

City of Greeley, Colorado
PLANNING COMMISSION PROCEEDINGS

September 12, 2023

Video Recording of the Meeting can be found at:

<https://www.youtube.com/watch?v=gEFXELDfCxM>

1. Call to Order

Chair Yeater called the meeting to order at 1:15 PM.

2. Roll Call

The hearing clerk called the roll.

PRESENT

Chair Justin Yeater
Commissioner Louisa Andersen
Commissioner Briscoe
Commissioner Brian Franzen
Commissioner Larry Modlin

ABSENT

Commissioner Jeff Carlson
Commissioner Christian Schulte

3. Approval of Agenda

Brian McBroom, Community Development Director stated that there are not any changes to the agenda but did want to announce that with only 5 Commissioners present for today's meeting it does still allow a quorum and it requires for the Commission to act on an item it will require 3 votes. He also shared that there is a time constraint for today's meeting, and it will need to adjourn by 4:00 p.m. to allow for the next scheduled meeting in the Chamber to start. With that, Chair Yeater will limit comments to 3 Minutes for the Public Hearings.

4. Approval of August 22, 2023, Minutes

Commissioner Andersen moved to approve the minutes dated August 22, 2023. Commissioner Franzen seconded the motion. Motion carried 5-0.

5. A public hearing to consider a request for a Planned Unit Development for commercial, multi-family, single-family, and parks on approximately 170.573 acres located at the northwest corner of 10th Street at 83rd Avenue (PUD2022-0006).

Chair Yeater introduced the item, asking if the commission or anyone in attendance wished to see a presentation, seeing none the Public Hearing opened at 1:20 p.m. and closed at 1:20 p.m. Chair Yeater asked if anyone had any further questions or comments. Commissioner Andersen asked when 83rd Avenue is proposed to be improved to improve traffic. Don Kirby, City Engineer came to the podium and responded that it would be dependent approval of the PUD, but also subdivision plans concurrent with the development the frontage improvements would have to be completed.

Commissioner Briscoe asked how far 4th street would be extended and Mr. Kirby replied that it would be extended to the western line of the development.

With no further comment Commissioner Andersen motioned, based on the application received and the preceding analysis, the Planning Commission finds that the proposed rezoning and Planned Unit Development is in compliance with Sections 24-204(b) and 24-205(c) of the Development Code and therefore, recommends City Council approval. Franzen seconded the motion.

Motion Carried 5-0.

6. A public hearing to consider a Planned Unit Development (PUD) request to rezone approximately 4.23 acres located directly north of 7025 8th Street from R-H (Residential High Density) to PUD (Planned Unit Development). (PUD2023-0001).

Chair Yeater introduced the item, asking if the commission or anyone in attendance wished to see a presentation, seeing none the Public Hearing opened 1:25 and closed at 1:25. Chair Yeater asked if anyone had any further questions or comments. Commissioner Andersen verified that this was the item that was continued from the previous meeting.

With no further comment, Commissioner Andersen motioned, based on the application received and the preceding analysis, the Planning Commission finds that the proposed rezoning from R-H (Residential High Density) Zone District to PUD (Planned Unit Development) meets the Development Code criteria, Section 24-204, and Section 24-205 and therefore, recommends approval of the Rezone and Planned Unit Development to the City Council. Commissioner Franzen seconded the motion. Chair Yeater asked if there was any further discussion.

Commissioner Briscoe added that for the record he is concerned that these types of applications that begin work before approval have increased. He believes the application meets the intent of the code but would like to see it presented before construction starts. Chair Yeater asked staff if there is any consequence to work starting prior to approval. Brian McBroom responded that depending on the nature of the work there could be consequences. He shared that there is background on this case and rather than take time out of this meeting he would send some additional information out to the commission.

With no further discussion, Chair Yeater called for the vote.

Motion Carried 5-0

7. A public hearing to consider an application to rezone a property 11.083 ± acres in size from Residential Low Density (RL) to a Planned Unit Development (PUD). The PUD would allow various Residential and Institutional uses with specific zoning standards (PUD2022-0007).

Chair Yeater introduced the item. Jeff Woeber, Planner III, began his presentation. This is a proposed rezone from R-L (Residential Low Density) to PUD (Planned Unit Development). The parcel is just over 11 acres and currently has one residence that was built in 1961. The developable area is just over 10 acres. The property is located ¼ mile south of the southeast corner of 47th Avenue and 10th Street. Surrounding zoning and land uses to the parcel include;

- North: R-L (Residential-Low) and the land use is a Country Club/Golf Course
- East: PUD (Planned Unit Development) and the land use is Single-Family Residential
- South: PUD (Planned Unit Development), R-M (Residential-Medium) and the land use is

Single-Family Residential

- West: R-L and the land use is a Country Club/Golf Course

The proposed application would allow certain Residential High-Density zoning with limitations. The applicant intends to establish a facility for seniors living under one parcel under single ownership. No other lots are proposed currently. A subdivision process is required to bring the property into compliance with city subdivision regulations. Mr. Woeber shared the land use table that applies to this kind of use. The senior facility would include such uses as assisted living, independent living, memory care, group home and institutional which are all under the residential care category in the Greeley code. Within this, up to 210 units would be allowed. He shared per the land use table that height of the structures is limited to single story along the perimeter adjacent to the residential developments to the east and the south as shown on the proposed site plan. Two story structures would be allowed on the interior of the property. Mr. Woeber continued, sharing the differences in what other uses would be allowed in accordance with the land use code if this was proposed as R-H zoning opposed to the PUD zoning that is being proposed. R-H zoning would allow for much higher density and much higher structure height. The proposed PUD will limit the density and the use of the parcel.

Mr. Woeber shared that the application meets the criteria set forth in the code and proper notification was made including a neighborhood meeting, web notice posted, signs posted at the site and 295 mailed notices were sent to property owners within 1000 feet of the parcel. Staff received 10 emails with the primary concern being:

- R-H Zoning uses such as the assisted living facilities and multifamily residential density.
- Increased traffic
- Privacy concerns
- Affecting property values

Staff does find that the application complies with Sections 24-204(b) and 24-205(c) and staff recommends approval. Mr. Woeber indicated that is the conclusion of his presentation and the applicant has a presentation and each of them is available for questions.

Chair Yeater thanked Mr. Woeber for his presentation and asked if the commission had any questions for him. Commissioner Modlin asked if the current R-L zoning would allow patio homes, duplexes, and single-family residents. Mr. Woeber indicated that was true. Commissioner Briscoe asked if a turn lane would be installed in the right of way. Mr. Woeber replied that they are improving 47th avenue and installing a median and that was agreed to with the developer. For specific access questions he would need to defer to engineering staff, but he does know they are making access improvements. Chair Yeater asked Mr. Woeber to explain what a PUD is as there seemed to be some confusion about that with this case. Mr. Woeber responded that a PUD is a Planned Unit Development with custom tailored zoning with specific zoning standards built in. In this case they have the base of the R-H zoning the PUD would allow some flexibility with various zoning standards because they want to limit the height, density, and location of the structures. Those things are required in the text of PUD documents which is different than the R-H zoning. Chair Yeater asked for clarification that at this point the designs are conceptual because at this point all that is being approved is the zoning. Mr. Woeber indicated that is true and the site plan that is included in the documents is a concept plan, however the specifics that are in the zoning table would be official. Chair Yeater asked if the brick wall that is shown on the site plan would be required or if it was just conceptual, Mr. Woeber replied it is not specified in the PUD and it is conceptual.

Chair Yeater asked if engineering was able to answer the question regarding the roadway. Thomas Gilbert, Engineering Development Review came to the podium. Regarding the question on a

deceleration lane along 47th Avenue, an analysis was done, and it showed that a deceleration lane was not warranted for the number of trips proposed. He shared it is an arterial roadway, signage preventing illegal turns as well as the site access having right in and right out will be required.

With no further questions for staff, Chair Yeater invited the applicant to provide a presentation if they would like to.

The applicant, Ian Percy, 2130 62nd Avenue Court, Greeley, Colorado. He apologized to the commission and asked the commission for an extension because they would like to present it to the full commission. His team believes this project is important and this is a great location. His team would appreciate consideration for a continuance and apologized for any inconvenience this may cause.

Chair Yeater asked the commission if there would be any issues with tabling this item until a later date when a full commission is available. Seeing none, Commissioner Andersen moved that the agenda item be continued to a date in the future when all Commissioner's are present. Commissioner Franzen seconded the motion. Commissioner Andersen asked if there was a date in the future to set this item for. Brian McBroom, Community Development Director, stated that unless otherwise directed by the commission, it would be the next regular meeting. He also shared that there is a quorum however another action they could take would be to conduct the public hearing, take testimony from those present today and then continue the item to the next meeting.

Chair Yeater indicated that they would hold the Public Hearing to take testimony from those in attendance. He will then ask the commission to vote on the motion that was proposed.

The Public Hearing opened at 1:40 p.m. Don Threewitt, Interim Community Development Director, shared he would call those who signed up to speak in the order of the sign up sheet.

Gaile Todd- no one came to the podium when called.

Nick Frances- no one came to the podium when called.

William Eastwood, 4515 West 14th Street, Greeley. Came to the podium and stated he had one question for Jeff, on the plan it shows that there is not a building on the east triangle of the plan, is it possible for them to build on this later? Chair Yeater responded, sharing that comments be kept to testimony and for questions to be asked to the commission and he can address them with staff at the conclusion of the Public Hearing. Chair Yeater confirmed what he understood to be the question. Mr. Eastwood thanked him and left the podium.

Carol Riggs, 4519 West 14th Street, Greeley. Shared she submitted some comments already but after studying the plans last night she had one additional comment. She is in the section just behind the proposed development and they have shallow back yards. She shared that there were 2 fence types proposed in the site plan, one being a brick wall and the other being rod iron. She hopes they would choose the rod iron option to keep the open feel and not the feeling of being locked behind a wall.

H. Michael Croissant, 4718 West 13th Street, Greeley. He lives right in the center of the whole operation. He shared that he and all his neighbors right their own all their homes, these are million-dollar homes and one hundred percent quiet residents. They are parachuting for a business right in the middle of that. His next comment is he disagrees with the City Engineer on traffic counts. He feels a third-party traffic engineer needs to come in and do a traffic count. Even with a feeder lane, there is a high-density feeder street right there going to 10th Street, which is a State Highway, so there is already a lot of traffic. He wants a traffic count of what is going on there now and of what his proposed business is as well and to make the applicant pay for the third-party count. That is what he

wants to propose. They have not put any cables out there; he lives there, and they have not. He thinks this is a safety issue, 10th Street already gets backed up to that property. He owns agricultural equipment, and he would not want his crews to drive in that, construction traffic is just going to be sitting there. He wants a third-party count and for residents to not have to pay for it, the applicant needs to pay for it. He wants to have a third-party showing how many cars will be going into this business.

Amye Croissant was called, next on the list, and indicated she did not want to testify.

Giselle Croissant was called, next on the list, and indicated she did not want to testify.

Don Threewitt indicated that that concluded those who signed up to speak for this item. Chair Yeater asked if there were any additional people in attendance who wished to speak on this item.

Gina Holzmeister, 1907 81st Avenue, Greeley. Started by saying she will be right across the street from this development. She liked what Mr. Croissant stated and she completely agrees, there are already many instances where she is waiting through 3 or 4 red lights just trying to get through on 83rd Avenue. Sometimes people even just pass through and run it because they have waited for so long. She does not see how this will benefit our area directly or even neighboring communities. There are many multi-family units like townhouses and duplexes, there are even some that are already on the agenda for future hearings. The sheep draw development is coming up and she assumes it will be for multi family units also. However the traffic system cannot hold all that and with this being in the middle of her residential area she does not agree with having temporary residents within her community because (a) she does not know them, they are coming in and out and it cannot be safe for her family and (2) they will be cutting thru her residential area to get to the other side of 20th because of all this traffic, there is no traffic slowing in her neighborhood and there is not any distinctive separation between that plot and their private homes. She has read the Comprehensive Plan thoroughly and she understood that the plan was to utilize abandoned buildings, buildings that are not being used anymore in eastern Greeley not west Greeley. When she bought her home, she was under the assumption that that plot was agricultural. She does not see how it is going to benefit them when it's causing so much emotion. She had no further comments.

Don Threewitt commented to the commission that he believed Ms. Holzmeister was speaking to the next case that they will be hearing and that her testimony did not apply to the case they just heard.

Chair Yeater asked if anyone else cared to speak at this time. He shared he was not closing the public hearing but if anyone wishes to speak when the case is heard again, they will have that opportunity. He turned the item back to the commission for discussion. He shared he did not have any concerns to vote on the item when a full commission is present. Commissioner Franzen saw no issues in tabling the item. Commissioner Modlin shared he would have liked to see the item removed from the agenda if they were going to continue it and saved time in this meeting and thinks they should vote.

With no further discussion, Chair Yeater called for the vote on the motion that was already provided earlier in the meeting.

Motion carried 5-0

8. A request from Crow Creek Construction, LLC, to rezone a 7.43-acre parcel from HA – Holding Agriculture to PUD – Planned Unit Development located North of W. 19th Street Road, east of 82nd Avenue (PUD2022-0008).

Doug May, Planner III began his presentation by providing background information on the site. The request is to Rezone 7.43 acres from H-A (Holding Agriculture) to PUD (Planned Unit Development).

The site was originally annexed and zoned in 1982. It was part of the Mountain Vista filing in 2002. It is located east of 82nd Avenue, north of 20th Street. The surrounding zoning and land uses include:

- North: C-L (Commercial Low Intensity), R-L, (Residential Low Density), Vacant land and stormwater detention are the land use.
- South: R-L (Residential Low Density) single-family residential is the land use.
- East: R-L (Residential Low Density), the land use is single-family residential.
- West: C-L (Commercial Low Intensity) the land use is a professional office.

The proposal is a multi-family development that consists of 14 buildings. 6 of the buildings are proposed to be 6-unit buildings and 8 are proposed to be 8-unit buildings. The proposal includes 2 planning areas, Planning Area 1 is on the eastern portion of the property, and it contains 6, 6-unit buildings. It consists of 3.610 acres and the density is 9.97 units per acre. Planning Area 2 is on the further west and north portions of the parcel, and it contains the 8, 8-unit buildings. It consists of 3.820 acres of the parcel with a density of 16.76 units per acre. The remaining 1.079 acres of the parcel will be utilized as Right-of-Way. Mr. May shared that to be considered for approval this application met the nine criteria used to evaluate rezoning applications, the four criteria used to evaluate PUD applications. Proper notification was made, and the mineral notice was completed. A 1000-foot buffer was used to send 350 notice letters, signs were posted on the property, a web notice was published, and a neighborhood meeting was held on June 12, 2023, and it had 50 people in attendance. Staff received comments from 5 neighbors as well as a petition with 299 signatures in opposition of the proposed application. Below is some of the outlined concerns the city heard from neighbors and the city's response to those concerns:

- Property Values
 - A city can't speculate on property values.
- Conformance with the Comprehensive Plan (i.e., missing middle housing)
 - Staff has found it meets the goals of the Comprehensive Plan
- Traffic
 - 3rd party traffic impact study completed with the proposal.
- Number of multi-family projects
 - Multi-family housing is a growing trend in Greeley.
- Spot Zoning
 - Staff finds that this is not what is considered spot zoning and it meets requirements for rezoning and PUD.
- Infrastructure/Services
 - The application has been reviewed by Water, Sewer, Fire Department, School District, Transportation and Stormwater.
- Open Space
 - The parcel is private property, it is vacant land currently and not open space.
- Maintenance
 - Code Compliance inspects within 2-5 days of a complaint.
- Renters
 - Staff finds that the proposal meets the safe and attractive rental housing goals of the comprehensive plan.

Community Development does recommend approval for this item. Mr. May indicated that was the end of his presentation and he was open to questions. Chair Yeater invited the commission to ask questions to staff. Commissioner Andersen asked how this meets middle housing because it does not include single-family housing (tiny homes, duplexes, etc.). Mr. May shared because it is lower density for apartments this does fill in the gaps for middle housing in this area. Commissioner Briscoe asked why the applicant did not choose R-H instead of PUD zoning for this property and Mr. May responded that he would allow

the applicant to address those concerns. With no further questions for staff, Chair Yeater invited the applicant to present if they wished.

The applicant, Larry Buckendorf 1751 West 17th Street, Greeley came to the podium. He began his remarks by introducing Joel Hemesath, the project manager on the project. He began his presentation sharing the location of the project near 18th Street and 83rd Avenue. He shared that there was an oil and gas site on the site over the last 20 years and it has always been the intent to develop the parcel once that well was capped. His firm has owned the parcel since Mountain Vista was initially developed. He shared the overall site plan including the existing detention pond was built with the capacity for this parcel to be developed in the future. He shared the following site statistics:

- 7.43-acre site
- 100 Units
- 14 Buildings: Six 6-Plexes; Eight 8-Plexes
- Office/Maintenance Building
- Provided additional setback of 50' vs 25' near existing homes.
 - 100% increase in setback requirement
- Enhanced Landscape buffers adjacent to existing homes
 - Adding 39 additional trees above minimum requirements
- Project will be built in within a 1-year period.
 - Minimum nuisance to surrounding neighborhood.

Regarding the Utility and Street Connections Mr. Buckendorf shared the following details:

- Potable Water – Connections in 82nd Avenue, 19th Street & 18th Street
- Non potable – Main to be constructed in 18th Street.
- Sanitary Sewer – Connection to existing sanitary sewer main on east side of property.
- Stormwater – Existing detention pond has adequate capacity.
- Streets – Public roads exist on the west and south sides.
 - Extension of 18th St (collector) along frontage of north side
 - Traffic Calming added to 19th St & 82nd Avenue.

Mr. Buckendorf continued, sharing that the total site density is 11.75 units per acre. Buildings with lower density have been positioned adjacent to existing homes and the area adjacent to existing neighborhood meets the Comprehensive Plan Suburban Neighborhood density criteria. They have added additional landscaping to help buffer the proposed development from the existing single-family units. Mr. Buckendorf shared examples of the product that they are proposing and showed how the facades meet the character of the neighborhood. He continued, showing the variety of site amenities that will be available. These include a playground, picnic area, dog park, fire pit and benches and seating thought the community. They have expanded the available parking spaces; the code requires 186 parking spaces, and they will provide 228 onsite parking spaces. Parking will not be allowed on the west side of 82nd Avenue, it will be allowed on the east side of 82nd Avenue. They will support traffic calming by adding bump outs on the 82nd avenue entrance and by adding a raised crosswalk on 19th Street & 81st Avenue Court.

To conclude, Mr. Buckendorf shared the proposed rezone is consistent with the Greeley Comprehensive Plan and the rezone follows the applicable city codes, regulations, and requirements. If approved, the rezone will meet the needs of the community by providing diverse multifamily housing and is consistent with practical and prudent transitional land use planning practices. The developer will work with city staff to receive approvals on all engineering and technical documents prior to proceeding to site plan approval. Mr. Buckendorf shared he feels they have addressed the concerns they heard in the neighborhood meeting. Additionally, he noted that there were 299 signatures in the petition of opposition submitted to the commission, of those 299 signatures there were 166 properties represented. Of those 166

properties, only 95 were in the notification buffer area and only 79 were in the residential area. He understands the concern but wants the commission to understand the data that belongs to the signatures obtained. He thinks this product and development would be a benefit to west Greeley. With that he offered to answer any questions of the commission.

Chair Yeater opened it up for the commission to answer any questions to the applicant. Commissioner Modlin asked if the 8-Unit buildings had any architectural differentiation like the 6-plex building he showed. Mr. Buckendorf indicated that they do have some of the same architectural differentiations as the 6-plex, not as many but they blend well. He included they generally have 2 paint color schemes, adding more than that becomes too much, and it starts to look a little brash. Commissioner Modlin encouraged the 8-plex units to look like the 6-plex units that the examples showed, they have a good appearance and are a good fit.

Chair Yeater opened the Public Hearing at 2:19 p.m. Don Threewitt, Interim Community Development Director, shared he would call those who signed up to speak in the order of the signup sheet.

Lynn Huos, 17304 West 18th Street Road, Greeley. She shared that she is close but not right next to the parcel. She thinks the developer has made a lot of changes since the neighborhood meeting in June of 2023, she is still concerned about the traffic pattern on 83rd Avenue between 20th Street and 10th Street, it is a very old road, and it needs to be widened and repaired. It serves both single family and multifamily both and have seen the bad effects from it. From consensus at the other meeting, they would prefer it not be renters in these units as they tend to provide less care for property compared to owners who tend to be more responsible. They wanted it to be more of an ownership area. They understand the need for housing and in this area, they are surrounded by multifamily housing already. They would like to see it have buffers to keep it from spilling into the residential neighborhood. They do not want a lot of traffic coming in and out. Many people bought it here because it was quiet and safe, they don't want a bunch of traffic speeding through.

Robert Maffei was on the sign-up sheet but did not wish to speak.

Kandy Wolf, 1929 South 79th Avenue, Greeley. She wants to know what kind of guarantee there is that the well on the site is capped. She also wanted to share that 83rd Avenue is going to be bogged down when they add 400 or 300 cars to the road. They are going to route to 79th Avenue and that's going to be bogged down.

Mona Maffei was called and did not want to speak.

Rick and Sherry Gerner were called and did not wish to speak.

Jim and Sylvia Peterson were called and declined speaking.

Pam Zimmerman, 1917 80th Avenue, Greeley. Donated 3 minutes to Brynne Gant.

Robert Maize, 1917 80th Avenue, Greeley. Donated his 3 minutes to Brynne Gant.

Cindy Leerssen, 81st Avenue, Greeley. She donates her time to Brynne Gant.

Shelly Remley, 1921 80th Avenue, Greeley. Donated her time to Brynne Gant.

With no further names on the signup sheet, Chair Yeater asked Brynne Gant to come to the podium to speak. Brynne Gant, 1816 80th Avenue, Greeley, she shared she also owns a law firm in the Moutian Vista Business Park. She is here as a concerned resident in the matter and does not represent any party in the

matter. She is the one who drafted the petition with 299 signatures. She started her presentation with:

- Should have started with fit; instead started with profit.
- Started as big as it could be, without regard for surrounding character.
- Started as request for R-H then “scaled back” to PUD (but is still effectively R-H)
- Final submission purported to scale back units, but number of units is unchanged.

She continued sharing that PUD and Rezoning standards. For section 24-205(c) PUD applications must reflect greater consistency with IGCP (Imagine Greeley Comprehensive Plan) than general zoning. Per section 24-205(a) PUD Applications are a type of rezoning and must follow the rezoning process. Section 24-204(b) for Rezoning several review criteria is not met. She shared the review criteria and what she finds to meet and not meet the criteria. She shared that the proposal is to place 100 units in the area, and it exceeds the code requirements of 10 units per acre. She shared a clip from the comments between the city and the applicant and indicated that the city addressed this with the applicant, and they responded by switching buildings around to manipulate the area and that they did not remove any units and how they split the project into 2 separate parcels, however if it were one parcel, it would fall under R-H zoning. Ms. Gant continued sharing the intent of a PUD is to address development that has a higher degree of planning, due to scale and complexity, improving relationship of the project to the context. It will then better meet the purpose, intent, and objectives of the code. It is not intended to zone deviations for single projects. Ms. Gant continued sharing her interpretation of “Spot Zoning” as when the rezoning process starts with a purpose of PROFIT over FIT. If it didn’t start from a place of enhancing the comprehensive plan and seeks to rezone a relatively small parcel, it’s spot-zoning. She provided legal examples of court cases that this has applied to (in other jurisdictions).

Ms. Gant moved forward with her presentation, sharing a table showing the criteria required to consider rezoning. She shared this project does not meet the goals of IGCP, it does not fulfill the intent of the zoning district considering the relationship between nearby areas. She continued with sharing a parcel map of the area. She shared that to the north, east and south the surrounding area is R-L zoning and to the west it C-L zoning, continuing she shared the buffering areas to be as follows:

- To the North R-L buffers to C-D
- To the East R-L buffers to C-L
- To the South R-L buffers to 20th Street
- To the West C-L buffers to 83rd Avenue

In other words, right now, the buffering makes sense, going from hot to warm to cold. This project would change it from hot to warm back to hot and then to cold. She continued to share, there are three overarching goals: to prevent over-concentration of affordable housing in specific areas, to encourage a range of creative housing options, and to maintain the quality of existing low-cost units. This proposal meets none of this. There is already an over-concentration in this area for these low-quality, high-density units, she feels there should be cottages, patio homes, rowhouses, and condominiums. This project also fails to enable development in character with the surrounding area, considering streets, pattern, scale, format of buildings and the like, and there are not truly appropriate services and facilities. Regarding the development in character with surrounding areas, the proposal is to tuck this away right in the middle of a developed residential area with upscale homes. These are homes in the \$600,000’s and above. The proposal does not match the price range of the neighborhood, has no covered parking, the bare minimum setbacks, bare minimum open spaces, and will use the same level of quality that is already falling into disrepair in the neighboring apartment complexes, created by the same developer.

Ms. Gant continued with sharing the proposal is lacking public services. It would not be suitable for development without new fire stations being built. She shared the developer knows this is not truly suitable for fire safety, which is why they were forced to include the “Emergency fire access,” you see in Plan 5. The proposal is for this fire entrance to be accessible but chained off. Regarding streets, the existing streets are not prepared for this development, the traffic impact studies provided have a narrow

scope. She shared that drainage is an additional issue, stating that the developer's notes that the offsite existing drainage pond will need to be improved to provide additional storage and water quality.

Ms. Gant shared that the developer would need to contact the HOA to obtain approval to drain to the previously discussed drainage pond and indicated he was working with Becky Stewart. Becky Stewart has not managed this property for multiple years. Lisa Daigle of One-way does. She has not been contacted by the developer with any request for drainage. Mr. Buckendorf did contact her to offer to aid in making the ponds complaint, but nothing further.

Ms. Gant continued with sharing concerns that there is not adequate police, school, or park availability to support this development. She feels that this parcel should be considered zoning for C-L or R-L to better fit the area. She indicated that Residents have a right to rely on existing zoning when they purchase. Here, many of our residents purchased from this very developer, who told them that this would be an open space or a park, and they knew when they purchased that it was zoned Holding-Ag. The development considerations should have started from there, but they didn't. She asked the commission to avoid doing what the Colorado Supreme Court has already ruled is illegal: you cannot rezone a relatively small parcel in the middle of an existing neighborhood to allow a developer to choose profit over fit. To conclude she asked the commission to deny the application or require modifications to create a better fit for the area.

Marty Neibauer, 1910 81st Avenue Court, Greeley. This is the cull-da-sac that is adjacent to the proposal. He is asking the commission to deny this application. It does not make sense to take an apartment building and center it in the middle of a reasonably high-end neighborhood. He stated that this proposal does not meet the missing middle of the development. This does not provide middle housing. He has concerns about setbacks, the developer stated he would provide 50-foot setbacks, but it only provides that on one side of the development. He asked the commission to look at how these fits into the plan for Greeley and shared examples of where new apartments are near colleges, the mall and near large intersections, not in the middle of established neighborhoods. He and his neighbors feel this is a money grab, this proposal does not make sense.

Clyde Andersen, 1906 81st Avenue Court. He has lived here for 18 years. Traffic is just getting worse and worse. 83rd Avenue needs to be re-built. He shared he was sitting at the light on 83rd Avenue the other day and traffic was backed up to 4th Avenue. He used to be a police officer in Minnesota, and they had a lot of apartment buildings scattered throughout the community and it was a problem, they were constantly running from one side of town to the other. He wanted to bring up that City Officials work for the people, and no one has it up. What the people who already live here want matters. Traffic is an issue and there is already many apartment and multifamily complexes near here. He asked them to deny the application and the developer to put single family homes in this area.

Mary Lynn Thomspson, 7413 18th Street, Greeley. She lives in filing number one. She has been to all the meetings and asked them to listen to the requests. She heard that changes had been made but what she saw today was just one building moving. She asked the commission to deny the proposal.

Ally Anderson, 1906 81st Avenue Court, Greeley. She thinks that everyone needs to remember that they bought their home because it was a good subdivision and good people. She is not saying that apartments will bring in bad people but more transient people who do not have a buy in to the area that they know it to be. Her street is going to look at the emergency access for the fire department with a chain hanging on it. She said that if they have been the owners for so long, they are not good custodians, they have not mowed, removed trash and it is a dumping spot. People have voted the commission in, and she wants them to take into consideration they live there, her grandkids play there, and they are not going to be safe. Traffic and parking is going to be an issue. People go to the park where they want to.

Barry Harding, 1819 80th Avenue. He has lived there for 18 years. He bought the property he is at because

he was told it was going to stay zoned as agricultural. He wants the commission to be accountable and consider how they would feel if it were them. He wants someone to challenge the applicant and stated there is a lot of inaccuracies in the submission. He served in the Navy and is bread on integrity and accountability and they are not doing that. It comes down to accountability, keeping your word and begs the council to consider what they would do if it were them.

Gina Holzmeister, 1907 81st Avenue, Greeley. She stated that she wanted to redact her statement from the previous public hearing and apply it to this case. Chair Yeater confirmed that she was stating she spoke on the incorrect case and her testimony that she shared previously applied to this case not the one she spoke on earlier in the meeting. She apologized to the commission for her mistake. She shared the builder stated that he went above and beyond to accommodate for this subdivision, and he is not. Ms. Holzmeister shared that she is a Substitute Teacher, she finds it hard to believe that the schools would approve this development because they are already overpopulated and short on teachers and substitute teachers. The ratio is already 32 students to 1 teacher and sometimes that increases if they do not have enough Substitute Teachers, they must combine classes, making it 40 or 50 students to one teacher and that is hard. She also wanted to state that around the area there are no bike lanes, and the sidewalks are inadequate, there is not a safe way for students to get around or anyone else.

Mark McIntire, 1906 80th Avenue, Greeley. He lives right down the street from this, and he was the second house built in this filing. The developer is a very good friend of his and he has been for many years. When he built this home almost 20 years ago Larry (the developer) told him this lot would be a park, he believes at the time he really did mean that. His concerns are that they have 101 custom homes in this neighborhood, and they are not track homes. He shared that when his wife and himself started out they needed the kind of housing proposed but they worked 40 years to have the house they do, if this development is approved, they lose all control. They have a very good HOA. Their neighborhood is under control. When he looks at this plan it disturbs him. When you go to 83rd Avenue and consider adding 200 cars, no one will be able to get out of the neighborhood. The city is not planned for additional traffic. The city needs to take into consideration how people and emergency services get in and out of the neighborhood. The developer owns this lot, and he has a right to build something on it, we also have the right as the City to plan properly to accommodate the neighborhood. Thank you for your time.

With no further public comment, Chair Yeater closed the Public Hearing at 2:59 p.m. and asked the applicant to step forward if he would like to have the opportunity to provide a rebuttal.

Larry Buckendorf came to the podium. He shared that there are many, many valid points made by the residents. Many of them do not fall to a specific development at a specific point in time such as schools, traffic on 83rd, police and parks. Those are the types of things that follow development and development pays impact fees for. It happens with every development and if it is taken as face value all development would stop. There are people who live in this community and have for years and years without a housing option. This is the way the system is set up. He is uncertain if it is the best system but is what they have. Impact fees and other obligations are made according to the rules set by the Council.

Moving forward, Mr. Buckendorf proceeded to address some of the specific issues.

- This is not Spot Zoning. The legal argument and case that this was compared to is dramatically different regarding facts and circumstances. It does not have any bearing on what is going on here in any way.
- This does support good land use and planning. It is transitional zoning from low density single family to medium/higher density than to commercial. The argument is that commercial density could go on this parcel. They did develop commercial lots just to the west and after 20 years there are still 2 vacant lots there. It is not viable to add more commercial lots in this area. There is a suggestion to make this parcel single family lots, he can assure them that a parcel of this size does

not make suitable single-family lots. There is not enough space to get any kind of density there to make it practical, regardless of profit or not. He would surmise that if they brought anything other than custom housing to the parcel they would vilify as well for bringing in lower income or entry level housing to a custom neighborhood. What they have proposed is a well thought out plan to address a housing need that is a good transition and works in the overall setting of this site. It creates a housing option that is not available in this area.

- The arguments on existing sanitary, storm, water and roads are not valid. They are already there and there is no additional impact that would come from those services.
- Regarding traffic, there will be 64 p.m. trips and 54 a.m. trips. This is in the traffic study, from the traffic engineers. This is not a number he made up or that the city made up. It was found by a third-party traffic engineer. It is objective not subjective. He acknowledged that it would add traffic on 83rd Avenue. However, to solve that problem is not the responsibility of this development. The impact fees will contribute to a solution to the traffic issues on 83rd Avenue but it is not the sole responsibility of this development.
- The representation that this lot would stay zoned as H-A zoning, or a park is just not accurate. He developed Mountain Vista. He does not believe that there has ever been a representation that this would be a park nor has there ever been any intent in it being a park. It has been a well head for almost 30 years. The intent has always been to cap the well and develop the lot.
- He takes issue with the comments regarding maintenance. He agrees that there has been a lot of dumping on this parcel, and he did not know where it came from, however when he is notified, they come in and clean it up.

He continued sharing he understands the emotion regarding the project, but it does meet every criterion of the Comprehensive Plan and that is demonstrated in the Staff Report. There is staff support and not even one criterion that is in question. The community must meet a set of rules, regulations and expectations set by the code and this application meets those.

With no further comment from Mr. Buckendorf, Chair Yeater asked the commission if they had any questions for the applicant.

Chair Yeater commented that one of the questions that was raised during the public hearing was about appropriate capping of the well, he asked Mr. Buckendorf if he has any involvement in that or if he can speak to what appropriate capping of a well would be. Mr. Buckendorf replied that they do not have any control over that, it is something that is run by the State, it was capped by the oil and gas operator. He has confirmed with the state that it was done per state regulation, and it meets all requirements that the state requires.

Chair Yeater continued, sharing that another concern was the emergency fire access would have a chain across the access and he wanted to know if Mr. Buckendorf would be amenable to an alternative option. Mr. Buckendorf said he would be open to it; the chain is a general standard that the Fire Department requests. It is a breakaway chain with a Knox box, because it keeps the public out of the area but is also something a fire truck can get through in the case of an emergency.

Chair Yeater inquired about it being mentioned that they would bring the pond into compliance, and what that means. Mr. Buckendorf shared that his understanding right now is that according to the City there are some issues with the pond complying that include some earthwork and they will do what is required to bring the pond up to compliance. Additionally, he shared that the HOA let him know that they will not discuss the pond access need until the application has been approved by the city. He continued to share that Becky is not the HOA contact, and he did learn that as well as who the correct contact is and has personally been in contact with her at least twice.

Continuing, Chair Yeater commented that the development showed an extra 45 parking spaces above

the minimum parking standard and Mr. Buckendorf replied that 186 parking space required by the code and the proposal includes 228 parking spaces which is over 25% over the minimum. The ratio is 2.28 parking spaces per unit.

Commissioner Anderson asked if the applicant felt that he had addressed the city's concerns about density. Mr. Buckendorf responded that he does feel that he has addressed the concern. He feels that it is a bit of a misrepresentation to say that they just moved around the 6 plex buildings. He considers this good planning, and they moved these buildings to the west side of the parcel because they are a good buffer and a more residential looking unit. It provides a good transition from the single-family homes, to the 6 plex units into the 8 plex units. When the concepts for this parcel first started, it was going to have 120 or 130 units, but they did listen to the comments and concerns of the neighborhood and addressed that it would be too many.

Without further questions for the applicant, Chair Yeater asked if someone from the city could come to the podium to answer questions about the process. Doug May returned to the podium. Commissioner Andersen asked what the plan is for 83rd Avenue between 10th Street and 20th Street. Mr. May deferred to city engineering to answer this question. Dylan Belanger, on behalf of David Harold with Engineering Development Review came to the podium to respond. He shared that 83rd Avenue is classified as a major arterial street and sometime in the future will be upgraded to meet the current major arterial standards. It will coincide with the timing of development along the corridor and the city is monitoring this constantly as they work on CIP (Capital Improvement Projects). Commissioner Andersen stated that the developer for this project said they were on a one-year timeline, and she wanted to know if the timeline for improvements on 83rd Avenue was planned for the next one to two years. Mr. Belanger replied that Public Works sets up a list of CIP projects, they rank them based on priority related to funds, severity, and volume in the area. This process is completed yearly. They take a growth approach and if growth happens unexpectedly or more rapidly than projected it would then be addressed.

Chair Yeater asked Mr. Belanger when his department reviews these cases if it considers potential volume from other proposed developments (not yet approved) in the same area to get an accurate picture. He replied that the study looks at several factors including what the volume of traffic is now, what it would be with this development in 2023 and what it would be if this is the only project that occurs. In this case it raised the level of service need from a C to D and a turning lane would be added.

Chair Yeater asked staff about the setbacks that have changed, stating that there was an original set back and the developer has now updated that. Mr. May responded sharing his understanding is that after the neighborhood meeting the setbacks were increased from 25 feet to 50 feet where the proposed development is adjacent to the single-family residential neighborhood. Chair Yeater wanted to know if approved today, would there be future public hearings on the architectural review or would that be part of an administrative review process moving forward. Mr. May responded that there is a site plan review process, and that it is an administrative review process.

Commissioner Modlin asked if it has been taken into consideration the number of 18-wheeler trucks that travel the 83rd Avenue corridor traveling to the industrial uses on O Street and the traffic issues that this causes when they are backed up on 83rd Avenue near 4th Street, he would like to know how that is accounted for in the traffic study. Mr. Belanger replied that this development would not look at traffic issues that far away from it but indicated that they could bring that to the attention of the Public Works department. Commissioner Modlin said that is part of the issue and he does not understand how the city is dealing with it and would like to understand how it contributes to the traffic and traffic study for 83rd Avenue. Chair Yeater commented that right now they are hearing the case for this PUD and what traffic further North on 83rd Avenue is a broader topic for another time.

Without further questions for staff Chair Yeater turned the item back to the commission for action.

Commissioner Andersen moved that based on the application received and the preceding analysis, the Planning Commission finds that the proposed Planned Unit Development follows Sections 24-204(b) and 24-205(c) of the Development Code and therefore recommends City Council approval. Commissioner Franzen seconded the motion. Chair Yeater opened the item up for discussion by the commission.

Commissioner Andersen commented that she is not sure that this meets the missing middle concept, she feels bad for the developer because of all the approvals for multi-family development for so long and he is now being the last one standing in a cake walk when the music stops, and he doesn't have a chair. Her feeling is that this does not meet the missing middle because there is not anything that will be for sale in this development, and it will only provide rentals. She does not feel that this meets her criteria for multifamily development or for the missing middle. She would not approve of this.

Chair Yeater stated that he looks at this from the other perspective and they cannot hold the developer accountable for other mistakes that have been made. Traffic is already an issue, and the city needs to address it. He appreciates the concerns of the HOA and feels that some of them can be addressed by the city regarding the architectural components. He thinks the developer has done a good job with the smaller units and the setbacks. One of the things he thinks needs to be addressed is that the property is going to be developed in some way and the developer has the right to do that with both his intentions and the community's intentions in mind. With that he will support the project.

Commissioner Modlin confirmed that this project would only go through administrative review for the site plan review process. Brian McBroom confirmed that to be true and stated that should this PUD be approved, the next step would be the Site Plan review process. Commissioner Modlin stated that means that it would be up to the Planning Department and the developer to make any changes and approve the building landscaping and facades based on the requirements of the code. Mr. McBroom confirmed that to be true and stated that staff would also consider the comments heard today. Chair Yeater asked how they could encourage city staff to elevate those standards to meet the needs that the community is asking for. Mr. McBroom replied that he thinks that they have already done that, he does not think that there is anything against the Planning Commission making a specific motion to provide direction to staff. It would be advisory but any application for Site Plan would be required to meet the requirements of the code and any direction the Planning Commission provides would be considered regarding the Site Plan approval.

Chair Yeater asked if there is a specific time that a parcel can stay in the H-A zoning before it is required to be rezoned. Mr. McBroom stated he does not feel that there is any timeline that would expire for the H-A zoning.

Commissioner Franzen commented that if you look at the area around the proposed development, he has a hard time allowing high density in this location. He thinks that this is a very creative way to do this kind of project, but he does not believe that making application for a PUD rather than a higher density zoning is the way to do it and he thinks that it is extreme. He will not be in support of this.

Commissioner Modlin added that he hopes that because the developer is willing to change the concept of the development and he may have waited too long however the parcel needs to be developed. Part of the proposal he agrees with, the 6 Plex is very nice and buffers in well but the 8 plex buildings were not designed the same way and give more of a high rise look opposed to a residential look.

Chair Yeater called for the vote.

1-4 Motion is Denied.

A second motion was made by Commissioner Andersen, based on the application received and the preceding analysis, the Planning Commission finds that the proposed Planned Unit Development is not in compliance with Sections 24-204(b) and 24-205(c) of the Development Code and therefore recommends City Council denial. Commissioner Franzen seconded the motion.

Motion Carries 5-0

9. Staff Report

No Staff Report

10. Adjournment

With no further business before the Commission, Chair Yeater adjourned the meeting at 3:29 PM.

DocuSigned by:

Justin Yeater

Justin Yeater, Chair

DocuSigned by:

Don Threewitt

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Don Threewitt, Community Development Deputy Director