

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

**THURSDAY, NOVEMBER 20, 2014**

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

**CHAIRMAN SHONKWILER CALLED THE MEETING TO ORDER AT 8:30 A.M.  
THE MEETING ADJOURNED AT 2:50 P.M.**

**PRESENT:**

Donley  
Henninger  
Markewich  
McDonald  
Phillips  
Shonkwiler  
Smith

**ABSENT:**

Walkowski

**ALSO IN ATTENDANCE:**

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

**COMMUNICATIONS**

None

**RECORD OF DECISION**

Moved by Commissioner Markewich, seconded by Commissioner Phillips, to approve the September 18, 2014 Record of Decision. Motion carried 7-0 (Commissioner Walkowski recused).

Moved by Commissioner Markewich, seconded by Commissioner Henninger, to approve the October 16, 2014 Record of Decision. Motion carried 7-0 (Commissioner Walkowski recused).

**COMMUNICATIONS**

Mr. Wysocki announced that City Council held interviews to fill Commissioner Ham's seat and will appoint a new member soon.

Commissioner Walkowski is recused from Items 5.A-5.C and excused from the rest of the meeting.

**CITY OF COLORADO SPRINGS PLANNING COMMISSION**

**RECORD-OF-DECISION**

**CONSENT CALENDAR**

ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<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>	
<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>	
<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>	

**CITY OF COLORADO SPRINGS PLANNING COMMISSION  
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**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>	

**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>	

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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>	

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**CONSENT CALENDAR**

**DATE:** November 20, 2014  
**ITEM:** A.1, A.2  
**STAFF:** Lonna Thelen  
**FILE NO.:** CPC ZC 14-00098, CPC DP 14-00099  
**PROJECT:** Tudor Land Company

**DECISION OF THE PLANNING COMMISSION**

Moved by Commissioner Henninger, seconded by Commissioner Smith, to approve **Item A.1-File No. CPC ZC 14-00098**, the zone change for Tudor Land Company from A/SS/HS (Agricultural 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. Motion carried 7-0 (Commissioner Walkowski excused).

Moved by Commissioner Henninger, seconded by Commissioner Smith, to approve **Item A.2-File No. CPC DP 14-00099**, 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:

Phase	Zone	Improvements
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).

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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.

Motion carried 7-0 (Commissioner Walkowski excused).

November 20, 2014  
Date of Decision

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Planning Commission Chair

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**CITY OF COLORADO SPRINGS PLANNING COMMISSION  
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**CONSENT CALENDAR**

**DATE:** November 20, 2014  
**ITEM:** B  
**STAFF:** Larry Larsen  
**FILE NO.:** CPC ZC 14-00079  
**PROJECT:** PK Zoning for Neighborhood Park at Forest Meadows

**DECISION OF THE PLANNING COMMISSION**

Moved by Commissioner Henninger, seconded by Commissioner Smith, to approve **Item B-File No. CPC ZC 14-00079**, 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. Motion carried 7-0 (Commissioner Walkowski excused).

November 20, 2014  
Date of Decision

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Planning Commission Chair

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**CONSENT CALENDAR**

**DATE:** November 20, 2014  
**ITEM:** C  
**STAFF:** Mike Schultz  
**FILE NO.:** CPC CU 14-00112  
**PROJECT:** Westside Assisted Living

**DECISION OF THE PLANNING COMMISSION**

Moved by Commissioner Henninger, seconded by Commissioner Smith, to approve **Item C-File No. CPC CU 14-00112**, 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.

Motion carried 7-0 (Commissioner Walkowski excused).

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November 20, 2014  
Date of Decision

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Planning Commission Chair

# CITY OF COLORADO SPRINGS PLANNING COMMISSION

## RECORD-OF-DECISION

### UNFINISHED BUSINESS CALENDAR

**DATE:** November 20, 2014  
**ITEM:** 4.A-4.C  
**STAFF:** Lonna Thelen  
**FILE NO.:** CPC ZC 14-00076, AR CP 11-00482-A1MJ14, CPC DP 14-00077  
**PROJECT:** Popeye's Restaurant

Commissioner Shonkwiler invoked a 10-minute presentation limit.  
Mr. Smith advised the Planning Commission that today's testimony should only be considered.

#### **STAFF PRESENTATION**

Ms. Lonna Thelen, City Senior Planner, presented PowerPoint slides (Exhibit A).

#### **APPLICANT PRESENTATION**

Ms. Andrea Barlow, NES Inc., presented PowerPoint slides (Exhibit B). Access will be secured for the remaining R-5 zoned plat to the south.

#### **CITIZENS IN FAVOR**

Mr. Mike Berger, partner in ownership, related the history of how his family developed the surrounding residential community and the planned commercial uses as transition uses. The intent is to develop for the benefit of the community.

Commissioner Phillips inquired of adding a fence to buffer and secure the site from the nearby daycare center. Mr. Berger stated the daycare has not expressed any concern about this development.

#### **CITIZENS IN OPPOSITION**

1. Ms. Mary Kurth, nearby neighbor, presented PowerPoint slides (Exhibit C).
2. Mr. Robert Kalkowski felt the access would make a dangerous traffic situation. He referenced his cooperation with another fast food restaurant that could easily flip the building orientation to accommodate the neighborhood.
3. Mr. Michael Olson stated vehicles turning southbound onto Rio Vista are difficult to see and expressed the difficult line of sight issues turning with oncoming vehicles at high speeds. He requested better access to the restaurant.
4. Ms. Shirley Robbins continued the slides (Exhibit C) and stated before purchasing her home she researched the criminal activity.
5. Mr. David Vandeburg expressed his concern for his own safety when traveling on Rio Vista with high speeds. He stated the average speed along Rio Vista is 40-50 miles per hour.
6. Mr. Martin Longoria was concerned about children's safety crossing the street near the daycare, along with property values negatively affected.

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7. Ms. Nicole Lumsden stated she needs to leave her home earlier to account for the traffic and u-turns from drivers arriving and exiting the Kum and Go. She also avoids other fast food restaurants that are configured similarly as this site.

### APPLICANT REBUTTAL

Ms. Andrea Barlow stated notifications were sent to the property owners and their address filed with the Assessor's Office. The daycare has no concerns, despite neighbor concerns. The southern site is a viable development. The detention pond is doing its job of seeping into the site and held the water for a few days before releasing water. Trash collection is three times a week and when the neighbor returned the trash issues were resolved because trash was collected. There was no special attention to clean up the Austin Bluffs site. Criminal activity is not a part of land use criteria. By switching the building orientation, and placing the ordering point to face Powers Boulevard would not allow orders to be heard easily. The current orientation is to attract customers. The City Traffic Engineer and Planning staff have recommended approval and did not require a traffic impact assessment.

### STAFF REQUESTED TO SPEAK

Commissioner Smith inquired of school bus and traffic calming issues discussed by the neighbors. Ms. Kathleen Krager, City Transportation Manager, stated this proposal is consistent with the master plan, and traffic was previously reviewed for this type of use. She ordered traffic volume counts, and found counts were consistent with a collector street designation, the development, and amount of the residential development. She will review the speed limits for the entire length of Rio Vista to determine whether she should submit the street for the neighborhood calming program. The school district nor has any private school approached the City complaining about traffic or this street.

### DECISION OF THE PLANNING COMMISSION

Commissioner Henninger thanked the neighbors who attended both hearings and spoke twice. He appreciated the applicant raising the height of the fence. He was concerned that this is the only residential neighborhood that abuts Powers Boulevard without any sound wall, and this commercial site may negatively impact the neighborhood with more traffic and noise. Yet, the commercially-zoned site and corner suits this proposal.

Commissioner Donley stated existing multifamily zoning would help transition to the residential neighborhood. He felt a less intensive use would've been better. He would oppose the rezone request because he did not believe it complied with the Comprehensive Plan's objectives.

Commissioner Phillips found the current and potential traffic was not adequately addressed. He opposed the applications.

Commissioner Shonkwiler stated his concerns about building orientation were not adequately addressed on the development plan, especially the ordering speaker and pickup window locations. He opposed the zone change and found it did not meet the review criteria, especially compatibility with the neighborhood.

Moved by Commissioner Henninger to approve **Item No. 4.A-File No. CPC ZC 14-00076**. Motion failed for lack of a second.



**CITY OF COLORADO SPRINGS PLANNING COMMISSION  
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**NEW BUSINESS CALENDAR**

**DATE:** November 20, 2014  
**ITEM:** 5.A-5.C  
**STAFF:** Meggan Herington  
**FILE NO.:** CPC A 13-00112, CPC PUZ 14-00063, CPC PUP 14-00064  
**PROJECT:** Dusty Hills Addition

**STAFF PRESENTATION**

Ms. Meggan Herington, City Principal Planner, presented PowerPoint slides (Exhibit A).

Mr. Brett Lacey, City Fire Marshal, stated it is critically important to provide more than one way out for hillside developments. After review of the mid-1990s conversations during the previous development review, the Fire Dept. is supporting through access instead of a cul-de-sac desired by the surrounding neighbors.

Commissioner Donley inquired of train track risks. Mr. Lacey mentioned there is always the risk of crude oil and other combustible materials that could potentially be transported along the rails. Commissioner Donley stated his greatest concern is a gas plume. Mr. Lacey stated this residential area is not that far remote, but egress and ingress is of importance.

**APPLICANT PRESENTATION**

Mr. Dave Gorman, Monument Valley Engineers, stated two of the property owners are present to answer questions. The West family purchased the property in 1962 and wish to join the city that has grown around them. The railroad is in a 100-foot right-of-way with a 50-foot tract of land between residential lots as well as a buffering noise wall. The property owners wish to continue the style of homes to the north of this site. The West family are not developers and would desire a developer install the roads and infrastructure. He requested approval of the applications.

**CITIZENS IN FAVOR**

None

**CITIZENS IN OPPOSITION**

1. Mr. Bob Garner addressed density and stated he was not opposed to the annexation or zoning. He displayed a copy of the revised plan whereby the developer proposed a cul-de-sac design that the neighbors supported. Until 10 days ago, the City Fire Dept. supported this design, and then changed their recommendation (Exhibit B also contains other neighborhood letters).
2. Ms. Candace Seaton had to change her response quickly based upon the Fire Dept.'s change in recommendation. She read into the record the email from Jane Slenkovich. She requested postponement of any decision for a solution to make all happy.

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3. Mr. Gordon Mohrman stated Woodmen Court has been planned to connect since the start of the Woodmen Oaks development and they expect that connection.
4. Mr. Frank Tuck stated the lots should be of similar size to adjoining developments.
5. Mr. James Singleton concurred with Mr. Garner's comments.
6. Ms. Sheila Parkin stated there are only two accesses into the subdivision and felt another access should be provided from Woodmen Road, possibly from Chapel Lane. Connecting Woodmen Court was not discussed or planned when the Woodmen Oaks development was planned.
7. Mr. Mike Thomas felt that the neighbors' comments were listened to until 10 days ago when the Fire Dept. changed their recommendation. He requested postponement for the developer and neighbors to continue their dialogue.
8. Mr. Mel Downs agreed with the previous comments. He was concerned that his grandchildren won't be able to play or ride bicycles in the street due to increased traffic. He supported the cul-de-sac design prior to Fire Dept.'s change of recommendation.
9. Ms. Cathy van Diemen was concerned with children's safety and requested postponement.

### **STAFF REQUESTED TO SPEAK**

Commissioner Smith inquired of Fire Dept.'s change of recommendation. Mr. Lacey explained until approximately 10 days ago a neighbor in Woodmen Oaks questioned if the mid-1990s promise of road connection would be honored. Fire Dept. staff recently found that documentation, and that is the reason the Fire Dept. is honoring that promise with their changed recommendation.

Commissioner Shonkwiler requested traffic volumes clarified. Ms. Kathleen Krager, City Transportation Planning, stated average daily traffic to use Woodmen Court Drive is estimated at 800 (400 going north and 400 going south) with approximately 400 from the existing neighborhood from the north, 200 from existing neighborhood, 200 from new Dusty Hills neighborhood. That could be verified by the applicant's traffic engineer's study. A local street should have no more than 1,000 vehicles per day. This is still within local street standards.

### **APPLICANT REBUTTAL**

Mr. Gorman stated a road connection to Chapel Lane was mentioned. It's not physically or financially feasible to get through the 26-foot high open space to the east, and the church has not consented to access through their site due to their parking needs. He requested approval of the plan that the City Fire Dept. is recommending.

Mr. Chris McGranaham, with LSC, clarified the traffic study estimated the count at 200 vehicles for existing neighborhood and 290-300 for the new site with a total of up to 720 trips per day.

Mr. Robert West, owner of the five-acre tract at Woodmen Court, stated the plat map was presented as part of the initial development showing Woodmen Court as a through street. His family are not the developers. There are two diametrically opposed neighborhoods with different concerns. He felt the proposed plan meets all requirements.

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### DECISION OF THE PLANNING COMMISSION

Commissioner Donley was concerned about the process and would've preferred this project delayed for the community benefit to further discuss the road connection. He stated the road connection would provide for better evacuation and safety. The looped road increases the sense of community within the various neighborhoods. The lot size is consistent with the neighborhood as a whole.

Commissioner Henninger found the neighborhood is filled with cul-de-sacs and preferred the road connection. He supported the applications.

Commissioner Smith agreed with Commissioner Donley's comments with road connections joining all subdivisions. He felt the sound wall will not accomplish noise reduction due to its lower elevation location. Traffic calming devices would be effective in this area. He supported the applications.

Commissioner Phillips agreed with the need for connectivity. He also would've preferred that this project be postponed to further discuss the plan change.

Commissioner Markewich found these applications comply with the review criteria. He supports the road connection as it will provide better ingress and egress to the whole neighborhood, especially in the case of an emergency situation. Without the connection, he would be much less likely to approve the applications.

Commissioner McDonald found that there was not a bait-and-switch by the Fire Dept. The road stubs show that a road connection was meant to be constructed at a later date. She sympathized with the neighbors who may not have been aware of this planned connection. She was in support of the applications.

Commissioner Shonkwiler supported the applications.

Moved by Commissioner Markewich, seconded by Commissioner Smith, to approve **Item No. 5.A-File No. CPC A 13-00112**, 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:

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

Motion passed 7-0 (Commissioner Walkowski recused).

Moved by Commissioner Markewich, seconded by Commissioner Smith, to approve **Item No. 5.B-File No. CPC PUZ 14-00063**, 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. Motion passed 7-0 (Commissioner Walkowski recused).

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Moved by Commissioner Markewich, seconded by Commissioner Smith, to approve **Item No. 5.C-File No. CPC PUP 14-00064**, the Dusty Hills PUD Concept Plan, 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 conditions:

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.

Motion passed 7-0 (Commissioner Walkowski recused).

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November 20, 2014

Date of Decision

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Planning Commission Chair

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**NEW BUSINESS CALENDAR**

**DATE:** November 20, 2014  
**ITEM:** 6.A-6.C  
**STAFF:** Larry Larsen  
**FILE NO.:** CPC MP 02-00254-A3MJ14, CPC ZC 14-00080, CPC CP 14-00081  
**PROJECT:** Powerwood No. 2 North

**STAFF PRESENTATION**

Mr. Larry Larsen, City Senior Planner presented PowerPoint slides (Exhibit A) and offered his recommendation for approval of the project.

Mr. Steve Kuehster, City Engineering, reviewed the drainage report for this site at a concept plan level based upon the current criteria, which is a 2002 Council-approved drainage basin study. He explained that a detailed final drainage plan will be provided and reviewed at the time of development plan and subdivision plat submittal.

**APPLICANT PRESENTATION**

Ms. Andrea Barlow, NES Inc., presented PowerPoint slides (Exhibit B).

Commissioner Henninger now excused.

**CITIZENS IN FAVOR**

None.

**CITIZENS IN OPPOSITION**

Mr. Ross Clinger said he did not oppose the project, but asked the Commission to approve it subject to conditions. He felt conditions should be imposed related to previous commitments for sidewalk, trail and road connections, and that drainage issues and concerns being fixed, which he stated did not occur because the project was never approved. He displayed a restricted deed that was to be recorded but claimed it was never signed. He said the deed was imposed by the State Health Department as a condition of a state required cleanup plan for an abandoned shooting range. (Exhibit C)

Mr. Larsen displayed a copy of the same 2009 letter from the State Public Health Department, explaining that the cleanup plan was implemented, that no further action was needed, and the proposed use of the property for residential use was acceptable.

Commissioner Donley suggested that prior to release of the development plan that an updated letter from State Public Health Department. should be received.

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### APPLICANT REBUTTAL

Ms. Barlow stated the applicant will comply with all City Engineering's requirements for stream bank and drainage. There is no requirement that the property remain vacant. She objected to the requirement for a revised State letter because nothing has occurred on the site since the 2009 letter was issued and the development may be "held for ransom" if a response is not received.

Commissioner Shonkwiler agreed.

### DECISION OF THE PLANNING COMMISSION

Commissioner Markewich found that all applications have merit and comply with the review criteria. He supported the applications.

Commissioners McDonald and Smith agreed with Commissioner Markewich's comments.

Commissioner Donley found the project complied with the Comprehensive Plan and review criteria.

Ms. Renee Congdon stated the Release of Deed Restriction provided by Mr. Clinger sites the 2009 letter and took into account the public County record.

Moved by Commissioner Donley, seconded by Commissioner Phillips, to approve **Item No. 6.A-File No. CC MP 02-00254-A3MJ14**, 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.

Motion carried 6-0 (Commissioners Henninger and Walkowski excused).

Moved by Commissioner Donley, seconded by Commissioner Phillips, to approve **Item No. 6.B-File No. CPC ZC 14-00080**, the rezone to 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. Motion carried 6-0 (Commissioners Henninger and Walkowski excused).

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Moved by Commissioner Donley, seconded by Commissioner Phillips, to approve **Item No. 6.C-File No. CPC CP 14-00081**, the Powerwood No. 2 North concept plan based upon the finding that the plan complies with the concept plan review criteria in City Code Section 7.5.501.E, subject to the following 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".
4. ~~Prior to development plan, staff will contact the State Health Dept. and verify the letter received in 2009 gave full consideration to deed restriction regarding the firing range and associated buried material. If the State Health Dept. is nonresponsive, staff is free to proceed with approval of a development plan.~~

Commissioner Markewich felt the additional language is appropriate to reach out to the State.

Commissioner Smith did not support the additional modification and felt it was not necessary. He felt the lack of time limit would freeze the staff.

Commissioner McDonald agreed a time limit is necessary, and doesn't hurt to double check with the State.

Commissioner Donley withdrew his additional modification, which was seconded by Commissioner Smith (see strikeout above).

Motion carried 6-0 (Commissioners Henninger and Walkowski excused).

November 20, 2014  
Date of Decision

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Planning Commission Chair