'Simon and June Jhon'; 'Sue Thomas'; 'Chuck C. Crum (MVE)'; Michael W. West; William West;  
ROBERT WEST  
**Subject:** RE: Dusty Hills Subdivision

Candace,

As you know, Dusty Hills revised the Concept Plan for the development to eliminate the Woodmen Court connection at the Dusty Hills northern boundary with the prior acceptance of both City Traffic Engineering Department and Colorado Springs Fire Department. We recently received the surprising and disappointing news that the Fire Department has changed their position and is now requiring the road connection. We are revising the Concept Plan to show the connection in order to comply with the Fire Department requirements.

The Wests' intentions were to respond to the expressed neighborhood concerns regarding the road connection. We hope you understand that we would not have presented the no-connection plan without prior consent of the City Departments. The

position of the Fire Department seems to be a Public Safety issue and our conversations with them indicate that they are resolute on the point. We are informing you of this condition as soon as possible after meeting with Fire Department staff. We are still looking forward to being heard at Planning Commission as scheduled on November 20 with the revised plan. Meggan Herington may contact you with further information.

Dave

David R. Gorman, P.E.  
M.V.E., Inc.  
1903 Lelaray Street, Suite 200  
Colorado Springs, CO 80909  
Ph 719.635.5736  
Fx 719.635.5450  
[www.mvecivil.com](http://www.mvecivil.com)

---

**From:** Candace Seaton [<mailto:cseaton@quantumcommercial.com>]  
**Sent:** Thursday, October 30, 2014 11:35 AM  
**To:** Herington, Meggan; [jslenk@gmail.com](mailto:jslenk@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com); [markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mmg514@yahoo.com](mailto:mmg514@yahoo.com)  
**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Cernel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas  
**Subject:** RE: Dusty Hills Subdivision

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I so appreciate your having made yourself so available to all of us. You set a great example for City Planners.

Best,  
Candace

**Candace Seaton**  
Senior Broker Associate Retail & Investments  
Quantum Commercial Group  
101 N Cascade Avenue, Suite 200  
Colorado Springs, CO 80903  
Direct: 719.228.3624 Cell: 719.332.0233  
[cseaton@quantumcommercial.com](mailto:cseaton@quantumcommercial.com)

[www.quantumcommercial.com](http://www.quantumcommercial.com)  
Commercial Real Estate Solutions

<image004.jpg>

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**From:** Herington, Meggan [<mailto:mherington@springsgov.com>]  
**Sent:** Thursday, October 30, 2014 11:01 AM  
**To:** Candace Seaton; [jslenk@gmail.com](mailto:jslenk@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com);  
[markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mmg514@yahoo.com](mailto:mmg514@yahoo.com)  
**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Carnel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas  
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Thank You, Meggan

*Meggan Herington, AICP  
Principal Planner - Northeast Team  
City of Colorado Springs  
Land Use Review Division  
719-385-5083*

---

**From:** Candace Seaton [<mailto:cseaton@quantumcommercial.com>]  
**Sent:** Wednesday, October 15, 2014 9:46 AM  
**To:** Herington, Meggan  
**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Candace Seaton; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Carnel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas  
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My best,

Candace Seaton

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101 N Cascade Avenue, Suite 200  
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[cseaton@quantumcommercial.com](mailto:cseaton@quantumcommercial.com)  
[www.quantumcommercial.com](http://www.quantumcommercial.com)  
*Commercial Real Estate Solutions*

<image004.jpg>

**From:** Bob Garner <garner@highlandcommercial.com>  
**Sent:** Friday, November 07, 2014 3:34 PM  
**To:** Steve Bach  
**Cc:** David Gorman; Candace Seaton; Herington, Meggan  
**Subject:** RE: Dusty Hills Subdivision  
**Attachments:** Dusty Hills Resubmittal Drawings.pdf; Dusty Hills Resubmittal.pdf

Steve,

Thanks for your input and concern about this issue.

The issue is how Fire had approved a concept plan (Dusty Hills, see attached) that is a new subdivision adjacent to our subdivision (Woodmen Mesa).

The original plan was not acceptable to Woodmen Mesa and we, as a neighborhood, worked with the developer, traffic (Kathleen Krager) and planning (Meggan Herington) to arrive at an acceptable design that worked with all parties.

The plan was approved by planning with input and considerations by Fire.

All was good and were looking forward to an uneventful hearing at Planning on 11/20.

We just got the news today that Fire had changed their mind and will not approve what they had approved.

Needless to say, it seems unprofessional and unacceptable how Fire has addressed this situation.

Again,

Thanks for your interest in this situation.

Please call with further questions.

**Bob Garner**

Principal, Commercial Broker  
[garner@highlandcommercial.com](mailto:garner@highlandcommercial.com)

**NAI Highland, LLC**

Two North Cascade Avenue, Suite 300  
Colorado Springs, CO 80903  
[www.highlandcommercial.com](http://www.highlandcommercial.com)

Direct +1 719 667 6866

Mobile +1 719 650 1333

Main +1 719 577 0044

Fax +1 719 577 0048



---

**From:** Steve Bach [mailto:stephenbach@comcast.net]  
**Sent:** Friday, November 7, 2014 3:09 PM  
**To:** Bob Garner  
**Cc:** David Gorman; Candace Seaton; Meggan Herington (mherington@springsgov.com)  
**Subject:** Re: Dusty Hills Subdivision

Bob, Pls call me (258.0442).

Sent from my iPhone

On Nov 7, 2014, at 1:05 PM, Bob Garner <[garner@highlandcommercial.com](mailto:garner@highlandcommercial.com)> wrote:

Steve,

Can you call me about this.

This is another instance of Fire we have discussed.

As you know, I would not bother you with such an issue if it were not important.

**Bob Garner**

Principal, Commercial Broker  
[garner@highlandcommercial.com](mailto:garner@highlandcommercial.com)

**NAI Highland, LLC**

Two North Cascade Avenue, Suite 300  
Colorado Springs, CO 80903  
[www.highlandcommercial.com](http://www.highlandcommercial.com)

Direct +1 719 667 6866  
Mobile +1 719 650 1333  
Main +1 719 577 0044  
Fax +1 719 577 0048

<image001.jpg>

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**From:** David Gorman [mailto:[daveg@mvecivil.com](mailto:daveg@mvecivil.com)]  
**Sent:** Friday, November 7, 2014 12:31 PM  
**To:** 'Candace Seaton'  
**Cc:** 'Beverly singleton'; Bob Garner; [mmg514@yahoo.com](mailto:mmg514@yahoo.com); [markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com); [jslenk@gmail.com](mailto:jslenk@gmail.com); 'Bryan Shannon'; 'Herington, Meggan'; 'Cathy van Diemen'; 'James Singleton'; 'John and Alyce Fertig'; 'John Morse'; 'John Whitley'; 'John Whitley'; 'Lizzie Leitz'; 'Make and Dawn Carnel'; 'Mel and Sandy Downs'; 'Mike Thomas'; 'Ralph and Sheila Parkin'; 'Rochelle Shannon'; 'Rose Culley'; 'Simon and June Jhon'; 'Sue Thomas'; 'Chuck C. Crum (MVE)'; Michael W. West; William West; ROBERT WEST  
**Subject:** RE: Dusty Hills Subdivision

Candace,

As you know, Dusty Hills revised the Concept Plan for the development to eliminate the Woodmen Court connection at the Dusty Hills northern boundary with the prior acceptance of both City Traffic Engineering Department and Colorado Springs Fire Department. We recently received the surprising and disappointing news that the Fire Department has changed their position and is now requiring the road connection. We are revising the Concept Plan to show the connection in order to comply with the Fire Department requirements.

The Wests' intentions were to respond to the expressed neighborhood concerns regarding the road connection. We hope you understand that we would not have presented the no-connection plan without prior consent of the City Departments. The position of the Fire Department seems to be a Public Safety issue and our conversations with them indicate that they are resolute on the point. We are informing you of this condition as soon as possible after meeting with Fire Department staff. We are still looking forward to being heard at Planning Commission as scheduled on November 20 with the revised plan. Meggan Herington may contact you with further information.

Dave

David R. Gorman, P.E.  
M.V.E., Inc.  
1903 Lelaray Street, Suite 200  
Colorado Springs, CO 80909  
Ph 719.635.5736  
Fx 719.635.5450  
[www.mvecivil.com](http://www.mvecivil.com)

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**From:** Candace Seaton [<mailto:cseaton@quantumcommercial.com>]  
**Sent:** Thursday, October 30, 2014 11:35 AM  
**To:** Herington, Meggan; [jslenk@gmail.com](mailto:jslenk@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com); [markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mmg514@yahoo.com](mailto:mmg514@yahoo.com)  
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of writing them and at the minimum having the same standards as currently exist in Woodmen Hills and Woodmen Oaks.

I so appreciate your having made yourself so available to all of us. You set a great example for City Planners.

Best,  
Candace

**Candace Seaton**

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<image004.jpg>

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**Sent:** Thursday, October 30, 2014 11:01 AM  
**To:** Candace Seaton; [jslenk@gmail.com](mailto:jslenk@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com); [markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mmg514@yahoo.com](mailto:mmg514@yahoo.com)  
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Principal Planner - Northeast Team  
City of Colorado Springs

*Land Use Review Division*  
*719-385-5083*

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**Sent:** Wednesday, October 15, 2014 9:46 AM  
**To:** Herington, Meggan  
**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Candace Seaton; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Carnel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas  
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My best,

Candace Seaton

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*Commercial Real Estate Solutions*

<image004.jpg>

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**From:** Candace Seaton [<mailto:cseaton@quantumcommercial.com>]  
**Sent:** Wednesday, October 15, 2014 9:46 AM  
**To:** Herington, Meggan  
**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Candace Seaton; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Carnel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas  
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[www.quantumcommercial.com](http://www.quantumcommercial.com)  
*Commercial Real Estate Solutions*



**From:** marsha <mhsports2000@aol.com>  
**Sent:** Sunday, November 02, 2014 5:49 PM  
**To:** Herington, Meggan  
**Subject:** Re: Dusty Hills Subdivision

Hi Megan

Just wanted you to know that mike and I totally support this idea and think it is great. thanks for keeping us up to date.

Marsha Harris 410 woodmen ct

-----Original Message-----

From: Herington, Meggan <mherington@springsgov.com>  
To: Candace Seaton <cseaton@quantumcommercial.com>; jslenk <jslenk@gmail.com>; mhsports2000 <mhsports2000@aol.com>; markhuff80919 <markhuff80919@gmail.com>; mmg514 <mmg514@yahoo.com>  
Cc: David Gorman (daveg@mvecivil.com) <daveg@mvecivil.com>; Beverly singleton <bsingle419@aol.com>; Bob Garner <garner@highlandcommercial.com>; Bryan Shannon <bryan.shannon@comcast.net>; Cathy van Diemen <jick45@gmail.com>; James Singleton <jsingle419@aol.com>; John and Alyce Fertig <jefertig@gmail.com>; John Morse <sjmor6@comcast.net>; John Whitley <jbwhitleyjr@centurylink.net>; John Whitley <dniedringhaus@msn.com>; Lizzie Leitz <lizzie.leitz@yahoo.com>; Make and Dawn Carnel <carnel5@aol.com>; Mel and Sandy Downs <megamel77@gmail.com>; Mike Thomas <mthomas160@msn.com>; Ralph and Sheila Parkin <Tyrolean80919@yahoo.com>; Rochelle Shannon <rochelleshannon@comcast.net>; Rose Culley <rculley1@comcast.net>; Simon and June Jhon <njhons@msn.com>; Sue Thomas <sthomas108@hotmail.com>  
Sent: Thu, Oct 30, 2014 11:00 am  
Subject: RE: Dusty Hills Subdivision

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Thank You, Meggan

**Meggan Herington, AICP**  
**Principal Planner - Northeast Team**  
**City of Colorado Springs**  
**Land Use Review Division**  
**719-385-5083**

**From:** Rochelle Shannon <RochelleShannon@Comcast.net>  
**Sent:** Friday, October 31, 2014 10:15 PM  
**To:** Herington, Meggan  
**Subject:** Dusty Hills subdivision

Meggan,

I just received an email from Candy Seaton with the updated information about the Woodmen Oaks emails you have received that are opposed to there being a cul-de-sac rather than a thru street.

I have some thoughts on this after having lived here for a few years and daily dealing with Woodmen Road traffic just outside of our development. I know that the traffic experts have measured how much traffic comes out of our street as well as the average wait time to get onto Woodmen Road because we heard the report that it is "well within the limits of a residential street." While that may be fine, the issue that continues to bother me, cul-de-sac or not, is the fact that ALL of us have only a single exit to get onto a very busy road. And even this very busy road is a single lane that gets everyone down from the hills and then finally into larger roads to spread us out. So even though we probably cannot stop the development, I believe it is a very unsafe and unwise proposal for the sheer fact that adding 22 homes to this area, but without a second exit, doesn't make it any safer, quicker, or easier to exit in the case of an emergency!

We were here for the Waldo Canyon fire, and we kept a close eye on Woodmen Road as evacuations were starting. And when we were told to get out, we could not, and we sat there for a very long time until someone let us in. I know that things were learned with that fire, but it doesn't negate the fact that all of Woodmen Oaks has to empty out of Winding Oaks Drive and all of Woodmen Mesa has to empty out of Woodmen Court. And whether we have a cul-de-sac or not, adding 22 more homes to that number is unsafe! It does not make it any safer to have a thru street at the end of Woodmen Court, because IF Woodmen Oaks were to take Woodmen Court to evacuate their development faster, they would only be met by all their neighbors who DID take Winding Oaks Drive out and have turned left onto Woodmen Road first! It may as well be two lanes of the same exit because of how close they sit to one another. And if the higher traffic is coming down the hill from Peregrine and Talon Ridge, then Woodmen Oaks is the first to get into the flow, always leaving Woodmen Mesa to wait a little longer to slip in; so any advantage to getting into traffic sooner would certainly go to Woodmen Oaks residents. Anyone who says that connecting Woodmen Court will solve this problem is missing the point. Without new exits from our two developments, we aren't any safer than before and perhaps less safe because we've added more families who will have to get out. I believe the real issue they may be masking is the quicker exit than their own street. And we've already talked about how much more convenient it would be for those homes nearest the new development to come through it to get onto Woodmen Road, but honestly I think they will find that although they saved time winding through Winding Oaks, they'll not get onto Woodmen Road any sooner, and perhaps slower as they wait for morning traffic coming down the hill as we do each day. To be sure, the "private road" personality of Woodmen Court is not excited about adding 600 or more cars per day when the streets of Woodmen Oaks are already accustomed to traffic. We love our quiet street, and because the "quicker evacuation" issue is moot, we need to get back to the real issue of safety for the walkers, children, and wildlife that we have. I sincerely hope the developers and owners stick to the newest revision of putting a cul-de-sac on the north end of the proposed Dusty Hills development to keep as much of the peaceful atmosphere as possible for our little street.

Thank you for your patience and time on this matter.

Rochelle Shannon

**From:** Nancy Engel <nkengel@yahoo.com>  
**Sent:** Friday, October 31, 2014 3:52 PM  
**To:** Herington, Meggan  
**Subject:** Re: Dusty Hills subdivision

Thank you for your response and thorough explanation. I only wanted to be sure fire regulations had been considered. You say they have so I do not wish to hamper the process further.

Thank you,  
Nancy

Sent from my iPhone

On Oct 31, 2014, at 3:16 PM, Herington, Meggan <[mherington@springsgov.com](mailto:mherington@springsgov.com)> wrote:

Ms. Engel, The City of Colorado Springs Fire Protection Engineer commented specifically on the re-design and the lack of connection to Woodmen Court. He commented that at a minimum, a monitored fire alarm system or alternatively, a fire sprinkler system is required for all new residences built.

The original plan was always to connect Woodmen Court. However, when the request to build this neighborhood was submitted, the neighbors in Woodmen Mesa and some in Woodmen Oaks sent staff a number of emails stating that they did not want the added traffic. Woodmen Mesa neighbors commented they didn't want the additional traffic from Woodmen Oaks, and Woodmen Oaks residents had commented that they did not want the traffic from the 22 additional homes in their neighborhood. The compromise was the cul-de-sac design which is moving forward to the City Planning Commission public hearing.

I worked closely with City Fire, City Police and City Traffic to determine that this design would function. I did not receive any comments from those agencies requiring the connection.

That said, if you would like to oppose the project based on the lack of connection, you should send me a follow-up email stating your reasons for opposition (and that you would like to formally oppose the project as designed) and I will forward your comments to the City Planning Commission.

The public hearing will be held on November 20<sup>th</sup> and all are invited to speak in favor or in opposition. Thank You, Meggan

*Meggan Herington, AICP  
Principal Planner - Northeast Team  
City of Colorado Springs  
Land Use Review Division  
719-385-5083*

---

**From:** Nancy Engel [<mailto:nkengel@yahoo.com>]  
**Sent:** Thursday, October 30, 2014 2:56 PM  
**To:** Herington, Meggan  
**Subject:** Dusty Hills subdivision

Hello Meggan,

My name is Nancy Engel and I live in the Woodmen Oaks neighborhood, very close to the proposed Dusty Hill neighborhood. When I purchased my lot in 1996 I was told that the fire marshal insisted that all homes in our neighborhood have security systems with direct call to the fire department, as the fire marshal felt this area was a high fire danger (we were evacuated for the Waldo Canyon fire).

Woodmen Oaks and Woodmen Oaks Estates consists collectively of 85 homes with one egress from the neighborhood. I was further told by the developer at the time (Dan May was representing the El Paso County Retirement Fund, who owned the land originally), that the cul-de-sac at Woodmen Court would have to go through some day, per fire marshal's orders, in order to permit a second egress from our neighborhood should a fire arise. This was planned to speed the ability of vehicles to exit the neighborhood in case of calamity. That second egress is now blocked by the formation of a cul-de-sac instead of a through road from Woodmen Court to Woodmen Mesa Circle.

Can you tell me, has the fire marshal approved this change and hence the lack of a second egress out of our neighborhood should a fire arise?

Thank you!

Nancy Engel  
7530 Winding Oaks Drive

## Herington, Meggan

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**From:** Gordon Mohrman <gwmohrman@comcast.net>  
**Sent:** Friday, October 31, 2014 1:35 PM  
**To:** 'Jane Slenk'  
**Cc:** Herington, Meggan  
**Subject:** RE: FW: Dusty Hills Subdivision

I do not agree with a "locked gate" compromise.

Gordon W. Mohrman

---

**From:** Jane Slenk [mailto:jslenk@gmail.com]  
**Sent:** Friday, October 31, 2014 12:39 PM  
**To:** Gordon Mohrman  
**Cc:** mherington@springsgov.com  
**Subject:** Re: FW: Dusty Hills Subdivision

It was my impression from our last Board meeting that our neighbors pretty much agree with this letter. They said they didn't object to the 2 Woodman Courts not connecting because as far as they knew not connecting them was never on the table.

A number of Woodman Oaks people are concerned that without the through connection people here will not be able to get out fast enough in case of fire.

They also said when they bought here they were promised the 2 Woodman Courts would be connected to make another egress for us.

Would it be possible to compromise by joining the two Courts such that, in case of emergency people can get out, but have a locked gate that would only be opened in case of emergency?

### **Jane E. Slenkovich**

*President Woodman Oaks Home Owners Association*

On Thu, Oct 30, 2014 at 9:02 PM, Gordon Mohrman <gwmohrman@comcast.net> wrote:

To: Meggan Herington, AICP  
Principal Planner - Northeast Team  
City of Colorado Springs  
Land Use Review Division

What the heck is going on with the new Dusty Hills development?

## Herington, Meggan

---

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**Sent:** Friday, October 31, 2014 1:35 PM  
**To:** 'Jane Slenk'  
**Cc:** Herington, Meggan  
**Subject:** RE: FW: Dusty Hills Subdivision

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Land Use Review Division

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I realize all parties concerned have other time consuming obligations that may limit their ability to get involved. I thank you for your efforts in overseeing the planning and implementation of the new Dusty Hills development.

Sincerely,

Gordon W. Mohrman

7415 Margarita Place

Colorado Springs, CO 80919-3593

(719) 266-0278

gwmohrman@comcast.net

---

**From:** Jane Slenk [mailto:[jslenk@gmail.com](mailto:jslenk@gmail.com)]

**Sent:** Thursday, October 30, 2014 2:44 PM

**To:** Jane Slenkovich

**Subject:** Fwd: Dusty Hills Subdivision

Apparently there's still time to voice your concerns.

**Jane**

----- Forwarded message -----

From: **Candace Seaton** <[cseaton@quantumcommercial.com](mailto:cseaton@quantumcommercial.com)>

Date: Thu, Oct 30, 2014 at 11:34 AM

Subject: RE: Dusty Hills Subdivision

To: "Herington, Meggan" <[mherington@springsgov.com](mailto:mherington@springsgov.com)>,  
"jslenk@gmail.com" <[jslenk@gmail.com](mailto:jslenk@gmail.com)>,  
"mhsports2000@aol.com" <[mhsports2000@aol.com](mailto:mhsports2000@aol.com)>,  
"markhuff80919@gmail.com" <[markhuff80919@gmail.com](mailto:markhuff80919@gmail.com)>,  
"mmg514@yahoo.com" <[mmg514@yahoo.com](mailto:mmg514@yahoo.com)>

Cc: "David Gorman" (<[daveg@mvecivil.com](mailto:daveg@mvecivil.com)>), Beverly singleton  
<[bsingleton419@aol.com](mailto:bsingleton419@aol.com)>,  
Bob Garner  
<[garner@highlandcommercial.com](mailto:garner@highlandcommercial.com)>,  
Bryan Shannon  
<[bryan.shannon@comcast.net](mailto:bryan.shannon@comcast.net)>,  
Cathy van Diemen  
<[jick45@gmail.com](mailto:jick45@gmail.com)>,  
James Singleton <[jsingleton419@aol.com](mailto:jsingleton419@aol.com)>,  
John and Alyce Fertig <[jefertig@gmail.com](mailto:jefertig@gmail.com)>,  
John Morse  
<[sjmor6@comcast.net](mailto:sjmor6@comcast.net)>,  
John Whitley

<[jbwhitleyjr@centurylink.net](mailto:jbwhitleyjr@centurylink.net)>, John Whitley  
<[dlniedringhaus@msn.com](mailto:dlniedringhaus@msn.com)>, Lizzie Leitz  
<[lizzie.leitz@yahoo.com](mailto:lizzie.leitz@yahoo.com)>, Make and Dawn Carnel  
<[carnel5@aol.com](mailto:carnel5@aol.com)>, Mel and Sandy Downs  
<[megamel77@gmail.com](mailto:megamel77@gmail.com)>, Mike Thomas  
<[mthomas160@msn.com](mailto:mthomas160@msn.com)>, Ralph and Sheila Parkin  
<[Tyrolean80919@yahoo.com](mailto:Tyrolean80919@yahoo.com)>, Rochelle Shannon  
<[rochelleshannon@comcast.net](mailto:rochelleshannon@comcast.net)>, Rose Culley  
<[rculley1@comcast.net](mailto:rculley1@comcast.net)>, Simon and June Jhon  
<[njhons@msn.com](mailto:njhons@msn.com)>, Sue Thomas <[sthomas108@hotmail.com](mailto:sthomas108@hotmail.com)>

Meggan,

Thank you very much for keeping us up to date. I do hope more neighbors take the time out of their busy day to express the thoughts agreed to at our last neighborhood meeting this month. I know you have no control over the HOA established for Dusty Hills, but the sentiment ran strong at that meeting that the current owners should live up to their promises at two neighborhood meetings of writing them and at the minimum having the same standards as currently exist in Woodmen Hills and Woodmen Oaks.

I so appreciate your having made yourself so available to all of us. You set a great example for City Planners.

Best,

Candace

**Candace Seaton**

Senior Broker Associate Retail & Investments

Quantum Commercial Group

101 N Cascade Avenue, Suite 200

Colorado Springs, CO 80903

Direct: [719.228.3624](tel:719.228.3624) Cell: [719.332.0233](tel:719.332.0233)

[cseaton@quantumcommercial.com](mailto:cseaton@quantumcommercial.com)

[www.quantumcommercial.com](http://www.quantumcommercial.com)

*Commercial Real Estate Solutions*



---

**From:** Herington, Meggan [mailto:mherington@springsgov.com]  
**Sent:** Thursday, October 30, 2014 11:01 AM  
**To:** Candace Seaton; [jslenk@gmail.com](mailto:jslenk@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com); [markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mmg514@yahoo.com](mailto:mmg514@yahoo.com)  
**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Carnel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas  
**Subject:** RE: Dusty Hills Subdivision

All, this is just a reminder that this project is being prepared to go before the City Planning Commission on November 20, 2014. I'm preparing a staff report that includes neighbor comments that I have received since the redesign of the project (re-design as now showing the cul-de-sac and not a thru-street). I've attached the current plan as a reminder of what is moving forward.

If you would like to provide any additional written comments to the City Planning Commission, please provide those to me via email by November 4<sup>th</sup>. Any comments I receive after the 4<sup>th</sup> can be distributed the day of the hearing.

Thank You, Meggan

*Meggan Herington, AICP*

*Principal Planner - Northeast Team*

*City of Colorado Springs*

*Land Use Review Division*

*719-385-5083*

---

**From:** Candace Seaton [<mailto:cseaton@quantumcommercial.com>]

**Sent:** Wednesday, October 15, 2014 9:46 AM

**To:** Herington, Meggan

**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Candace Seaton; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Carnel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas

**Subject:** Dusty Hills Subdivision

Hi Meggan and Dave,

First of all I would like to say how much we appreciate the City and the owners for listening to our concerns and making changes that will ultimately be for the betterment of the new and existing neighborhoods. One of our greatest concerns along with the preservation of original habitat for the abundant wildlife and thus a country like environment is of course, security. Being a low crime area, we are very much entrenched in how to keep it that way as I'm sure the West's are. We look forward to continuing to be neighbors in this very special neighborhood.

One concern is that at both Neighborhood Meetings,(February for Woodmen Oaks and August 5<sup>th</sup> for us) the West's and Dave Gorman promised to complete an HOA for the homes of Dusty Hills in line with existing HOAs in Woodmen Oaks and Woodmen Mesa. They have copies of CC&Rs for both neighborhoods. We would like to see these new CC&Rs fully written and the HOA established and recorded before the new zoning change and annexation to the City of Colorado Springs. There will be a pedestrian walk for interconnecting Woodmen Oaks and Woodmen Estates, and of course the street will go through to the southern existing portion of Woodmen Court, so we truly feel that all the neighborhoods would benefit from having the same building requirements etc. The excelling use of foot power and bicycles will clearly serve to also connect all of these neighborhoods in the future even more so than today. We think the new neighbors in Dusty Hills will appreciate having similar homes to those already in the area and will appreciate the sense of community that will bring. We understand that the City cannot enforce this request, but as it has been promised twice, we feel very strongly that in order to continue a relationship of trust and respect, this promise absolutely needs to be fulfilled prior to the project receiving approval of zoning change and annexation.

My best,

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*Commercial Real Estate Solutions*



## Herington, Meggan

---

**From:** Mark Huff <markhuff80919@gmail.com>  
**Sent:** Friday, August 15, 2014 10:00 AM  
**To:** Herington, Meggan; daveg@mvecivil.com  
**Subject:** Fwd: The proposed Dusty Hill project may not be what we thought

----- Forwarded message -----

From: **Jane Slenk** <[jslenk@gmail.com](mailto:jslenk@gmail.com)>

If the plans for Dusty Hill include lots under 1/3 acre and/or homes that are not custom, I object to the planned development. The development will be inconsistent with the neighborhood and harm the values of the nearby properties.

Please require the development to construct custom homes on larger lots, similar to the surrounding area.

I attended the 20 February 2014 meeting at the Woodmen Valley Chapel with some other neighbors where an overview of the Dusty Hills development was given. At the meeting, it was announced that planning was preliminary and future meetings would be held where we could view more detailed plans. I have periodically checked the bill boards placed at the end of each segment of Woodmen Court to see if such a meeting had been scheduled. I have only found the initial 20 February meeting announcement and a second bill stating comments should be submitted by 15 July. No other bills have been posted. Our Woodmen Oaks Homeowners Association board has been reluctant to get very involved as was evident at our annual meeting held on Tuesday, 28 October. Apparently there have been some behind the scenes meetings where the general public has not been included – no open public meetings such as the 20 February meeting.

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Sincerely,

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Colorado Springs, CO 80919-3593

(719) 266-0278

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**Sent:** Thursday, October 30, 2014 2:44 PM

**To:** Jane Slenkovich

**Subject:** Fwd: Dusty Hills Subdivision

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**Jane**

----- Forwarded message -----

From: **Candace Seaton** <[cseaton@quantumcommercial.com](mailto:cseaton@quantumcommercial.com)>

Date: Thu, Oct 30, 2014 at 11:34 AM

Subject: RE: Dusty Hills Subdivision

To: "Herington, Meggan" <[mherington@springsgov.com](mailto:mherington@springsgov.com)>,  
"jslenk@gmail.com" <[jslenk@gmail.com](mailto:jslenk@gmail.com)>,  
"mhsports2000@aol.com" <[mhsports2000@aol.com](mailto:mhsports2000@aol.com)>,  
"markhuff80919@gmail.com" <[markhuff80919@gmail.com](mailto:markhuff80919@gmail.com)>,  
"mmg514@yahoo.com" <[mmg514@yahoo.com](mailto:mmg514@yahoo.com)>

Cc: "David Gorman" (<[daveg@mvecivil.com](mailto:daveg@mvecivil.com)>),  
Beverly singleton  
<[bsingleton419@aol.com](mailto:bsingleton419@aol.com)>,  
Bob Garner  
<[garner@highlandcommercial.com](mailto:garner@highlandcommercial.com)>,  
Bryan Shannon  
<[bryan.shannon@comcast.net](mailto:bryan.shannon@comcast.net)>,  
Cathy van Diemen  
<[jick45@gmail.com](mailto:jick45@gmail.com)>,  
James Singleton <[jsingleton419@aol.com](mailto:jsingleton419@aol.com)>,  
John and Alyce Fertig <[jefertig@gmail.com](mailto:jefertig@gmail.com)>,  
John Morse  
<[sjmor6@comcast.net](mailto:sjmor6@comcast.net)>,  
John Whitley

<[jbwhitleyjr@centurylink.net](mailto:jbwhitleyjr@centurylink.net)>, John Whitley  
<[dlniedringhaus@msn.com](mailto:dlniedringhaus@msn.com)>, Lizzie Leitz  
<[lizzie.leitz@yahoo.com](mailto:lizzie.leitz@yahoo.com)>, Make and Dawn Carnel  
<[carnel5@aol.com](mailto:carnel5@aol.com)>, Mel and Sandy Downs  
<[megamel77@gmail.com](mailto:megamel77@gmail.com)>, Mike Thomas  
<[mthomas160@msn.com](mailto:mthomas160@msn.com)>, Ralph and Sheila Parkin  
<[Tyrolean80919@yahoo.com](mailto:Tyrolean80919@yahoo.com)>, Rochelle Shannon  
<[rochelleshannon@comcast.net](mailto:rochelleshannon@comcast.net)>, Rose Culley  
<[rculley1@comcast.net](mailto:rculley1@comcast.net)>, Simon and June Jhon  
<[njhons@msn.com](mailto:njhons@msn.com)>, Sue Thomas <[sthomas108@hotmail.com](mailto:sthomas108@hotmail.com)>

Meggan,

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Best,

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**Sent:** Thursday, October 30, 2014 11:01 AM  
**To:** Candace Seaton; [jslenk@gmail.com](mailto:jslenk@gmail.com); [mhsports2000@aol.com](mailto:mhsports2000@aol.com); [markhuff80919@gmail.com](mailto:markhuff80919@gmail.com); [mmg514@yahoo.com](mailto:mmg514@yahoo.com)  
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*Principal Planner - Northeast Team*

*City of Colorado Springs*

*Land Use Review Division*

*719-385-5083*

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**Sent:** Wednesday, October 15, 2014 9:46 AM

**To:** Herington, Meggan

**Cc:** David Gorman ([daveg@mvecivil.com](mailto:daveg@mvecivil.com)); Beverly singleton; Bob Garner; Bryan Shannon; Candace Seaton; Cathy van Diemen; James Singleton; John and Alyce Fertig; John Morse; John Whitley; John Whitley; Lizzie Leitz; Make and Dawn Carnel; Mel and Sandy Downs; Mike Thomas; Ralph and Sheila Parkin; Rochelle Shannon; Rose Culley; Simon and June Jhon; Sue Thomas

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## **Herington, Meggan**

---

**From:** Jsing1419@aol.com  
**Sent:** Friday, October 17, 2014 10:24 AM  
**To:** Herington, Meggan; dave@mvecivil.com  
**Subject:** re. Woodmen Court and Dusty Hills Extension

Meggan and Dave,

My wife and I live on Woodmen Court. We appreciate that the concerns of our neighborhood have been received and the changes that have been made. Thank you so much. We also would like to see the HOA organized for Dusty Hills as part of the plan.

Jim and Bev Singleton  
35 Woodmen Court  
719-598-9622

## Herington, Meggan

---

**From:** Mike <mthomas160@msn.com>  
**Sent:** Friday, October 17, 2014 9:26 AM  
**To:** Herington, Meggan  
**Cc:** daveg@mvecivil.com; Candace Seaton; Sue  
**Subject:** Re: Dusty Hills Re-Review

Hello Meggan,

I would like to add my voice to the concerns expressed by Candace Seaton in her e-mail to you and Dave Gorman on Oct. 15th. It is easy to be skeptical about the process of annexation/development approval etc. when all the information you have is second hand. It has, however, been a pleasant surprise to see how well the process actually works. You have done an excellent job of insuring that the Dusty Hills Developer has been responsive to the concerns of the people in the surrounding neighborhoods. We are asking you once again for your help.

Although you do not get directly involved in the establishment of HOAs and Protective Covenants, we (The home owners of Woodmen Mesa and the HOA of Woodmen Oaks) have been told by Dusty Hills that Covenants and building standards were being developed. This does not appear to be the case. We are asking that prior to any approval of the Dusty Hills Development, that Dusty Hills be required to provide the promised Covenants and building standards. I am sure that we in Woodmen Mesa can provide a person to work with Dusty Hills on this issue.

As a secondary issue, I am concerned with the building 'setbacks' proposed by Dusty Hills. In particular, the setback of 10' on the side of each lot is inconsistent with the space allowed between homes in Woodmen Mesa and Woodmen Oaks. This may be a city standard, but possibly one that should be looked at in light of the Waldo Canyon and Black Forest fire experiences. Much property loss was the result of the close proximity of neighboring houses. Dusty Hills acreage is an area of 'high risk' for fires. Municipalities, homeowners and insurance companies are spending millions on fire mitigation in existing neighborhoods. It would be appropriate, I think, to look at fire mitigation that can be done prior to construction rather than after construction has been completed. Is it possible to hear from the City on this issue?

Thank you for your help and we are looking forward to hearing from you.

## Herington, Meggan

---

**From:** Rochelle Shannon <RochelleShannon@Comcast.net>  
**Sent:** Thursday, October 16, 2014 9:01 PM  
**To:** Herington, Meggan  
**Cc:** daveg@mvecivil.com  
**Subject:** Dusty Hills Concept

Dear Meggan and Dave,

I first wanted to thank you for the progress and agreements that were made regarding our last wave of comments. It seems that the compromises that were found are satisfactory to all of us. Thank you for putting so much time into this so that the neighbors in the existing developments are as comfortable as possible with the changes. We feel heard and appreciated for our input.

There is, however, one remaining issue that has yet to be finalized. There has been a lot of discussion about which HOA the Dusty Hills development would be part of, or if they would create their own, and the subsequent CC&Rs that would put guidelines on all of the details of each lot and the house that would be built there. This is obviously very important to us, as the neighbors of the existing developments, because it could mean the difference between homes that agree with our current guidelines and homes that do not agree and therefore diminish or devalue our own properties. Since this was promised at several previous meetings, I would ask that you follow through so we can have it decided and in writing before the final signoff by the city. With custom homes on all sides of Dusty Hills, the last thing we want is a dramatic difference within the new development, and it is only right and fair for it to be completed as the Wests and Dave Gorman said it would be.

We have a special piece of Colorado Springs here in Woodmen Mesa, and we want to keep it that way as well as we can. It is safe and quiet, we have no through traffic, the wildlife lingers, and we know our neighbors. That is a treasure that we hope to preserve even with the addition of new homes. Thank you for considering all of these things as you continue on the plans for this development.

Sincerely,

Rochelle Shannon

## **Herington, Meggan**

---

**From:** marsha <mhsports2000@aol.com>  
**Sent:** Monday, August 11, 2014 9:00 PM  
**To:** Herington, Meggan  
**Subject:** Re: Dusty Hills

Hi Megan

Please note that we support having bigger lot sizes. We feel that they should be bigger. we also support bobs map of lots this is a good compromise. we also support the fire gate on woodmen oaks side.

Thank you for all your hard work and consideration.

Marsha and Mike Harris  
410 woodmen ct

-----Original Message-----

**From:** Herington, Meggan <mherington@springsgov.com>  
**To:** mhsports2000 <mhsports2000@aol.com>  
**Sent:** Tue, Jul 8, 2014 12:00 pm  
**Subject:** Dusty Hills

Mr. Harris, Attached is the submitted plan and the plan from February. Thank you, Meggan

**Meggan Herington, AICP**  
**Principal Planner - Northeast Team**  
**City of Colorado Springs**  
**Land Use Review Division**  
**719-385-5083**



#### IV. ZONING

A. Zoning. The Planning and Development Department of the City agrees to recommend that the initial zone for the Owners' Property shall be zoned Planned Unit Development with Hillside Overlay (PUD/HS) upon annexation. While zoned PUD, a development plan shall be required for any use. Owners acknowledge and understand that the City Council determines what an appropriate zone is for the Property, and this recommendation does not bind the Planning Commission or City Council to adopt the PUD/HS zone for the Property.

B. Change of Zoning. A change of zone request shall conform to the Concept Plan, as approved or as amended by the City in the future. Rezoning in accord with the zones reflected on the Concept Plan will occur prior to actual development of the site.

#### V. PUBLIC FACILITIES

A. General. As land is annexed into the City it is anticipated that land development will occur. In consideration of this land development, the City requires public facilities and improvements to be designed, extended, installed, constructed, dedicated and conveyed as part of the land development review and construction process. Public facilities and improvements are those improvements to property which, after being constructed by the Owner and accepted by the City, shall be maintained by the City or another public entity. Generally, the required public facilities and improvements and their plan and review process, design criteria, construction standards, dedication, conveyance, cost recovery and reimbursement, assurances and guaranties, and special and specific provisions are addressed in Chapter 7, Article 7 of the City Code (the "Subdivision Code"). Public facilities and improvements include but are not necessarily limited to: 1.) Utility facilities and extensions for water, wastewater, fire hydrants, electric, gas, streetlights, telephone and telecommunications (For water, wastewater, gas and electric utility service, refer to Chapter 12 of the City Code and Section VI. "Utilities Services" and Section VII. "Water Rights" of this Agreement.); 2.) Streets, alleys, traffic control, sidewalks, curbs and gutters, trails and bicycle paths; 3.) Drainage facilities for the best management practice to control, retain, detain and convey flood and surface waters; 4.) Arterial roadway bridges; 5.) Parks; 6.) Schools; and 7.) Other facilities and improvements warranted by a specific land development proposal.

It is understood that all public facilities and improvements shall be subject to the provisions of the Chapter 7, Article 7 of the City Subdivision Code, unless otherwise specifically provided for under the terms and provisions of this Agreement. Those specifically modified public facilities and improvements provisions are as follows:

B. Streets, Bridge and Traffic Control. Unless agreed to elsewhere in this Agreement the Owner agrees to construct, at the Owner' expense, those street, bridge and/or traffic improvements adjacent to or within the Property. These improvements shall also include mutually acceptable dedications of right-of-way and easements, and extension of streets and right-of-way. The provisions of City Code §§ 7.7.706 (Reimbursements) and 7.7.1001-1006 (Arterial Roadway Bridges) are excluded. City participation or reimbursement for Arterial Streets and Arterial Bridges within the Property will not be allowed.

1. On-Site or Adjacent Streets
  - a. Woodmen Court: Through the review of the hillside concept plan, it has been determined that sidewalk on one side of the new extension of Woodmen Court is an acceptable design with the condition that the Owner work with City Traffic Engineering to install share the road signage on the existing connection to Woodmen Court where no sidewalk exists. The share the road signage should be shown on the final design and construction set for the road.
2. Off-Site Streets and Bridges: Not Applicable.
3. Traffic Control Devices. Owner shall pay for installation of traffic and street signs, striping, and traffic control devices, and permanent barriers, together with all associated conduit for all streets within or contiguous to the Property as determined necessary by the City and in accord with uniformly applied criteria set forth by the City. Traffic signals will be installed only after the intersection warrants signals, as outlined in the Manual on Uniform Traffic Control Devices in use at the time or another nationally accepted standard. Once the intersection meets the outlined criteria, the City will notify the Owner in writing and the Owner will install the traffic signal within one hundred eighty (180) days after receipt of that notice. The Owner will be responsible for all components of the traffic signal, except the City will supply the controller equipment and cabinet (Owner will reimburse the City for its reasonable costs of the equipment and cabinet).
- C. Drainage. A Master Development Drainage Plan shall be prepared and submitted by the Owner to the City and approved by the City Engineer. Final Drainage Reports and Plans shall be prepared and submitted by the Owner to the City and approved by the City Engineer, prior to recording subdivision plats. Owner shall comply with all drainage criteria, standards, policies and ordinances in effect at the time of development, including but not limited to the payment of any drainage, arterial bridge and detention pond fees and the reimbursement for drainage facilities constructed. The Owner shall provide water quality for all developed areas; to be owned and maintained by the Owner. Owner shall be responsible for conformance with the Dry Creek Drainage Basin Planning Study. The Dry Creek Drainage Basin is a closed basin.
- D. Parks: Future residential units are subject to standard parks fees prior to building permit.
- E. Schools: Future residential units are subject to standard school fees prior to building permit.
- F. Improvements Adjacent to Park and School Lands. Streets and other required public improvements adjacent to park and school lands dedicated within the Property will be built by the Owner without reimbursement by the City or the School District.

VI.  
UTILITY SERVICES

- A. Colorado Springs Utilities' (CSU) Services: CSU's water, non-potable water, wastewater, electric, streetlight, and gas services ("Utility Service" or together as "Utility Services") are available to eligible customers upon connection to CSU's facilities or utility systems on a "first-come, first-served" basis, provided that (among other things) the City and CSU determine that the applicant meets all applicable City ordinances and regulations, and applicable CSU tariff requirements and regulations for each application for Utility Service. In addition, the availability of Utility Services is contingent upon the terms detailed herein and the dedication of public rights-of-way, private rights-of-way, or easements that CSU determines are required for the extension of

any proposed Utility Service from CSU system facilities that currently exist or that may exist at the time of the proposed extension.

Owners shall ensure that the connection and/or extension of Utility Services to the Property are in accord with all codes and regulations in effect at the time of Utility Service connection and/or extension, including but not limited to CSU's tariffs, rules, and policies, City ordinances, resolutions, and policies, and Pikes Peak Regional Building Department codes. Further, as specified herein below, Owners acknowledge responsibility for the costs of any extensions or utility system improvements that are necessary to provide Utility Services to the Property or to ensure timely development of integrated utility systems serving the Property and areas outside the Property as determined by CSU.

CSU's connection requirements may require the Owners to provide a bond(s) or Letter of Credit, and to execute a Revenue Guarantee Contract or other CSU-approved guarantee for the extension of any Utility Service before CSU authorizes the extension of Utility Services and/or other utility systems improvements, and/or any request for service connection to the Property by Owners. Owners acknowledge that such connection requirements shall include Owners' payment of all applicable development charges, recovery-agreement charges, advance recovery-agreement charges, aid-to-construction charges and other fees or charges applicable to the requested Utility Service, and any costs CSU incurs to acquire additional service territory for the Utility Service to be provided, including those costs specified in paragraph C below. Because recovery agreement charges, advance recovery-agreement charges, and aid-to-construction charges may vary over time and by location, Owners are responsible for contacting CSU's Customer Contract Administration at (719) 668-8111 to ascertain which fees or charges apply to the Property.

Owners acknowledge that annexation of the Property does not imply a guarantee of water supply, wastewater treatment system capacity, or any other Utility Service supply or capacity, and CSU does not guarantee Utility Service to the Property until such time as permanent service is initiated. Accordingly, no specific allocations or amounts of Utility Services, facilities, capacities or supplies are reserved for the Property or Owners upon annexation, and the City and CSU make no commitments as to the availability of any Utility Service at any time in the future.

B. Dedications and Easements: Notwithstanding anything contained in Section XI. of this Agreement to the contrary, Owners, at Owners' sole cost and expense, shall dedicate by plat and/or convey by recorded document, all property (real and personal) and easements that CSU, in its sole discretion, determines are required for all utility-system facilities necessary to serve the Property or to ensure development of an integrated utility system, including but not limited to, any access roads, gas regulation or electric substation sites, electric transmission and distribution facilities, water storage reservoir/facility sites, and wastewater or water pump station sites. CSU, in its sole discretion, shall determine the location and size of all property necessary to be dedicated or otherwise conveyed.

Owners shall provide CSU all written, executed conveyances prior to platting or prior to the development of the Property as determined by CSU in its sole discretion. Owners shall pay all fees and costs applicable to and/or associated with the platting of the real property to be dedicated to the City, and all fees and costs associated with the conveyance of real property interests by plat or by separate instrument, including but not limited to, Phase 1 and Phase 2 environmental assessments, 'closing' costs, title policy fees, and recording fees for any deeds, permanent or temporary easement documents, or other required documents. Dedicated and/or deeded properties and easements are not, and shall not be, subject to refund or reimbursement and shall be deeded or

dedicated to the City free and clear of any liens or encumbrances, with good and marketable title and otherwise in compliance with City Code § 7.7.1802.

Further, all dedications and conveyances of real property must comply with the City Code, the City Charter, and any applicable CSU policies and procedures, and shall be subject to CSU's environmental review. Neither the City nor CSU has any obligation to accept any real property interests. All easements by separate instrument shall be conveyed using CSU's then-current Permanent Easement Agreement form without modification.

If Owners, with prior written approval by CSU, relocate, require relocation, or alter any existing utility facilities within the Property, then the relocation or alteration of these facilities shall be at the Owners' sole cost and expense. If CSU, in its sole discretion, determines that Owners' relocation or alteration requires new or updated easements, Owners shall convey those easements prior to relocating or altering the existing utility facilities using CSU's then-current Permanent Easement Agreement form without modification. CSU will only relocate existing gas or electric facilities during time frames and in a manner that CSU determines will minimize outages and loss of service.

C. Extension of Utility Facilities by CSU: Subject to the provisions of this Article, including sections A and B above, and all applicable CSU tariffs, rules, regulations, and standards, CSU will extend electric and gas service to the Property if CSU, in its sole discretion, determines that there will be no adverse effect to any Utility Service or utility easement. Owners shall cooperate with CSU to ensure that any extension of gas or electric facilities to serve the Property will be in accord with CSU's Line Extension and Service Standards.

1. Natural Gas Facilities: If prior to annexation any portion of the Property is located outside CSU' gas service territory, then upon annexation, CSU will acquire the gas service territory within the Property from the then-current gas service provider. Accordingly, Owners shall be solely responsible for all costs and expenses, including but not limited to attorneys' fees, that CSU incurs due to any Colorado Public Utilities Commission ("CPUC") filings made or arising from annexation of the Property. Owners shall support and make any CPUC filings necessary to support CSU's filings to the CPUC.
2. Electric Facilities: CSU, in its sole discretion, may require Owners to enter into a Revenue Guarantee Contract for the extension of any electric service or facilities, including any necessary electric transmission or substation facilities. If any portion of the Property is located outside CSU's electric service territory, then upon annexation, CSU will acquire the electric service territory within the Property that is not served by CSU from the then-current electric service provider in accord with C.R.S. §§ 40-9.5-201 *et seq.*, or 31-15-707, and Owners shall be solely responsible for all costs and fees, including but not limited to attorneys' fees, that CSU incurs as a result of or associated with the acquisition of such electric service territory. Accordingly, Owners agree to pay the then-current electric service provider, directly, for the costs associated with CSU's acquisition of the electric service territory as specified in C.R.S. §§ 40-9.5-204 (1) (a) and 40-9.5-204 (1) (b) within 30 days of receipt of an invoice for such costs. Owners also agree to pay CSU for the costs associated with CSU's acquisition of the electric service territory as specified in C.R.S. §§ 40-9.5-204 (1) (c) and 40-9.5-204 (1) (d) within 30 days of receipt of an invoice for such costs.

Further, Owners acknowledge sole responsibility for the costs that CSU incurs in the conversion of any overhead electric lines to underground service and the removal of any existing electric distribution facilities (overhead or underground) that were previously installed by the then-current electric service provider. These costs shall be paid by Owners concurrent with the execution of a contract between the Owners and

the electric service provider that obligates Owners to reimburse the electric service provider for such conversion or removal of existing electrical facilities.

3. Water and Wastewater Facilities by CSU: The Owners shall pay any advance recovery-agreement charges, recovery-agreement charges, or other fees or charges that are not currently approved by CSU for the Property, but which may become applicable as a result of any on-site or off-site water or wastewater system facilities that CSU or other developers may design and construct in order to ensure an integrated water or wastewater system supplying the Property. Additionally, the Owners shall be subject to cost recovery for the engineering, materials and installation costs incurred by CSU in its design, construction, upgrade or improvement of any water pump stations, water suction storage facilities, water transmission and distribution pipelines, or other water system facilities and appurtenances and any wastewater pump stations or treatment facilities, wastewater pipeline facilities, or other wastewater collection facilities and appurtenances that CSU, in its sole discretion, determines are necessary to serve the Property.

D. Water and Wastewater System Extensions by Owners: Owners must extend, design, and construct all potable and non-potable water system facilities and appurtenances, and all wastewater collection system facilities, wastewater pump stations, and any water or wastewater service lines to and within the Property at Owners' sole cost and expense in accord with all applicable CSU tariffs, rules, regulations, including CSU's Line Extension and Service Standards, and all City ordinances and regulations in effect at the time of each specific request for water or wastewater service. Consistent with City Code 7.7.1102 (B), Owners shall complete the design, installation and obtain preliminary acceptance of such utility facilities prior to CSU's approval of Owners' water and wastewater service requests.

Owners shall be solely responsible for all costs and fees associated with engineering, materials, and installation of all water system facilities and appurtenances, and all wastewater collection facilities and appurtenances, whether on-site or off-site, that are necessary to serve the Property or to ensure development of an integrated water or wastewater system serving the Property and areas outside the Property as determined by CSU. Further, Owners acknowledge that CSU may require that such water or wastewater system facilities be larger than necessary to serve the Property itself, and may require the Owners to participate with other development projects on a fair-share, pro rata basis in any necessary off-site system facilities improvements.

The plans, specifications and construction of the water facilities and appurtenances, and the wastewater facilities and appurtenances are each subject to CSU's inspection and written acceptance, and CSU shall make the final determination as to the size, location, point(s) of connection and the required appurtenances of the system facilities to be constructed. No work shall commence on any proposed water or wastewater extension facilities until CSU provides written approval of Owners' water or wastewater construction plans and copies of such approved plans are received by CSU. Owners may only connect newly-constructed facilities to CSU's existing water or wastewater system upon CSU's inspection and written acceptance of such facilities.

As part of any development plan submittal for the Property, Owners acknowledge that a Preliminary Utility Plan, Wastewater Master Facility Plan or Report, Hydraulic Grade Line Request Form, and Hydraulic Analysis Report (as determined by CSU) are required and must be completed and approved by CSU.

The water distribution system facilities must meet CSU's criteria for quality, reliability and pressure. The water distribution system shall ensure capacity, pressure and system reliability for both partially completed and fully completed conditions and the static pressure of the water distribution system shall be a minimum of 60 psi.

Also, to ensure the protection of public health and to maintain compliance with state regulatory requirements, the detailed plans for all customer-owned, non-potable water distribution systems, including irrigation systems, must be approved by CSU.

Further, Owners recognize that the extension of water system facilities may affect the quality of water in CSU's water system. Consequently, Owners acknowledge responsibility for any costs that CSU, in its sole discretion, determines necessary to incur in order to maintain water quality in its system as a result of Owners' water system extensions, including but not limited to, the cost of any lost water, materials and labor from pipeline-flushing maintenance activities, temporary pipeline loop extensions, or other appurtenances and measures that CSU determines are necessary to minimize pipeline flushing and to maintain water quality (Water-quality Maintenance Costs). Owners shall reimburse CSU for such Water-quality Maintenance Costs within thirty (30) days of receipt of an invoice for such costs.

E. Limitation of Applicability: The provisions of this Agreement set forth the requirements of the City and CSU in effect at the time of the annexation of the Property. These provisions shall not be construed as a limitation upon the authority of the City or CSU to adopt different ordinances, rules, regulations, resolutions, policies or codes which change any of the provisions set forth in this Agreement so long as these apply to the City generally and are in accord with the then-current tariffs, rates, regulations and policies of CSU. Subject to the provisions of the Article of this Agreement that is labeled "WATER RIGHTS", CSU's tariffs, policies, and/or contract agreements, as may be modified from time to time, shall govern the use of all Utilities Services, including but not limited to, groundwater and non-potable water for irrigation use by the Owners for the Owners' exclusive use.

F. Southeastern Colorado Water Conservancy District: Notice is hereby provided that upon annexation the Property is subject to subsequent inclusion into the boundaries of the Southeastern Colorado Water Conservancy District ("District") pursuant to C.R.S. § 37-45-136 (3.6) as may be amended, and the rules and procedures of the District and shall be subject thereafter to a property tax mill levy for the purposes of meeting the financial obligations of the District. The Owner acknowledges that water service for the Property will not be made available by CSU until such time as the Property is formally included within the boundaries of the District. District inclusion requires consent by the Bureau of Reclamation ("Reclamation"). The Owner shall be responsible for taking all actions necessary for inclusion of the Property into the boundaries of the District, including but not limited to, any action required to obtain Reclamation's consent to include the Property into the District.

## VII. WATER RIGHTS

As provided in the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater ("Deed"), which is attached to this Agreement and hereby incorporated by reference, Owners grant to the City, all right, title and interest to any and all groundwater underlying or appurtenant to and used upon the Property, and any and all other water rights appurtenant to the Property (collectively referred to as "the Water Rights"), together with the sole and exclusive right to use the Water Rights and all rights of ingress and egress required by the City to appropriate, withdraw and use the Water Rights. The Deed conveying the Water Rights shall be executed by the Owners concurrently with this Agreement and shall be made effective upon the date of the City Council's final approval of the annexation of the Property. The Deed shall be recorded concurrent with the recording of the annexation plat and annexation ordinance at the El Paso County Clerk and Recorder's office.

Furthermore, pursuant to C.R.S. § 37-90-137(4), as now in effect or hereafter amended, on behalf of Owner and all successors in title, Owner irrevocably consents to the appropriation, withdrawal and use by the City of all groundwater underlying or appurtenant to and used upon the Property.

In the event the City chooses to use or further develop the Water Rights that have been conveyed, Owners agree to provide any and all easements required by the City prior to the construction and operation of any City well or water rights related infrastructure on the Property. Wells constructed by the City outside the Property may withdraw groundwater under Owners' Property without additional consent from Owners.

Upon annexation of the Property, any wells or groundwater developed by Owners prior to annexation will become subject to CSU's applicable tariffs, Rules and Regulations, and rates as amended in the future. Owners' uses of groundwater shall be subject to approval by the City and CSU, and shall be consistent with CSU's standards, tariffs, policies, and the City's ordinances, resolutions and policies for the use of groundwater now in effect or as amended in the future. No commingling of well and City water supply will be permitted.

VIII.  
FIRE PROTECTION

The Owner acknowledges that the Property is located within the boundaries of the Woodmen Valley Fire Protection District (the "Fire District") and is subject to property taxes payable to the Fire District for its services. The Owner further acknowledges that, after annexation of the Property to the City, the Property will continue to remain within the boundaries of the Fire District until such time as the Property is excluded from the boundaries of the Fire District. After annexation of the Property to the City, fire protection services will be provided by the City through its Fire Department and by the Fire District unless and until the Property is excluded from the Fire District. After annexation, the Property will be assessed property taxes payable to both the City and the Fire District until such time as the Property is excluded from the boundaries of the Fire District.

The Owner understands and acknowledges that the Property may be excluded from the boundaries of the Fire District under the provisions applicable to special districts, Article 1 of Title 32 C.R.S., and as otherwise provided by law. Upon request by the City, the person who owns the Property at the time of the City's request agrees to apply to the Fire District for exclusion of the Property from the Fire District. The Owner understands and acknowledges that the Owner, its heirs, assigns and successors in title are responsible for seeking any exclusion from the Fire District and that the City has no obligation to seek exclusion of any portion of the Property from the Fire District.

IX.  
FIRE PROTECTION FEE

The Owners agree to pay a fee of \$1,631 per gross acre of the entire annexed area as their share of the capital cost of a new fire station and the initial apparatus purchase required to service this annexation as well as adjacent areas of future annexation. Fee payment for the gross acreage of each phase of development shall be made prior to issuance of the initial subdivision plat for that phase. When land purchase and construction of the Fire station and acquisition of the apparatus required to service this annexation are imminent, the City shall notify Owners in writing that payment of the Fire Protection Fee required by this Agreement is due in full. Owners shall have 60 days to make arrangements to pay the Fire Protection Fees due on the remaining gross acreage of the annexed Property for which the fee has not previously been paid at platting. The fee shall be subject to a yearly escalation factor, as determined by the City, equal to the increase

in the City of Colorado Springs Construction Index from the date of this agreement. The City agrees as future annexations occur within the service area of the proposed fire station the owners of future annexations will be required to pay a per-acre fee to the City for the capital improvements to the fire station.

X.  
POLICE SERVICE FEE

The Owner agrees to pay a fee of \$670.00 per gross acre of the entire annexed area as Owner's share of the capital cost of a new police station and the initial equipment purchase required to service this annexation as well as adjacent areas of future annexation. Fee payment for the gross acreage of each phase of development shall be made prior to issuance of the initial subdivision plat for that phase. When land purchase and construction of the police station and acquisition of the equipment required to service this annexation is imminent, the City shall notify Owner in writing that payment of the Police Service Fee required by this Agreement is due in full. Owner shall have 60 days to make arrangements to pay the Police Service Fees due on the remaining gross acreage of the annexed Property for which the fee has not previously been paid at platting. The fee shall be subject to a yearly escalation factor equal to the increase in the City of Colorado Springs Construction Index from the date of this Agreement. The City agrees as future annexations occur within the service area of the proposed police station the owners of future annexations will be required to pay a per-acre fee to the City for the capital improvements to the police station.

XI.  
PUBLIC LAND DEDICATION

Owner agrees that all land dedicated or deeded to the City for municipal or utility purposes, including park and school sites, shall be platted and all applicable development fee obligations paid.

Owner agrees that any land dedicated or deeded to the City for municipal or utility purposes, including park and school sites, shall be free and clear of liens and encumbrances. All fees that would be applicable to the platting of land that is to be dedicated to the City (including park and school land) shall be paid by Owner. Fees will be required on the gross acreage of land dedicated as of the date of the dedication in accord with the fee requirements in effect as of the date of the dedication. All dedications shall be platted by the Owner prior to conveyance, unless otherwise waived by the City.

In addition, any property dedicated by deed shall be subject to the following:

- A. All property deeded to the City shall be conveyed by General Warranty Deed.
- B. Owner shall convey the property to the City within 30 days of the City's written request.
- C. Any property conveyed to the City shall be free and clear of any liens and/or encumbrances.
- D. All property taxes levied against the property shall be paid by the Owner through the date of conveyance to the City.
- E. An environmental assessment of the property must be provided to the City for review and approval, unless the City waives the requirement of an assessment. Approval or waiver of the assessment must be in writing and signed by an authorized representative or official of the City.

XII.  
SPECIAL PROVISIONS

*(This section may not apply, depending upon specific locations and special provisions such as airport concerns, METEX, overlapping special districts, etc. To be removed if not needed.)*

XIII.  
ORDINANCE COMPLIANCE

Owners will comply with all tariffs, policies, rules, regulations, ordinances, resolutions and codes of the City which now exist or are amended or adopted in the future, including those related to the subdivision and zoning of land, except as expressly modified by this Agreement. This Agreement shall not be construed as a limitation upon the authority of the City to adopt different tariffs, policies, rules, regulations, ordinances, resolutions and codes which change any of the provisions set forth in this Agreement so long as these apply to the City generally.

XIV.  
ASSIGNS AND DEED OF TRUST HOLDERS

Where as used in this Agreement, the term "the Owners" or "Property Owners," shall also mean any of the heirs, executors, personal representatives, transferees, or assigns of the Owners and all these parties shall have the right to enforce and be enforced under the terms of this Agreement as if they were the original parties hereto. Except as otherwise provided in the Articles of this Agreement that are labeled "UTILITIES SERVICES" and "WATER RIGHTS", rights to specific refunds or payments contained in this Agreement shall always be to the Owners unless specifically assigned to another person.

By executing this Agreement, the deed of trust holder agrees that: (1) should it become owner of the Property through foreclosure or otherwise that it will be bound by the terms and conditions of this Agreement to the same extent as Owner; and (2) should it become owner of the Property, any provisions in its deed of trust or other agreements pertaining to the Property in conflict with this Agreement shall be subordinate to and superseded by the provisions of this Agreement. *(OR, THE FOLLOWING IS TO BE INSERTED IF THERE ARE NO DEED OF TRUST HOLDERS: Owners affirmatively state that there exist no outstanding deeds of trust or other similar liens or encumbrances against the Property).*

XV.  
RECORDING

This Agreement shall be recorded with the Clerk and Recorder of El Paso County, Colorado, and constitute a covenant running with the land. This Agreement shall be binding on future assigns of the Owners and all other persons who may purchase land within the Property from the Owners or any persons later acquiring an interest in the Property. Any refunds made under the terms of this Agreement shall be made to the Owners and not subsequent purchasers or assigns of the Property unless the purchase or assignment specifically provides for payment to the purchaser or assignee and a copy of that document is filed with the City.

XVI.  
AMENDMENTS

This Agreement may be amended by any party, including their respective successors, transferees, or assigns, and the City without the consent of any other party or its successors, transferees, or assigns so long as the amendment applies only to the property owned by the amending party. For the purposes of this article, an amendment shall be deemed to apply only to property owned by the amending party if this Agreement remains in full force and effect as to property owned by any non-amending party.

Any amendment shall be recorded in the records of El Paso County, shall be a covenant running with the land, and shall be binding on all persons or entities presently possessing or later acquiring an interest in the property subject to the amendment unless otherwise specified in the amendment."

XVII.  
HEADINGS

The headings set forth in the Agreement for the different sections of the Agreement are for reference only and shall not be construed as an enlargement or abridgement of the language of the Agreement.

XVIII.  
DEFAULT AND REMEDIES

If either Owner or City fails to perform any material obligation under this Agreement, and fails to cure the default within thirty (30) days following notice from the non-defaulting party of that breach, then a breach of this Agreement will be deemed to have occurred and the non-defaulting party will be entitled, at its election, to either cure the default and recover the cost thereof from the defaulting party, or pursue and obtain against the defaulting party an order for specific performance of the obligations under this Agreement and, in either instance, recover any actual damages incurred by the non-defaulting party as a result of that breach, including recovery of its costs and reasonable attorneys' fees incurred in the enforcement of this Agreement, as well as any other remedies provided by law.

XIX.  
GENERAL

Except as specifically provided in this Agreement, City agrees to treat Owner and the Property in a non-discriminatory manner relative to the rest of the City. In addition, any consent or approval required in accord with this Agreement from the City shall not be unreasonably withheld, conditioned or delayed. City agrees not to impose any fee, levy or tax or impose any conditions upon the approval of development requests, platting, zoning or issuance of any building permits for the Property, or make any assessment on the Property that is not uniformly applied throughout the City, except as specifically provided in this Agreement or the City Code. If the annexation of the Property or any portion of the Property is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended, pending the outcome of the referendum election. If the referendum challenge to the annexation results in the disconnection of the Property from the City, then this Agreement and all its provisions shall be null and void and of no further effect. If the referendum challenge fails, then Owner and City shall continue to be bound by all terms and provisions of this Agreement.

XX.  
SEVERABILITY

If any provision of this Agreement is for any reason and to any extent held to be invalid or unenforceable, then neither the remainder of the document nor the application of the provisions to other entities, persons or circumstances shall be affected.

DRAFT

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the \_\_\_\_\_ day and \_\_\_\_\_ year first written above.

CITY OF COLORADO SPRINGS

BY: \_\_\_\_\_  
Keith King, President of City Council

ATTEST:

BY: \_\_\_\_\_  
Sarah B. Johnson, City Clerk

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Wynetta Massey, City Attorney

DRAFT

PROPERTY OWNER:

\_\_\_\_\_  
(Owner)

\_\_\_\_\_

ACKNOWLEDGMENT

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ ,  
by \_\_\_\_\_ as Owner(s).

Witness my hand and notarial seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
Address: \_\_\_\_\_  
\_\_\_\_\_



EXHIBIT A  
LEGAL DESCRIPTION

DRAFT

EXHIBIT B

SPECIAL WARRANTY DEED AND IRREVOCABLE CONSENT  
TO THE APPROPRIATION, WITHDRAWAL AND USE OF GROUNDWATER  
\_\_\_\_\_ Annexation

(Owner) ("Grantor(s)"), whose address is \_\_\_\_\_, in consideration of the benefits received pursuant to the \_\_\_\_\_ Annexation Agreement dated \_\_\_\_\_ ("Annexation Agreement"), which is executed by Grantor(s) concurrently with this Special Warranty Deed, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, sell and convey to the City of Colorado Springs, Colorado ("Grantee"), whose address is 30 S. Nevada Avenue, Colorado Springs, CO 80903, all right, title, and interest in any and all groundwater underlying or appurtenant to and used upon the property described in Exhibit A ("Property") and any and all other water rights appurtenant to the Property collectively referred to as the "Water Rights", together with the sole and exclusive right to use the Water Rights and all rights of ingress and egress required by the Grantee to appropriate, withdraw and use the Water Rights; and Grantor(s) warrants title to the same against all claims arising by, through, or under said Grantor(s). The Water Rights include but are not limited to those described in Exhibit B.

Furthermore, pursuant to C.R.S. § 37-90-137(4) as now exists or may later be amended, Grantor(s), on behalf of Grantor(s) and any and all successors in title, hereby irrevocably consent in perpetuity to the appropriation, withdrawal and use by Grantee of all groundwater underlying or appurtenant to and used upon the Property.

This Special Warranty Deed and the consent granted herein shall be effective upon the date of the City of Colorado Springs-City Council's final approval of the Annexation Agreement.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GRANTOR(s):

(Owner)

By:

\_\_\_\_\_

Name: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, Grantor.

Witness my hand and official seal.

My Commission Expires:

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
Notary Public

DRAFT

Accepted by the City of Colorado Springs

By: \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20##  
Real Estate Services Manager

By: \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20##

Approved as to Form:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Attorney's Office

DRAFT

Exhibit A

LEGAL DESCRIPTION

To the  
Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater  
executed by Peter Michaud, LLC, Grantor(s) on \_\_\_\_\_.

*(provide legal description signed and stamped by Professional Licensed Surveyor)*

DRAFT

Exhibit B

To the  
Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater  
executed (Owner), Grantor(s) on \_\_\_\_\_.

Decreed Groundwater Rights

Case No.

Court:

Source:

Amount:

Date of Decree:

Name of Owner:

Permitted Groundwater

Permit No.

Date of Permit:

Source:

Amount:

Name of Owner:

Legal Description of Well or other structure:

Surface Water Rights

Name of Water Right:

Case No.

Court:

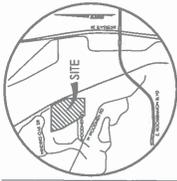
Source:

Amount:

Date of Decree:

Name of Owner:





VICINITY MAP  
 NOT TO SCALE



SCALE 1"=40', 1/8"=100'



REVISIONS

DESIGNED BY CCC  
 IN CHARGE  
 CHECKED BY  
 ASSEMBLED BY  
 CIRCLED BY

DUSTY HILLS

CPI-1  
 CONCEPT PLAN

PROJECT # 51298  
 DRAWING # -CP-PS

OCTOBER 30, 2014  
 SHEET 2 OF 2



CPC PUP 14-00064

FIGURE 5

**ITEMS: 6.A-6.C**

**STAFF: LARRY LARSEN**

**FILE NOS.:**

**CPC MP 02-00254-A3MJ14 - LEGISLATIVE**

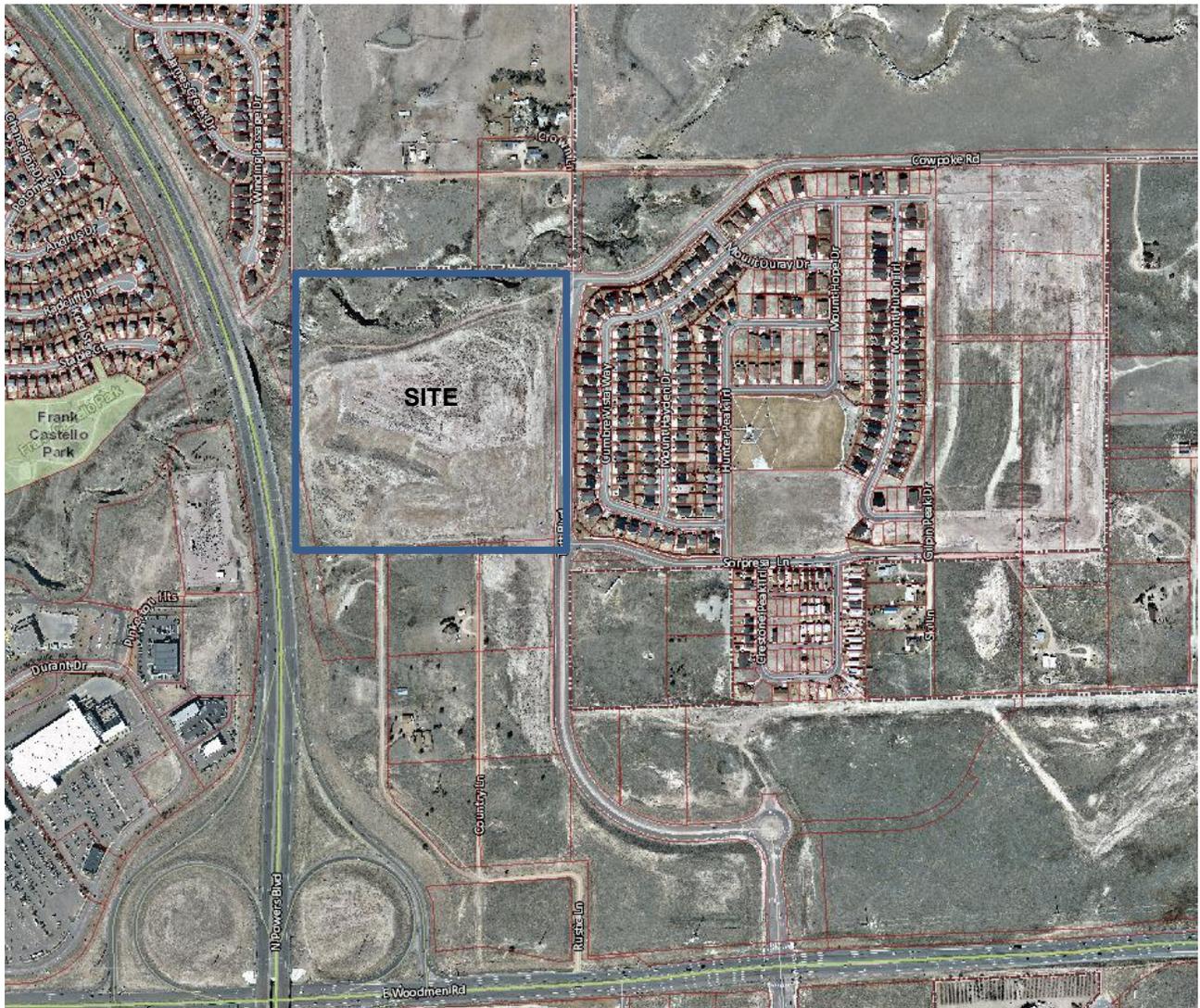
**CPC ZC 14-00080 - QUASI-JUDICIAL**

**CPC CP 14-00081 - QUASI-JUDICIAL**

**PROJECT: POWERWOOD NO. 2 NORTH**

**APPLICANT: NES, INC.**

**OWNER: RMG - RS HOLDINGS, LLC**



### **PROJECT SUMMARY:**

1. Project Description: Request by NES, INC. on behalf of RMG – RS Holdings, LLC for consideration of the following applications: 1.) an amendment to the Powerwood No.2 Master Plan (**FIGURE 1**); 2.) change of zone district classification from Agricultural with Airport and Streamside Overlays (A/AO/SS) to Multi-Family Residential with Airport and Streamside Overlays (R-5/AO/SS) ; and 3.) the Powerwood No. 2 North Concept Plan (**FIGURES 2 &3**).

If approved, the applications would allow for construction of a 482-unit multi-family residential project. The project would include: 18 residential buildings with a maximum height of 45 feet, a clubhouse with a pool, parking areas, private access drives, landscaping areas, and the Cottonwood Creek open space with drainage facilities.

The property is located northwest of the Tutt Boulevard and Sorpresa Lane intersection and consists of approximately 29.61 acres. The proposed master plan amendment changes approximately 10 acres of land from office industrial to multi-family residential, and other minor changes explained in the applicant's Project Statement (**FIGURE 4**)

2. Applicant's Project Statements: (**FIGURE 4**)
3. Planning and Development Department's Recommendation: Approval of the applications subject to conditions and technical modifications.

### **BACKGROUND:**

1. Site Address: Not applicable
2. Existing Zoning/Land Use: A/AO/SS (Agricultural with Airport and Streamside Overlays) / Vacant (**FIGURE 5**)
3. Surrounding Zoning/Land Use:  
North: County RR5 (Rural Residential) / Single-family residences & agricultural  
South: C-6 (General Business), A (Agricultural) & PF (Public Facility) / Single-family residences, planned commercial, public assembly, and City Utilities water storage tank  
East: R-1-6000 & PUD (Single-Family Residential) / Single-family residences  
West: A (Agricultural) & PF (Public Facility) / Powers Boulevard, Open Space (Cottonwood Creek Corridor) and City Utilities electric substation
4. Comprehensive Plan/Designated 2020 Land Use: Regional Center
5. Annexation: Powerwood No. 2 (2004)
6. Master Plan/Designated Master Plan Land Use: Powerwood No. 2 Master Plan – Existing: Multi-Family Residential, Office – Industrial Park and Open Space / Drainageway; Proposed: Multi-Family Residential, and Open Space / Drainageway.
7. Subdivision: Unplatted
8. Zoning Enforcement Action: None.
9. Physical Characteristics: The site moderately slopes towards the north. The majority of the site has no significant vegetation (grasses and shrubs); however, the northern portion contains Cottonwood Creek, a significant natural feature corridor. This corridor will be protected as a streamside drainageway channel and open space.

### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

This project has been subject to significant neighborhood involvement, review, and input, and it has been the subject of two neighborhood meetings.

During the pre-application stage, the first neighborhood meeting was conducted on March 18, 2014 at Jenkins Middle School. Approximately 30 persons attended the meeting. Neighborhood concerns included: the number of apartment projects planned for the area, market demand for rental apartments, traffic generation and distribution, original master plan approved uses, parking requirements, drainage and streamside protection, building heights and view protection, project management, architectural quality, access to site, affordability, the applicant's willingness to negotiate with the neighborhood, and the project's participation in the Woodmen Heights Metro District (WHMD). A few e-mails in opposition to the project were received at that time.

During the internal review stage, the second neighborhood meeting was conducted on September 8, 2014, again at Jenkins Middle School, after the applications and plans were submitted. Approximately 20 persons attended the meeting. The neighborhood expressed the same issues and concerns previously voiced at the first meeting. No e-mails or letters in opposition to the project were received at this time.

The standard City notification process for the internal review included posting the property with a notice poster and mailing postcards to approximately 423 property owners exceeding the 1,000 feet buffer and including the entire Cumbre Vista neighborhood and surrounding area.

The same posting and notification process will be utilized prior to the Planning Commission's public hearing.

All applicable agencies and departments were asked to review and comment. No significant concerns were identified. All issues and concerns were incorporated into the proposed plans or provided as conditions of approval. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, and School District 20.

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

#### 1. Design and Development Issues:

##### Multi-Family Residential Projects in Area:

The Cumbre Vista and Woodmen Vista subdivisions are single-family detached residential neighborhoods that were planned and approved in the early to mid-2000s; both are currently near full build-out utilizing existing platted lots. Cumbre Vista has the potential for future expansion via new filings, per the approved development plan.

The Powerwood No. 2 North project is the third apartment complex proposed in this vicinity. Two other projects, the Lodge at Black Forest (288 units) was approved in 2009 and is under construction, while the Cumbre Vista Apartments project (204 units) is pending final City Council approval on November 25, 2014, will soon to be started.

Many residents in the adjacent neighborhoods feel that their area already has enough planned apartments and that the approval of a third complex would negatively impact them regarding quality of life, traffic, crime and other concerns.

Neither the City Comprehensive Plan nor the City Zoning Code provides policy or standards regarding the number of apartment projects within an area. The Comprehensive Plan identifies this area a regional center; apartments are clearly encouraged within it. The existing Powerwood No. 2 Master Plan shows this site for open space (adjacent to Cottonwood Creek), office / industrial park and multi-family residential uses. The proposed amendment, if approved, would remove the office – industrial park designation and replace it with multi-family residential. It is the finding of City Planning and Development staff that the removal of the office / industrial park is desirable, since that use is no longer suitable for this area. Typical industrial uses may be too intense now, offices and research & development may still be acceptable, but not encouraged.

It should also be noted that the vacancy rate of multi-family housing in the Pikes Peak region, particularly Colorado Springs is recently consistently in the mid-to-high 90 percent.

### Traffic

The Cumbre Vista neighborhood, located immediately east of the project, expressed a concern regarding the traffic generation and distribution of this project and the other two apartment projects in the area. The applicant initially provided preliminary estimates with the project statement and subsequently provided a detailed traffic impact analysis, prepared by LSC Transportation Consultants, Inc., dated October 24, 2014.

A summary of the analysis, including recommendations, is as follows:

1. Two full movement access locations onto Tutt Boulevard are proposed, one a shared extension of Sorpresa Lane westward to the primary entryway into the project and the other a new intersection located 680 feet north of Sorpresa Lane;
2. The majority of the traffic entering and leaving the project will use Sorpresa Lane and/or Tutt Boulevard and travel south to Woodmen Road or north to Cowpoke;
3. Tutt Boulevard is planned to extend north across Cottonwood Creek to Research Parkway in the future. It is currently not programmed nor is it warranted at this time;
4. The existing Tutt Boulevard and Sorpresa intersection is currently operating at an acceptable level of service during peak hours;
5. The 2040 background traffic was estimated utilizing existing conditions and planned future developments of Cumbre Vista, the Cumbre Vista Apartments, Saddletree Village, Peacock Ranch, and the Woodmen Towne Center (which includes the Lodge at Black Forest Apartments);
6. This project is expected to generate 3,205 vehicle-trips on the average weekday (24 hour time period). During the morning peak hour approximately 250 vehicles would enter and leave the site and 300 in late afternoon; the proposed amendment increases Average Daily Trips (ADT) by 281 over the existing master plan, but PM and AM peak hour trips decrease due to a different daily trip distribution;
7. The total traffic volumes equal the background plus the project generated traffic or approximately 10,000 vehicle trips per day, when both proposed intersections function as full movement and Tutt Boulevard is not extended north to Research Parkway;
8. Based upon the assumptions that both intersections are full movement and Tutt is not extended, the project estimated distribution is 105 trips north to Cowpoke and 3,100 trips south to Woodmen;
9. Based upon the above assumptions and analysis, the report states that both intersections will operate at a satisfactory level of service during peak hours in 2040; and
10. The report recommends: 1.) that both intersections operate as full movement intersections; 2.) a traffic signal is not warranted now or in 2040; 3.) a southbound deceleration lane may be warranted on Tutt at Sorpresa when future development

occurs south of this project; and 4.) a northbound left-turn at the new intersection is warranted in 2040. Adequate right-of-way already exists to accommodate these improvements.

Streamside, Drainage and Creek Protection:

This project is adjacent to the Cottonwood Creek corridor. The current and proposed master plan amendment, as well as the proposed concept plan, recognize this significant nature feature to protect and utilize as a site amenity. Through the review and approval of the project's drainage plans and the application of the City's streamside overlay provisions at the time of development plan review, Cottonwood Creek will be stabilized, protected, and enhanced via the installation of rip / rap materials and drop structures and the construction of a new trail that will serve the project's residents as well as the broader community. Currently, Cottonwood Creek is rapidly eroding and its cut slopes are increasing; this improvements required as part of this project will stop its deterioration.

Building Heights and View Protection:

The proposed Concept Plan and the R-5 zone district development standards stipulate a maximum building height of 45 feet. In addition, this site falls nearly 60 feet in elevation from Tutt Boulevard to Powers Boulevard, the existing homes in Cumbre Vista sit even higher. The project has also been designed to orient the buildings (east-west) closest to Cumbre Vista to minimize view impacts.

View protection standards were proposed by City Planning and Development staff and debated by the Planning Commission and City Council several years ago, before they were deemed unacceptable and unwarranted. View protection methods may be provided for by the applicant, but they are not required or recommended by City staff.

2. Conformance with the City Comprehensive Plan: The use is consistent with the City's Comprehensive Plan. The Plan's 2020 Land Use Map identifies this area as a "Regional Center", in which multi-family residential uses are an important element.

The following City Comprehensive Plan goals, objectives and policy statements apply to this project:

Policy LU 201: Promote a Focused, Consolidated Land Use Pattern: Locate new growth and development in well-defined contiguous areas in order to avoid leapfrog, scattered land use patterns that cannot be adequately provided with City services.

Strategy LU 302c: Promote Compatibility between Land Uses of Differing Intensities: Design and develop mixed land uses to ensure compatibility and appropriate transitions between land uses that vary in intensity and scale.

Objective LU 5: Develop Cohesive Residential Areas: Neighborhoods are the fundamental building block for developing and redeveloping residential areas of the city. Likewise, residential areas provide a structure for bringing together individual neighborhoods to support and benefit from schools, community activity centers, commercial centers, community parks, recreation centers, employment centers, open space networks, and the city's transportation system. Residential areas also form the basis for broader residential land use designations on the citywide land use map. Those designations distinguish general types of residential areas by their average densities, environmental features, diversity of housing types, and mix of uses. Residential areas of the city should be developed, redeveloped and revitalized as cohesive sets

of neighborhoods, sharing an interconnected network of streets, schools, parks, trails, open spaces, activity centers, and public facilities and services.

Policy LU 501: Plan Residential Areas to Integrate Neighborhoods into the Wider Subarea and Citywide Pattern: Plan, design, develop, and redevelop residential areas to integrate several neighborhoods into the citywide pattern of activity centers, street networks, environmental constraints, parks and open space, school locations and other public facilities and services.

Strategy LU 501a: Link Neighborhood Layout and Design to a Larger Residential Area: In master plans and in community planning areas, layout and design individual neighborhoods to form a coherent residential area.

Policy LU 601: Assure Provision of Housing Choices: Distribute housing throughout the City so as to provide households with a choice of densities, types, styles and costs within a neighborhood or residential area.

Objective N 1: Focus On Neighborhoods: Create functional neighborhoods when planning and developing residential areas. Regard neighborhoods as the central organizing element for planning residential areas. Rely on neighborhood-based organizations as a means of involving residents and property owners in the decision-making process.

Objective CCA 6: Fit New Development into the Character of the Surrounding Area: Often the overall character of a new development is not realized until the project is completed. This can lead to unintended impacts and incompatible development. Applicants for new developments need to clearly identify how their projects will fit into the character of the surrounding area and the community as a whole with respect to height, scale, bulk, massing, roof forms, signage, overall site design, pedestrian and vehicular access, and relation to the public right-of-way.

Policy CCA 601: New Development Will be Compatible with the Surrounding Area: New developments will be compatible with the surrounding land uses and will complement the character and appearance of adjacent land uses.

*It is the finding of the City Planning and Development Staff that the Powerwood No. 2 North project is consistent with the City's Comprehensive Plan 2020 Land Use Map and the Plan's goals, objectives and policies for Regional Center / General Residential use.*

3. Conformance with the Area's Master Plan: This project is located within the Powerwood No. 2 Master Plan area and is currently designated for Multi-Family Residential (12 to 24.99 dwelling units per acre), Office – Industrial Park, and Open Space / Drainageway. The pending amendment proposes that the Multi-Family Residential (12 to 24.99 dwelling units per acre) and Open Space / Drainageway designations remain, with removal of the Office - Industrial Park designation.

*It is the finding of the City Planning and Development Staff that the Powerwood No. 2 North project will be consistent with the Powerwood No. 2 Master Plan upon approval of the proposed master plan amendment.*

4. Zone Change: The proposed zone is R-5/AO/SS (Multi-Family Residential with Airport and Streamside Overlays).

Zone change requests are reviewed based upon the zone change criteria found in City Code Section 7.5.603.B.

*It is the finding of the City Planning and Development Staff that the zone change meets the zone change criteria found in City Code Section 7.5.603.B.*

5. Concept Plan: The Powerwood No. 2 North Concept Plan is submitted in conjunction with the zone change application for this project.

Concept plans are reviewed based upon the concept plan review criteria found in City Code Section 7.5.501.E.

*It is the finding of the City Planning and Development Staff that the Powerwood No. 2 North concept plan meets the concept plan review criteria found in City Code Section 7.5.501.E.*

### **STAFF RECOMMENDATIONS:**

#### **Item No: 6.A                   CPC MP 02-00254-A3MJ14 – Master Plan Amendment**

**Approve** the Powerwood No. 2 Master Plan Amendment based upon the finding that the plan amendment complies with the review criteria of City Code Section 7.5.408, subject to the following conditions, and technical and informational modifications:

1. The entire property is included in Woodmen Heights Metropolitan District No. 3 which is a commercial district. Prior to approval of this master plan , the Woodmen Heights Metropolitan Districts will need to exclude this property from District 3 and include it in District No. 2 (the residential district). Provide the District's approval that this has been accomplished.
2. Provide Engineering Development & Subdivision Review's approval of the drainage report.
3. Provide City Traffic acceptance of the updated traffic impact analysis for this project.
4. On the Sheet 2 graphic insert "Reserve R.O.W." between the neighborhood commercial and the community commercial pods.
5. On Sheet 2, align the proposed internal access with Sorpresa Lane.
6. The plan indicates a signal at the two proposed internal accesses with Tutt Blvd intersection. The Traffic Impact Analysis prepared by LSC on 10/24/2014 does not warrant signals at those intersections. On Sheet 2, remove the traffic signals shown on the plan

#### **Item No: 6.B                   CPC PUZ 14-00080 – Establishment of Zone District**

**Approve** the establishment of the R-5/AO/SS (Multi-Family Residential with Airport and Streamside Overlays) zone district, based upon the finding that the change complies with the zone change criteria found in City Code Section 7.5.603.B.

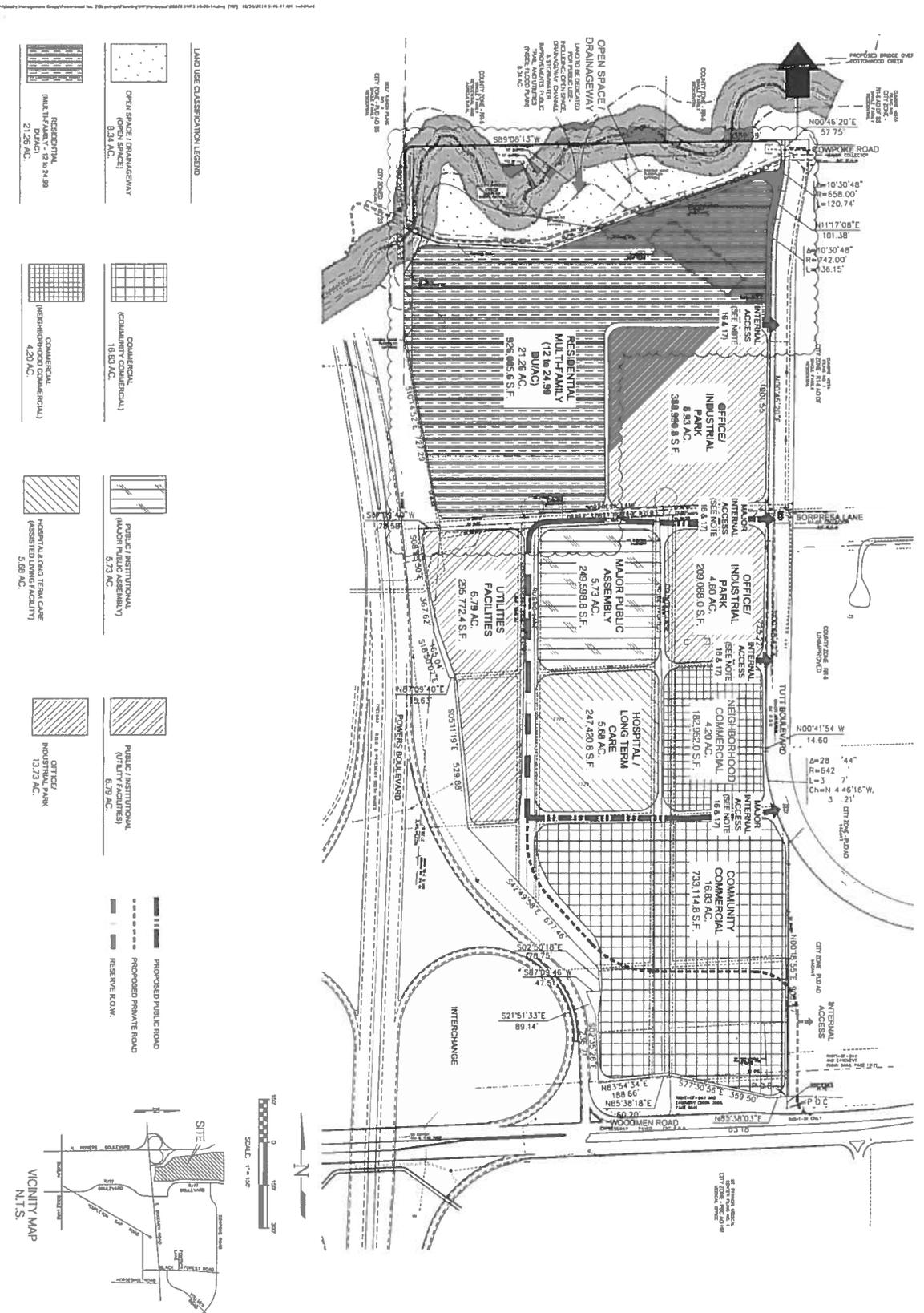
#### **Item No: 6.C                   CPC CP 14-00081 – Concept Plan**

**Approve** the Powerwood No. 2 North based upon the finding that the plan complies with the concept plan review criteria in City Code Section 7.5.501.E, subject to the following conditions and technical and informational modifications:

1. Show the City file number, "CPC CP 14-00081", in the lower right corner of the each sheet.
2. On Sheet 2, indicate the existing City boundary along the northern project boundary.
3. On Sheet 1, add the following new general note: "At the time of final plat recording, an Avigation Easement or proof of previous filing (book/page or reception number) will be provided".



PROPOSED



LAND USE CLASSIFICATION LEGEND

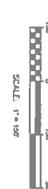
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[Symbol]	COMMERCIAL (NEIGHBORHOOD COMMERCIAL) 4.20 AC.
[Symbol]	COMMERCIAL (MAJOR PUBLIC ASSEMBLY) 10.80 AC.
[Symbol]	HOSPITAL/LONG TERM CARE (ASSISTED LIVING FACILITY) 2.08 AC.
[Symbol]	OFFICE/INDUSTRIAL (OFFICE FACILITIES) 13.10 AC.
[Symbol]	RESIDENTIAL (MULTI-FAMILY DUAL) 21.26 AC.
[Symbol]	COMMERCIAL (NEIGHBORHOOD COMMERCIAL) 4.20 AC.
[Symbol]	COMMERCIAL (MAJOR PUBLIC ASSEMBLY) 10.80 AC.
[Symbol]	HOSPITAL/LONG TERM CARE (ASSISTED LIVING FACILITY) 2.08 AC.
[Symbol]	OFFICE/INDUSTRIAL (OFFICE FACILITIES) 13.10 AC.

[Symbol]	PROPOSED PUBLIC ROAD
[Symbol]	PROPOSED PRIVATE ROAD
[Symbol]	RESERVE R.O.W.

[Symbol]	RESIDENTIAL (MULTI-FAMILY DUAL) 21.26 AC.
[Symbol]	COMMERCIAL (NEIGHBORHOOD COMMERCIAL) 4.20 AC.
[Symbol]	COMMERCIAL (MAJOR PUBLIC ASSEMBLY) 10.80 AC.
[Symbol]	HOSPITAL/LONG TERM CARE (ASSISTED LIVING FACILITY) 2.08 AC.
[Symbol]	OFFICE/INDUSTRIAL (OFFICE FACILITIES) 13.10 AC.

[Symbol]	RESIDENTIAL (MULTI-FAMILY DUAL) 21.26 AC.
[Symbol]	COMMERCIAL (NEIGHBORHOOD COMMERCIAL) 4.20 AC.
[Symbol]	COMMERCIAL (MAJOR PUBLIC ASSEMBLY) 10.80 AC.
[Symbol]	HOSPITAL/LONG TERM CARE (ASSISTED LIVING FACILITY) 2.08 AC.
[Symbol]	OFFICE/INDUSTRIAL (OFFICE FACILITIES) 13.10 AC.

[Symbol]	PROPOSED PUBLIC ROAD
[Symbol]	PROPOSED PRIVATE ROAD
[Symbol]	RESERVE R.O.W.



**POWERWOOD No. 2**

Residential Plan Amendment

DATE: 11/10/14  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

**Land Development Consultants, Inc.**

Planning • Engineering • Surveying

10000 Woodloch Forest Drive, Suite 100  
 Houston, Texas 77055  
 Tel: 281.416.8600  
 Fax: 281.416.8601  
 www.landdevelopment.com

**NES**

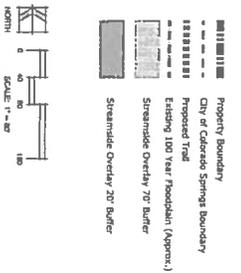
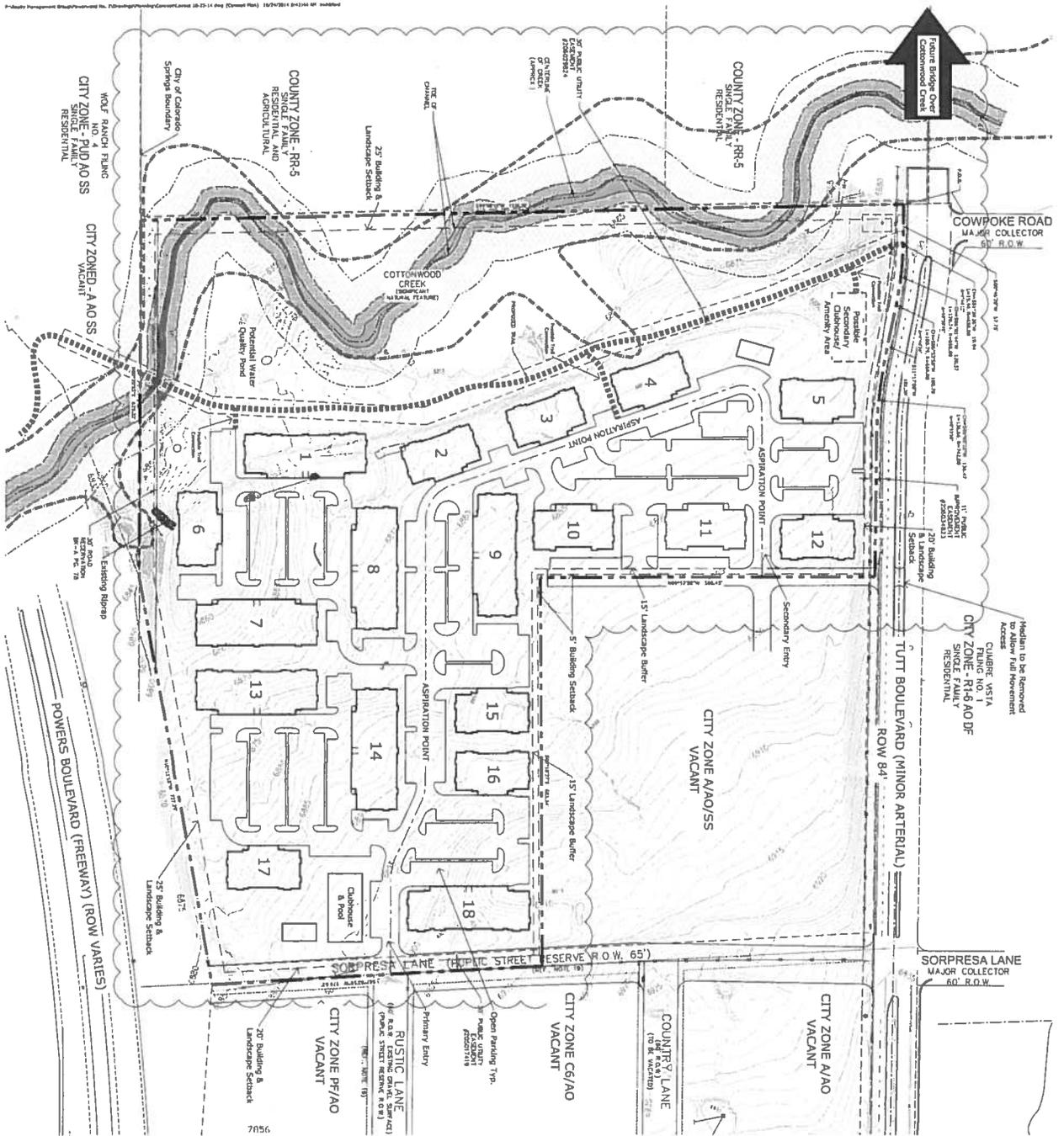
N.E.S. Inc.  
 506 South Loop West  
 Dallas, Texas 75219  
 Tel: 214.751.0077  
 Fax: 214.751.0287  
 www.nesinc.com

**2**

CPC 10/14 02-02234-K0014

FIGURE 1



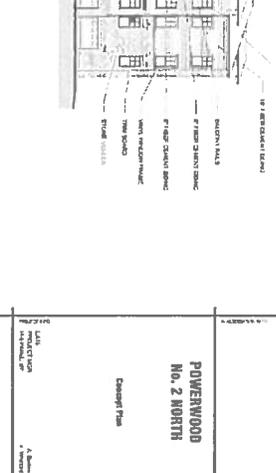
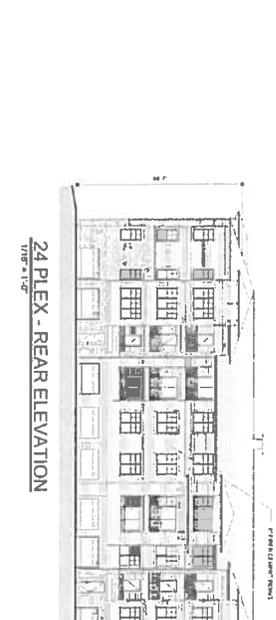
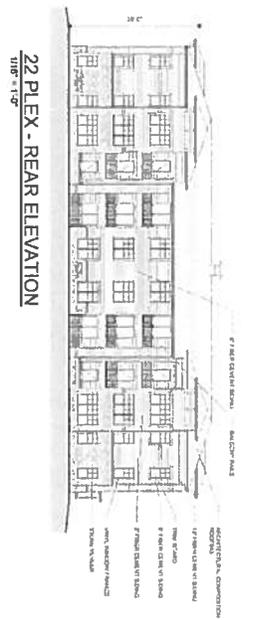
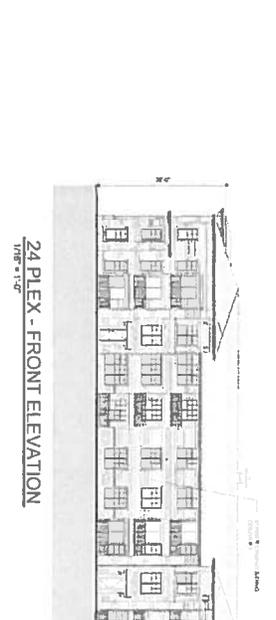


<p>N.I.E.S. Inc.          508 South Tejon Street          Colorado Springs, CO 80903          Tel. 719.471.4003          Fax. 719.471.4267          www.niesinc.com</p>	<p><b>POWERWOOD</b>                  NO. 2 NORTH</p> <p>Concept Plan</p>	DATE: 11/11/14	BY: [Signature]
		DATE: 11/11/14	BY: [Signature]
<p>2 of 3</p> <p>CPC CP 14-0001</p>		<p>DATE: 11/11/14</p> <p>BY: [Signature]</p>	

FIGURE 2



C:\Users\jacob\AppData\Local\Temp\1\PowerWood No. 2 North.dwg (11/17/2014) 6/17/2014 11:17:28 AM sheet 1



**22 PLEX - RIGHT ELEVATION**  
 1/8" = 1'-0"

**22 PLEX - LEFT ELEVATION**  
 1/8" = 1'-0"

**24 PLEX - RIGHT ELEVATION**  
 1/8" = 1'-0"

**24 PLEX - LEFT ELEVATION**  
 1/8" = 1'-0"

NOTE - ELEVATIONS ARE CONCEPTUAL ONLY  
 BUILDING DESIGN IS SUBJECT TO CHANGE.

Local Planning  
 Landscape  
 Architecture  
 Urban Design  
**NES**

N.E.S. Inc. Firm  
 508 S. 1st Street  
 Columbus, Georgia, GA 30603  
 Tel: 770.471.0077  
 Fax: 770.471.0047  
 www.nes-inc.com

**KEPHART**  
 Architecture + Planning + Construction  
 200 WEST GLENN DRIVE  
 COLUMBUS, GA 31906

**POWERWOOD  
 No. 2 NORTH**  
 Concept Plans

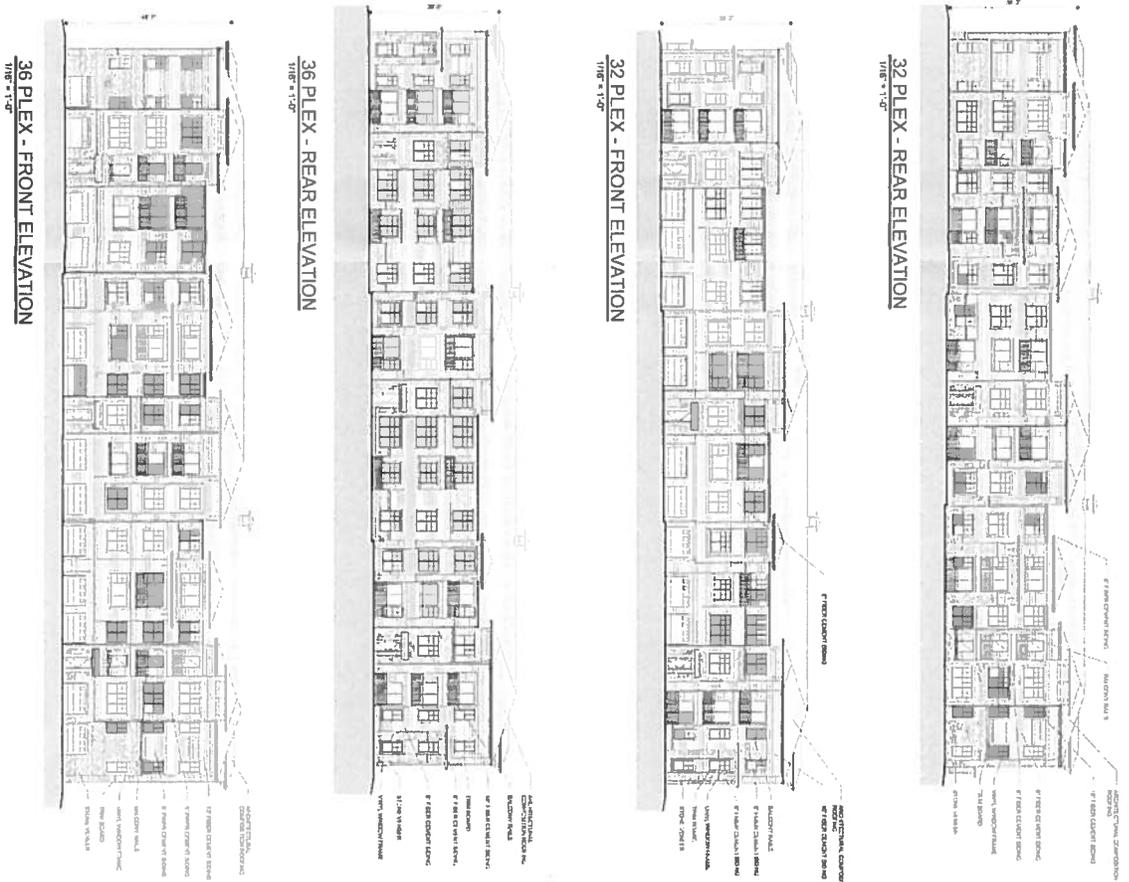
DATE: 11/17/2014  
 TIME: 11:17:28 AM

NO.	DATE	DESCRIPTION
1	11/17/2014	CONCEPT PLANS
2	11/17/2014	CONCEPT PLANS
3	11/17/2014	CONCEPT PLANS
4	11/17/2014	CONCEPT PLANS
5	11/17/2014	CONCEPT PLANS

**FIGURE 2**

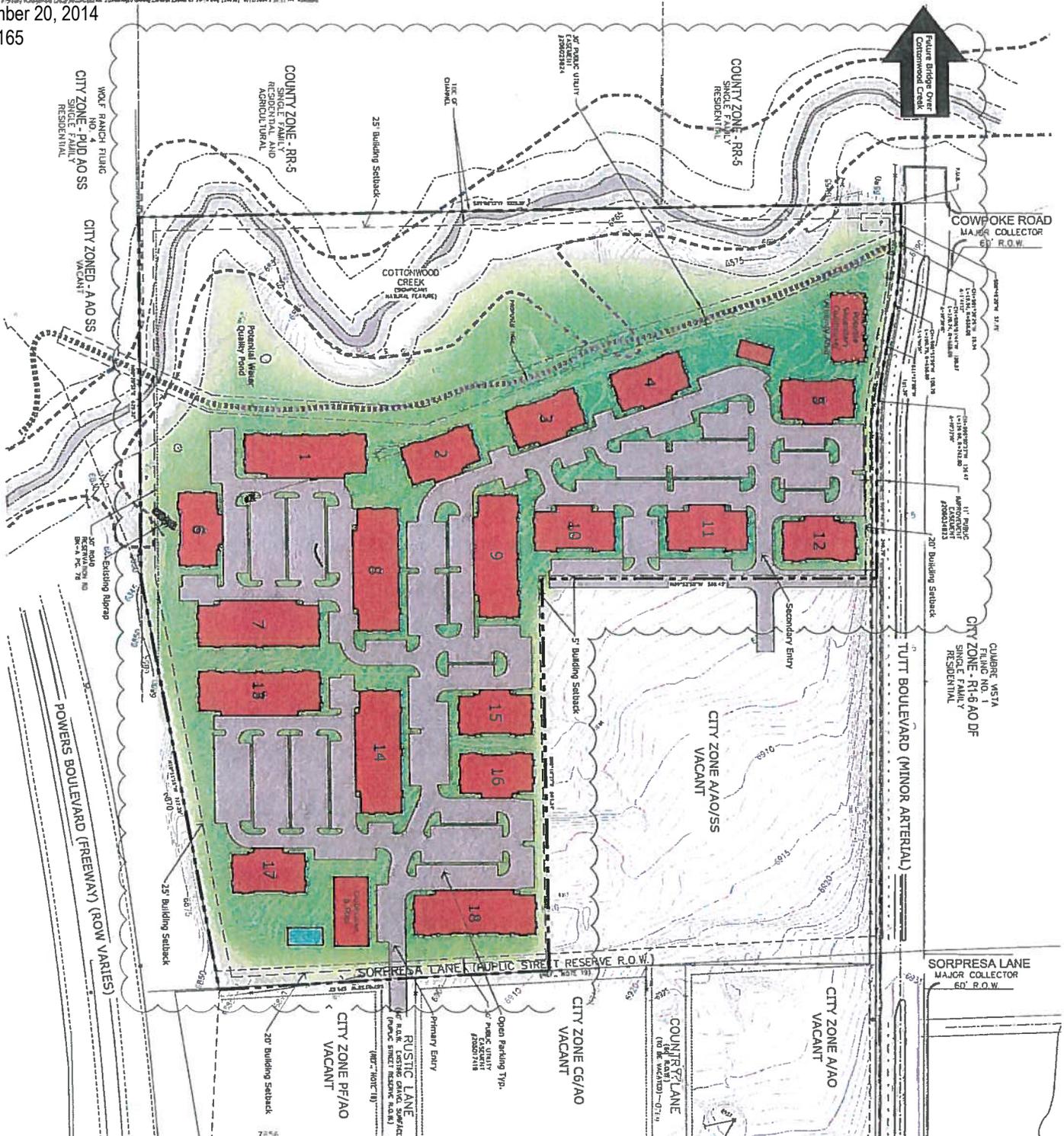
C:\Users\jacob\Documents\Projects\36 PLEX\36 PLEX.dwg (11/17/14) 8/17/14 11:17:21 AM sheet 1

NOTE: ELEVATIONS ARE CONCEPTUAL ONLY  
 BUILDING DESIGN IS SUBJECT TO CHANGE



<p>NBS Inc.                  505 South Tower Street                  Colorado Springs, CO 80903                  TEL 719.471.1017                  FAX 719.471.1027                  www.nbsarchitect.com                  © 2014, All Rights Reserved</p>	<p><b>Land Planning</b>                  Architecture                  Urban Design</p>	<p><b>KEPHART</b>                  ARCHITECTS                  ARCHITECTURE                  INTERIORS                  PLANNING                  ENVIRONMENTAL DESIGN</p>	<p><b>POWERWOOD</b>                  No. 2 NORTH</p>	<p>Design Firm</p>
				<p>DATE: 11/17/14                  DRAWN BY: A. BROWN                  CHECKED BY: J. BROWN</p>
<p>5 OF 5</p>				<p>CPC-GP-14-0028-1</p>

FIGURE 2



**LEGEND:**

- Proposed Trail
- Existing 100 Year Floodplain (Approx.)
- Streamside Overlay 70' Buffer
- Streamside Overlay 20' Buffer

**GENERAL NOTES:**

- Concept Plan to be used for preliminary planning purposes.
- Proposed trail: The proposed trail component of the Concept Plan is not within a designated flood plain. The proposed trail component of the Concept Plan is not within a designated flood plain. The proposed trail component of the Concept Plan is not within a designated flood plain.
- Planning: Development will commence in the southwest section of the site and the progress north, then east.

**LEGAL DESCRIPTION:**

Being a part of the southeast quarter of Section 6, Township 13 South, Range 65 West of the 6th P.M., City of Colorado Springs, County of El Paso, State of Colorado.

Beginning at the southeast corner of 1st Street as shown in description No. 2009-44-207W, a distance of 57.72 feet to point of curvature; 2) thence along said curve to the right, thence a radius of 658.00 feet through a central angle of 194.91°, a distance of 120.57 feet to a second point of curvature; 3) thence along a straight line of 101.28 feet to a point of curvature of 170.31 feet, an arc distance of 136.66 feet, which long chord bears S89°00'23.71", a distance of 126.47 feet to a third point of curvature; 4) thence along a straight line of 170.31 feet, an arc distance of 136.66 feet, which long chord bears S89°00'23.71", a distance of 126.47 feet to a point on the right line of Westview Estates as shown in description No. 2009-110-1157W, a distance of 727.22 feet; thence along 90°25'51", a distance of 829.32 feet; thence S89°01'37.71", a distance of 1379.37' to the point of beginning, containing 29,607 square more or less.

**DATA:**

Existing Zoning: A/AO/SS  
 Proposed Zoning: R/AO/SS  
 Existing Use: Vacant  
 Existing Area: 1,000 sq. ft.  
 Proposed Use: Dual Family Residential (1,200 sq. ft.), Open Space (120 sq. ft.)  
 Proposed Area: 1,320 sq. ft.  
 Proposed Density: 1.32 units/acre  
 Proposed Parking: 20 spaces  
 Proposed Street: Sorpresa Lane  
 Proposed Right-of-Way: 60 feet  
 Proposed Easement: 10 feet  
 Proposed Utility: 10 feet  
 Proposed Stormwater: 10 feet  
 Proposed Floodplain: 10 feet  
 Proposed Streamside Overlay: 10 feet  
 Proposed Streamside Overlay 20' Buffer: 10 feet  
 Proposed Streamside Overlay 70' Buffer: 10 feet

**VICINITY MAP**

**CONTRACT INFORMATION:**

Owner/Developer: N.T.S.  
 508 South Tejon Street  
 Colorado Springs, CO 80903  
 Phone: 719-471-1487  
 Fax: 719-471-1482  
 www.nbs.com

Architect: N.T.S.  
 116 S. Tejon St.  
 Colorado Springs, CO 80903

DATE: 11/10/14

SCALE: 1" = 50'

SHEET INDEX:

- Sheet 1: Concept Plan
- Sheet 2: Preliminary Architectural Elevations
- Sheet 3: Preliminary Architectural Elevations

1

CPC CP 14.000

FIGURE 3

## THE RESIDENCES AT COTTONWOOD CREEK

### PROJECT STATEMENT

PREPARED BY NES, INC.

APRIL 2014

#### 1. PROJECT DESCRIPTION

The Residences at Cottonwood Creek is a multi-family residential project located along the east side of Powers Blvd., and bounded by Tutt Blvd. on the west. Cottonwood Creek runs through the northern portion of the site. The parcel consists of approximately 29.6 acres of land

Three applications are proposed for this project:

##### 1.1 Master Plan Amendment

The site is within the Powerwood 2 Master Plan. The Master Plan designates the land use as 16 acres of multi-family and 10 acres of office industrial land use. A Master Plan Amendment is being proposed to change the office industrial designated land to multi-family with a density range of 12 – 24.99 units per acre. This land use designation change is justified in part by the odd shape of the land currently designated multi-family, and by the land use relationships on the currently approved master Plan. As currently designated, office industrial traffic would need to flow through the multi-family site in order to access Tutt Blvd. As proposed, a unified land use of multi-family is being provided with Sorpresa Drive as the dividing line between the proposed residential use and non-residential but transitional uses proposed to the south.

Minor changes have also been made to rectify some inconsistencies in the approved Master Plan, including acreage changes and an adjustment of the alignment of the 100-year flood plain to more closely match information received from the Floodplain Administrator at Regional Building (see attached GIS extract).

##### 1.2 Zone Change

A Zone Change to R-5 for the 29.6 acres of land to be designated for multi-family use is included in this application package.

##### 1.3 Concept Plan

A Concept Plan accompanies the Zone Change and describes the development proposal. The Concept Plan envisions a 482 unit multi-family development, which equates to a gross density of 16.3 dwellings per acre, or a net density of 22.7 dwellings per acre (excluding the 8.34 acres of proposed open spaces). It is anticipated that the development will comprise 18 separate buildings in the following configuration:

- Nine 22-unit 3-story buildings
- Two 24-unit 4 story front/3 story rear buildings
- Four 32-unit 3-story buildings
- Three 36-unit 4-story front/3-story rear buildings

The proposed development will have no discernible impact on the existing single-family homes in the Cumbre Vista neighborhood to the east. The finished first-floor grade of the buildings will be significantly lower than the existing homes and the buildings in the northeast section of the site are oriented so the short side faces Cumbre Vista, thereby minimizing the apparent bulk of the buildings. The differing heights and split-level buildings helps in addressing site grading as well as providing architectural variety and visual character to the project.

The proposal also includes a clubhouse and pool in the southwest corner of the site, which includes the leasing office. The northeast corner of the site is identified as a possible future secondary clubhouse/amenity area. Primary access to the site will be via Sorpresa Lane, as proposed to be extended into the master planned area. A secondary access is planned in the future to the adjacent office/industrial site to the southwest. Open parking will be provided at a ratio of approximately 2 spaces per unit.

## 2. PROJECT JUSTIFICATION

### 2.1 Master Plan Review Criteria

The Master Plan amendment is considered a major amendment because there is a change in land use category. The amendment involves approximately 10 acres of currently planned Office/Industrial land that is to be changed to multi-family land use. The proposed change provides a better land use relationship than that identified on the approved Master Plan.

The expanded multi-family use proposed by this Master Plan amendment will not overburden the capacity of the existing and proposed infrastructure evaluated and permitted by the City as part of the approved Powerwood 2 Master Plan. A comparison between the trip generation of the approved Master Plan land uses and the proposed amendment is shown in the table below. This demonstrates that, although total trip generation increases by 10%, the cumulative trips from the proposed multi-family land use during the morning and afternoon peak hours will be significantly less, as vehicular movements are more evenly spread throughout the day.

Land Use Code	Land Use Description	Trip Generation Units	Trip Generation Rates <sup>(1)</sup>				Total Trips Generated					
			Average Weekday Traffic	Morning Peak Hour		Afternoon Peak Hour		Average Weekday Traffic	Morning Peak Hour		Afternoon Peak Hour	
				In	Out	In	Out		In	Out	In	Out
<b>Approved Master Plan</b>												
220	Apartment	320 DU <sup>(2)</sup>	6.63	0.08	0.43	0.42	0.20	2,122	26	137	133	65
710	General Office Building	34.85 KSF <sup>(3)</sup>	11.01	1.37	0.19	0.25	1.24	384	48	7	9	43
130	Industrial Park	6 Acres	69.81	8.73	1.79	2.28	8.57	419	52	11	14	51
<b>Subtotal</b>								<b>2,924</b>	<b>126</b>	<b>154</b>	<b>155</b>	<b>160</b>
<b>Currently Proposed Plan</b>												
220	Apartment	482 DU	6.65	0.10	0.41	0.40	0.22	3,205	48	198	193	106
<b>Subtotal</b>								<b>3,205</b>	<b>48</b>	<b>198</b>	<b>193</b>	<b>106</b>
<b>Change from Approved Master Plan</b>								<b>281</b>	<b>-78</b>	<b>43</b>	<b>37</b>	<b>-54</b>
<b>Notes:</b>												
(1) Source: Approved Master Plan: "Trip Generation, 7th Edition, 2003" by the Institute of Transportation Engineers (ITE); Currently Proposed: 9th Edition, 2012												
(2) DU = dwelling unit												
(3) KSF = thousand square feet												
Source: LSC Transportation Consultants, Inc.												

## 2.2 Zone Change Criteria

**2.2.1. The action will not be detrimental to the public interest, health, safety, convenience or general welfare.** The Zone Change implements the proposed Master Plan for the site. Public infrastructure is in place to serve the proposed land use.

**2.2.2. The proposal is consistent with the goals and policies of the Comprehensive Plan.** The Zone Change is consistent with the Powerwood 2 Master Plan as it is proposed to be amended. As such it is deemed to comply with the Comprehensive Plan.

**2.2.3. 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 to be considered consistent with a zone change request.** The Zone Change is consistent with the Powerwood 2 Master Plan as it is proposed to be amended.

## 2.3 Concept Plan Review Criteria

**2.3.1. Will the proposed development have a detrimental effect upon the general health, welfare and safety or convenience of persons residing or working in the neighborhood of the proposed development?** No. The majority of the site has been planned for multi-family use. Site design and first floor grade relative to single family homes to the east provide a desirable relationship in that the proposed structured on this site will sit significantly below the homes on the east side of Tutt Blvd.

**2.3.2. Will the proposed density, types of land uses and range of square footages permit adequate light and air both on and off site?** Yes. This suburban style site plan provides adequate light and air; provides open space and recreational amenities.

**2.3.3. Are the permitted uses, bulk requirements and required landscaping appropriate to the type of development, the neighborhood and the community?** Permitted uses are consistent with the Master Plan. The buildings on the site have been sited and oriented to minimize impact on neighboring properties to the east of Tutt Blvd. Landscaping of the site will meet or exceed City standards.

**2.3.4. Are the proposed ingress/egress points, traffic circulation, parking areas, loading and service areas and pedestrian areas designed to promote safety, convenience and ease of traffic flow and pedestrian movement both on and off the site?** Yes. Primary access to the site will be via Sorpresa Lane. A secondary access is planned in the future to the adjacent office/industrial site to the southwest. Internal circulation is designed to serve all units without encouraging cut-through traffic.

**2.3.5. Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?** The impact of the proposed uses within the Powerwood 2 Master Plan area were evaluated for capacity issues at the Master Plan stage, therefore this criterion is met.

**2.3.6. Does the proposed development promote the stabilization and preservation of the existing properties in adjacent areas and surrounding residential neighborhoods?** This residential use will contribute to a developing neighborhood of mixed residential land use.

**2.3.7. Does the concept plan show how any potentially detrimental use to use relationships (e.g. commercial use adjacent to single family homes) will be mitigated? Does the development provide a gradual transition between uses of differing intensities?** The proposed use provides a transition from Powers Blvd. through the site to single family homes to the east. The proposed buildings will provide a noise buffer, and short range visual buffer for the homes to the east.

**2.3.8. Is the proposed concept plan in conformance with all requirements of this Zoning Code, the Subdivision Code and with all applicable elements of the Comprehensive Plan?** Yes. The level of detail on the Concept Plan meets or exceeds the requirements of the Code.

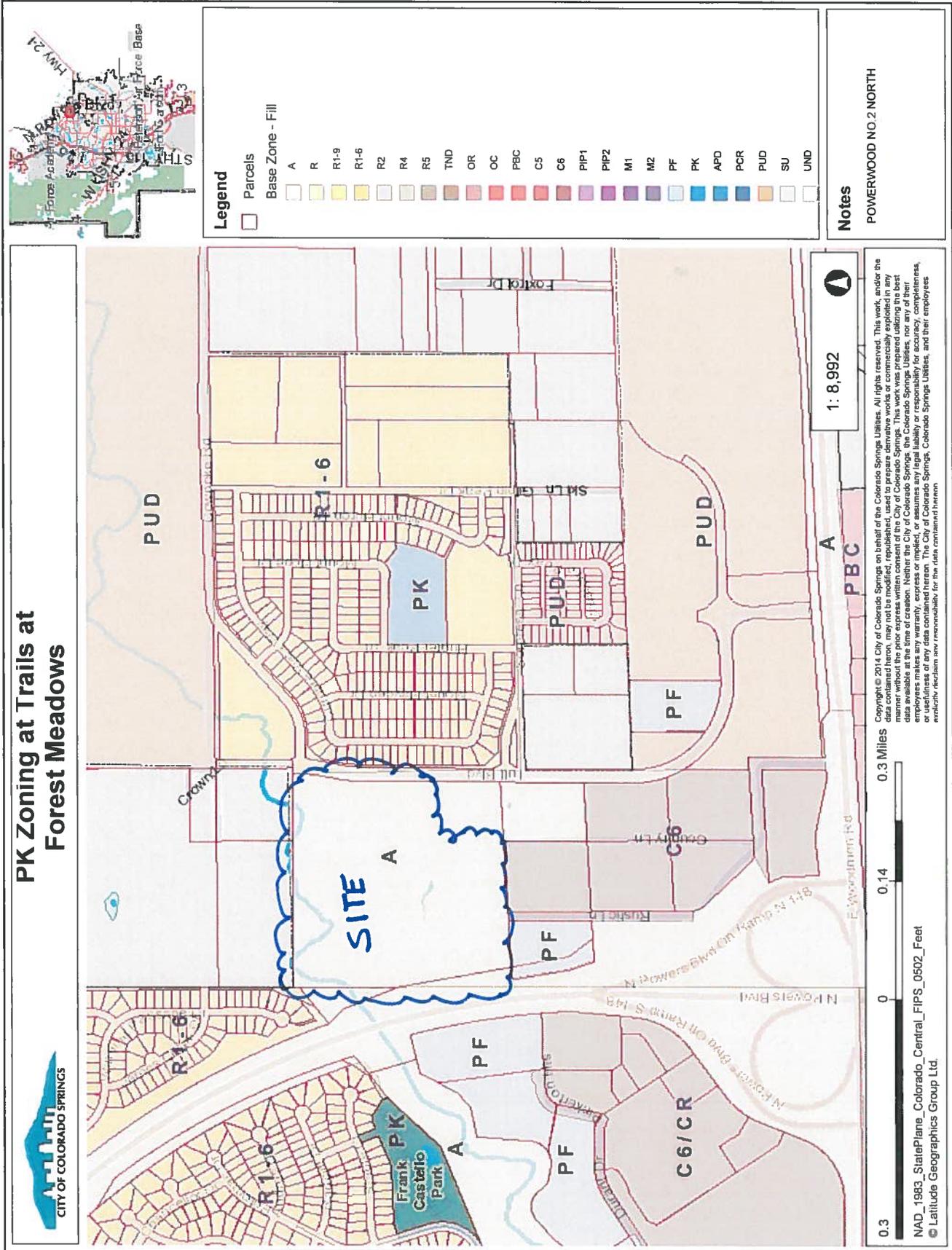


FIGURE 5

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# APPENDIX

## Development Application Review Criteria

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### 7.3.402.B – PK ZONE DISTRICT

#### PURPOSE AND SPECIFIC REQUIREMENTS OF THE SPECIAL PURPOSE ZONE DISTRICTS

B. PK - Public Parks: The public parks zone district is intended for land set aside for use as public recreation and open space. These parks may include playground equipment, athletic fields, tennis courts, swimming pools, and other facilities and programmed activities normally associated with public parks. Parks may also be reserved for natural or environmental reasons, such as preservation of wildlife, vegetation or significant natural or historic resources.

The establishment of a park zone shall follow procedures outlined in article 5, part 6 of this chapter. Subsequently, all development activities associated with a particular PK zone shall be in accord with a parks master plan for that zone district which shall be reviewed and approved at a public hearing by the Park and Recreation Advisory Board. The decision of the Board may be appealed to the City Council or the appropriate governmental agency in conformance with procedures in section [7.5.1007](#) of this chapter. The Board or the City Council may add protective restrictions regarding setbacks from adjacent uses or property lines or the location and amount of parking to the approval of the master plan. Amendments to the park master plan shall follow the procedure required for the original plan. The Director of Parks and Recreation shall prepare procedures and guidelines for the preparation and administrative processing of park master plans. In addition, public parks not under the City Park and Recreation Department may use this zone as designated parks.

**PUD ZONE CHANGE REVIEW CRITERIA:**

**7.3.603: ESTABLISHMENT AND DEVELOPMENT OF A PUD ZONE:**

- A. A PUD zone district may be established upon any tract of land held under a single ownership or under unified control, provided the application for the establishment of the zone district is accompanied by a PUD concept plan or PUD development plan covering the entire zone district which conforms to the provisions of this part.
- B. An approved PUD development plan is required before any building permits may be issued within a PUD zone district. The PUD development plan may be for all or a portion of the entire district. The review criteria for approval of the PUD concept plan and approval of a PUD development plan are intended to be flexible to allow for innovative, efficient, and compatible land uses. (Ord. 03-110, Ord. 12-68)

**7.3.605: PUD PLAN REVIEW CRITERIA:**

Substantial compliance with the criteria is necessary for the approval of the PUD plan. The Director may determine that certain criteria are not applicable based on the characteristics of the individual project. PUD plans shall be reviewed based on the following review criteria:

- A. Is the proposed development pattern consistent with the Comprehensive Plan, the 2020 Land Use Map, and all applicable elements of the Comprehensive Plan (including the Intermodal Transportation Plan and the Parks, Recreation and Trails Master Plan)?
- B. Are the proposed uses consistent with the primary and secondary land uses identified in the 2020 Land Use Map of the Comprehensive Plan, as amended?
- C. Is the proposed development consistent with any City approved Master Plan that applies to the site?
- D. Is the proposed development consistent with the intent and purposes of this Zoning Code?
- E. Does the development pattern proposed within the PUD concept plan promote the stabilization and preservation of the existing or planned land uses in adjacent areas and surrounding residential neighborhoods?
- F. Does the development pattern proposed within the PUD concept plan provide an appropriate transition or buffering between uses of differing intensities both on site and off site?
- G. Does the nonresidential development pattern proposed within the PUD concept plan promote integrated activity centers and avoid linear configurations along roadways?
- H. Are the permitted uses, bulk requirements and required landscaping appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community?
- I. Does the PUD concept plan provide adequate mitigation for any potentially detrimental use to use relationships (e.g., commercial use adjacent to single-family homes)?
- J. Does the PUD concept plan accommodate automobile, pedestrian, bicycle and transit modes of transportation as appropriate, taking into consideration the development's primary function, scale, size and location?
- K. Does the PUD concept plan include a logical hierarchy of perimeter and internal arterial, collector and local streets that will disperse development generated vehicular traffic to a variety of access points and ways, reduce through traffic in adjacent residential neighborhoods and improve resident access to jobs, transit, shopping and recreation?
- L. Will streets and drives within the project area be connected to streets outside the project area in a way that minimizes significant through traffic impacts on adjacent residential neighborhoods, but still improves connectivity, mobility choices and access to jobs, shopping and recreation?
- M. Does the PUD concept plan provide safe and convenient vehicle and pedestrian connections between uses located within the zone district, and to uses located adjacent to the zone district or development?
- N. Will adequately sized parking areas be located to provide safe and convenient access, to avoid excessive parking ratios and avoid excessive expanses of pavement?
- O. Are open spaces integrated into the PUD concept plan to serve both as amenities to residents/users and as a means for alternative transportation modes, such as walking and biking?
- P. Will the proposed development overburden the capacities of existing or planned streets, utilities and other public facilities?
- Q. Are the areas with unique or significant natural features preserved and incorporated into the design of the project? (Ord. 03-110; Ord. 03-190, Ord. 12-68)

**MASTER PLAN REVIEW CRITERIA:**

**7.5.408: REVIEW CRITERIA:**

Master plans and major and minor amendments to approved master plans shall be reviewed for substantial conformance with the criteria listed below. Minor amendments are not subject to review criteria in subsection F of this section.

A. Comprehensive Plan: The Comprehensive Plan and the 2020 Land Use Map are the context and the benchmark for the assessment of individual land use master plans. The proposed land use master plan or the amendment conforms to the policies and strategies of the Comprehensive Plan. The proposed land use pattern is consistent with the Citywide perspective presented by the 2020 Land Use Map.

B. Land Use Relationships:

1. The master plan promotes a development pattern characterizing a mix of mutually supportive and integrated residential and nonresidential land uses with a network of interconnected streets and good pedestrian and bicycle connections.
2. Activity centers are designed so they are compatible with, accessible from and serve as a benefit to the surrounding neighborhood or business area. Activity centers also vary in size, intensity, scale and types of uses depending on their function, location and surroundings.
3. The land use pattern is compatible with existing and proposed adjacent land uses and protects residential neighborhoods from excessive noise and traffic infiltration.
4. Housing types are distributed so as to provide a choice of densities, types and affordability.
5. Land use types and location reflect the findings of the environmental analysis pertaining to physical characteristics which may preclude or limit development opportunities.
6. Land uses are buffered, where needed, by open space and/or transitions in land use intensity.
7. Land uses conform to the definitions contained in article 2, part 2 of this Zoning Code.

C. Public Facilities:

1. The land use master plan conforms to the most recently adopted Colorado Springs parks, recreation and trails master plan.
2. Recreational and educational uses are sited and sized to conveniently service the proposed population of the master plan area and the larger community.
3. The proposed school sites meet the location, function and size needs of the school district.

4. The land use master plan conforms to the adopted plans and policies of Colorado Springs Utilities.
5. Proposed public facilities are consistent with the strategic network of long range plans.
6. The master development drainage plan conforms to the applicable drainage basin planning study and the drainage criteria manual.

D. Transportation:

1. The land use master plan is consistent with the adopted intermodal transportation plan. Conformity with the intermodal transportation plan is evidence of compliance with State and local air quality implementation and maintenance plans.
2. The land use master plan has a logical hierarchy of arterial and collector streets with an emphasis on the reduction of through traffic in residential neighborhoods and improves connectivity, mobility choices and access to jobs, shopping and recreation.
3. The design of the streets and multiuse trails minimizes the number of uncontrolled or at grade trail crossings of arterials and collectors.
4. The transportation system is compatible with transit routes and allows for the extension of these routes.
5. The land use master plan provides opportunities or alternate transportation modes and cost effective provision of transit services to residents and businesses.
6. Anticipated trip generation does not exceed the capacity of existing or proposed major roads. If capacity is expected to be exceeded, necessary improvements will be identified, as will responsibility, if any, of the master plan for the construction and timing for its share of improvements.

E. Environment:

1. The land use master plan preserves significant natural site features and view corridors. The Colorado Springs open space plan shall be consulted in identifying these features.
2. The land use master plan minimizes noise impacts on existing and proposed adjacent areas.
3. The land use master plan utilizes floodplains and drainageways as greenways for multiple uses including conveyance of runoff, wetlands, habitat, trails, recreational uses, utilities and access roads when feasible.
4. The land use master plan reflects the findings of a preliminary geologic hazard study and provides a range of mitigation techniques for the identified geologic, soil and other constrained natural hazard areas.

F. Fiscal:

1. A fiscal impact analysis and existing infrastructure capacity and service levels are used as a basis for determining impacts attributable to the master plan. City costs

related to infrastructure and service levels shall be determined for a ten (10) year time horizon for only the appropriate municipal funds.

2. The fiscal impact analysis demonstrates no adverse impact upon the general community and the phasing of the master plan is consistent with the adopted strategic network of long range plans that identify the infrastructure and service needs for public works, parks, police and fire services.
3. The cost of on site and off site master plan impacts on public facilities and services is not borne by the general community. In those situations where the master plan impacts are shown to exceed the capacity of existing public facilities and services, the applicant will demonstrate a means of increasing the capacity of the public facilities and services proportionate to the impact generated by the proposed master plan. Mitigation of on site and off site costs may include, but is not limited to, planned expansions to the facilities, amendments to the master plan, phasing of the master plan and/or special agreements related to construction and/or maintenance of infrastructure upgrades and/or service expansions. Any special agreements for mitigation of on site and off site impacts for public improvements, services and maintenance are shown to be workable and supported by financial assurances. Preexisting and/or anticipated capacity problems not attributable to the master plan shall be identified as part of the master plan review.
4. Special agreements for public improvements and maintenance are shown to be workable and are based on proportional need generated by the master plan.
5. Any proposed special districts are consistent with policies established by the City Council. (Ord. 84-221; Ord. 87-38; Ord. 91-30; Ord. 94-107; Ord. 97-109; Ord. 01-42; Ord. 02-51)

**7.5.501 (E): CONCEPT PLAN REVIEW CRITERIA:**

- D. Concept Plan Review Criteria: A concept plan shall be reviewed using the criteria listed below. No concept plan shall be approved unless the plan complies with all the requirements of the zone district in which it is located, is consistent with the intent and purpose of this Zoning Code and is compatible with the existing and proposed land uses surrounding the site.
1. Will the proposed development have a detrimental effect upon the general health, welfare and safety or convenience of persons residing or working in the neighborhood of the proposed development?
  2. Will the proposed density, types of land uses and range of square footages permit adequate light and air both on and off the site?
  3. Are the permitted uses, bulk requirements and required landscaping appropriate to the type of development, the neighborhood and the community?
  4. Are the proposed ingress/egress points, traffic circulation, parking areas, loading and service areas and pedestrian areas designed to promote safety, convenience and ease of traffic flow and pedestrian movement both on and off the site?
  5. Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?
  6. Does the proposed development promote the stabilization and preservation of the existing properties in adjacent areas and surrounding residential neighborhoods?
  7. Does the concept plan show how any potentially detrimental use-to-use relationships (e.g., commercial use adjacent to single-family homes) will be mitigated? Does the development provide a gradual transition between uses of differing intensities?
  8. Is the proposed concept plan in conformance with all requirements of this Zoning Code, the Subdivision Code and with all applicable elements of the Comprehensive Plan? (Ord. 94-107; Ord. 01-42; Ord. 03-157; Ord. 09-78)

**7.5.502 (E): DEVELOPMENT PLAN REVIEW CRITERIA:**

E. Development Plan Review Criteria: A development plan shall be reviewed using the criteria listed below. No development plan shall be approved unless the plan complies with all the requirements of the zone district in which it is located, is consistent with the intent and purpose of this Zoning Code and is compatible with the land uses surrounding the site. Alternate and/or additional development plan criteria may be included as a part of an FBZ regulating plan.

1. Will the project design be harmonious with the surrounding land uses and neighborhood?
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?
3. Will the structures be located to minimize the impact of their use and bulk on adjacent properties?
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 negative influences that may be created by the proposed development?
5. Will vehicular access from the project to streets outside the project be combined, limited, located, designed and controlled to channel traffic to and from such areas conveniently and safely and in such a manner which minimizes traffic friction, noise and pollution and promotes free traffic flow without excessive interruption?
6. Will all the streets and drives provide logical, safe and convenient vehicular access to the facilities within the project?
7. Will streets and drives within the project area be connected to streets outside the project area in such a way that discourages their use by through traffic?
8. Will adequately sized parking areas be located throughout the project to provide safe and convenient access to specific facilities?
9. Will safe and convenient provision for the access and movement of handicapped persons and parking of vehicles for the handicapped be accommodated in the project design?
10. Will the design of streets, drives and parking areas within the project result in a minimum of area devoted to asphalt?
11. Will pedestrian walkways be functionally separated from vehicular traffic and landscaped to accomplish this? Will pedestrian walkways be designed and located in combination with other easements that are not used by motor vehicles?

12. Does the design encourage the preservation of significant natural features such as healthy vegetation, drainage channels, steep slopes and rock outcroppings? Are these significant natural features incorporated into the project design? (Ord. 94-107; Ord. 95-125; Ord. 01-42; Ord. 02-64; Ord. 03-74; Ord. 03-157; Ord. 09-50; Ord. 09-78)

**7.5.603 (B): ESTABLISHMENT OR CHANGE OF ZONE DISTRICT BOUNDARIES:**

B: A proposal for the establishment or change of zone district boundaries may be approved by the City Council only if the following findings 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.
4. For MU zone districts the proposal is consistent with any locational criteria for the establishment of the zone district, as stated in article 3, "Land Use Zoning Districts", of this Zoning Code. (Ord. 94-107; Ord. 97-111; Ord. 01-42; Ord. 03-157)

**CONDITIONAL USE REVIEW CRITERIA:**

**7.5.704: AUTHORIZATION AND FINDINGS:**

The Planning Commission may approve and/or modify a conditional use application in whole or in part, with or without conditions, only if all three (3) of the following findings are made:

- A. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.
- B. Intent Of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.
- C. Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.

The approved conditional use and development plan shall be binding on the property until an amendment is approved changing the use of the property. Except as otherwise recommended by the Planning Commission, the development of a conditional use shall conform to the applicable regulations of the district in which it is to be located. (Ord. 80-131; Ord. 82-247; Ord. 91-30; Ord. 94-107; Ord. 01-42)

**7.6.203: CONDITIONS FOR ANNEXATION:**

To assist the City Council in its decision, each proposal for annexation shall be studied to determine whether:

- A. The area proposed to be annexed is a logical extension of the City's boundary;
- B. The development of the area proposed to be annexed will be beneficial to the City. Financial considerations, although important, are not the only criteria and shall not be the sole measure of benefit to the City;
- C. There is a projected available water surplus at the time of request;
- D. The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users whether within or outside the corporate limits of the City;
- E. The annexation can be effected at the time the utilities are extended or at some time in the future;
- F. The City shall require as a condition of annexation the transfer of title to all groundwater underlying the land proposed to be annexed. Should such groundwater be separated from the land or otherwise be unavailable for transfer to the City, the City, at its discretion, may either refuse annexation or require payment commensurate with the value of such groundwater as a condition of annexation. The value of such groundwater shall be determined by the Utilities based on market conditions as presently exist;
- G. All rights of way or easements required by the Utilities necessary to serve the proposed annexation, to serve beyond the annexation, and for system integrity, shall be granted to the Utilities. Utilities, at the time of utility system development, shall determine such rights of way and easements;
- H. If the proposed annexation to the City overlaps an existing service area of another utility, the applicant shall petition the PUC (Public Utilities Commission) or other governing authority to

revise the service area such that the new service area will be contiguous to the new corporate boundary of the City.

After the foregoing have been studied in such depth as the City Council shall require, the City Council in its discretion may annex or not annex the proposed area. In the event the City Council chooses to annex, it may require a contemporary annexation agreement specifying the installation and the time of installation of certain public and utility improvements, both on site and off site, that are required or not required under this Subdivision Code. City Council may specify such other requirements, as it deems necessary. In the event the City Council chooses not to annex, utilities shall not be extended unless Council is assured that an agreement for annexation can be enforced, and that the remaining provisions of this section for annexation subsequent to extension of utilities have been met. (Ord. 96-44; Ord. 01-42)