



**CITY OF MANITOU SPRINGS
PLANNING COMMISSION
REGULAR MEETING AGENDA
Wednesday, FEBRUARY 14, 2018, 6:00 pm**



I. CALL TO ORDER and APPROVAL OF AGENDA

A Regular meeting of the Manitou Springs Planning Commission was held in Council Chambers @ 606 Manitou Avenue. Chairman Delwiche called the meeting to order at 6:00 pm and declared a quorum present. The following Commission members attended:

PRESENT: Chair ALAN DELWICHE
Commissioner GLORIA LATIMER
Commissioner MIKE CASEY
Commissioner LORI BURRIS
Commissioner JULIE WOLFE (6:08 pm)
Alternate Commissioner TIP RAGAN
Alternate Commissioner WHITNEY LEWIS

ABSENT: Vice Chair JEANNE VROBEL (excused)
Commissioner JULIA SIMMONS (excused)

STAFF: Wade Burkholder, Planning Director
Dylan Becker, Planner I

GUESTS: Robert Todd, City Council Liaison

II. APPROVAL OF MINUTES

ITEM 1. January 10, 2017

MOTION:

Commissioner Ragan moved to approve the January 10, 2018 Regular Meeting Minutes of the Planning Commission as presented.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 5-0. Commissioner Burris and Commissioner Lewis abstained as they were not present for the January 10, 2018 Regular Meeting of the Planning Commission.

III. NOTICE OF COUNCIL ACTION

ITEM 2. RE 1734 – 1753 – Rezone (Hillside Low Density Residential/Low Density Residential/General Residential/Commercial to Open Space) – City of Manitou Springs, Applicant. This item is scheduled for First Reading by City Council on February 20, 2018.

At this time, Chairman Delwiche reviewed the meeting procedures for those present in the audience and asked if any Commissioner had Ex Parte Contacts or Conflicts of Interest to declare.

Commissioner Casey announced he had a Conflict of Interest to declare regarding Item 6. MJR 1702, Item 7. V 1705, and Item 8. V 1706 at 115 Beckers Lane with Eddie Bishop, Applicant, as he was currently representing a buyer who was interested in purchasing one of the proposed units. Commissioner Casey stated he would be leaving the meeting when the items were called on the agenda and would not be returning to continue the meeting.

Commissioner Lewis announced she had a Conflict of Interest to declare regarding Item 5. SW 1703 at 0 Manitou Terrace with Bill Korner, Applicant, as the real estate company she works for is the listing agent for the property. Wade Burkholder, Planning Director, stated this would not be an issue because the item was requesting postponement.

Hearing of no further Ex Parte Contacts or Conflicts of Interest to declare, the meeting continued.

IV. UNFINISHED BUSINESS

ITEM 3. V 1703 – Variance (Parking) – 722 Manitou Avenue – Faruk Sahin, Applicant

ITEM 4. V 1704 - Variance (Lot Density) – 722 Manitou Avenue – Faruk Sahin, Applicant

Wade Burkholder, Planning Director, presented the Staff Report dated February 13, 2018. Mr. Burkholder stated Staff had received a written concern on the day of the meeting from the neighbor, Hakan Batan, at 718 - 720 Manitou Avenue and handed out a printed copy of the letter to each Commissioner at the dais for review.

Commissioner Latimer inquired if there was coordination between the Metro Parking Board and the Wichita Lot when a Parking Variance was requested as to whether there were enough available spaces. Mr. Burkholder responded he did not believe there was a set amount, as the matter was based on need. Commissioner Latimer inquired if either entity had ever denied such a request. Mr. Burkholder responded, to his knowledge, they had not, but in terms of future coordination involving construction, the primary staging location was the Wichita Parking Lot and there would need to be good communication between parties. Mr. Burkholder stated the Applicant had been in contact with the Metro Parking Board on several occasions to discuss options.

Commissioner Wolfe stated she had thought the Wichita Lot sold as many parking tickets as anyone wanted, but there was always the risk of the lot being full upon arrival. Mr. Burkholder responded Commissioner Wolfe was correct as there were no officially assigned parking spots.

Hearing no further questions for Staff, Chairman Delwiche invited the Applicant to the podium.

Todd Liming of Planning Matters, 438 N. Prospect Street, Colorado Springs, stated he agreed with the Staff Report and recommendations and, since the approval from the Historic Preservation Commission, he had put in a lot of work to minimize both the Parking Variance and the Lot Density Variance as much as possible. Mr. Liming stated since the Concept Plan was heard by the Planning Commission last year, the second floor café concept had been scrapped in favor of more residential housing which would be beneficial, not only for affordable housing, but for reducing the parking requirements. Mr. Liming stated the second

floor plan options were to construct one (1) two-bedroom apartment with balconies or to construct two (2) studio apartments with balconies, of which the latter was preferred.

Mr. Liming stated, as far as the Density Variance, the single apartment option was considered a use by right regardless of the lot size but either of the proposed scenarios would require a Lot Density Variance, as noted in the Staff Report.

Mr. Liming stated the first floor commercial space was intended for use as a café with a small outdoor seating area.

Mr. Liming stated, in response to the letter of concern written by Mr. Batan, the issues brought up would need to be taken to heart and there would likely be further requests, such as a Minor Subdivision request, to follow should the Variance requests be approved. Mr. Burkholder stated the Applicant had intentions for seeking further approvals from the Commission in the near future, but for financial reasons, wanted to wait to put in further applications until the outcomes of the Variance requests were known before moving forward. Mr. Liming stated he had spoken to Mr. Batan and it was decided he would provide Mr. Batan with the name and contact information of the construction manager, as well as, the architect and designer for the project.

Hearing no further questions for, or comment from, the Applicant, Chairman Delwiche opened the Public Hearing for public comment. Hearing none, Chairman Delwiche closed the Public Hearing.

Commissioner Ragan stated when he had initially read the request, he was greatly excited and still was. Commissioner Ragan stated he had been waiting for a proposal such as this for the property and he had brought this property up in discussions regarding Plan Manitou in the past. Commissioner Ragan commented he would be delighted to see this project come to fruition and felt it would enhance the historic appearance and character of the Downtown Zone.

Commissioner Ragan stated he would like the record to show he felt Mr. Liming had always been helpful and willing to work with the Planning Commission and was thankful for his current and past dealings with the Commission.

Commissioner Ragan stated in the past, for parking variances in the Downtown Zone, the Commission had imposed conditions which stated should the City ever move toward a fee in lieu arrangement in which funds would be allocated towards building a new parking structure and inquired if this was still a possibility regarding this request. Mr. Burkholder responded Commissioner Ragan was correct there had been conditions imposed by the Commission in the past stating this and there was actually a draft ordinance regarding the fee in lieu arrangement which had not made it out of legal as of this point in time. Mr. Burkholder stated there were some concerns about the ordinance and work needed to be done on the language. Mr. Burkholder further stated he had no opposition should Commission decide to impose a similar condition as part of the approval for this request.

MOTION:

Commissioner Ragan moved to approve V 1703 and V 1704 to allow a lot density of up to 114 units per acre and provision of no on-site parking with the following conditions:

1. Residential Parking Permits: The property owner shall purchase and provide one parking permit per studio apartment and two parking permits per two-bedroom apartment in the Wichita Parking Lot.

2. Commercial Parking Permits: The property owner shall purchase and provide a minimum of three parking permits in the Wichita Parking Lot for the use of staff involved with the ground floor restaurant operation. Any additional employees over the three this condition provides for, who drive to/from work shall be provided additional parking passes as necessary to ensure that employee parking is accounted for. Provisions may be made with the City's Parking Office for the shared use of permits by employees working different shifts.
3. Following the approval, at any time in the future, should the City pass an ordinance pertaining to a fee in lieu arrangement regarding parking, the Parking Variance shall be converted to the fee in lieu arrangement.

And adopted the following findings:

1. That the representations in the application are valid and the applications have met the criteria established in Section 18.32.010* of the Zoning Code;
2. That the reasons set forth in the applications justify the granting of the variances and the variances are the minimum that will make possible the reasonable use of the land;
3. That the granting of the variances will be in harmony with the general purpose and intent of Plan Manitou and the Zoning regulations and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.

SECOND:

Commissioner Wolfe seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 7-0.

ITEM 5. SW 1703 – Subdivision Waiver (Encroachment into No Build Area) – 0 Manitou Terrace – Bill Koerner, Applicant

Wade Burkholder, Planning Director, stated the Applicant was requesting postponement until the next Regular Meeting of the Planning Commission on March 14, 2018.

MOTION:

Commissioner Latimer moved to postpone SW 1703 until the next Regular Meeting of the Planning Commission on March 14, 2018.

SECOND:

Commissioner Ragan seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 7-0.

At this time, 6:29 pm, Commissioner Casey excused himself from the meeting due to a perceived Conflict of Interest regarding MJR 1702, V 1705, and V 1706.

V. NEW BUSINESS

ITEM 6. MJR 1702 – Major Development (Townhouse Units) – 115 Beckers Lane – Ryan Lloyd, Echo Architecture, on behalf of Eddie Bishop, Applicant

Wade Burkholder, Planning Director, presented the Staff Report dated February 9, 2018.

Commissioner Ragan inquired if the sole improvement to be guaranteed was the installation of sidewalks. Mr. Burkholder responded Commissioner Ragan was correct.

Commissioner Wolfe inquired what the ordinances stated in regard to when the City or Commission was permitted to waive the parks, trails, open space, and schools fees associated with Major Developments. Mr. Burkholder responded the requirement for these fees came into play when a property was being platted or replatted and, in this case, the lot was already platted which meant it did not trigger the imposition of the fees.

ITEM 7. V 1705 – Variance (Front Setback) – 115 Beckers Lane – Ryan Lloyd, Echo Architecture, on behalf of Eddie Bishop, Applicant

ITEM 8. V 1706 – Variance (Height) – 115 Beckers Lane – Ryan Lloyd, Echo Architecture, on behalf of Eddie Bishop, Applicant

Wade Burkholder, Planning Director, presented the Staff Report dated February 9, 2018.

Chairman Delwiche stated, from what he understood, the minimum height without adjusting for the varying parapet heights, was thirty-three feet (33 ft.). Commissioner Wolfe commented the legal height limit per the Code was thirty feet (30 ft.), but without the additions of the staggered parapets, the minimum height of the proposed building was thirty-three feet (33 ft.) at its lowest point. Mr. Burkholder responded this was an accurate assessment.

Hearing no further questions for Staff, Chairman Delwiche invited the Applicant to the podium.

Ryan Koeniger of Echo Architecture, 2803 Ute Drive, Colorado Springs, stated he was appearing before the Commission on behalf of Eddie Bishop and Echo Architecture and thanked Staff for presenting a thorough report.

Mr. Koeniger stated, in regard to the required twenty-four by thirty-six inch (24 in. x 36 in.) site plan, Dylan Becker, Planner I, had informed them he would print the electronic version they had submitted to the Planning Department in the required size for the file. Mr. Koeniger also stated the site plan note referring to Cheyenne Boulevard had been removed for better clarification.

Mr. Koeniger stated, in regard to the drainage easement, his team was unable to find an existing easement on the south side of the property along Via San Miguel despite its mention several times in the Staff Report. Mr. Koeniger stated the only easement which they were aware of, ran along the west side of the property, however, if Staff had any documentation showing the easement, they would revise and modify the plans to

account for it. Mr. Koeniger stated under the current plan, there was a portion of a driveway and some landscaping which occupied a portion of the easement in question.

Mr. Koeniger also stated there were several trees which were intended to be planted in the drainage easement along the west side of the property to be used as a screen to block neighbors' view of the back of the development, but they were willing to move the trees' locations further up onto the property and out of the easement should the Commission prefer so.

Mr. Burkholder responded the drainage easement Staff was referring to was located on the south side of the property and pointed to a red dotted line on the site plan in which a drainage easement was labelled. Mr. Koeniger stated the red lines Mr. Burkholder was referring to were actually representative of the required setbacks, not of a drainage easement, and the label just happened to be in a confusing location. Mr. Koeniger also pointed out the drainage easement along the west side of the property which was depicted by dark gray dashed lines in order to provide better clarification.

Mr. Koeniger stated his understanding of the Staff Report was there could be no landscaping within an existing drainage easement and they were willing to move the trees and any other landscaping further up onto the property. Mr. Koeniger commented the driveway, which was thought to encroach into the mistaken drainage easement at the south side of the property, only encroached into the front yard setback which was permitted under the code. Mr. Burkholder confirmed this to be true, so long as the section denoted by the red dashed lines on the site plan were not depicting a drainage easement and just the setbacks. Mr. Burkholder commented if this is the case the conditions referring to it would be omitted as well. Mr. Koeniger confirmed the red dashed lines on the site plan only depicted the required setbacks and not a drainage easement.

Mr. Koeniger stated at the time of writing the narrative, the idea was to construct the buildings in a phased approach, however, at this point, the developer has expressed his intention to construct both buildings at the same time in order to avoid permitting and approval complications.

Mr. Koeniger stated, in regard to the Front Setback Variance, his team would rather see eight (8) units on the property and, as a means of eliminating the need for the Variance, were amenable to rescinding the request in favor of amending the design of Building 1, Unit 4 to reduce its square footage to meet the current setback requirements. Mr. Koeniger stated this was preferable to having only seven (7) units and felt the eight (8) unit design was beneficial to the City's housing needs. Mr. Burkholder stated if the Applicant wanted to rescind the request for a Front Setback Variance, they were welcome to do so.

Commissioner Ragan inquired if the front setback variance was rescinded, whether the Commission still needed to vote on or discuss the request. Chairman Delwiche responded, should the Applicant choose to rescind the Front Setback Variance request, the Commission would not discuss it any further and neither would they hold a vote regarding the request.

Mr. Koeniger stated, in regard to the Height Variance, if Echo Architecture designed the units to have a nine foot (9 ft.) ceiling, the minimum roof height they could achieve was thirty-one feet (31 ft.), and after a discussion with the developer and design team, it was decided they would like to come down to a more amicable height. Mr. Koeniger commented they would like to reduce the height from the thirty-six foot, two inch (36 ft. 2 in.) maximum height, as was requested, but would still need to be more than more than thirty-feet (30 ft.) without smashing the living area inside. Mr. Koeniger stated, since the parapets were varying in heights within the range of three feet (3 ft.), the design team felt it was feasible to come down to

thirty-four feet (34 ft.) which would not only bring the roof line down a bit, but allow for a comfortable and aesthetically pleasing space on the interior.

Mr. Koeniger stated the neighbors across the street, who had attended the neighborhood meeting, lived approximately one-hundred feet (100 ft.) from the proposed development and it was concluded that, from their vantage point, it was actually very difficult to determine a difference in heights of a few feet. Mr. Koeniger stated since Staff had recommended denial of the Height Variance, as presented, he would like to discuss altering the height requested to something more amenable to the Commission.

Mr. Burkholder inquired if the HVAC system and equipment was intended to be located on the roof. Mr. Koeniger responded they would be set back toward the center of the roof and would only be visible from above or very far away, but not from the street.

Commissioner Wolfe inquired if the Applicant could elaborate on what could be done to reduce the roof height. Mr. Koeniger responded they were trying to construct the units with a nine foot (9 ft.) ceiling because when you had a unit which was only twenty-one feet (21 ft.) wide by forty-one feet (41 ft.) deep, a ceiling height of eight feet (8 ft.) would feel too compact and the units would be much less desirable. Mr. Koeniger commented the current industry standard was to construct a nine foot (9 ft.) ceiling and wanted to stay in the market standard.

Chairman Delwiche inquired if the nine foot (9 ft.) ceiling was intended for all three (3) levels. Mr. Koeniger responded that was the intention, but it was open to discussion, and at this height, the overall minimum building height would be thirty-one feet (31 ft.). Chairman Delwiche inquired what the additional three feet (3 ft.) requested in the altered variance of thirty-four feet (34 ft.) was intended for. Mr. Koeniger responded the additional three feet (3 ft.) would be used for roof slope and drainage, as well as, for the parapets and façade elements.

Eddie Bishop, 1346 Margot Lane, Colorado Springs, stated he felt Mr. Koeniger had done a good job laying everything out, but they had not received the Staff's comments until the Monday prior to this meeting. Mr. Bishop stated he did not want to spend a lot of time arguing about things like the height or a setback, but wanted to construct something which worked for everyone. Mr. Bishop commented he did not feel it made much sense to compromise a solid project by reducing the number of units to seven (7), instead of eight (8), due to a four foot (4 ft.) setback.

Mr. Bishop stated, in regard to lot density, the lot size permitted 11.6 units to the acre and did not feel it was reasonable to ask them to reduce their unit count. Mr. Bishop stated he would like to construct the planned eight (8) units with a creative design and would prefer the staggered façade and parapets to bring aesthetic appeal to the neighborhood. Mr. Bishop commented he was requesting the Height Variance because he did not prefer the aesthetic of a flat or straight façade.

Commissioner Latimer inquired if the square footage of each of the units was around three-thousand five-hundred square feet (3,500 ft²). Mr. Bishop responded this was not correct and the units would be about one-thousand eight-hundred square feet (1,800 ft²). Commissioner Latimer inquired the square footage of the smallest unit. Mr. Bishop responded they would be removing around eighty square feet (80 ft²) from what was shown on the original plan and estimated the square footage to be around one-thousand seven-hundred and twenty square feet (1,720 ft²).

Hearing no further questions for, or comment from, the Applicant, Chairman Delwiche opened the Public Hearing for public comment.

Bill Kennedy, 18 Via Loma, stated the community had been trying to get rid of the Beckers Lane Lodge for seven and a half years (7.5 yrs.) and was in support of the two parking garages per unit because it would not cause any parking issues for the surrounding neighborhood. Mr. Kennedy stated he realized having the garages under the units was causing the height issue along with the façade elements but was in support of the project and the requested variances because it would look good and hide the HVAC equipment, as well as eliminate a potential parking issue. Mr. Kennedy stated the neighborhood group was in full support of the design and wanted to get the project going as soon as possible. Mr. Kennedy stated he would like the Commission to consider the development plan as presented so construction could begin without delay.

Randy Thorne, 117 Via San Miguel, stated, as an architect, he was familiar with height issues and code but also realized how height could make all of the difference in the world. Mr. Thorne stated it was his opinion the neighbors across the street would not be able to discern the varying parapet heights from their vantage point to any meaningful degree and encouraged the Commission to approve the plans, as presented, with the attractive design and façade elements. Mr. Thorne commented he felt the scale of the structure would fit nicely with the kind of neighborhood the surrounding community would like to see developed.

Pat Sitzman, 125 Beckers Lane, stated excited things were happening in the neighborhood and urged the Commissioners to approve the plans, as presented. Ms. Sitzman stated she did not foresee either of the Variance requests having a negative impact on the neighborhood.

Hearing no further comment from the public, Chairman Delwiche closed the Public Hearing.

Commissioner Ragan stated, as he had understood it, the variance request for the front yard setback had been withdrawn. Mr. Burkholder responded this was what had been stated.

Mr. Bishop stated he deeply appreciated the support of the neighborhood and felt the situation was unique in his experience. Mr. Bishop then inquired what question Commissioner Ragan was asking. Commissioner Ragan responded he was asking Mr. Burkholder the status of the Setback Variance, as his impression was the request had been withdrawn and he understood the neighbors wanted the project to be approved as originally requested but, in terms of process, the Commission was only able to vote on an item which was still standing. Mr. Burkholder stated his impression was the request had been withdrawn also.

Commissioner Burris inquired if Mr. Bishop wanted to formally withdraw the Front Setback Variance or keep the requests as originally presented. Mr. Bishop stated he would like to keep the full request, as is, with both Variances.

Mr. Koeniger stated the reason they had wanted to rescind the Setback Variance was because they only had about a day to respond to the Staff Report before the meeting and, in the interest of keeping the project moving forward, had thought it may be a reasonable response. Mr. Koeniger stated, after hearing the neighbors, he felt it was better to let the Commission debate and determine what was best for the community and, should the Commission deny the request, the team had the opportunity to redesign and come back before the Commission. Mr. Koeniger commented his main objective was moving the plan forward.

Mr. Burkholder stated since the item had already been discussed and there had not been a motion on the item, it was the Commissioners' discretion whether or not to allow it. Chairman Delwiche inquired if the Commission could restrict the setback variance to the one area where the encroachment would occur. Mr. Burkholder responded the Commission could do so.

Commissioner Wolfe stated this would allow the one (1) unit which encroached into the setback to be constructed at full size without the need for redesign or a loss of space. Commissioner Burris commented this would keep the whole eight (8) units intact. Mr. Burkholder responded he felt the request had merit, but per the code, he could not recommend approval because it had been demonstrated this could be achieved without the need for the Variances through design alternatives. Chairman Delwiche inquired, if the Commission were to deny the Setback Variance, if the Major Development would need to be redesigned and come back before the Commission or if the Commission could still approve the development with a condition regarding encroachment. Mr. Burkholder responded the Commission could deny the Setback Variance request and approve the Major Development Plan with a condition regarding encroachment into the front setback.

Commissioner Burris asked for clarification regarding the mistaken drainage easement along the south side of the property as she wanted to make sure the only drainage easement ran along the west side of the property. Mr. Burkholder responded this was correct.

Commissioner Ragan stated, in regard to the parks, open space, and schools fees being waived, felt when a major change, such as a development like this, occurred in the City, they should not be exempted from the fees in the future. Commissioner Ragan stated he also felt, for such a large project, the public improvement aspect was fairly modest, at best, and inquired if there would be any merit to discussing undergrounding the utilities for this project. Mr. Burkholder responded he felt it made more sense to consider this when looking at a larger area and not just one parcel.

Mr. Bishop stated there would not be individual utility lines to each individual unit, as the intent was to have a transformer on site with the utilities undergrounded from there to each unit.

Commissioner Ragan stated he would like to see this more under the Commission's purview as it would allow the City to gain more public improvements from development and construction projects.

Commissioner Wolfe stated she was concerned about setting a precedent should the Height Variance be approved and asked for discussion regarding the issue. Commissioner Wolfe stated she did not feel an eight-foot (8 ft.) ceiling would be an enjoyable living situation, but would like to see alternatives to help bring the height down. Mr. Burkholder stated each application was judged on its own merits and, in theory, the next application should not have a leg to stand on based on this one case. Commissioner Wolfe responded she still did not feel the developers had enough time to consider other alternatives.

Mr. Burkholder stated the Commission could table or defer the requests if they felt it was necessary.

Commissioner Ragan stated setbacks and heights worked in conjunction with one another and he felt uncomfortable approving both requests, especially when Staff had recommended denial of both. Commissioner Ragan stated he was also trying to weigh the issues brought forth in Plan Manitou regarding Height Variances and the concept that bringing a property which had blighted the neighborhood for over a decade back from years of neglect and disrepair was beneficial to the surrounding community and City as a whole. Commissioner Ragan stated he would be more amenable to the Height Variance being lowered to thirty-four feet (34 ft.) as he understood the public benefit of the project. Commissioner Wolfe commented she felt this was good for the record because, in the future, the Commission could look back and determine there was a specific set of circumstances which lead to the decision.

Chairman Delwiche commented he felt the situation was very specific to this property and the difference between granting the Variance requests and denying the Variance requests made a big difference in the size

of the space. Chairman Delwiche stated another thing to consider was the Creekwalk Townhomes, which was in a similar situation, was granted a Height Variance to stagger their roofline a bit and make it more aesthetically appealing. Chairman Delwiche stated he felt thirty-four feet (34 ft.) was a reasonable height for the proposed development.

Commissioner Ragan stated he would prefer to deny the Setback Variance and approve the Height Variance should this be the case, as opposed to denying both of the Variance requests. Commissioner Wolfe commented she would feel better about the approval of the Height Variance under these conditions as well as she was more comfortable being able to explain the specific reasons for reaching the decision. Chairman Delwiche stated he was not bothered by either the Setback Variance or the Height Variance. Commissioner Lewis commented she felt it was important to note the Setback Variance request was located near the corner of the property as opposed to a larger piece of the property.

Chairman Delwiche stated he would like to hear motions and votes on the Variance requests first, followed by the Major Development.

MOTION:

Commissioner Wolfe moved to deny V 1705 to allow a Front Setback Variance along Beckers Lane of four feet (4 ft.), from a required setback of fifteen feet (15 ft.), to eleven feet (11 ft.) from the property line at 115 Beckers Lane.

SECOND:

Commissioner Ragan seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion failed, 2-4. Chairman Delwiche, Commissioner Latimer, Commissioner Lewis, and Commissioner Burris voted in opposition of the motion.

MOTION:

Commissioner Latimer moved to approve V 1705 to allow a Front Setback Variance along Beckers Lane of four feet (4 ft.), from a required setback of fifteen feet (15 ft.), to eleven feet (11 ft.) from the property line at 115 Beckers Lane.

SECOND:

Commissioner Burris seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 4-2. Commissioner Ragan and Commissioner Wolfe voted in opposition to the motion.

MOTION:

Commissioner Latimer moved to approve V 1706 to allow a Height Variance of four feet (4 ft.), from a required height of thirty feet (30 ft.), to thirty-four feet (34 ft.) at 115 Beckers Lane.

SECOND:

Commissioner Wolfe seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

MOTION:

Commissioner Wolfe moved to forward a recommendation to City Council for approval of MJR 1702 with the following conditions:

1. Approval of Variance 1705 (Front Setback on Beckers Lane) and Variance 1706 (Building Height).
2. Issuance of a Floodplain Development Permit by the Regional Floodplain Administrator prior to building permit issuance.
3. Submittal and approval of a photometric plan in addition to fixture details prior to issuance of building permits from Manitou Springs.
4. Issuance of a Stormwater Management Plan by the City Stormwater Manager prior to issuance of a building permit.
5. Review and approval of the final construction drawings by RMG Engineers and City of Manitou Springs City Engineer prior to issuance of building permit.
6. Prior to issuance of a building permit, a letter of credit must be submitted and approved by Manitou Springs City Engineer, IMEG, and approved by City Council or its representative.
7. Certification of final building height shall be submitted prior to issuance of certificate of occupancy by Pikes Peak Regional Building Department.

With the adoption of the following findings:

1. That the representations in the application are valid but the application has not met the criteria established in Section 18.32.010* of the Zoning Code;
2. That the reasons set forth in the application and Staff's evaluation in regard to the setback does not justify the granting of the variances and the variances are not the minimum that will make possible the reasonable use of the land;
3. That the granting of the variances would be in harmony with the general purpose and intent of Plan Manitou but not Zoning regulations yet would not be injurious and detrimental to the adjacent property and to the public welfare.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

ITEM 9. RE 1754 – Rezone (Commercial to High Density Residential – Preliminary Hearing) – 110 El Paso Boulevard – Cristine Gritz, Applicant

Wade Burkholder, Planning Director, presented the Staff Report dated February 9, 2018.

Commissioner Latimer inquired if the lack of comment from the Fire Department meant it was a tacit approval or that they did not have time to review the request. Mr. Burkholder responded the Fire Department had reviewed the request and stated they had no comment regarding the matter.

Commissioner Latimer stated the fence appeared to be right along the curb and inquired if the moving of the fence would be at the owner's expense. Mr. Burkholder responded the Applicant was responsible for moving the fence and any fees accrued to do so.

Commissioner Latimer inquired what the gateway mixed use meant in terms of new rezonings. Mr. Burkholder responded this property would not be required to rezone if the classification was already designated or, in other words, the City would not require every property with this zone designation to rezone should a new zone designation be created. Mr. Burkholder further explained only if a new application came in after the zone designation had been changed, would they apply to be rezoned to the new designation.

Hearing no further questions for Staff, Chairman Delwiche invited the Applicant to the podium.

Cristine Gritz, 5017 Weaver Drive, Colorado Springs, stated she was most concerned about the fence situation because she had installed it for security purposes and was not aware when it was installed there was an issue. Ms. Gritz stated she was also not aware the fence was located on another property, as she had thought it was placed on her property and inquired what the problem was with the fence staying where it was. Chairman Delwiche stated this was an issue which should be brought up with the Planning Department.

Ms. Gritz stated she was a real estate agent and the original intent was to sell the property as a motel, but after hearing feedback from potential investors, she realized they were more interested in purchasing the property as an apartment complex which was the reason she was requesting the rezoning to a residential classification. Ms. Gritz commented she felt Manitou Springs was in dire need of more housing, especially apartments, as there were so few available which were affordable.

Hearing no further questions for, or comment from, the Applicant, Chairman Delwiche opened the Public Hearing for public comment.

Darlene Kennedy, 18 Via Loma, presented the Commissioners with a packet she had prepared regarding the request and stated she was present to discuss process as opposed to apartments. Ms. Kennedy commented she had looked through the property file on the property in question retained by the Planning Department and had filled out a Colorado Open Records Act Request to receive copies of the file.

Ms. Kennedy stated when a property was rezoned like this, from a hotel to an apartment, it was not only a zone change, but an occupancy change to the building which was important to consider because people

would actually be living there. Ms. Kennedy stated the building was effectively changing from an R-1 designation to an R-2 designation.

Ms. Kennedy stated on the Pre-Application Meeting Request Form submitted by the Applicant to the Planning Department, it appeared none of the items listed on the back page had been submitted to the Planning Department and there was nothing regarding parking, landscaping, lot coverage, traffic impacts, drainage issues, and the other items listed on the form which could be found in the property file held by the Planning Department which could address these concerns for the neighborhood.

Ms. Kennedy stated, as per an email from Michelle Anthony obtained in the CORA request, the Applicant was also told she could print out a zoning map online.

Ms. Kennedy stated the Development Review Application stated an incomplete application, for which completion in a short period of time was unlikely, would be removed from the agenda and felt this request should be removed based on the incompleteness of the application. Ms. Kennedy stated the Development Review Application also stated Public Notice must be submitted to the local paper for publication a minimum of ten (10) days prior to the proposed meeting date and she was not aware of anything having been published in the newspaper. Chairman Delwiche stated he had seen the notice for this request posted in the Pikes Peak Bulletin with the proper timing. Ms. Kennedy further stated the Development Review Application also stated the Friday after the submittal of the request, the property was supposed to be posted, which she knew had not occurred until only a couple of weeks prior to the meeting.

Ms. Kennedy stated she had originally contacted Mr. Burkholder regarding the installation of the mailboxes on the property and was directed to the Code Enforcement Officer, Cy Cushenberry, who had informed her the property was up for rezoning at the February Planning Commission Meeting. Ms. Kennedy stated the property had not been posted at that time, as seemed to be required under the Code according the Development Review Application Form.

Ms. Kennedy stated she had also presented the Commission with a letter to the City from the property owner dated December 12, 2017 which noted the original intent to sell the property under its current use and to notify the Planning Department of her intent to rezone the property to conform with a residential use as this was deemed to be more desirable by prospective buyers interested in the property. Ms. Kennedy commented it seemed as if the only intent the property owner had was to make a profit selling the property as apartments and the neighborhood, which had lived through years of dealing with the Beckers Lane Lodge, were concerned and afraid of the prospect that another situation similar to this could be created.

Ms. Kennedy stated, regarding the Planning Commission Distribution Checklist, the request was only sent out to three (3) outside entities; Colorado Springs Utilities, Comcast, and CenturyLink. Ms. Kennedy stated this rezoning was also an occupancy change and felt other entities on the checklist, such as the Pikes Peak Regional Building Department and Manitou Springs Schools, should have also been buckslipped and brought into the discussion.

Ms. Kennedy stated the Pikes Peak Regional Building Department had a great interest in the proposed occupancy change and she had been told the Floodplain Administrator had been contacted regarding the request later. Ms. Kennedy stated there could potentially be children living in the proposed apartments and wondered why the school district had not been contacted for comment.

Ms. Kennedy stated internal departments had also been buckslipped for comment and the Fire Department did comment on the request, despite what the Staff Report had stated. Ms. Kennedy stated the Fire

Department stated they had no comment on the rezoning but gave a heads up on Fire Code which stated an automatic sprinkler system shall be installed in accordance with 903.3 of the International Fire Code. Ms. Kennedy stated she would like the Planning Commission to consider this comment made by the Fire Department.

Ms. Kennedy stated the Police Department also commented on the request, although it was not mentioned in the Staff Report, that they were in support of the request so long as all of the units complied with all building, fire, and housing codes prior to the issuance of an occupancy permit.

Ms. Kennedy stated the Finance Director had no comment on the request and neither did the Public Services Director, which she found interesting considering the property was in a flood zone.

Ms. Kennedy stated there was also an email from the former Code Enforcement Officer, Kurt Arnoldussen, to Bill Kenney dated February 6, 2017 which stated the owners could get flood insurance or construct a loma, which would effectively raise the building up out of the floodplain. Ms. Kennedy inquired if the Floodplain Manager stated it was acceptable to do so, who would be there to ensure the property owners had flood insurance ten years (10 yrs.) down the line and how this would be recorded for the community to check on if needed, as she felt this was something which needed to happen.

Ms. Kennedy stated, regarding the Development Reviews and Staff comments for consistency with Plan Manitou, it was noted a zone change was a modification and other zone change developments had been required to conform to the floodplain criteria.

Ms. Kennedy stated she had contacted the Planning Department to notify them the letter sent out to the surrounding property owners only contained the date for the Public Hearing for the Planning Commission and did not include the date of the Preliminary Hearing. Ms. Kennedy stated shortly thereafter, she had received a notice from the Planning Department with both meeting dates for the request.

Ms. Kennedy stated she had sent an email on December 25, 2017 to Mr. Burkholder regarding the installation of the mailboxes and fence on the property, but had only received a response regarding the fence.

Ms. Kennedy stated the Staff Report had stated all units had been completely remodeled, yet there were no building permits issued for the work done and Pikes Peak Regional Building Department only had three (3) permits issued on the property; one (1) for a water heater replacement and two (2) for plumbing remodels. Ms. Kennedy stated she had seen work occurring on the property for months and months and, by the Applicants own admission, the units had been completely remodeled.

Ms. Kennedy stated the Fire Department, although not having any comment regarding the rezoning, did seem to be requiring a sprinkler system, as had been required for other developments in the surrounding area, such as Eddie Bishop's development. Ms. Kennedy stated she was unsure of the reason the City had reached out to Pikes Peak Regional regarding Fire Code, when our own Fire Department had spoken and commented and the City's own code stated the code which was the most restrictive code was the code which needed to be applied under the law.

Ms. Kennedy stated the Police Department comments were understandable from her standpoint because they had dealt with the Beckers Lane Lodge on numerous occasions in the past, but the comments were clear that all building, fire, and housing codes be complied with prior to the issuance of a Certificate of

Occupancy. Ms. Kennedy stated the only way this would occur was if it was a requirement of the City's zone change.

Ms. Kennedy stated there were numerous zoning violations in existence on the property and the property owner had already leased one of the units to a tenant despite not having a Certificate of Occupancy for long-term lodging. Ms. Kennedy stated mailboxes, a fence, and the remodels had also been installed and performed without permits and appliances had been delivered and kitchens installed.

Ms. Kennedy also stated there had been numerous inquiries regarding the property and request despite the Staff Report which stated there had been none.

Ms. Kennedy also stated she was unclear about what was submitted by the Planning Department and what was submitted by the Applicant as some of the documents appeared to have been altered from the time of her CORA request and the publication of the Staff Report.

Chairman Delwiche inquired if all of the items listed in Ms. Kennedy's presentation were desired to be addressed by Staff. Ms. Kennedy responded she was hoping so.

Pat Sitzman, 125 Beckers Lane, stated she was concerned regarding the code violations and the improvements on the property and she agreed with Commissioner Wolfe regarding the City's need to either have a point by point Variance system or throw the code out. Ms. Sitzman stated there was an issue with the appliances put on the property because they were unpermitted, she did not know what kind they were, and was concerned the new appliances could start a fire. Ms. Sitzman stated she would like to see the request denied by the Commission on the basis of the Code violations alone and the insufficient information supplied by the Applicant regarding the request.

Ms. Sitzman stated she also felt there should not be anyone living on the property until it had been brought up to Code. Ms. Sitzman stated the apartments would need kitchens to be installed and she was unaware of any hotel too which had a kitchen. Ms. Sitzman stated the kitchens would also need to be reviewed, permitted, and inspected by the City prior to allowing tenants to occupy any of the units and, to date, there had not been any.

Ms. Sitzman stated she wanted to urge the Commission to advise the Applicant, should she proceed with the rezoning request in the future, she do so to the letter of the law, as she was concerned someone may be hurt otherwise.

Ms. Sitzman also stated the fence as a security protection was laughable as the fence only had three (3) sides which, in her opinion, did very little to provide any security.

Randy Thorne, 117 Via San Miguel, stated, as an architect and building inspector, he realized the importance of the code and its purpose for protecting the welfare of the public. Mr. Thorne stated he had spoken with Pikes Peak Regional Building Department regarding the site development and building issues on the property and felt a development plan similar to what had been presented by Mr. Bishop and his architects was needed for this request. Mr. Thorne commented the setbacks and Fire Code issues, such as doorway openings, needed to be addressed, and there were also curb, gutter, and accessibility issues on the property as well. Mr. Thorne commented he felt the parking lot design should incorporate cut off lighting to eliminate glare for the neighbors and the landscaping and utilities for the property would also need to be addressed.

Mr. Thorne stated going from an R-1 to and R-2 was an occupancy change which required the building be brought up to code in its entirety and the units would require kitchens which the neighborhood could find no record of this work having been permitted or completed. Mr. Thorne stated a fire sprinkler system was required by the Manitou Springs Fire Department, not by Pikes Peak Regional Building Department and felt life-saving equipment was absolutely necessary for long-term residential use. Mr. Thorne stated the interior separation fire walls and exterior fire protections were also of importance. Mr. Thorne stated a change in occupancy from and R-1 to and R-2 also required an inspection for a Certificate of Occupancy to be issued and all code violations be brought up to the standards of the law. Mr. Thorne commented he and the neighborhood would be looking for documentation to show this had all been completed.

Ms. Sitzman stated, in regard to the fifty percent (50%) cost, a fire suppression system would cost upwards of ten to sixteen thousand dollars (\$10,000 - \$16,000) to install.

Hearing no further comment from the public, Chairman Delwiche closed the Public Hearing.

Chairman Delwiche stated it seemed there were numerous issues which needed to be addressed on the property which he felt made it unfeasible to schedule the request for a Public Hearing until the issues had been resolved.

Commissioner Wolfe stated it sounded like there was a lot to be done, but felt a Public Hearing date should be postponed until the issues were resolved and the property brought up to Code.

Commissioner Latimer stated she saw two (2) issues regarding the request, one of which was process and the other was the issues brought up by the neighbors, and inquired who would be responsible to following up on those concerns. Mr. Burkholder responded he would first look to see what had occurred, in more detail, and would look into the dates of the postings to make sure they were installed and submitted in compliance with the City's Code. Mr. Burkholder stated he would need to look into the matter further to determine which action to take. Mr. Burkholder stated, in regard to the building issues, this was something the Applicant would need to work out with Pikes Peak Regional Building Department but was unsure this could all be completed within the month's timeframe until the next meeting.

Commissioner Ragan stated he felt it make more sense to take the necessary time to properly parse these issues and he was sympathetic with the concerns brought to the Commission by the surrounding neighbors. Commissioner Ragan stated he was uncertain many of the issues which were brought up actually applied to the rezoning request, in the past, the Commission had not discussed many of the issues brought up as they were often handled as separate issues. Commissioner Ragan commented he recognized the seriousness of the concerns but, in order to make a decision regarding the rezoning, he felt he needed a clearer idea of what specifically needed to be addressed regarding the rezoning. Commissioner Ragan suggested he would like to see each of the different threads of this issue and determine which pieces were relevant to the rezoning process and stated he felt the code violations needed to be dealt with regardless, but wanted to be sure the Commission only considered what was allowed under the purview and the Code.

Commissioner Wolfe inquired under what circumstances the Commission was permitted to have another Preliminary Meeting regarding the request and asked if improper notice was grounds for doing so. Mr. Burkholder responded the Commission could set the Public Hearing for any date in the future. Commissioner Wolfe inquired if they could do this for any reason they wanted. Chairman Delwiche confirmed this to be the case. Mr. Burkholder commented the Commission could set the Public Hearing for any date, but suggested they provide Staff and the Applicant with all of the changes and fixes they wanted to see so they had time to complete the alterations. Commissioner Wolfe inquired if the Commission was

permitted to leave the Public Hearing date open until all violations had been taken care of and the building brought up to Code. Mr. Burkholder responded the Commission would need the answers to these issues at the time of the Public Hearing in order to render a decision.

Commissioner Ragan stated he knew some of the issues were not zoning issues and reiterated he needed to know what the Commission should be specifically reviewing and considering for this request. Commissioner Ragan stated he felt the Commission was in a difficult situation in determining what a reasonable time frame should be to bring the building up to Code and felt postponement was the best option at this time. Mr. Burkholder he would need time to further look into some of the issues which had been discussed.

Commissioner Latimer inquired if Staff could parse out which items were under the purview of the Planning Commission and which were under the purview of other entities. Mr. Burkholder stated he would do so.

Commissioner Wolfe stated she was in support of postponement.

Commissioner Ragan stated he was in favor of postponement as well.

Chairman Delwiche stated he felt this was a difficult issue and there was a vast amount of information which was needed in order to render a decision.

Commissioner Wolfe commented perhaps it was possible at the next meeting that Staff could give an update to the Commission regarding the issues discussed and could advise the Commission more specifically on what they should be considering and what they should not be considering. Mr. Burkholder stated he would do so.

Commissioner Wolfe stated she wished she could impose conditions which stated all of these issues needed to be dealt with prior to the rezoning, but she was uncertain the Commission could legally do so. Commissioner Ragan commented the Commission could encourage Planning Staff to investigate and address which processes were not in accord with the laws.

Chairman Delwiche again expressed the difficult nature of the issues pertaining to this rezoning and commented code violations were a separate matter which the Commission was not involved.

Ms. Kennedy stated if the Police Chief and Fire Chief had required things be done prior to the rezoning of the property, the approval may be made with the conditions the code violations and the building be brought up to building, fire, and housing code standards. Ms. Kennedy stated it was her understanding the Commission could approve the rezoning with any conditions on the property it desired.

Ms. Sitzman stated she felt the property owner was illegally renting units to tenants at this time and felt they were at risk due to the code compliance issues. Ms. Sitzman stated in the past, regarding the Beckers Lane Lodge situation, the solution the Police Department had come to was to evict the tenants for their own safety. Commissioner Wolfe questioned whether an eviction was the best route.

Chairman Delwiche inquired if Code Enforcement had been contacted regarding the occupancy of the units and what he had to say regarding the matter. Ms. Sitzman responded she had not heard back from the Code Enforcement Officer regarding the matter, but she was concerned the tenants may be at risk as the property was not yet set up for long-term lodging.

MOTION:

Commissioner Wolfe moved to set the Public Hearing date for RE 1754 at the Regular Meeting of the Planning Commission on April 11, 2018.

SECOND:

Commissioner Ragan seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

Ms. Gritz stated she had approval from the Planning Department to allow the current tenant to reside on site as the property manager and she had gone through the proper channels to allow this six-month (6 mo.) lease per the City's Code requirements. Chairman Delwiche responded he was unsure how this was permitted to occur. Ms. Gritz stated since the property was zoned Commercial, the tenant was permitted to live on site no longer than six months as the property manager which was permitted by the City's Code.

Commissioner Wolfe inquired if any walls had been moved or removed or if there had been any work done on the property requiring permitting. Ms. Gritz stated the in-room kitchens existed prior to her purchase of the property, but had been completely remodeled.

VI. OTHER BUSINESS

ITEM 10. Ordinance Clarifying Hotel/Motel Language in the Code

Wade Burkholder, Planning Director, stated the Ordinance was unable to be completed in time for this meeting and therefore needed to be postponed until the next Regular Meeting of the Planning Commission on March 14, 2018.

MOTION:

Commissioner Wolfe moved to postpone the Ordinance Clarifying Hotel/Motel Language in the Code until the next Regular Meeting of the Planning Commission on March 14, 2018.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

ITEM 11. Ordinance Clarifying Minor Conditional Use Permits and Bed and Breakfast Treatment in the Code

Wade Burkholder, Planning Director, stated the Ordinance was unable to be completed in time for this meeting and therefore needed to be postponed until the next Regular Meeting of the Planning Commission on March 14, 2018.

MOTION:

Commissioner Wolfe moved to postpone the Ordinance Clarifying Minor Conditional Use Permits and Bed and Breakfast Treatment in the Code until the next Regular Meeting of the Planning Commission on March 14, 2018.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

VII. ADJOURNMENT

Hearing no further business before the Commission, Chairman Delwiche adjourned the meeting at 8:39 pm.

Minutes Prepared by Dylan Becker, Planner I