



Real Fun. Real Colorado.

**CITY COUNCIL AGENDA
WEDNESDAY, APRIL 17, 2019**

5:30 PM – REGULAR MEETING

**Location: Council Chambers, City Hall
337 E. Bennett Avenue, Cripple Creek, Colorado 80813**

**CALL TO ORDER
INVOCATION
PLEDGE OF ALLEGIANCE
ROLL CALL
APPROVAL OF MINUTES FROM PRIOR MEETING
 A. APRIL 3, 2019 REGULAR MEETING
PUBLIC COMMENT
ADMINISTRATOR REPORT
FINANCE DIRECTOR REPORT**

- 1. CONSIDER BID FOR MURAL IN POCKET PARK ADJACENT TO CITY HALL; MARK CAMPBELL, CITY ADMINISTRATOR.**
- 2. CONSIDER APPROVAL OF LETTER OF INTENT TO PARTICIPATE IN THE TELLER COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN AND ASSOCIATED FUNDING MATCH COMMITMENT LETTER AS A PARTICIPATING JURISDICTION; MARK CAMPBELL, CITY ADMINISTRATOR.**
- 3. FIRST READING OF ORDINANCE 2019-02 APPROVING THE REZONING OF PROPERTY LOCATED AT 421 E. PIKES PEAK AVENUE FROM INDUSTRIAL DISTRICT (C-1) TO NEIGHBORHOOD MIXED USE (BB); MARK CAMPBELL, CITY ADMINISTRATOR.**
- 4. ADJOURNMENT.**

CALL TO ORDER: Mayor Brown called the regular meeting of the City Council to order at 5:30 PM having previously been noticed in accordance with Colorado Open Meetings law.

PLEDGE OF ALLEGIANCE: Mayor Brown led the Pledge of Allegiance.

INVOCATION: None

ROLL CALL: City Clerk Sciacca called the roll. Present were Mayor Bruce Brown, Mayor Pro Tem Chris Hazlett (*via Skype*) and Councilmembers Tom Litherland, Meghan Rozell, and Melissa Trenary. Staff present were City Administrator Mark Campbell, City Clerk Janell Sciacca, City Attorney Erin Smith, Finance Director Paul Harris, Chief of Police Mike Rulo, Planning & Community Development Director Bill Gray and Marketing & Events Director Steve Kitzman.

APPROVAL OF MINUTES: **MOTION** by Councilwoman Trenary and seconded by Councilwoman Rozell to approve the minutes of the March 20, 2019 Regular Meeting as written. Motion carried unanimously.

PUBLIC COMMENT: There was no public comment.

ADMINISTRATOR REPORT: City Administrator Campbell noted the written report in the packet and highlighted that the Housing Study is underway with surveys to go out to PO boxholders and area employers for distribution to employees. The consultant will hold summer meetings with various groups and results are anticipated in September.

FINANCE DIRECTOR REPORT: Finance Director Harris stated his items were on the agenda.

PUBLIC HEARING TO CONSIDER AND APPROVE OR DENY THE DEVELOPMENT APPLICATION ENTITLED "WILDWOOD HOTEL – NEW CONSTRUCTION", PROPOSED BY STORE CAPITAL ACQUISITIONS, LLC, THAT INCLUDES THE FOLLOWING:

- A. REZONING OF LOT 1, AMERICAN GAMING CLUB SUBDIVISION FROM C-1 INDUSTRIAL DISTRICT TO BB NEIGHBORHOOD MIXED USE;
- B. SPECIAL EXCEPTION FOR A LODGING USE (HOTEL) ON LOT 1, AMERICAN GAMING CLUB SUBDIVISION IN BB NEIGHBORHOOD MIXED USE;
- C. VARIANCE TO ALLOW A FOUR (4) STORY HOTEL ON LOT 1, AMERICAN GAMING CLUB SUBDIVISION IN BB NEIGHBORHOOD MIXED USE;
- D. CONDITIONAL USE/SPECIAL EXCEPTION FOR A 48-SPACE OFF-STREET COMMERCIAL PARKING LOT ON LOT 3, AMERICAN GAMING CLUB SUBDIVISION IN BB NEIGHBORHOOD MIXED USE;

Mayor Brown announced the Public Hearing item. City Attorney Smith noted two Councilmembers reported conflicts. Councilwoman Trenary recused herself stating her husband was employed by Wildwood Casino and Mayor Pro Tem Hazlett recused himself stating he would actively be participating in construction of the hotel as an employee of the general contractor. Both recusals were accepted and Trenary left the dais while Hazlett continued listening via Skype.

Mayor Brown opened the Public Hearing announcing jurisdiction of the City Council and Planning Commission under Colorado Statute and Municipal Code. He reviewed the formal process for those in attendance and the viewing public. There was no objection to the form or substance of the hearing. Planning & Community Development Director Gray presented the Staff Report and reviewed a PowerPoint Presentation providing an overview of the proposed development. He reviewed the different approval types and required actions and then addressed each individually:

REZONING – Gray reviewed the criteria and findings for the requested Zoning Change and stated Staff found the proposed rezoning justified and was recommending the Planning Commission and City Council approve the request.

SPECIAL EXCEPTION – Gray reviewed the criteria and findings for the Special Exception and stated Staff found the proposed request makes sense and was recommending the Planning Commission and City Council approve the request subject to the six (6) conditions listed in the Staff Report.

VARIANCE – Gray reviewed the criteria and findings for the Building Height Variance and stated Staff found the proposed variance request could be approved and was recommending the Planning Commission and City Council approve the request.

CONDITIONAL USE/SPECIAL EXCEPTION – Gray reviewed the criteria for the Conditional Use / Special Exception and stated Staff found the proposed request to be justified and was recommending the Planning Commission and City Council approve the variance subject to the seven (7) conditions listed in the Staff Report and one (1) additional condition regarding the requirement of a Development Improvement Agreement.

Joe Canfora, Managing Member of Wildwood, presented on behalf of Store Capital Acquisitions. He reviewed a set of PowerPoint slides and the history of the casino. Canfora then introduced his project team and stated the Wildwood was excited to be a gateway for the community. He felt it was an important time for Cripple Creek where more growth helps the community overall. Doug Comstock, President of Comstock & Associates and project architect, provided an overview of the hotel and design features. Councilman Litherland inquired as to where water from the creek running off Carbonate Hill was to go. He questioned that while the creek is most of the time dry, he had seen it flood and wondered what the plans were. The property was to go. Roland Obering of Obering, Wurth & Associates, LLP and project engineer, replied the water will go into a 66-inch pipe. There is a series of inlets running on the southside of Galena which empty into a 66 inch culvert in the alley adjacent to the new hotel and ties into an enlarged culvert on the other side of old Highway 67. Councilwoman Rozell inquired about mitigation of noise from the rooftop space for the existing neighborhood. Canfora felt it would be more of a scenic opportunity for small gatherings and they would be conscientious of the use. Councilman Litherland inquired about discussions with CDOT regarding the highway. Obering replied his understanding was that 67 is City jurisdiction and LSC, a traffic consulting firm, was retained for the traffic study that was completed. The Porto cochere was moved as far from 67 as possible to maintain two-way traffic on Pikes Peak Avenue. Obering stated they will meet the City's clearance requirements.

Mayor Brown opened the floor to comments in support of the application. Colt Haugen, WickedThink Marketing, 4775 Mark Dabling Blvd, Colorado Springs, stated his advertising agency is working with the Casino. They have a tremendous plan in place and are ready for implementation and to start driving people up to Cripple Creek and pulling them from the Denver and Castle Rock. They are excited and the project affords a lot of opportunity to get people up to Cripple Creek and help everyone out. John Freeman, 410 S. 4th Street and owner of Cripple Creek Candy, expressed gratitude and support for the project as well as anyone who gets more people to Cripple Creek. He hoped there would be more projects like it.

Mayor Brown opened the floor to comments against the application. Newman McAllister, Esq. of 121 S. Tejon, Colorado Springs, spoke representing Susan Ward at 405 S. Pikes Peak. She is the owner of the property across the alley and immediately to the west of the current parking lot. McAllister stated his client did not object to the rezoning of Lot 1 or the Special Exception permitting the site of the hotel. Ward does object to the height variance allowing 4 floors. He reviewed the City regulations and criteria and stated the applicant has not provided facts or evidence of meeting or exceeding standards and criteria and stated it is not compatible with the surrounding area. McAllister felt many of the requirements of the development plan were not listed nor was there detailed information required supporting the variance. He stated that his client was asking that the story height variance be denied due to lack of evidence, but if approved, conditions be put in place on the variance and that it be conditional with final approval of a revised, proper plan with all 22 matters covered as per requirements at another Public Hearing.

Mayor Brown closed the floor to public comment and allowed the applicant to address remarks and present rebuttal evidence. Joe Canfora, managing member of Wildwood Casino, stated they have worked long and hard on this project. They conducted two hotel studies and determined the number of rooms needed in order to pay the bills. Space was also looked at well as costs with specific sites. The community needs rooms

and a conference center in order to grow and strengthen the length of visits and midweek business. The numbers they came up with in the end were for the 4 stories. Canfora stated he did introduce himself to the neighbor and tell her there would be building and construction interruption someday. He understands the history and the Wildwood is conscious of change but stuck between a rock and hard spot. Canfora stated the Wildwood did make a substantial offer to buy her property and he felt as if he was getting squeezed which he resented. Comstock added that a complete set of drawings and elevations were submitted with the Development Plan. Mayor Brown inquired why one more story makes a difference or is a burden for McAllister's client. McAllister replied his client wants to know how high the building is and there are no heights listed on the drawings he saw and reviewed with Planning & Community Development Director Gray. Councilwoman Rozell clarified with McAllister that his client was not comfortable with plans being approved without a final design. She stated that it is in the City code that the Code Administrator has final approval of the plans and the City has teeth to administer that. She inquired if conditional on that approval, and access to the plans, if that would make he and his client more comfortable. McAllister replied it would and if there was opportunity to object to any excessive height. Rozell stated her understanding of the Code was that there is right to appeal which would come before the Planning Commission and City Council. McAllister replied that if there is that method they could live with that. Councilman Litherland inquired what the height of the hotel actually is. Comstock reviewed the elevations and stated approximately 45 feet at the highest portion with the majority being around 30 feet. Planning & Community Development Director Gray reported Staff did not have the complete set of plans at review time but evaluated the application based on the illustrations provided and information it did have. There is a condition that requires elevations under the Special Exception approval. He then added that Staff presented its recommendations and findings, but it is the burden of the applicant to provide their justification. Councilwoman Rozell then reviewed section 4.2 of the Development Code regarding right to appeal stating the matter can be readdressed by the City Council. Gray added that Staff was trying to assist the applicant and carry them forward and felt that at then end of the day it could be concluded all requirements would be met before the building permit was issued or appropriate conditions would be set. City Attorney Smith clarified with Gray that Staff reviewed the application to make a determination that the applicant has met the burden of proving or offering enough evidence that criteria has been met and asked if in Staff's mind the applicant did to that. Gray replied yes, and that Staff's recommendation reflects that exactly. City Attorney Smith then inquired if all the City Council questions had been answered and if so recommended closure of the Public Hearing. **MOTION** by Councilwoman Rozell and seconded by Councilman Litherland to close the Public Hearing and move to deliberation. Motion carried unanimously.

MOTION by Councilwoman Rozell and seconded by Councilman Litherland to approve the rezoning of Lot 1, American Gaming Club Subdivision from C-1 Industrial District to BB Neighborhood Mixed Use and direct Staff to make sure the submission it is up to City specifications and prepare a first reading Ordinance. Motion carried unanimously.

MOTION by Councilman Litherland and seconded by Councilwoman Rozell to approve the Special Exception for a Lodging Use (Hotel) on Lot 1, American Gaming Club Subdivision in BB Neighborhood Mixed Use with conditions 1-6 as listed in the Staff Report and direct the City Attorney to prepare and bring back a Resolution. Motion carried unanimously.

MOTION by Councilwoman Rozell and seconded by Mayor Brown to approve the Variance to allow a four (4) story hotel on Lot 1, American Gaming Club Subdivision in BB Neighborhood Mixed Use and direct the City Attorney to prepare and bring back a Resolution. Motion carried unanimously.

MOTION Councilwoman Rozell and seconded by Councilman Litherland to approve the Conditional Use / Special Exception for a 48-Space Off-Street Commercial Parking Lot on Lot 3, American Gaming Club Subdivision in BB Neighborhood Mixed Use with all of the conditions as provided and prescribed by Staff tonight and subject to final approval by the Code Administrator and to direct the City Attorney to prepare and bring back a Resolution. Motion carried unanimously.

The Council took a break at 7:10PM and returned to session at approximately 7:20PM.

CONSIDER APPOINTMENT OF CEMETERY BOARD MEMBERS FOR MT PISGAH

CEMETERY: Planning and Community Development Director Gray presented the Staff Report and noted one additional member was being sought. He recommended appointment of the members with staggering terms. Zoellner and Hack would be appointed through 4/3/2020 and Litherland, Stitt and the vacant seat through 4/3/2021. Gray also requested appointment of Renee Mueller as Supervisor. Les Batson volunteered from the audience to be appointed to the vacant position. Litherland recused himself due to being one of the appointees. There was no public comment. **MOTION** by Councilwoman Trenary and seconded by Mayor Pro Tem Hazlett to appoint the Cemetery Board members with staggering terms and the Supervisor as recommended. Motion carried unanimously

REVIEW AND ACCEPTANCE OR REJECTION OF WATER/SEWER BONDS REFINANCING COMPETITIVE BIDS:

A. CONSIDER APPROVAL OF RESOLUTION NO. 2019-04 AUTHORIZING ISSUANCE, AWARDING SALE, PRESCRIBING THE FORM AND DETAILS AND PROVIDING FOR THE PAYMENT OF \$TBD WATER REVENUE REFUNDING BONDS, SERIES 2019A:

Finance Director Harris presented. He introduced Tim Hintz of AMKO Advisors and stated Staff has been working since June 2018 to refinance two Water/Sewer Bond Issues to achieve lower rates. The current rates are 5.5% and 4.75% rates and two bids were received for 2.99% and 3.034%. DA Davidson and Company is being recommended. Harris distributed an analysis and reviewed it for the Council and viewing public and then stated the net savings to the City is \$336,564 which can go to projects. Tim Hintz thanked the Council for allowing AMKO to put this together and save the City money. There was no public comment. **MOTION** by Councilman Litherland and seconded by Councilwoman Trenary to approve Resolution 2019-04 as presented tonight. Motion carried unanimously.

CONSIDER ASSET PURCHASE AGREEMENT BY AND AMONG CITY OF CRIPPLE CREEK

AND UNIVERSITY OF COLORADO HEALTH: Finance Director Harris presented reviewing the history and purpose of the agreement. He stated the City was hoping to do a simple bill of sale and list the assets, but UC Health is such a big healthcare firm and sent a cumbersome Asset Purchase Agreement designed for usual purchases of a complete office or business instead of computers and chairs. Staff went back and forth with them and the current agreement is for \$10,950 and excludes the old x-ray machine. There was no public comment. **MOTION** by Councilwoman Rozell and seconded by Councilman Litherland to approve the Asset Purchase Agreement by and among City of Cripple Creek and University of Colorado Health as presented. Motion carried unanimously. Smith noted for the record this agreement authorizes the Mayor to sign the bill of sale.

ADJOURNMENT: There being no further business before the City Council, the meeting was adjourned 7:37 PM.

APPROVED:

ATTEST:

Bruce Brown
Mayor

Janell Sciacca, CMC
City Clerk

MURAL IN CRIPPLE CREEK POCKET
PARK INITIAL OVER-ALL ESTIMATE,
INCLUDING MATERIALS, PAINT, AND
SUPPLIES, FOR A TIME PERIOD OF
APPROXIMATELY 1 1/2 YEARS

\$ 19,200



Joseph Baird Harris
OPTIMIST GALLERY
114 N. 4TH ST. VICTOR, COLORADO 80860
719-232-8258



337 E. BENNETT AVE. | P.O. BOX 430 | CRIPPLE CREEK, CO 80813 | 719-689-2502 | FAX 719-689-2774

April 17, 2019

Don Angell
Teller County Office of Emergency Management
112 N. A Street
PO Box 959
Cripple Creek, CO 80813

Re: "Statement of Intent to Participate" as a participating jurisdiction in the Teller County Multi-Jurisdictional Hazard Mitigation Plan (HMP)

Dear Mr. Angell,

In accordance with the Federal Emergency Management Agency's (FEMA) Local Hazard Mitigation Plan (HMP) requirements, under 44 CFR §201.6, which specifically identify criteria that allow for multi-jurisdictional mitigation plans, the City of Cripple Creek is submitting this letter of intent to confirm its participation in the Teller County Multi-Jurisdictional Hazard Mitigation Planning effort.

Further, as a condition to participating in the mitigation planning, Cripple Creek agrees to meet the requirements for mitigation plans identified in 44 CFR §201.6 and to provide such cooperation as is necessary and in a timely manner to Teller County to complete the plan in conformance with FEMA requirements.

Cripple Creek understands that it must engage in the following planning process, as more fully described in FEMA's *Local Mitigation Planning Handbook* dated March 2013 including, but not limited to:

- Identification of hazards unique to the jurisdiction;
- The conduct of a vulnerability analysis and an identification of risks, where they differ from the general planning area;
- The formulation of mitigation goals responsive to public input and development of mitigation actions complementary to those goals. A range of actions must be identified specific for each jurisdiction;
- Demonstration that there has been proactively offered an opportunity for participation in the planning process by all community stakeholders (examples of participation include relevant involvement in any planning process, attending meetings, contributing research, data, or other information, commenting on drafts of the plan, etc.);
- Documentation of an effective process to maintain and implement the plan;
- Formal adoption of the Multi-Jurisdictional Hazard Mitigation Plan by the jurisdiction's governing body (each jurisdiction must officially adopt the plan).

Therefore, with a full understanding of the obligations incurred by an agreement between the Lead Jurisdiction and the Participating Jurisdiction, I Mayor Bruce Brown, commit Cripple Creek to the Teller County Multi-Jurisdictional Hazard Mitigation Planning effort.

Executed this 17th day of April, 2019

Bruce Brown
Mayor



337 E. BENNETT AVE. | P.O. BOX 430 | CRIPPLE CREEK, CO 80813 | 719-689-2502 | FAX 719-689-2774

April 17, 2019

State Hazard Mitigation Officer (SHMO)
Colorado Division of Homeland Security & Emergency Management (DHSEM)
9195 East Mineral Avenue, Suite 200
Centennial, CO 80112

Re: "Funding Match Commitment Letter" as a participating jurisdiction in the Teller County
Multi-Jurisdictional Hazard Mitigation Plan (HMP)

Dear Mr. Board,

This letter serves as the City of Cripple Creek's commitment to meet the matching fund requirements for the Teller County Hazard Mitigation Plan (HMP) Update.

If awarded an HMA Planning Grant, Cripple Creek will provide local in-kind services in lieu of cash funds in the amount of at least \$1,031.00 via staff time (labor) to assist in the planning process, compilation of data, and other services related to development of the Teller County HMP. Documentation of in-kind costs will be tracked by hourly wages and participation in planning activities via official sign-in sheets, and other data gathering needs as assessed and assigned by the Local Planning Committee (LPC).

Therefore, with a full understanding of the fiscal obligations incurred by this agreement, I [Name and Title of Authorized Jurisdiction Official], commit Cripple Creek match funding to the Teller County Multi-Jurisdictional Hazard Mitigation Planning effort.

Executed this 17th day of April, 2019

Bruce Brown
Mayor

**ORDINANCE NO. 2019-02
CITY OF CRIPPLE CREEK**

**AN ORDINANCE OF THE CITY OF CRIPPLE CREEK, COLORADO
APPROVING THE REZONING OF PROPERTY LOCATED AT 421 E PIKES
PEAK AVENUE FROM INDUSTRIAL DISTRICT (C-1) TO
NEIGHBORHOOD MIXED USE (BB)**

WHEREAS, Article 4, Section 4.6.1 of the City of Cripple Creek Development Code establishes the administration, authority and procedures for the City's review and approval of requests for rezoning applications; and

WHEREAS, Store Capital Acquisitions, LLC has submitted a rezoning application for approval of a zone change to Neighborhood Mixed Use (BB) for the property located at 421 E Pikes Peak Avenue;

WHEREAS, the City of Cripple Creek has adopted a comprehensive plan titled City of Cripple Creek Master Plan, which calls for the greatest variety of mixed uses to be located within the Transition Sector; and

WHEREAS, the Transition Sector is primarily located on major roads leading into and out of the City (i.e., Hwy 67, 5th Street, Teller County Road 1) and adjacent to the City's Historic Downtown Core; and

WHEREAS, 421 E Pikes Peak Avenue is located in the Transition Sector and is more suited to the uses of Neighborhood Mixed Use (BB) because of its proximity to the downtown core, 5th Street and pedestrian connections; and

WHEREAS, a zone change will enable future use of the property that is more compatible with the City of Cripple Creek Master Plan and Development Code; and

WHEREAS, the City of Cripple Creek Planning Commission and City Council held a public hearing on April 3, 2019 and voted to recommend approval of rezoning the property to Neighborhood Mixed Use (BB).

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRIPPLE
CREEK, COLORADO, THAT:**

Section 1. Upon application by Store Capital Acquisitions, LLC for approval of a zone change from Industrial District (C-1) to Neighborhood Mixed Use (BB) for property located at 421 E Pikes Peak Avenue, and pursuant to the findings made based on testimony and evidence presented at a public hearing before the Cripple Creek City Council, a zone change is approved for the following described land:

Lot 1, American Gaming Club Subdivision, recorded at reception no. 603734,
City of Cripple Creek, County of Teller, State of Colorado.

Also known as 421 E Pikes Peak Avenue

PASSED ON THE FIRST READING AND ORDERED PUBLISHED THIS ____
DAY OF _____, 2019.

Janell Sciacca, City Clerk

PASSED ON SECOND READING AND ADOPTED BY THE CITY COUNCIL
THIS ____ DAY OF _____, 2019.

CITY OF CRIPPLE CREEK, COLORADO

Bruce Brown, Mayor

ATTEST:

Janell Sciacca, CMC
City Clerk

Approved as to form:

Erin M. Smith
City Attorney