

THURSDAY, JULY 16, 2015

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

CHAIRMAN PHILLIPS CALLED THE MEETING TO ORDER AT 8:34 A.M.

PRESENT:

Donley
Henninger
Markewich
Gibson
Phillips
Shonkwiler
Walkowski
McDonald
Smith

ABSENT:

None

ALSO IN ATTENDANCE:

Mr. Ryan Tefertiller, Planning Manager
Mr. Marc Smith, City Senior Corporate Attorney

COMMUNICATIONS

All Commissioners are in attendance. No communication from Planning management. Chairman Phillips stated that Reggie Graham is in attendance today to shadow a Planning Commission meeting to see how the process works.

RECORD OF DECISION

Moved by Commissioner Henninger, seconded by Commission Gibson to approve the May 21, 2015 meeting minutes. Motion carried 8-1 (Commissioner Markewich abstained).

Moved by Commissioner Henninger, seconded by Commissioner Gibson to approve the June 18, 2015 meeting minutes. Motion carried 8-1 (Commissioner Markewich abstained).



UNFINISHED BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION
<p>ITEM NOS.: 4.A-4.B</p> <p>CPC PUZ 15-00031 (Quasi-Judicial)</p> <p>CPC PUP 15-00032 (Quasi-Judicial)</p> <p>PARCEL NO.: 6425204002</p> <p>PLANNER: Lonna Thelen</p>	<p>A request by Aeroplaza Fountain LLC for approval of the following development applications:</p> <ol style="list-style-type: none">1. A zone change from PBC/CR/AO (Planned Business Center with a condition of record and Airport Overlay) to PUD/AO (Planned Unit Development with Airport Overlay).2. A concept plan for an 80 unit, small lot single family development (Village at Aeroplaza). The property is proposed to be zoned PUD/AO (Planned Unit Development with Airport Overlay). <p>The property is located northeast of Fountain Boulevard and Aeroplaza Drive and consists of 14.02 acres.</p>

NEW BUSINESS CALENDAR

ITEM NO.	PROJECT DESCRIPTION
<p>ITEM NO.: 5</p> <p>AR DP 15-00231 (Quasi-Judicial)</p> <p>PARCEL NO.: 6329201017</p> <p>PLANNER: Lonna Thelen</p>	<p>A request by NES, Inc. on behalf of School District 11 for a development plan to allow a multi-family residential project that will cater to the students of the University of Colorado-Colorado Springs (UCCS). The proposal includes 187 units that contain 1, 2, 3 and 4 bedroom units totaling 621 bedrooms. All vehicular access to the site will be from Austin Bluffs with no vehicular access to the neighborhood. The property is located at 702 Cragmor Road, contains 5.8 acres and is zoned SU (Special Use).</p>



ITEM NO.: 6 CPC NV 15-00049 (Quasi-Judicial) PARCEL NO.: 6305203006 PLANNER: Kurt Schmitt	Request by Urban Strategies, Inc. on behalf of RHW Real Estate LLC C/O Wendy's of Colorado Springs Inc. for approval of a Non-Use Variance to the following section of City Code 7.4.409.A.2 – Major Sign Types – Freestanding Signs. This request is to allow for an additional freestanding sign of 33.02 square feet and 7 feet in height on a property where a legal non-conforming pole sign exists. This property is zoned C5/P (Intermediate Business with Planned Provisional Overlay) and consists of 0.83 acres and is located at 8080 North Academy Blvd.
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UNFINISHED BUSINESS

DATE: July 16, 2015
ITEM: 4A and 4B
STAFF: Lonna Thelen
FILE NO.: CPC PUZ 15-00031 , CPC PUP 15-00032
PROJECT: Village at Aeroplaza

COMMUNICATIONS

Commissioner Donley stated that he had done the Master Plan for this area in a previous job but believed that he should have no problem being able to make a decision on the item. Marc Smith, City Attorney, concurred that this should not be an issue.

STAFF PRESENTATION

Lonna Thelen, Principal Planner made a PowerPoint presentation (Exhibit A)

APPLICANT PRESENTATION

Ms. Leslie Thomas of Thomas and Thomas Consultants gave a short PowerPoint presentation (Exhibit B). The Planned Unit Development application was a hybrid preliminary submittal with some additional detail. This is in a low income area of the City and there is pressure to bring in more affordable housing availability. Ms. Thomas questioned the 2020 Land Use Plan as there are patterns that are not being addressed throughout the City because the in the last fifteen years, land use patterns have changed. The major interchange at Fountain and Powers has not been completed and the original plan of Fountain Boulevard has not materialized. Mr. Jeff Mark of Landhuis Company stated that the thought process was that if a nice residential subdivision was built it would spur growth in the area because the industry has stated that more rooftops are needed before a viable investment can be made in the area. More affordable housing is also needed and this would assist in that need. The property cannot work as it is currently zoned.



Commissioner Shonkwiler asked if the possibility had been explored about subdividing into smaller commercial units so no one user would have to build out the entire acreage. Mr. Mark stated that this had been researched the last few years however most users require at least 80,000 sq.ft. or approximately two acres for each parcel. Commission Shonkwiler stated that given the zoning smaller manufacturing sites would be better rather than building such large buildings. Mr. Mark stated that that had not been researched as their company is not involved in industrial development.

Commissioner Smith asked if Ms. Thomas had looked at other alternatives with a residential use. Ms. Thomas stated that they had looked at other development options but they didn't work; however they are open to the next level of design. They are not asking for approval of plan today or for 15' buffer as the plan is negotiable. What they want to discuss today is the zoning as staff wants to know how the residential will work and do not want to proceed unless they know about zoning.

CITIZENS IN FAVOR

Mr. Bob Landry, Re/Max stated that the last few years that people want to see new smaller residential homes under \$200,000. There is a direct need for more of this type of residential in this area that is affordable.

CITIZENS IN OPPOSITION

Jason LaChance, Chief Financial Officer of DPIX, adjacent property owner, spoke on why they are opposed to the rezoning. DPIX is a high tech manufacturing company of digital x-ray sensors which are key components in medical systems and with homeland security. DPIX acquired the property in 2006 and brought 130 jobs in high tech manufacturing to Colorado Springs and have invested approximately \$150 million in their facility and the land to the north of their building for future expansion. The additional adjacent land for expansion was critical before even opening the facility as DPIX requires easy access to transportation and the availability to the nearby Powers transportation corridor. DPIX opposes the zone change to residential because it will increase traffic, cause a disruption to their security and utilities, as well as, have an impact on their future expansion. The property owners state that they have owned the property for over 20 years, but DPIX was not approached about the proposal and knew nothing until notification was received from the City. The proposed residential zone is incompatible with their existing operations as well as to their future expansion.

Commissioner Donley asked for a description of the outside activity of DPIX. Mr. LaChance stated that everything is mainly internal with the delivery and storage of supplies, materials and equipment outside.

Commissioner Walkowski asked whether the reason that the site was chosen was because of the amount of truck traffic to the facility and easy access to the area. Mr. LaChance stated that



there are regular deliveries of raw materials and chemicals with some large tractor trailers bringing large pieces of equipment.

Commissioner Gibson asked if they would increase their capacity if an expansion to the north occurs. Mr. LaChance confirmed that that was the case. Commissioner Gibson then asked how the new residential property would disrupt their expansion. Mr. LaChance stated that DPIX looked at the entire area before they purchased any land. The zone change changes the compatibility of the adjacent property. Commissioner Gibson inquired whether an increased setback to the residential development would make a difference or not. Mr. LaChance said that the current zone is appropriate and cannot speculate on what may or may not occur with a residential development.

Commissioner Smith stated he was having a hard time understanding why a residential development would affect the business. He asked if DPIX had ever considered purchasing the property to protect their interest. Mr. LaChance stated that DPIX has known the property has been owned for quite some time and not sure why the land was not purchased in the past as he was not with DPIX at the time. DPIX does have sufficient land to expand already and they don't feel believe that the company needs to purchase the additional land just to keep the compatibility in place. Mr. LaChance stated that DPIX has asked the question on whether they can expand where they are or if they have to move and go elsewhere and look outside the State of Colorado. Commissioner Smith questioned again why the expansion cannot occur to the north with the residential zone change. Mr. LaChance stated that it is a capability issue and a difference between research and development and commercial uses versus residential uses.

Commissioner McDonald mentioned that with the existing PBC zone that a secondary use for residential is allowed at the site with up to 8.1 density units per acre and the rezone would allow for less units at 5.9 density units consequently the existing zone would allow for more units. Mr. LaChance stated that DPIX recognizes that there are more uses allowed in the current zone but would like to have the opportunity to provide comments for the particular request.

Commissioner Shonkwiler stated that it appears the DPIX is opposed to the zone change as it affects its business and operation. Mr. LaChance stated that DPIX is not opposed to the development of the area as an industrial manufacturing site, should that change they would want to have more information.

QUESTIONS OF STAFF

Commissioner Gibson asked for an explanation of the secondary use employment zone and what it could be used for. Lonna Thelen stated that a multi-family use is shown as a secondary use in the Comprehensive Plan. The PBC zone district does allow for multi-family residential as a Conditional Use, but not a permitted use.

Commissioner McDonald asked how many units would be permitted. Ms. Thelen stated that the density is regulated by the Master Plan and the overarching plan for multi-family but would have to also be within the requirements of the zone district. The number of density units that were mentioned is a part of the Comprehensive Plan not the zoning. Commissioner McDonald asked if they went through the Conditional Use process would multi-family be possible. Ms. Thelen stated yes if the Conditional Use were approved.

Commissioner Donley inquired about Highway 24 as it connects to Powers at Fountain. What is the status of the roadway vs. Highway 24 and clarification of where Highway 24 is relation to this project. Kathleen Krager, City Traffic Engineer stated that Fountain is State Highway 24 and runs from I-25 to Powers. The status for the project is that no improvement monies planned in the near term. The ultimate plan is to make an interchange at Powers and Fountain but the funding is probably 50 years out. There have been discussions for a new location of the East Highway 24 connection to I-25 but the ranking of this project is not high on the State's list. Commissioner Donley stated that southbound Powers to Fountain is a fairly easy turn but more difficult eastbound with the continuity. Ms. Krager confirmed. Commissioner Donley asked about the tract of land nearby that is zoned PBC. Ms. Krager stated that the land is currently owned by the State of Colorado.

Commissioner Markewich mentioned that he knew that there had been some improvements to Powers south of Platte, but will the improvements go past Fountain? Ms. Krager stated the improvements stop just south of the Fountain intersection. Commissioner Markewich inquired about the expansion of Platte in that area and the increase of commercial and general uses along Powers as there would be anticipation for further expansion along Powers towards the south. Ms. Krager stated that at this time there were no plans for expansion but at some point in the future Powers would expand to a six lane roadway.

Commissioner Donley made the statement that there is no conflict of interest but he wanted to make it aware that he has worked with Thomas and Thomas on proposals in the past ten years but none of them came to fruition.

REBUTTAL

Mr. Mark of Landhuis Company would like to respond to the issues of traffic, security, power and incompatibility from DPIX. The proposed residential development would bring significant less traffic than a commercial project. He stated that he cannot speak to security. With regards to Utilities, there is plenty of available power at the site and there is no concern. Mr. Mark stated on the comment of incompatibility that he is not sure what the issue would be with their operation. The proposal is to have a 15' buffer from DPIX to the property line with a minimum of 25' separation to the DPIX parking lot however Mr. Mark stated he did not know the distance between the building and the parking lot but it is a significant amount of land.

DECISION OF THE PLANNING COMMISSION



Commissioner Walkowski stated that while he has listened to the thoughts and trends made by the applicant and while there have been some significant points raised, the Planning Commission should not modify the existing Comprehensive Plan at the dais. Without redefining the Comprehensive Plan, he doesn't see that the PUD review criteria are met and that this is not consistent with the Zoning Code.

Commissioner Henninger reviewed the proposal and considered the housing in the surrounding area. Housing has to be weighed with the design of the Comprehensive Plan and the Industrial within the neighborhood based on what is being proposed. Industrial land is very important and don't see that this land use fits within the Powers commercial corridor nor is this compatible with the Comprehensive Plan or existing Master Plan. He stated he would be supporting the City's position.

Commissioner Markewich agrees with the applicant on the 2020 Land Use Map in that the plan is old and outdated and in need of an update; however, there is an importance to use the land in the character to what is already within the area. The site is within proximity to the Colorado Springs Airport and Peterson Air Force Base although a lower cost of housing is a laudable goal. Commissioner Markewich mentioned there is a need to very consistent with land uses as a substantial change doesn't lend itself to consistency with buyers that want to build high tech manufacturing and would be a problem if these users see an inconsistency will wonder why the City does not follow the rules. Single Family Residential next to high tech manufacturing is not compatible and does not comply with the Comprehensive Plan, does not agree with the Master Plan and does not comply with Zoning and therefore will support staff's position.

Commissioner McDonald indicated that she has a completely different view and believes that the proposed use is compatible with the other residential uses across Aeroplaza. The site is on the edge of a business zone with a lot of area that is not utilized. If the land has remained as is for over 20 years with the same Comprehensive Plan and Master Plan and has not been utilized then another use would be good for the site. If a Conditional Use were granted would allow for residential at a much higher density and impact per acre so am in favor of the zone change and a change to the Master Plan.

Commissioner Gibson stated that she shared Commissioner McDonald's sentiment. It is understood that the City needs to be business friendly and consistent with protecting the interest of what properties people have purchased however lessening the impact of residential from 8.1 density units to 5.9 density units is more appropriate. Should the request be for a large multi-family apartment type use she could see denial.

Commissioner Shonkwiler stated that he has a big problem with rezoning property. There is a requirement to be very careful when changing designations but in this case the request does not comply with the Comprehensive Plan. This area was zoned purposefully and as actually zoned this way by the present owner. Not all options have been explored for subdividing



property as well as multiple uses at the site. The intrusion of small lot residential in the area down to Fountain and Powers would have negative impact to the residents with noise and a major intersection of highway with major traffic. No reason can be found to be compatible with the Comprehensive Plan or Master Plan.

Commission Chair Phillips stated that he is on the side of Commissioner Gibson and Commissioner McDonald. The Comprehensive Plan is a guideline. This land has sat idle for years and not doing any good as is. There is housing along Powers as not all land is industrial. The City is short on housing and someone wants to try to make it work.

Commissioner Donley stated that this is one of the tougher decisions to make. There is a surplus of non-residential space and should promote infill and mixed use development but worried about the single family residential. He would like to see more density and a buffer around perimeter to separate the development from DPIX and will support the denial by staff. The Airport and Peterson Air Force Base both review the proposal and there will be impact from airplane traffic. Based on the PUD criteria, Commissioner Donley stated that he would have to oppose the request.

Commissioner Smith stated that this is a difficult decision to make because of the need for affordable housing. The density is lower than it could be but Planning staff has still denied the request. There is definite need for affordable housing with enough land for industrial uses elsewhere. He will support Commissioner McDonald and Commissioner Gibson on their denial.

Moved by Commissioner Donley, seconded by Commissioner Shonkwiler to deny **Item 4A, CPC PUZ 15-00031**, change of zoning classification from PBC/CR/AO (Planned Business Center with Conditions of Record and Airport Overlay) to PUD/AO (Planned Unit Development with Airport Overlay) based upon the finding that review criteria listed in City Code Section 7.3.603 are not met. Motion carried 5-4.

Moved by Commissioner Donley, seconded by Commissioner Henninger to deny **Item 4B, CPC PUP 15-00032**, concept plan for Village at Aeroplaza based upon the finding that the review criteria listed in City Code Section 7.3.605 have not been met. Motion carried 6-3.

July 16, 2015
Date of Decision

Planning Commission Chair

NEW BUSINESS

DATE: July 16, 2015
ITEM: 5
STAFF: Lonna Thelen
FILE NO.: AR DP 15-00231
PROJECT: Bates School

STAFF PRESENTATION

Lonna Thelen, Principal Planner made a PowerPoint presentation (Exhibit A)

Steve Kuehster, Engineering Program Manager, City Engineering presented an aerial map and information regarding the location of the existing coal mines within the area and at what depth they are located underground. The map provides information on the area of the neighborhood that is overlaid with coal mines. Engineering reviews all drainage and traffic requirements for proposed projects. Terracon, the applicant's geo-technical engineer for the project will use every incentive to make sure that there is no settlement at the proposed housing site. If there is no consensus between Colorado Geologic Survey (CGS) and Terracon, City Engineering still has the ability to go back and re-review the reports; however, City Engineering believes that the project can go forward because of both the preliminary and phase two reports, as well as, the additional borings that have occurred at the site. Mr. Kuehster stated that per CGS, 'the phase two report is reasonable and if implemented as written should satisfactorily reflect Colorado Geologic Survey's concerns' which is why City Engineering believes that the report satisfies the requirements.

APPLICANT PRESENTATION

Ron Bevans with NES, Inc. made a PowerPoint presentation along with Dan Garthe of Kitchen and Associates, Architect for the proposed project. Two neighborhood meetings were held along with three meetings with CONO (Council of Neighborhood Organizations). The Bates Housing project was developed to be compatible with UCCS as the majority of the buildings on the campus are four to five stories. Due to the grade change from Austin Bluffs, the major bulk of the buildings will be located away from the residential area with no view of the parking garage from either Stanton or Cragmor Roads. The proposal is to use earth tone colors throughout the complex; accent colors may change but they will be harmonious with the area. All requirements have been met with additional landscaping and screening in and around the buildings along with fencing surrounding the project as well as berms. Traffic concerns have been addressed with the parking lot on the north of the proposed project and a ¾ access only off of Austin Bluffs Parkway. This was developed so as to cause the least disruption to the neighborhood. There is no through access whatsoever into the Cragmor neighborhood. There will not be a lot of asphalt at the project with the construction of the parking garage however 621 parking spaces will be provided on site which exceeds the Code requirements. Since the project is less than one-half mile from UCCS, there is no need for students to drive to the

campus through the neighborhood as the majority of the students will access UCCS by walking or biking. The proposed Bates Housing project will not bring more students to campus as it allows existing students to have housing available near the school. The geologic hazards in the area are quite low. There will be no balconies on any of the buildings and the project will have 24 hour management with students having access to activities on-site at the project. Drainage patterns at the site have been mitigated with a rain garden with drainage flows to occur off site onto the existing streets. The master planned future of UCCS is 15,000 students so there is a need to support student housing which is a key component to the Colorado Springs community. The Bates Housing project presents affordable housing within an infill and redevelopment site.

Commissioner Markewich stated he had questions for City Traffic about the singular access off of Austin Bluffs, but would ask those later in the hearing. He ask if there are emergency vehicular access points coded for the Fire Department at the man gates and, if so, how would students and/or the 621 vehicles get through if an evacuation were necessary? Dan Garthe of Kitchen & Associates stated that there is emergency vehicular access on the north portion of the site. Emergency access points were required by the Fire Department as they had to have full fire truck access around the buildings. Commissioner Markewich inquired what the man gates were actually for. Dan Garthe stated they are for use by the Fire Department as the residents will have access around the project. Commissioner Markewich stated that in the event of an evacuation, would every resident have to go to Austin Bluffs? Michael Apt of Gilbane Development Company stated that the project will be professional managed but all details are not yet complete. They have been speaking with Fire Marshall and the on-site management will have the codes to the man gates and emergency accessways if necessary.

Commission Gibson mentioned that she had read the letters of concern from the neighborhood regarding construction traffic within the neighborhood. Mr. Bevans stated that the construction access would be off of Austin Bluffs not through the neighborhood.

Commissioner McDonald inquired that in the letters from the resident's state that there was to an 8' to 10' wall and now there is a 6' fence with a berm. Mr. Bevans stated that a wall may have been presented at an earlier meeting but the fence and berm is more effective as a buffer with screening. An individual can access a wall but a fence and berm creates more of a barrier and does not provide encouragement for access. Commissioner McDonald mentioned that there is some confusion on the type of fence. Mr. Bevans stated that there is to be a 6' wood fence on top of the berm.

Commissioner McDonald asked why the complex would be open to the public and not just for student rentals? Mr. Apt stated that with Federal Fair Housing it cannot be restricted to just students. It will be marketed to UCCS student as most adults do not want to mix with college students. Commissioner McDonald stated that she noticed on their website that the Company builds student housing around the Country; has there been an issue in the past with a mix of residents in other projects? Mr. Apt stated that it has not been an issue elsewhere. Sometimes



graduate students will mix with undergraduates since most want to live within proximity to the campus. The project will be similar to other market grade apartments but do not see a lot of young professionals at this location unless they're looking for urban living.

Commissioner Walkowski stated that a lot of neighbors have mentioned that UCCS student's park on Stanton and Cragmor. What is the exit gate constructed of on the road as well as the man gates and what is the height? Mr. Bevans stated that the gates would be solid construction and match the height of the fence. Michael Apt mentioned that on Cragmor Road parking is by permit only so no students can park in this area. He didn't see that someone would park in the neighborhood and walk up the grade change to get to campus.

Commissioner Walkowski asked about the amenities at the project and will there a limit on the hours of operation. Mr. Apt stated that there would computer rooms, game rooms as well as outdoor activities with everything shut down at a reasonable hour. They do not want everything open consistently as other residents live there too. There is always a professional manager on site and they will police the project to make sure things don't get out of control. Social events could occur, but would be within reasonable hours. Commissioner Walkowski asked what is a reasonable hour? Mr. Apt mentioned that each project is different so the hours can vary. When the sun goes down, everything doesn't close but they don't like loud commotion as it would upset all residents and some residents have more diverse needs. This is an investment and they don't want destruction to occur at the project. Mr. Apt stated that this type of project is completed all over the country as this is one of the biggest market sectors.

Commissioner Walkowski asked if anyone with the project had checked the bus routes and whether the routes could be improved with the addition of a bus stop as traffic is a big issue. Mr. Bevans stated this area is not on a special bus route but there is a bus route through the neighborhood. There are stops available along Austin Bluffs now. Mr. Bevans stated they will talk with the City about possibly adding a stop by the project.

Commissioner Walkowski stated that at the corner of Stanton and Cragmor to Austin Bluffs there is a 60' rise so the project would be 15' higher therefore it would be 75' to the top of the proposed buildings. Dan Garthe provided the information that the building steps up in five foot segments but the overall height is less than 75' in height.

Commissioner Markewich made the comment that the residents stated that the Traffic Study that had been completed was done during UCCS Spring Break and was determinate on the $\frac{3}{4}$ movement on Austin Bluffs. Todd Frisbie of Felsburg, Holtt and Ullevig stated that the traffic counts were collected during normal UCCS hours on March 11th and 12th at the intersections. Once the data was recorded and processed, the report was completed during the UCCS Spring Break but the counts were taken prior.



Commissioner Donley stated that after looking at the graphic on the distance to the pedestrian crossing being a ¼ mile however the location of the library and the other classrooms on campus are directly across the street; he is very concerned that students will short cut across Austin Bluffs. The risks to the students would be rather serious even with a raised median and a left turn into the complex; this needs to be explained and how it will be mitigated. Mr. Frisbie stated that there is a guard rail currently in place as a barrier to cross Austin Bluffs. Michael Apt spoke that he stood at this location for several hours considering the same issue because the safety of residents and students is very important. If the guard rail and a jersey barrier did not exist, it would be easy to cross at this location however the guard rail could be extended farther to the west to the playing field if necessary. Commissioner Donley stated that the thought of the guard rail existence to deter pedestrian traffic is misplaced. Whether the City would add a jersey barrier is unknown so students crossing Austin Bluffs at this location is still a possibility.

Commissioner Donley asked to discuss the distance between Austin Bluffs and Nevada with the impact to the Cragmor neighborhood. He is concerned that vehicles will still go through the neighborhood to Mount View rather than make a U-Turn and go back to Nevada. Mr. Bevans stated that based on their research the majority would go from the project to Nevada. Commissioner Donley asked what about going from Mount View to the project; couldn't the traffic then increase going back to the south? Mr. Bevans concurred.

Commissioner Shonkwiler mentioned that the presentation stated that they had complied with the drainage requirements at the site. He has a concern about water going downstream and is the system capacity adequate to handle the water since there is a lot of impervious surface at the project. There is a tremendous amount of erosion coming off Austin Bluffs to the west with some going to Cragmor Road. He would like verification that the project will not add to the drainage problems. John Schwab of JPS Engineering, Inc. stated that drainage was a key issue at the site. The drainage from the redevelopment is very comparable if not slightly less than the impervious surface of the existing school site. There is no significant impact to the existing drainage runoff. The proposed rain garden meets the Best Management Practices under the City guidelines and there is a 54" storm sewer already accepting drainage from the neighborhood.

Commissioner Smith had questions about the landscape plan as it shows a lot of planting along Cragmor and Stanton. Outside of the fence and berm what is the maturity of the landscape that will be installed, how dense will the plantings be and at what height? Mr. Bevans stated that the trees and shrubs will be installed to allow for mature growth with most placed 25' from the back of curb to fence/berm. There will be at least 10' of sidewalk area with the berm up from there and turf adjacent to the walkway. The installation is to discourage students from going over the fence and berm with the majority of the height of the landscaping facing the neighborhood for buffering and screening. Mr. Bevans mentioned that the buildings are closer to the front and will add other materials at the back to soften the mass and provide buffering.

Commissioner Smith asked if the shrubs will be higher than the fence. Mr. Bevans stated that the trees would be, but not the shrubs.

CITIZENS IN FAVOR

None

CITIZENS IN OPPOSITION

Pat Hrbacek spoke regarding his concern about the zoning. The question that needs to be asked is whether this site should be zoned SU as this zoning was done 45 years ago. The map (Neighborhood A) that created the zone is from 1970 and doesn't show Austin Bluffs because it did not exist at the time. In 1970, Bates School was already shown as it was built in 1957 and UCCS was only in its infancy as it began in 1967. Is the zone still appropriate; neighborhood believes that it is not. Austin Bluffs is a major artery for the City and separates the project parcel from UCCS which is what the Special Use zone was for. With the character of the neighborhood, this is the wrong zoning and should be changed to residential.

Commissioner Shonkwiler questioned that Austin Bluffs was not shown on the 1970 map. The map clearly shows an outline of the school and possibly Austin Bluffs. Mr. Hrbacek stated that there were several roads in the area but not Austin Bluffs. The ordinance creating Austin Bluffs did not occur until 8-10 years later. Gladeen Ragland stated that Cragmor Road was located in the area of Austin Bluffs previously.

Warren Austin has lived in the neighborhood since 2003 and according to the City website, it states that a proposed development is to be harmonious and compatible with adjacent neighborhood and the proposed project does not meet these standards (Neighborhood B1 and B2). There were several concerns that were not addressed by the applicant and they will have a direct and negative affect on the adjacent properties. There will be drop in property values in the entire neighborhood with the addition of hundreds of students as well as anyone wanting a mountain view or directly adjacent to the School property. The project will have adverse effect to the neighborhood's quality of life vs. the existing one-story building with a significant market decrease in property values. With this project, no one will want to live in the neighborhood unless they're looking for a rental which will ruin the neighborhood. Mr. Austin made the suggestion that everyone needs to work together as a team for the entire neighborhood. The Lodges student housing is surrounded by commercial not residential. All of the activities are located off the back of the building along Cragmor and Stanton and will create more noise and adverse impact to the surrounding houses. Discussions should be held with everyone involved to find a solution that works for everyone with the sign at the school site preserved as a historic school.

Frankie Shake stated they have been in Colorado Springs since 1956 and moved to Cragmor in 1979. The Austin Bluffs traffic is significant already. The construction of such a project will create more noise and the traffic will backup and come to a halt. The amount of traffic on



Austin Bluffs already causes a minimum of a five minute wait for anyone that wants to exit onto Meadow. The construction along Austin Bluffs will cause vehicular traffic to exit and go through the neighborhood to Mount View and create more traffic problems. A U-Turn at Austin Bluffs is going to be dangerous and will create more traffic backlogs; a U-turn is prohibited at Regent now. Traffic will bypass Austin Bluffs and go to Meadow to Mount View to Nevada and become a straight through highway in the neighborhood. UCCS students do park in the neighborhood on Mount View and Hancock and stay all day restricting residents trying to access the Park. They also park on Stanton near the athletic practice fields for the Colorado Springs Christian School and jaywalk across Austin Bluffs at that point. If there are to pedestrian gates, she hopes that they truly will be locked and only open in an emergency because she stated that she can see that students would tell their friends to park on Cragmor or Stanton and they'll let them in at Gates #4. This development is not compatible whatsoever because the neighborhood is very quiet, safe and friendly and this development is not.

Grant Smith stated he has a background in geology and has been a resident of Cragmor for eight years. The original presentation at the public meetings discussed a right in/out off of Austin Bluffs but the deceleration lane was not presented to the neighborhood. In order to construct the left turn lane, additional infrastructure will have to be removed and reinstalled to include light poles. With the Austin Bluffs construction, a cut through will be created with traffic traveling to Mount View. If Austin Bluffs is modified as shown, the cut through in the neighborhood will become a high speed thruway with access to Mount View a permanent change which will drastically affect the neighborhood. There is extensive opposition to the project with no positive comments. Mr. Smith stated that the project only enhances the developer and UCCS while the downside is that the property and resale values of the adjacent 40 homes along Stanton and Cragmor will drastically decline. The size of the buildings is huge in comparison to the existing residential dwellings with a negative impact to any property in Cragmor. The project should not be approved due to the traffic that will occur through and within the neighborhood. The only property rights being affected are those of UCCS, the neighborhood's property rights have not been considered. The zone at the site should be changed rather than to allow the project to be approved.

Rev. Floyd Davis state that he has lived in the Cragmor neighborhood since 1990. The neighborhood is quiet. Since UCCS started allowing students to live on campus, the side effect is killing the Cragmor neighborhood. Rather than take Austin Bluffs to Nevada, UCCS students are bypassing that traffic and going through the neighborhood and turning the streets into major highways and that includes City buses who don't even have stops in the area. This is killing their community! If the project is approved and the project does not house students as approved and becomes a community apartment building which is a completely different use; the entire project should be bulldozed and removed from the site.

George Tackles, retired Professional Engineer and General Contractor, stated that he has lived in the Cragmor neighborhood for 40 years. Mr. Tackles attended the first neighborhood

meeting and had asked for the project to be moved to north boundary of UCCS so that access would be off of Stanton and Eagle Rock (Neighborhood C). The traffic study states that a stop sign will be installed at the ¾ intersection at Austin Bluffs turn however a stop sign will not stop travel going eastbound. There will be three lanes traveling eastbound on a curve with a deceleration lane which will create a dangerous condition to cross traffic. If approved, a stop light needs to be installed rather than a stop sign to allow for safe traffic.

Gwen Happ, a property owner since 2003 and also an investor in the neighborhood and a past student at UCCS. She stated that she understands the concerns of the neighborhood but there is also the appeal of a good project. The developer appears to have heard from the residents that traffic and access to Austin Bluffs is a major concern. During the winter, traffic travels through the neighborhood to avoid Austin Bluffs and with the addition of this project, traffic will increase. Frances Bining, another resident of Cragmor is wheelchair bound at her home and concerned about traffic and increased access through the neighborhood. As a past student of UCCS, Ms. Happ stated that she did cross Austin Bluffs outside of the intersection as it was easier and faster; it does happen and it is very dangerous. The addition of more students in the neighborhood will just increase the amount of people trying to find access across Austin Bluffs. The question is if the proposed use of the property is an appropriate use for both students and the quality of life of the neighborhood. This project does affect the neighborhood and the property values so is this the correct type of use? Ms. Happ mentioned that she's glad that UCCS is growing but the Planning Commission needs to consider the effect of the project on the traffic in and around the neighborhood. Are there no other areas or properties where this type of project could be located? She stated that she likes that UCCS has grown but there needs to be responsible growth for the neighborhood. The appropriate use of land needs to be considered and reconsideration of traffic and the access through the neighborhood and other homebound property owners. Student access directly across Austin Bluffs also need to be considered. Ms. ? stated that she is not against growth or affordable housing for UCCS but there needs to be more consideration that the project should be harmonious and fit in with the existing neighborhood.

QUESTIONS OF STAFF

Commissioner Walkowski asked to ask Ms. Thelen questions about the geological study. He stated that based on what has been stated depending on the additional borings being required the buildings might move within the project. What happens if the plan that is being discussed changes? Would the decision be administrative or come back to Planning Commission? A decision being made today on what has been submitted could change. Ms. Thelen affirmed that that is possible.

Commissioner Markewich stated that he had questions for Kathleen Krager, City Traffic Engineer. He mentioned that he understood that Austin Bluffs is a principal Type-2 arterial with an attached sidewalk, multi-use shoulder and landscape, are those guidelines or requirements? Is the information shown in the 2009 manual different than those in 1970? Ms. Krager stated

that yes that information is correct. Commissioner Markewich asked if those requirements exist today. Ms. Krager stated not in this area because the 2009 traffic guidelines were in control at the time of construction and since then a PPRTA project upgraded the road to six thru lanes within a tight right-of-way. There are a number of design areas and utility corridors within the roadway which cause restrictions. Commissioner Markewich said that a type 2 arterial has a high volume of traffic trips with a secondary function to serve private property but curb cuts are to be limited with median cuts only at major intersections. Is this location considered a significant intersection? Ms. Krager, no, the decision is considered to be a compromise. There are two major choices for traffic, either off of Austin Bluffs or through the neighborhood; the access was granted off Austin Bluffs to protect the neighborhood. If no access were granted to either through the neighborhood or off of Austin Bluffs, it would create an adverse condemnation of the property. Commissioner Markewich asked about the U-Turn prohibition at Regent; if the residents do not make a U-Turn, it would require the residents to turn at Meadow and travel to Mount View through the neighborhood. Ms. Krager stated that the existing U-Turn prohibition sign is left over from when Austin Bluffs had different thru lane construction. If there were a restriction to the right in/out and a resident would have to go back to where they came from, the U-Turn could be removed if there was a left turn arrow installed. Commissioner Markewich asked if the project were not approved, would there be a restriction on U-Turns? Ms. Krager stated no as she is comfortable with the U-Turn option. Commissioner Markewich asked that in the Comprehensive Plan there is to be an enhancement for pedestrian and bike access however with Austin Bluffs; it appears that that is restricted due to the existing right-of-way. The only access from the proposed project to UCCS, presuming that the residents don't jaywalk, is along the sidewalks and the sidewalks and bike lanes are not adequate for this type of volume since bikes are not allowed on Austin Bluffs. Ms. Krager stated that bikes are allowed on all City rights-of-way unless restrictions are identified. Bike lanes will be painted on Austin Bluffs prior to completion of the PPRTA project. Commissioner Markewich asked if there would be bike lanes both east and westbound. Ms. Krager stated yes, bike lanes will run eastbound from Nevada to Union and further east. Commissioner Markewich asked if the bike lanes would be where the shoulder should be and Ms. Krager concurred. Commissioner Markewich asked if there would not be a landscape buffer after the sidewalk and bike lanes are installed and Ms. Krager stated yes, but it is preferred to have the sidewalk connected rather than separated. Commissioner Markewich asked that if this project did have the ability to have better access off Cragmor and Stanton to the south and west and the two streets were not small residential neighborhood streets would the access off of Austin Bluffs have been approved. Ms. Krager stated maybe approval would have been granted but there would have had to have been adequate access elsewhere.

Commissioner Walkowski stated there was testimony about the $\frac{3}{4}$ intersection and the number of vehicles that could stack up to exit. Ms. Krager stated that the Traffic Study discussed this issue and the maximum queue and layout of the left turn lane is adequate. An unsignalized intersection actually provides more time than a signalized intersection however there will be some delays with the left turn. Commissioner Walkowski asked who would be in charge of the

construction traffic plan? Ms. Krager stated she reviews any lane closures and unless there is a really good reason they are not permitted at rush hour. Commissioner Walkowski asked about construction staff through the neighborhood. Ms. Krager stated that there would be no access granted through the neighborhood for construction vehicles.

Commissioner Donley stated that a Traffic Study was done but it does not reflect how much traffic would travel south and west off of Meadow to Downtown. Is there a sense on how much traffic would be generated? Ms. Krager stated that she requested time delay studies to see what this would entail. The Traffic Consultants drove the route and determined the amount of time it would take. City Traffic is taking the signal out at Acacia and Mount View and installing several four way stops to slow traffic down along Mount View so it is anticipated that travel through the neighborhood will take longer. It's hard to say how much traffic would be created but the project is a high traffic generator. The students will more than likely park at the project and not on campus and walk or use the bike lanes to access UCCS. Since the project will not have the standard residents with a daily job from a traffic stand point there should not be a big impact to the neighborhood. Traffic has worked with the neighborhood to try to keep it more pleasant by requiring parking permits. Commissioner Donley mentioned that when he went to the site he did find that there were four vehicles parked on Cragmor Road and the students walked from there to the UCCS campus so they will still find a way to park. Commissioner Donley asked when the left turn lane was decided upon because the right in/out was the only original access point. Did the City encourage the left turn installation? Ms. Krager stated that the project had planned on access through the neighborhood and City Traffic stated that that was not possible and could look at Austin Bluffs if there was an appropriate design and adequate site distance proposed for a left turn lane. A left turn creates an easy movement and thought this would make Austin Bluffs the best it could be. Commissioner Donley asked about the pedestrians crossing Austin Bluffs. Ms. Krager stated that this will happen no matter what. What has to be done is to provide adequate sidewalks and signage identifying the intersections. The highest pedestrian traffic in the City is on Cascade at Colorado College where there is maximum protection for the students with crosswalks and signal lights but the pedestrians cross nonetheless without paying attention. Ms. Krager stated that any student trying to cross Austin Bluffs outside of the intersection will definitely pay attention. There will be metal ramps and railings installed with signs identifying the safe pedestrian crossing areas and the distance to the nearest signal/pedestrian crossing.

Kathleen Krager provided some answers to previous questions posed by the Planning Commissioners about the bus routes in the area. There are two bus routes, 9A and 9B. 9A has a bus stop on campus and 9B has a stop along Austin Bluffs.

Commissioner Markewich asked a question of the City Attorney. He stated that he feels that the situation this project puts pedestrians, drivers and bicyclists in is dangerous and what would the City's liability be in this type of situation. Marc Smith, City Attorney's office stated that this would be an extreme fact specific circumstance and an answer cannot be provided as there are



too many factors to consider. Testimony has been given from the City Traffic Engineer as well as from a private Traffic Study and a decision would have to be made based on that information.

Commissioner Donley asked if this is a legitimate consideration to be made based on the risk to pedestrians. Marc Smith stated based on the information provided, if the Planning Commission does not believe the criteria for health, safety and welfare has not been met then that is a decision they would have to make.

REBUTTAL

Ron Bevans with NES, Inc. stated that he appreciated what the neighborhood has had to say and the changes the neighborhood has gone through with UCCS in the area. One of the questions was the zoning of the property. The zone of the property allows for residential uses and this project meets all of the criteria and standards and is classified as a residential use within the zone. The project works within the parameters for high density residential which should be located adjacent to major arterial streets. The project was designed to try to protect the neighborhood from traffic with access of Austin Bluffs and the addition of a left turn lane. There will be a different traffic pattern than a standard apartment because residents will not be working on a daily basis and this proposal will not add students to the UCCS campus. The architectural size and style of buildings is larger than the existing residential but with the architectural details, landscaping and buffering the building will not just be a big box. This project is an infill project and those are always difficult but they have taken the neighborhood into consideration during the design process.

Commissioner Shonkwiler asked a question that occurred early on in the applicant presentation about the materials used in the surface of the building. He could not understand what was being used, stucco, wood? Dan Garthe stated that the material was fiber cementitious panels which are a durable material similar to siding which is very hardy. Commissioner Shonkwiler asked if the material was weather proof. Mr. Garthe stated yes.

Commissioner Walkowski asked that since there was discussion that the buildings could shift due to the geologic issues, would the applicant be comfortable coming back to Planning Commission for a re-review. Mr. Bevans stated that it's possible. Commissioner Walkowski stated that if the development and setback changed due to the building locations it would essentially be a different development plan. Mr. Bevans stated that they might be open to that if there was a change in configuration, however, the thought is that Engineering should be able to find a solution and a way to accomplish the changes if necessary and then if needed the project would through an administrative review for the changes.

DECISION OF THE PLANNING COMMISSION

Commissioner Shonkwiler made the comment that this is a very difficult site and ironic that the hearing is occurring because of the proper zone. He believes that the applicant has met the site and code requirements and has more than met the requirement for off-site parking. The



applicant proposes to keep the traffic out of the adjacent neighborhood however he would have preferred that the project not be walled and fenced off from the neighborhood because it doesn't make for good integration. Commissioner Shonkwiler stated that the project has gone to extraordinary lengths to meet the requirements and height limitations with the design blending and fitting in with the existing area. The existing zone has been in place since 1970 and there are entitlement rights as long as the development standards are met. There is certainly a high demand for student housing and UCCS is one of the highest economic generators in the community and critical to the economic development of Colorado Springs. Consequently, he will be voting in favor of the request for those reasons.

Commissioner Markewich stated that infill redevelopment is great and important but just calling a project infill does not make it right for the neighborhood or Austin Bluffs Parkway. With this project there are health and safety considerations due to the entering and exiting from the site. There is a single point of access on a curve with a slope with a lot of inexperienced drivers and pedestrians and bicyclists which is a recipe for disaster. Is the project is harmonious with the neighborhood? It would be if it were located on the other side of Austin Bluffs. Is it compatible? The project will overburden Austin Bluffs in a dangerous way and access will increase traffic in the neighborhood winter weather or not. The project cannot meet the criteria and just not meeting #11 makes the development plan is unusable. Commissioner Markewich stated that the proposal does substantially damage the quality of life of the Cragmor neighborhood and does not make sense and will damage property values. The City Traffic Engineer stated that if there had been adequate access from the west and south through the neighborhood that there would be not the allowance of a $\frac{3}{4}$ access off of Austin Bluffs. With all of those factors, he stated that he cannot vote for the project.

Commissioner Henninger offered his thanks to the neighborhood for coming to the hearing to speak. Student housing is very positive product. The existing Bates School is an eyesore but not sure what else it could be used for. He stated that he likes the design of the proposed project as far as parking in the center of the site and the buildings being spread out. There are good buffers and barriers between the neighborhood and project. Commissioner Henninger stated he liked the project and the idea but the challenge is tough with regards to water and the feet of the residents at the site. He has a real concern about the traffic along Austin Bluffs even with the recent PPRTA project it is still a major east/west thoroughfare. The project would greatly support UCCS but the safety and access for the students and how they would get to the campus is a concern. Foot trails have been created in and out of the campus and he sees that those would cross over to this project. Commissioner Henninger stated that he didn't see the connection of bicyclists and walkways with the project so close to Austin Bluffs. The majority of the criteria are met with the exception of criteria #6. There is a need to have convenient and safe access to the project and with a right in/out on Austin Bluffs will not occur all the time. The winter travel along Austin Bluffs is already a challenge. Criteria #11 is not met because the addition of pedestrian traffic at the intersection across Austin Bluffs is not sufficient. There have



to be other alternatives to make the criteria work consequently; he will have to say no to the project.

Commissioner Smith thinks that the proposed project meets all of the criteria that have to be considered; traffic, setbacks and the height of the buildings. There are some issues with traffic however. Commissioner Smith stated he drove to the UCCS Development Center and back to Austin Bluffs to make a right turn. There is heavy traffic along the Austin Bluffs roadway and difficult to exit safely from the project. When other similar projects are proposed that are adjacent to residential there is a lot of distance between the project and residential neighborhood and that does not exist at this location. The buffering is good but the neighborhood would still be viewing a tall building at a 45 degree angle. While the project meets the zoning requirements it doesn't meet the human aspect which is needed. Consequently Commissioner Smith will not vote for approval.

Commissioner McDonald stated that the Planning Commission does not have the authority to tell School District #11 who to sell to. The project meets the zoning requirements, however, there are challenges but the staff and Traffic should be able to manage those issues to make the project habitable for neighborhood. She stated that the project, complies with the review criteria with the conditions that are noted and therefore she is in favor of the project.

Commissioner Donley stated that the issue that this is not a zone change is a major point. The continuation of the SU zone is important. A use cannot be guaranteed but the City cannot protect views. This is an infill project which is an important consideration because they are always the last and the toughest to complete. The students that choose to live at this project are going to have to accept they will have to walk to campus and cannot drive a car to campus. Some of the traffic concerns have been addressed; the crossing of Austin Bluffs still an issue however the project could have a wall built on the north side to prevent residents from crossing Austin Bluffs other than at the intersection. Commissioner Donley stated that he still has reservations about arterial streets having left turn lanes but this is what was recommended by Traffic. He stated that he supports the importance of UCCS and the necessary housing and the infill project rather than the promotion of suburban development.

Commissioner Walkowski made the statement that this is a very tough decision. He understands the neighborhood's concerns but cannot do anything about the zone change as it's already there. The development standards are there and a decision has to be made whether the project is appropriate or not. The applicant is trying to help the neighborhood with the layout of the project and actually helps with the access not going through the neighborhood. The site is an infill location and viable and since it is infill, there could be asbestos and drainage problems as well as access issues so they have to make the scale of the project work. There have been good arguments both for and against the project however the project does meet the criteria and he will support the request.



Moved by Commissioner Shonkwiler, seconded by Commissioner McDonald to approve **Item 5, AR DP 15-00231**, a development plan for Bates Student housing based upon the finding that the review criteria listed in City Code Section 7.5.502.E have been met subject to compliance with the conditions of approval and technical modifications shown on Page 26 of the agenda. Motion carried 6-3.

July 16, 2015
Date of Decision

Planning Commission Chair

DATE: July 16, 2015
ITEM: 6
STAFF: Kurt Schmitt
FILE NO.: CPC NV 15-00049

PROJECT: 8080 N. Academy Boulevard

STAFF PRESENTATION

Kurt Schmitt, City Sign Specialist/Land Use Inspector made a Power Point Presentation (Exhibit A).

Commissioner Markewich stated that another wealth advisor in his office has Wendy's as a client but the Commissioner has no connection to this client and therefore there is no conflict. Commissioner Smith disclosed that in the 1990's he worked with the Applicant on the construction of a casino in Cripple Creek but would not have a conflict in making a determination in the variance request.

APPLICANT PRESENTATION

Les Gruen with Urban Strategies, a real estate and public policy advisor gave a presentation (Exhibit B). Mr. Gruen helps companies with land use issues similar to what is before the Planning Commission and has worked with this client for over ten years. He stated that he does not do PowerPoint presentations so everything will be from the copy document. Tom Reinhard with Wendy's is available for questions. Mr. Gruen stated that Wendy's of Colorado and its affiliated Companies are one of the largest fast food operators in the Country and has had a long time commitment working in Colorado Springs for over forty years.

Mr. Gruen gave some history of the development at this location and that it was previously the Zuider Zee Restaurant and since then was subdivided when the Chapel Hills Mall was developed. The Wendy's Restaurant has been at this particular location for over 37 years however the City staff does not interpret the sign regulations in the same way as the Consultants. A pole sign at this location is very important and it is actually located on the same lot as Wendy's. If the sign were located on a separate lot the issue would not exist. Mr. Gruen stated that it is not completely clear who owns the pole sign as the rights to the sign belong to more than one client. The signs were classified as legal non-conforming however if anything were done to the low profile sign other than refacing the sign itself, it would lose its non-conformity. Numerous meetings and discussions were held with staff regarding the signage at the site and due to that fact, the property owner was mortified that the old sign was removed and replaced with a new sign without permission. Mr. Gruen stated that the Wendy's Restaurant was recently remodeled due to a system wide renovation program because Wendy's International provided incentives if the renovations were completed within a certain time frame. At the present time, there is only one sign at the site however this request is to add



the low profile sign as it existed previously. The property owner should be able to use their property as it was in the past. Mr. Gruen stated that he knew of no negative comments that were received and granting of the variance would not be detrimental. Consequently, he disagrees with staff's perspective of the variance criteria and if the variance were approved, it would just turn the clock back to when the monument sign was there previously.

Commissioner Shonkwiler asked what the width of the previous sign was at this location. Kurt Schmitt stated that the sign was 59 square feet and approximately 6' in height. Commissioner Shonkwiler asked what the width of the sign was. Mr. Gruen stated that with the bricks the approximate width was 9' which is taller and narrower than the sign that is to be replaced. Commissioner Shonkwiler verified that if the sign was 9' in width before, it will now be 5' in width? Mr. Gruen stated yes. Commissioner Shonkwiler asked if the previous sign was approximately 10' in width, is the new sign to be on the westerly 5' where the sign was previously. Mr. Gruen stated that he understood that the sign would be closer to the restaurant. Commissioner Shonkwiler stated that the sign needs to be back from Academy as far as possible and better if it were at the same height as before. Mr. Gruen stated that the actual location has not been identified as that is subject to this decision. Commissioner Shonkwiler stated that with the traffic light and sight angle issues along with height and placement of the sign, it would make a significant difference in their decision.

Commissioner Smith stated that with the various pictures and information that he was not sure what was requested to be replaced. He asked if the sign was to be 7' tall and 5' wide and Mr. Gruen concurred. Commissioner Smith then asked for verification if the other sign were 6' tall and 5' wide and Mr. Gruen stated yes.

Tom Reinhard, Chief Financial Officer for Wendy's spoke regarding the sign. He stated that mistakes were made along the way. The new sign will be outside of the utility easement, right-of-way and setbacks. They do not want to place something that would impede traffic at the intersection. As this business is impulse driven, they are sensitive to the congested intersection and do not want to impede traffic coming and going from the Kelly Johnson intersection.

Commissioner Shonkwiler asked if Wendy's would relocate the sign 5' to 7' of westerly footprint. Mr. Reinhard stated that that would be possibility.

Commissioner Donley asked a question of staff regarding the additional signs at the site. Kurt Schmitt stated that the site is regulated by the new sign code which implements visibility and wayfinding. There is additional wall signage regulated by elevation of each wall and Wendy's maximized their allocation. There is no one sign as the main sign as all have to work together. All four elevations have signage and there are three directional sign along with the drive through signs. There is an existing pole sign plus this variance request.

Commissioner McDonald asked Mr. Reinhard that she understood that Wendy's was going to leave the sign as is because if they took it down it would not be allowed under the new sign code. Mr. Reinhard stated that yes that was the case.

Commissioner Walkowski asked which businesses were located on the current pole sign. Mr. Reinhard stated that Wendy's, Village Inn and Captain D's was on the sign originally. The pole sign has to be for multiple uses as it is a district sign. When Wendy's purchased the Village Inn building, it became an off premise sign. The majority of the other businesses in this area are on the pole sign but were still able to have a low profile sign.

CITIZENS IN FAVOR OF APPEAL

None

CITIZENS IN OPPOSITION OF APPEAL

None

QUESTIONS OF STAFF

Commissioner Henninger stated that there is a free standing sign for Wendy's, one for Amanda's Fonda, Del Taco and Chick-Fil-A. If we correct the wrong with a right, a free standing sign would be smaller than the others. Kurt Schmitt stated that the current sign code is not written to allow them a free standing sign.

Commissioner Markewich asked that with the current sign code does it allow for triple frontage and do they have the ability to combine the frontages or pick one vs. the other. Mr. Schmitt stated that they normally pick one frontage that is the longest. A coordinated sign plan could be possible which is normally intended for commercial shopping centers and multiple users however it would add frontages together for the sign allocation.

Commissioner Shonkwiler asked for verification on the size of the previous sign. Kurt Schmitt stated that the height of the sign was 6'. Commissioner Shonkwiler stated that if the proposed sign is half the height of the previous sign at this location and if the variance is granted, placing the sign at the westerly portion of 19' width would improve visibility at the intersection. Mr. Schmitt stated that the actual sign location would be approved during the sign permit review if the variance is approved. Commissioner Shonkwiler asked for verification of the sign measurements and if variance approved, is there a say on the location. Kurt Schmitt stated that if the second sign is approved the location would be based on Traffic and Utility locations. Ryan Tefertiller verified that Figure 1 in the Agenda identifies an area which is general for Traffic and Utilities to find the best location. If the variance is approved, the Commission should direct staff to push the sign away from the intersection during the sign permit review. Commissioner Markewich asked if this would need to be a condition of record. Mr. Tefertiller stated no just that a location would have to meet the Planning Commission's decision as well as Traffic and Utilities.

Commissioner Smith made the comment that it appeared that what happened was the business made a mistake but was having a hard time that an innocent mistake should be corrected without a problem.

REBUTTAL:

Les Gruen stated that without the replacement of sign that it would hurt business at this Wendy's location and they can work out a compromise on the specific location if necessary.

DECISION OF THE PLANNING COMMISSION

Commissioner Shonkwiler stated that he had enough information to make a decision. The sign should be 6' in height and 5' in width and in the most auspicious location for traffic safety and shown on the site plan. The variance is correcting an unfortunate error.

Commissioner Markewich stated that Mr. Schmitt stated the City Code correctly and the variance criteria correctly. The contractor removed the sign and the granting of the variance would be a 'do-over'. Whether the sign is 7' in height or 6' in height is immaterial.

Commissioner Henninger asked the question that if the variance were approved and that allowed them to replace the sign whether the grandfathered sign would still remain.

Commissioner Donley stated that he was of the opinion that the current sign code is too liberal and there are too many signs already and there should be less allowed rather than more.

Commissioner Gibson made the comment that this was an unfortunate mistake and would give the property owner the benefit of the doubt.

Moved by Commissioner Shonkwiler and seconded by Commissioner Smith to approve **CPC NV 15-00049**, a non-use variance based upon the finding that the variance complies with the City Code criteria provided that the sign is no taller than 6' in height and 5' in width and within the sign location as indicated in Figure 1 in the Planning Commission Agenda. Motion carried 8-1.

July 16, 2015

Date of Decision



Planning Commission Chair

Meeting adjourned at 2:54 pm