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FWF File No. 3365.001

January 27, 2017

By Electronic Mail

(Lthelen@springsgov.com)

Lonna Thelen
Principal Planner
City of Colorado Springs
30 South Nevada Avenue, Suite 105
Colorado Springs, CO 80903

Re: Archer Park - Third Submittal

Dear Ms. Thelen:

This office represents Dr. and Mrs. James Albert who, as you know, own property at 12 El Encanto. We have been asked to comment on the Third Submittal for the proposed Archer Park project. The major concerns are:

Fire. Previous concerns over fire access have not been adequately addressed. As you know, the Alberts will be meeting with Chief Lacey to further address these concerns.

Drainage. Previous concerns over drainage have not been adequately addressed. Actual runoff on the property (including historic upstream flows) will exceed the capacity of the proposed improvements by a factor of 2-1/2 times, virtually guaranteeing catastrophic failure in a major storm. Given the EPA's pending lawsuit against the City for inadequate stormwater control, approving drainage improvements which are virtually guaranteed to fail in a major storm hardly seems prudent. Additionally, while the Applicant states the detention pond overflow direction has "been modified toward El Encanto," all overflows still must be conveyed through Mayfield Lane in order to reach El Encanto. As previously noted, Mayfield Lane is private, so there is no legal right to convey developed flows across Mayfield Lane, absent written consent from owners of property served by that road.

Utilities. As you know, the Alberts are the beneficiaries of a 20' access easement over the easterly portion of the proposed project. The proposed plat and utility plan show a 15' "public non-exclusive easement" and a 5' "Utility Easement" as being located within the 20' access easement. These easements are proposed to be used for sewer and water lines for the

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project (and although not shown, presumably gas and electric lines as well). Such uses are not permitted.

5' "Utility Easement" Recorded in Book 22, Page 98. This is an 1877 deed. It does not reserve or create any public or private utility easements. It only reserves the right of the Colorado Springs Company to maintain and use an irrigation canal for irrigation and domestic water. The irrigation canal has long since ceased to exist. No use other than the irrigation canal is permitted. A copy of the 1877 deed is attached.

15' "Public Non-Exclusive Easement." This is an easement granted to the Broadmoor Sanitation District in 1968 for the sewer line serving the historic Enoch residence at 12 El Encanto. The only permitted use is for the existing sewer line, and enlargement of that line is not permitted. However, up to two sewer taps for land immediately to the west of the easement are allowed to be connected to the sewer line. A copy of this easement is also enclosed. As successors to the Enochs on 12 El Encanto, this easement now runs to the benefit of the Alberts. No other use is permitted under this easement.

The existing 20' access easement for the Alberts does not allow for installation of utilities or activities which would disrupt use of the easement for access. Thus, unless the Alberts are willing to modify their existing access easement, that easement cannot be used for water, gas, electric and/or sewer lines (other than the two sewer taps that are allowed to be connected to the existing sewer line). Consequently, the proposed plat and development plans must be modified to relocate those utility lines so they do not encroach onto the Alberts' existing 20' access easement.

We trust this information will be of assistance to you.

Sincerely,



BRUCE M. WRIGHT

BMW/gad
Enclosures

cc: Dr. James Albert
Les Gruen
Jon Steeler, Esq.

HELLO LONNA, HERE ARE MY CONTINUED CONCERNS:

Respectfully Submitted,

Bette Ann Albert

February 6, 2017

Of all of the issues, the most disturbing so far has been the revelation by the land consultant for the developer at the public meeting at Broadmoor Elementary in October. This consultant revealed that a "private, closed door meeting" occurred between City officials and the developer and his representatives. In that meeting, serious decisions were made about this proposed development including that a traffic study was not needed and that one 20' road is "recommended" by City Fire to serve this development as well as the grandfathered home at 12 El Encanto Drive that is directly affected by this development (in addition to the surrounding neighborhoods on all four sides of it). It is unacceptable that those of us who are expressing our concerns about this proposal, did not have representation at this meeting where these crucial approvals were given. It is hard to believe that our City would approve such a development within an already existing neighborhood as well as with "ONE micro entrance and exit" for all residents of the proposed development as well as the residents of 12 El Encanto Drive. It is likely that the residents of this proposed development and the residents of 12 El Encanto Drive will at some point be

barricaded in or out or both because of the design flaws of this proposal on one entrance and exit with one road serving the already existing home at 12 El Encanto Drive and the only road serving this proposed development.

When my husband and I bought 12 El Encanto Drive, we bought it as an investment. We now have a tenant for 12 EE and will be moving in immediately. I believe that when City officials met with the developer very early on—in this private exclusive meeting, this developer told these officials that the house to 12 El Encanto was going to be removed; therefore, City officials might have been misled about the home at 12 El Encanto and the need to protect access in and out of 12 El Encanto Drive for the homeowner or anyone living in the home at 12 El Encanto. We need to protect the access in and out of this home for eternity, as 12 El Encanto is a rental property for us and lifetime investment for us. Below are our other concerns for the City to please address and respond to us:

1. We don't understand why we submit our concerns and then our concerns seem to get dropped or there is no response to our concerns. We raise concerns and there is no official response back from the City except that the City has received these concerns. Seems our concerns are just dropped from the dialogue. Perhaps the City is collecting all concerns and will be sending out an official response to the neighbors.

2. The land consultant agent for the developer responds to only part of the whole story depending on what works for her to let the City believe that the so-called issues are resolved when nothing can be farther from the truth about how this proposed development will affect our neighborhoods. She bleaches important information in order to support her claims and changes to address the concerns of the neighborhood. One example is that the drainage report was not revealed to the neighbors at the public meeting at Broadmoor Elementary in October when it was completed weeks before this meeting.
3. A Traffic Study is CRUCIAL. There is an undue burden on the one way in one way out NARROW DEAD END that serves 12 El Encanto Drive and is the only entrance and exit for the proposed development. I believe the traffic official underestimated the number of trips per house in the proposed development as well as the needs and safety of the home at 12 El Encanto Drive. In addition, the traffic study needs to address pedestrian traffic coming in and out of this proposed development and 12 El Encanto Drive as well as study the need for sidewalks throughout this development, on the road in to 12 El Encanto Drive and the north end of the proposed development bordering the streets of Mayfield and El Encanto Drive. As we all know, there are not just trips by the homeowners. There will be service vehicles throughout the lifetime of this development

and visitors. There will be families living in these homes with all kinds of vehicles entering and exiting each home. In addition, the developer has stated that he is only going to build a house as it sells. This time frame could take 10 years perhaps. There will be construction vehicles over this span of time that it takes to build the entire development. There will be pedestrians walking back and forth from 12 El Encanto Drive on to El Encanto Drive including gardeners, house maintenance people, pedestrians (the current tenant has a dog) and will be walking in the neighborhood, etc.

4. Ok so it is not a retention pond but a detention pond/swamp. It will hold water up to 48 hours, IF IT IS INSTALLED AND DESIGNED ACCURATELY AND MAINTAINED CORRECTLY—and that is a BIG IF—it will still be just as hazardous as a retention pond/swamp and will present a clear and present danger to the residents in our neighborhood and the residents who live in the proposed development. This proposed neighborhood is being actively marketed to “families” and will bring in all numbers of children either living in the development or visiting it. Even a fenced-in detention pond has issues and will not protect any person from drowning who is curious enough to climb over or get through it somehow. Signs will do no good for a child who can’t read. I imagine that the developer really doesn’t want this detention pond and wants the neighbors to fight this battle for him. Detention pond/swamp is just as

dangerous as a retention pond/swamp if not more since it presents itself as a dry hole (what child is not curious about a hole??) that will fill up quickly with water under flash flood conditions. Many citizens do not understand how "detention" ponds work. In fact, the official name for them is a DETENTION BASIN, which means that they are a dry basin for some of the time and wet basin for other parts of the time. Citizens will not understand that this dry basin presents an unseen danger to anyone curious enough to interfere with the dry basin. I also believe that there are serious design issues with this detention swamp that will impose hazardous conditions on our neighborhood either in a last minute situation with no warning or over a long period of time. There is a no win here with this detention pond.

Does the City have safeguards so these detention ponds cannot live right next to already existing homes and streets, or any homes and active streets, as this proposed development places the detention pond right next to homes and up against 2 main neighborhood streets or inserted in to an already existing neighborhood. What safeguards does the City require around detention ponds? It seems that these ponds should only be installed in areas of Colorado Springs like out East where there is plenty of land to act as protection and separation from the homes that these ponds

serve. It is absurd to allow a detention basin in a dense neighborhood and a grandfathered neighborhood.

It appears that the citizens of Colorado Springs are being reprimanded for not approving the Stormwater Tax and we are the ones who are going to carry the hazardous burden because our City is being sued by the EPA and detention ponds or retention ponds are being thrown back in to our neighborhoods. This situation is not a just solution to the bigger issue of stormwater drainage. It is an infantile solution that will only anger the residents of our beautiful neighborhoods. We don't deserve this hazardous solution to the bigger City problems.

5. The developer, land consultant for this project and the City will most likely be responsible for any illnesses, accidents that are the result of the too close proximity of this detention pond or petri dish to our established homes, streets, pedestrians, families and domestic animals living along its borders. Water attracts insects and animals, birds and other animal droppings as a watering hole. Any human exposure to contaminants that are improperly stored in this detention basin will be the responsibility of the stated parties who have designed and approved this detention basin in a thriving neighborhood should such situations present themselves over the lifetime of such a hazardous feature.

6. Grasspavers will be a hazard to people getting in and out of their vehicles with highheels or other unstable shoes. The HOA and developer and land consultant will likely be liable if someone loses balance on these uneven pavers and ends up with a serious injury.

7. Will there be lighting on the grasspavers that will bother the homes of Mayfield? What is the general street lighting plan for this development and how will it affect the homes that border it on Mayfield as well as other homes on El Encanto Drive and the home to the south of this development that has its entrance from Marland Rd. and the homes on Marland Rd. itself that have backyards bordering this proposed development and have direct views and proximity to this development, including 9 and 12 El Encanto Drive. Are there City codes that need to be followed so street lighting will be respectful to all four neighborhoods that border this proposed development?

8. RURALISH is an oxymoron term to describe a development that is constructing 7 \$million\$ dollar homes. This term is an excuse for not constructing a proper development with wide streets that match the already existing streets' sizes and that fits in to the existing neighborhoods (that are NOT RURALISH) and installing the appropriate curb and gutter

streets including the N/S driveway/easement/private road—whatever you want to call it—that is the only access in and out of this proposed development and interferes directly with the access in and out of 12 El Encanto Drive and the entire neighborhood. As this driveway in to 12 El Encanto Drive is currently a hard dirt road, we don't want to add any additional problematic features to this road that will create even more storm water going on to El Encanto Drive. Why would the City approve making this dirt driveway which is an absorbable road turn in to a hard top surface with new drainage issues on to El Encanto as well as it will dump water on to the property of 9 El Encanto as this property slants down from the driveway of 12 El Encanto Drive and there is a line of mature trees that will get flooded in addition to the home of 9 El Encanto Drive will get flooded if this dirt road does not have appropriate curb and gutters out to the City streets.

9. Please address the concern for the current utilities that feed our house at 9 El Encanto Drive, the house at 12 El Encanto Drive and two other homes that I am aware of who receive and have received electric utilitites from the Marland Road East West easement t since 1954 that we are being told by the land consultant that does not exist. We have lived in this home for 25 years or so and we know our electric comes from this easement. In addition, City utilities trucks drive up

to the electric pole on this East West easement to repair the electricity during the history of outages that we have experienced living in our home. The City official uses the cherry picker to get to the electric pole and needs access for the utility truck to get to this line. At this time, the proposed development does not allow for access to this line to serve our homes.

9. As I read the Review Criteria for a Preliminary Plat and Plat, I want to highlight what it says:

TO PROMOTE THE HEALTH, SAFETY, CONVENIENCE AND GENERAL WELFARE OF THE CITIZENS OF THE CITY. It is my belief that this proposed development hasn't met even this first criterion to protect the citizens of the neighborhoods that are directly affected by this flawly-designed development inserted within an already existing family neighborhood.

I am not sure whom the City is protecting with this project. I believe there is an inherent conflict of interest when a City has the desire to create as many new revenue streams as possible including new residential developments. There is a conflict of interest because there is a direct interest in getting new tax revenue from these new homes and the more new homes the better versus protecting the citizens who are equal contributors to City tax revenues, who are local employers and who are responsible citizens and

contribute and have contributed wholeheartedly to the financial welfare of the City of Colorado Springs. I believe this conflict of interest to get as many new homes as possible and the taxes that they will create for our City makes it almost impossible for the City to fairly evaluate this proposed project. It is not an accusation but an observation and a very sad observation.

e-Memo

FW File No. 3365.001

To: Les Gruen (urbanstrategies@msn.com)
Cc: Dr. James Albert
From: Bruce M. Wright
Date: February 3, 2017
Re: Archer Park Utilities

I understand Delesk may be contemplating bringing utilities to his project using the Alberts' 20 foot access easement as opposed to the existing City utility easement out to Mayfield. As noted in my January 27 letter to Lonna, neither the 1877 nor the 1968 easement would allow for this. If Delesk wants to use the Alberts' 2016 access easement for his utilities, there are some significant constraints:

1. Any utility installation cannot interrupt use of the easement for ingress or egress since it expressly grants the "absolute right" to use the easement for ingress and egress "at any time." Thus, construction would have to be done in such a way that there is continuous unimpeded access for vehicles. While this may be possible for connecting up to two sewer taps for the Delesk property crossing the easement and tying into the existing sewer line per the 1968 easement, it is unlikely it could be accomplished if utility lines are to be installed longitudinally along the length of the easement. This suggests the "utilities" language in the 2016 easement was meant to confirm sewer lines for these two taps could be placed in the access easement for connecting into the existing sewer line for 12 El Encanto.

2. The 2016 easement requires general upkeep must be pre-approved in writing by both parties. This would certainly include restoration of the easement after any utility work. Thus, the Alberts would need to review and approve, in writing, any plans by Delesk for installation of utilities and reclamation of the access easement.

3. Since enlargement of the existing sewer line is not permitted per the 1968 easement, the integrity of that line must be maintained during any additional utility work within the 20 foot access easement. This would not be a problem for connecting two sewer taps to the existing line, but would be problematic if a parallel sewer line and new water, gas and electric lines were to be installed maintaining the spacing required by code.

Memo
Les Gruen
February 3, 2017
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In short, utility service to the Delesk property should be provided via the existing utility easement to Mayfield, which was created for that purpose. For the reasons discussed above, Delesk's ability to use the Alberts' 20 foot access easement for these utilities is highly problematic.

Please call if you have questions.

Thelen, Lonna

From: james albert <jdalbert1@comcast.net>
Sent: Monday, January 30, 2017 9:32 PM
To: Thelen, Lonna
Subject: full easement analysis

Lonna

Now that you have received the full easement analysis you can see that what was presented on the plat(version 3) will not accommodate 7 homes but only 2 for sewer ONLY. NO accommodation for water/electric, or gas for ANY homes.

Most importantly this is to the best of our knowledge at least the second time that Ms. Heggem as a part of altitude land management and Newports' agent has purposely deceived the city concerning this project by presenting inaccurate information that they knew was inaccurate but did it anyway.

The first time was the neighborhood meeting that you attended that even though a drainage report demonstrating the need for a retention pond was available 3 weeks before the meeting prepared by her company, Ms Heggem purposely failed to disclose this information to the neighbors and you when asked questions about drainage.

Secondly the easement number 2228 page 380 which is printed on the plat will not allow what they are proposing but they documented it on the plat as their justification for putting utilities in our shared easement

There are 2 possible conclusions:

- 1) They did no research which brings into question ALL technical details proposed by them in this project.
- 2) The knew it was not a justification but purposely lied hoping no one from the neighborhood or city would actually check on them to discover the truth.

Either way this is very disturbing that I should need to incur legal fees to simply prove they are presenting inaccurate information to the city who seems to be assuming their information to be valid. I would like to know how the city continues to proceed with developers who purposely present inaccurate information to get their projects approved. I can only assume there are other technical details not presented accurately yet to be discovered.

Are their regulations for how the city is to deal with developers who repeatedly try to deceive the city with inaccurate information to have their projects approved? I assume the city cares and I assume there must be regulations. Can you provide that information for me??

Sincerely
James D.Albert, MD

Lonna,

Mr. Delesk and Ms. Heggem have again failed to in any way address the concerns of the neighbors uniformly expressed at the neighborhood meeting in October and neighborhood comments submitted in December. I wish to restate our neighborhood concerns that continue to be ignored.

1) **DENSITY:** The size of the lots is not the issue. The ratio of house size to lot size, the space between homes, setback from the road, number of homes per acre, and absolute minimal size of the 20 foot road results in a plan far denser than anything surrounding this proposal on El Encanto, Sierra Vista, Marland or even Mayfield. This density is inconsistent with surrounding land uses and without precedent in the Broadmoor neighborhood. This problem is at the core of all problems that follow.

2) **UTILITY ACCESS:** There is presently **NO** utility access for this project. The utility easement off of Mayfield provided for this property by the city is being vacated by the developer. I can only assume he knows he cannot interfere with the private property of Mayfield road. Ms. Heggem claims an easement to Marland does not exist eliminating that access

The three reasons why there will be no utilities to the proposed development through the Albert easement to 12 El Encanto is a follows:

a) The easement number sited on the plat that is contiguous with the “road access” easement to 12 El Encanto **only** allows for 2 additional sewer taps off of the existing sewer line to 12 El Encanto. One of them is currently hooked up to the barn. There is **NO** allowance for any additional sewer lines, water, gas or electric lines.

b) The easement allows 24/7 continuous access to 12 El Encanto by vehicular traffic. Any construction to potentially add parallel utilities would undoubtedly obstruct any vehicular traffic to 12 El Encanto. This would include large fire truck or ambulance access.

c) Any changes to the easement by either party require pre -written approval and notice and acceptance of these changes by the opposing party. The vehicular access contains one sewer line to our home at 12 El Encanto and I will not allow anyone to possibly damage our sewer line so the road will **not** be excavated. Additionally since 9 El Encanto sits 5 feet lower in elevation from this easement I

will not allow the gravel to be removed and replaced with the asphalt proposed that does not have gutters. Asphalt without gutter will drain water into our 9 El Encanto property. The city no longer allows public roads with asphalt not to have gutters because they wear quickly. We will not allow it either.

Very simply the Easement was written in the spirit of cooperation. If both parties want to change things for mutual benefit anything could be done. If the parties are at odds the **status quo will remain**. In short suing the other party for a frivolous charge that Mr. Delesk has already done to us is not a way to get cooperation.

3) PROPOSED DETENTION POND: Ms Heggem's response of January 24, 2017 is belittling and condescending to the neighbors who may not understand the difference between a retention and detention pond. Why would they as there has never been one installed in the Broadmoor before and they were only informed about the need for one day before comments were due on the 2nd rendition. The choice in this application is obviously a detention pond. She implies that health and drowning concerns listed below are more prevalent with retention ponds when actually the opposite is true. The problems with detention ponds are worse because they are expected to be dry but are frequently wet. They have low-level standing water that attracts mosquitoes worse than full retention ponds. They frequently malfunction because of poor maintenance that no one wants to finance. They may have several feet of water where children could drown or if it freezes someone could fall through the ice and drown as what has happened all over the country. The plans for how this pond is to be fenced in and keep wandering children safe has not been presented.

There are multiple lawsuits against the city at this time because of malfunctioning detention ponds. Newport has never built one, never maintained one and is placing all responsibility for the need to have one in this project on the city. In reality the need is because of the developers attempt to build with maximum density. We have seen no plan for implementation and payment for maintenance. The "theoretical HOA may not exist for 5-10 years. Bonds up to \$1,000,000 have been required to be put up by developers to guarantee funds for weekly maintenance and total reconstruction every 2-4 years to remove toxins. We want to see a maintenance plan and documentations of available funds. Will the city be there to maintain ponds, as Mr. Delesk has no plan how to do it?

The ultimate problem remains that the pond borders up against Mayfield road to the north. The engineered overflow **will occur** onto Mayfield which is a **Private Road** built by Mr. Delesk 30 years ago. Pond overflow **cannot directly flow into El Encanto as inaccurately described by Ms. Heggem**. If the developer attempts to build this detention pond the Mayfield HOA will proceed with legal remedy to protect their Private Property.

Although they continue to have difficulty obtaining complete information from the city, an independent drainage analysis has been performed and demonstrates that Mr. Delesk did not use modern rain flow calculations but used data from the construction of Mayfield in the 1980's to calculate what water volumes will be generated from the property now that it is 90 % impermeable. The property acts as a drainage basin for large flows coming into the property from the south. The true calculations demonstrate the pond would need to be at least twice the size to legally accommodate a 100-year storm. There is no room for such pond in the proposed area entitled Tract A.

As a physician (Cardiac Surgeon) I am aware that detention ponds have health risks. They are usually used in commercial settings smell, collect rotting compost, collect fertilizer, heavy metals, carcinogens, asphalt fragments from road and roofs, biohazards and attract misquotes (Zica and West Nile Virus), geese that defecate everywhere around the pond and neighborhood. The development with many outside parked cars will produce oil, gas and hydrocarbons from the exterior surfaces and roofs of the homes. If curb and gutters are not installed the asphalt road will chip away at it's perimeter and drain into the pond. The exact intervals of how often these ponds should be completely dredged and redone to remove the concentrated carcinogens is not known especially in a residential environment. There are clearly **potential health risks** to those who are constantly exposed to the site and I am surprised the city wishes to expose themselves to that liability.

4) EXCESSIVE STORM DRAINAGE -POTENTIAL DAMAGE TO ADJACENT HOMES AND NEIGHBORHOOD: The developer has inappropriately deferred all issues of storm drainage to the city engineers who have never communicated with the neighbors. The severe contours from west to east and north to south raise great concern as to whether the underestimated flows will actually get into the detention pond that drains into the private road. What happens to the water that drains north and east and does not get into the pond? Where does it go? The 4 homes that border the property to the north (Mayfield) and the 2 homes (9 and 12 El Encanto) are at severe peril of receiving all the water that does **not** get to the ponds. Water

already floods into the backyards of the Mayfield southern homes and onto El Encanto even with a completely permeable surface. As someone who lives in these areas we want to understand how all the water gets to the pond and does not flood these homes or overrun the neighborhood. The developer is ignoring the physics of land. The situation is already bad and he is about to make it radically worse.

Until additional information is provided to the bordering neighbors that water will not overflow into these homes during heavy rain as well as a 100 year storm we will absolutely **never** allow the easement to be changed from gravel to asphalt in hope of preserving more permeable surface. Additionally we will consider building a sand bag wall along the eastern border of the easement on our property to protect us from this inadequate design.

4) GUTTERS, AND CURBS: I stand by my statement that there is nothing “rural” about this development or it’s surrounding neighborhood. If approved it would be the most urban dense development in the Broadmoor except the Broadmoor Hotel itself. There is no excuse not to install the appropriate curb, sidewalk, and gutter system with directed drainage into the storm drains on El Encanto. This supplemental system **will be** required to control water that does **not get** into the detention pond. Since the detention pond will not be allowed by the Mayfield HOA this system may be the **only** way to control the excessive flow of water coming out of this development. The city engineers need to be thinking about a Plan B to control the excessive quantity of water runoff **without** a detention pond. The neighbors need to have adequate education from the storm water and drainage engineers, not a landscape architect, as to how are homes will be protected from this massive water overload in both scenarios of with and without the detention pond. Until this occurs the neighbors will never support this development as currently designed.

5) FIRE CODE AND 20 FOOT ROAD: After meeting on site with Chief Lacey we discovered that in contrast to what we were told by Ms Heggem at the neighborhood meeting, the CSFD **did not** suggest a 20 foot road. The 2009 IFC was amended and adopted by city council in 2011. It allows for 20-foot roads up to 750 feet. This is more lenient than the true 2019 and 2015 IFC which requires roads to be 26 feet when > 500 feet. All roads greater than 750 feet require special approval. Chief Lacy stated that “He decides where and how to measure a road and that “special approval” is exclusively and solely determined by himself. That

being said he admitted that 20-foot roads have their problems with no parking and enforcement of that ordinance by the understaffed fire department. The use of a 20 foot road does **not** in any way decrease storm water drainage in this proposed application as the savings is simply filled up by the lots which barely meet the 20,000 square foot minimum. A larger road would prohibit the 7 home proposal. Again it's all about density. The neighbors continue to have concerns about a 780 foot one way in one way out road that if anyone parks illegally will obstruct emergency and fire vehicles in an **extremely** high fire risk area. The issue of why we in CS have a more lenient fire code than the actual IFC after loosing more homes than **any** other city in the country over the last 5 years is an unresolved problem.

6) PARKING: The creation of a commercial parking area in the North part of the development is outrageous and should only happen in an apartment complex. There is nothing like this in any of the surrounding neighborhoods and significantly impedes on the quiet enjoyment on the southern homes on Mayfield that will now have parked cars directly in front of their back porches. The basic design of the project is flawed because it does not provide the normal parking pattern of a home because of the 20-foot road. Normally few excess cars are parked in the homeowner's driveway and overflow parked on the street in front of the homeowner's house not in front of another homeowner's house. This is the way it works in all the surrounding neighborhoods and Mr. Delesk should not be able to define a new world order simply for his profit. Mr. Delesk will need to remove at least 4 homes and provide a 28-foot road to achieve a normal parking situation. The Grasspave plays no role as it is only 25 % more permeable than concrete and will **never** protect the south homes of Mayfield from the 25 MPH south-north flows during heavy rain. It is disingenuous to somehow claim it will **do anything** to decrease the excessive drainage problem.

7) SIDEWALKS: Pedestrians especially children negotiating a 20 foot road with bidirectional traffic without a sidewalk is dangerous and could lead to serious injury and potential liability since the design is so absurd and out of character with anything in the neighborhood. I can only speak for the easement to 12 El Encanto that now needs a sidewalk since Mr. Delesk has brought all of his traffic into this road that previously serviced ONE HOUSE and now will have the traffic from seven homes

8) SOUTH UTILITY EASEMENT: This southern easement is used many times per year to re-set circuit breakers on top of electrical poles. The truck uses all 25 feet to maneuver and turn around since as Ms. Heggem noted there is not easement to Marling road for egress by the CS utility vehicle. Please do not allow them to remove this essential electrical easement. If these lines are to be buried please provide plans of how that will be done correctly

9) NEIGHBORHOOD PEDESTRIAN SAFETY: Any attempt to determine how many elementary school children will be walking to Broadmoor elementary from the surrounding Sierra Vista, El Encanto, Loma Linda, and Sequoia streets is absurd. Mr. Delesk admitted it could take 5-10 years to build these homes subjecting the neighborhood to constant construction and endangering many children who walk to school. The neighborhood is undergoing a generational change where older people are moving out and younger families are moving in. Parents need to feel their children are safe in a quiet residential neighborhood.

I hope you can see this plan is diffusely flawed in almost every area and hopefully will be rejected. The development is incompatible with the neighborhood and creates health and safety concerns and negatively impacts our quiet enjoyment and property values.

Please feel free to contact me at any time if you have any questions about my concerns.

James D. Albert, MD

Thelen, Lonna

From: BILL KOSAR <BILL_KOSAR@msn.com>
Sent: Monday, February 06, 2017 9:26 PM
To: Thelen, Lonna
Cc: basalbert1@gmail.com; Diane Matsinger; Dianne Allen; pp22eckstein@comcast.net; michael@frontrangecommercial.com
Subject: Comments on 3rd submittal of Archer Park Development Plan

Lonna,

I continue to have multiple concerns about the proposed Archer Park development for which the developer has not provided acceptable solutions and I am also annoyed that the developer is not providing responses from the engineers who created the site plan to the concerns raised by the neighborhood. Specifically, the solutions to the multiple storm water drainage problems that exist need to be explained by qualified civil and environmental engineers, not by a landscape architect who is employed by the developer. Storm water drainage systems must be designed by experienced licensed engineers because inadequate storm water control creates life-threatening health hazards.

I do not think the detention pond that has been proposed is an acceptable solution from any perspective to the storm water drainage problems that will be created by the proposed development. The proposed pond appears to be inadequately sized from both a holding capacity and drainage capacity perspectives. This neighborhood gets very heavy rainfall accumulations (one to three inches) within a 24 hour period several times a year. Specifically,

1. In 2014 this occurred on 3 days
2. In 2015 this occurred on 7 days
3. In 2016 this occurred on 2 days

The “detention” pond would have actually been a retention pond full of water for about a 90 day period in 2015 when we had 27 inches of rainfall during a 90 day period. It would also have been overflowing much of this time.

In addition to being frequently ineffective from a storm water management perspective this pond will be a health hazard because it will not drain itself and dry out quickly via adsorption of water during the periods of heavy rainfall that occur during the summer months when mosquitoes breed. It will be an ugly eyesore 100% of the time in the middle of a neighborhood that has been developed for about 30 years. I think all of the residents who have sent responses to you oppose this aspect of the project and I cannot believe that when the requirement for detention ponds was defined that the city planners anticipated situations like the one that will exist here. If this land is going to be developed the city and Mr. Delesk must create a solution that:

- Prevents excessive storm water runoff into the city’s storm sewers and ultimately Fountain Creek
- Does not create a health hazard from either a drowning or insect perspective

- Is esthetically acceptable to the neighborhood
- Will be maintained properly for an indefinite period of time. Maintenance cannot be subject to the whims of a home owners association that will not want to spend money to maintain it.
- Will not burden El Encanto with additional drainage overflow
- Has been proven to be effective in locations where there are frequent large amounts of precipitation in a short period of time

We do not want the city to be conducting experiments in small-scale detention pond design and construction in the middle of our neighborhood. If all of the aforementioned requirements cannot be achieved then the land should not be developed.

The developer is continuing to promote a plan that does not include sidewalks or curbs by using the justification that this development should have a "rural" feel. This reasoning is preposterous and needs to be summarily rejected by the planning department. The proposed development is clearly not rural when it will be an integrated part of an existing neighborhood which includes the tightly packed structures on Mayfield and very established houses along El Encanto. The entire neighborhood is very mature, many of the homes in it are at least 60 years old. We have sidewalks on all of El Encanto, Mayfield, and surrounding streets and this type of street treatment should be maintained. This will be a public street from all perspectives and should be treated in that manner. The developer uses the example of Marland Road not having sidewalks but if Marland were part of a development project today sidewalks would presumably be required.

The developer is continuing to insist that a 20 foot wide street with no on-street parking is adequate because some auxiliary parking will be available along the side of the street. This parking will not be easily accessible to all proposed residences which means that prohibited on-street parking will regularly occur. It would be much better to adequately size the street during the initial development phase and avoid future parking and access problems. The proposed street width of 20 feet may meet the requirements for a private street but it is not adequate for a street in a neighborhood where there is a high volume of traffic to all residences from United Parcel Service, garbage trucks, and similar large vehicles. These vehicles always stop or park on the street in front of the home they are providing service to, they will not be pulling into people's driveways to maintain adequate emergency vehicle access. The plan to ban all on-street parking cannot be effectively enforced, the fire department chief told us that neither the fire department nor the police department can have illegally vehicles towed away, they can only ticket them. If a vehicle is ever left unattended on the street an access problem will be created that will last for an indeterminate period of time; ie: days or weeks. There do not appear to be any 20 foot wide streets in this area and most of the streets are much wider than this.

In summary, I think the third submission of a development plan by Mr. Delesk is unacceptable. I would like the city planning department to advise him that it will not consider further submissions from him until he can demonstrate that he has created effective solutions to the aforementioned issues that are acceptable to a majority of the residents who live on Mayfield and El Encanto. This development does not need to be built and the neighborhood should not for be forced to accept gross adverse changes to its basic environment for the sake of it.

Thank you for the opportunity to submit these comments,

Bill Kosar
13 El Encanto
Colorado Springs, Co 80906

Thelen, Lonna

From: Betty Wolfe <bettywo1999@yahoo.com>
Sent: Monday, February 06, 2017 12:40 PM
To: Thelen, Lonna
Subject: Broadmoor Meadow development

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Lonna,
Thank you for your continuing help with this project.
I have been appointed by the Mayfield HOA to share with you our concerns.

First, we want to be clear that our private road extends to the drainage culvert that crosses Mayfield where it meets El Encanto. We will not allow any violation of our private property rights including:

- 1) NO construction on our private road for utility access to proposed Broadmoor Meadow development.
- 2) NO drainage of retention or detention pond (that by definition has an obligatory overflow) onto any part of our private road.
- 3) NO vehicle traffic will be allowed to use our road and no temporary road constructed around existing easement will be allowed to access from our private road.

Also, we have serious concerns about stormwater drainage and the parking plan on the north boundary of the pasture (i.e., directly behind the houses on the south side of our HOA). Mr. DeLesk did not adequately provide for stormwater drainage when he built our subdivision. We have water flowing from the pasture south to north into our backyards and through our properties in times of heavy rain. My side yard completely washes into the street and I have to hire someone to shovel the gravel and mulch back into the yard. That problem will be much worse once 85% of the soil is covered with non-permeable surfaces, which causes us to be concerned with not only water in our backyards and running through our properties, but water flooding our basements as well. Also, this permeable surface will become less permeable over time as mud flows over it.

The detention or retention pond itself, other than being a visual blight on our neighborhood, appears to be inadequate for the drainage need because of the applicant's underestimating both the size of the drainage watershed and the amount of the flow during heavy rains. In addition, it appears to be extremely unsafe – there are several small children who live on Mayfield, and several more who visit on a regular basis. There appears to be no plan to fence the area.

I hope you will consider our objections. We are not opposed to the land being developed in an intelligent and sensitive manner. We love living here and would welcome a reputable builder with a consideration for the neighbors.

Sincerely
Betty Wolfe
Broadmoor Northstar HOA

Thelen, Lonna

From: Diane Matsinger <diane@matsingerlaw.com>
Sent: Tuesday, February 07, 2017 8:04 AM
To: Thelen, Lonna
Cc: 'Les Gruen'; bill_kosar@msn.com; duncanct@comcast.net; steve@123betterlife.com; neill58@yahoo.com; ndrcolorado@msn.com; onebzbbee@aol.com; cckruse@comcast.net; bettywo1999@yahoo.com; smithbrenda@msn.com; bradlofton@gmail.com; cookiefudge@hotmail.com; dalsasot@hotmail.com; carriekav@usa.net; silviobonicelli@hotmail.com; gwyty4@yahoo.com; eryan@skrco.com; lryan3kids@comcast.net; cdtolley13@gmail.com; peb@pebjackson.com; ruthtepleyint@aol.com; bwallacecos@gmail.com; bill@billstcolrandal.com; mangotpepsi@comcast.net; frederickdjonesako@gmail.com; leliadavis1@yahoo.com; headholes@yahoo.com; njemoore@gmail.com; amywmoore@hotmail.com; rtepley4@aol.com; ed.baur@icloud.com; thesulliv@aol.com; dixie07@bresnan.net; kellysung10@yahoo.com; monicadobbin@comcast.net; tjbricker@gmail.com; amyetracy@icloud.com; russacuff@gmail.com; ftutt@comcast.net; javernich@yahoo.com; michellemajorbooks@gmail.com; dwdonner@comcast.net; aylward6@aol.com; mbw2020@msn.com; wgalbraith@mac.com; donnamharmon@msn.com; jacksterling76@gmail.com; michael@frontrangecommercial.com; lbroslin@yahoo.com; danieljschnee@gmail.com; robs9780@aol.com; russellincolspgs@hotmail.com; pd22eckstein@comcast.net; 'james D Albert'; basalbert1@gmail.com; 'Diane Matsinger'
Subject: Newport Company - Proposed Development on El Encanto - Comments on Third Submission

Dear Lonna:

Please consider these comments on the Applicant's Third Submittal, as well as the comments raised by others in my neighborhood. At this stage of the proceedings, it should be very plain that there are numerous site constraints vis-à-vis the development of this property. Rather than scale the project to address those constraints, the applicant is still insisting on a density which raises a host of issues – none of which he has resolved to date. I respectfully request that your Department either deny the application as proposed, or send the application to the Planning Commission for review in the first instance.

How Many Houses Are Actually Proposed? As you know, the applicant originally proposed 8 lots and 8 houses. Then, the applicant made it appear as if there would be only 7 houses, and that the 8th lot would be devoted to drainage, landscape and parking. However, the marketing materials which have been publicly released for the development state that there will be 8 homes. This inconsistency must be resolved.

Stormwater: As we discussed during your last site visit, the property slopes to the north and also to the southeast. The northerly flow from the slope behind the houses on the south side of Mayfield already causes significant problems for those residents – problems which the applicant has not addressed. The flow from the property to the southeast (i.e., east on El Encanto, past the Albert's house and my house and then directly toward the Kosar's house) is already significant, and will only increase with the addition of the project as proposed. An independent analysis has demonstrated that the applicant has significantly underestimated the stormwater flow. To my knowledge, the applicant has not responded to that comment.

The applicant's approach to the stormwater issue now bears a striking resemblance to whack-a-mole. He first proposed that all of the runoff flow toward the southeast. The neighbors in that direction objected. Then he proposed a retention/detention pond, which would overflow onto Mayfield, a private street. The Mayfields property owners

objected. Now he is proposing to send all of the stormwater flow and the overflow from the retention/detention pond to the southeast. None of those proposals demonstrated that the stormwater from the development can be safely channeled without posing harm to the neighbors.

The retention/detention pond as proposed would not only be an eyesore – situated as it is at the intersection of Mayfield and El Encanto – there are apparently no safety proposals. The plat maps indicate that the proposed pond covers a significant portion of the lot – yet there is no fencing proposal. There are many children in our neighborhood and, as you know, there have been more than several drownings in these ponds in recent history. The applicant originally proposed smaller ponds, on each individual lot. There is no explanation for the abandonment of that drainage scheme.

There is a new note on the plan that the full spectrum pond is to be “privately owned and maintained by the Newport Company.” Will that be in perpetuity, or will the Newport Company be assigning that ownership and obligation to some other entity? I ask because there is no mention of a Homeowner’s Association in the application materials. Will the Newport Company or the other entity be required to post and maintain a bond, to insure coverage for liability for damage caused by the pond? Will the pond lot be burdened by a recorded irrevocable covenant, to ensure that the pond remains in operation and the lot is not used for any other purpose?

Parking: The applicant’s letter states that there will be no parking on the Landscape and Drainage parcel. However, the preliminary and final plat maps still label that lot as “Landscape, Drainage and Parking.”

The applicant is now proposing parking spaces along the northern boundary of the property. Call it what you may, it is still a parking “lot.” And, although it may look like grass, as the applicant claims, it will not look like grass when there are cars parked on top of it. It will be yet another eyesore. Parking lots are not appropriate in residential neighborhoods, much less those which border on homes (i.e., Mayfield) with no proposals for mitigating the visual and aural impacts. If the applicant sized the project to acknowledge the site constraints, he could provide a wider road with parking along the road, and return to his original proposal to use this space solely as a green buffer between this development and Mayfield.

I’ve also become aware that, while the Fire and Police Departments can and will ticket cars that violate the Fire Lane No Parking Signs, neither of those departments tow vehicles. The HOA, whose guests will be engaging in the illegal parking, will have no incentive to tow the vehicles either. Therefore, there remains the significant possibility that, in the event of a fire, the Fire Department will be severely hampered in its protective efforts.

Sidewalks, Curbs and Gutters: If the applicant could in fact contain *all* of the stormwater runoff on the property, this might not be an issue. However, it is plain that he cannot. Therefore, the use of sidewalks and curbs and gutters, which tie into existing the existing sidewalk drainage culverts in the neighborhood, would go far to get the excess stormwater safely into an existing stormwater drain, rather than infiltrating our neighboring properties.

Utilities: I am informed that you have a letter from Attorney Bruce Wright which establishes that the applicant does not have the right to install utilities in the easements as proposed, because the language of those easement deeds do not include that use. Once again, if the applicant procured access from Marland, the road could not only be adequately sized to solve the parking and safety problems, but he could procure access for utilities as well.

Neighborhood Character: When we last spoke, you advised me that the City does not impose this requirement on the type of development proposed. I respectfully request that your Department reconsider this issue. The Guidelines which are set forth in the application itself state that the applicant must comply with the City’s Comprehensive Plan. The Plan includes an entire chapter on “Neighborhoods” (Plan, p. 55, et seq.), which stresses the importance of protecting, preserving and enhancing the quality of our neighborhoods. For example, the Plan states:

“While neighborhoods change over time, there are certain fundamental characteristics of most neighborhoods, such as natural features and landscaping, building and street patterns, historical and

cultural features, parks, open spaces and schools, which need to be preserved in order to maintain their character." (Plan, p. 59, Enhancement Objective N-2.)

"Protect the character of established and stable neighborhoods through neighborhood planning, assistance to neighborhood organizations, and supportive regulatory actions." (Id., p. 59, Policy N 201, Protect Established and Stable Neighborhoods.)

"Evaluate land use proposals in existing, stable neighborhoods, on the basis of projected changes in scale, traffic patterns, intensity of use, pedestrian orientation, and the relationship of the site to adjacent development." (Id., p. 59, N 201c.)

The sections of the Plan that address "Liveable Communities" also specifically address "neighborhood character" vis-à-vis pedestrians, bikes and vehicles, and "calming" traffic and pedestrian safety (Id., p. 77, Objective T-201g) and streetscape design criteria that "create and preserve neighborhood character" (Ibid., Objective T-201h). See also sections that address Neighborhood "Compatibility" (Plan, p. 117, et seq.).

Conclusion: Thank you again for your careful attention to the serious issues presented by the project as proposed.

Diane Matsinger

14 El Encanto Dr.

Colorado Springs, CO 80906

Thelen, Lonna

From: Gary Cohen <cookiefudge@hotmail.com>
Sent: Tuesday, February 07, 2017 9:15 AM
To: Thelen, Lonna
Cc: Diane Matsinger
Subject: More Concerns about Proposed Archer Park

Dear Ms. Thelen,

When we walk in our neighborhood, in the streets next to where the proposed Archer Park is to be built *if* approved, today we are even *more* concerned than when we joined the very well attended neighborhood meeting of several months ago (where many concerns and many questions were raised about the proposed development by many members of the community).

You have heard this list before, but unfortunately it is our view that a satisfactory response to ensure that our neighborhood remains safe, attractive, and free from unforeseen possible future issues from this proposed development, still remains.

The list includes: house density concerns (our opinion is that 7 or 8 homes is too crowded and does not 'fit' with the neighborhood style) drainage concerns (who will really care for this pond, will there be insect problems, children in the water?), street parking concerns, road width concerns, traffic flow and congestion concerns.

We respectfully ask that this entire proposal be set before a comprehensive city review board with experts in these areas to address these issues.

Thank you for your consideration of this very important matter.

Regards,

Karen and Gary Cohen
230 Sierra Vista Drive

Thelen, Lonna

From: james D Albert <jdalbert1@comcast.net>
Sent: Wednesday, January 25, 2017 11:02 PM
To: Thelen, Lonna
Subject: easement issue

Lonna

please confirm receipt of the easement letter by Mr. Wright

When the original easement was negotiated there was no contingency for the use of this property as a “utility easement”.

It appears Mr Delesk is planning to place some or all utilities through the easement as he will not have access through Mayfield which is private property.

Any changes to our existing easement require mutual agreement between Delesk and myself.

Any placement of utilities in the existing right of way easement will result in obstruction to right of way access to 12 El Encanto for extended time during installation and the probable need for maintenance would result in obstructing right of way to our tenants. Therefore we will NOT agree to it.

We do not understand the “other” utility easement they are vacating and why that cannot be used but no utilities will go into our easement to 12 El Encanto. A full legal analysis is being performed and will be forwarded to you.

Also since Newport and their agent Heggem have failed to adequately respond to any of the neighbors concerns with respect to density and drainage, 8 days is not enough time to respond. We request more time as they had more time to respond to your requests

Sincerely

James D. Albert, MD

FLYNN & WRIGHT, LLC
ATTORNEYS AT LAW

PLAZA OF THE ROCKIES, SUITE 202
111 SOUTH TEJON
COLORADO SPRINGS, COLORADO 80903

BRUCE M. WRIGHT

(719) 578-8444

FACSIMILE (719) 578-8836
FWF File No. 3365.001

January 23, 2017

By Email and U.S. Mail
(lressler@resslerlawfirm.com)

Ms. Lyndsay Ressler, Esq.
Ressler Law
30 East Kiowa, Suite 101
Colorado Springs, CO 80903

Re: 12 El Encanto Access Easement

Dear Lyndsay:

As you know, this office represents Dr. and Mrs. James Albert, who own the home located at 12 El Encanto. Access to this property is provided by a "Grant of Easement and Maintenance Agreement" entered into between the Alberts and members of the Enoch family at the time the Alberts purchased 12 El Encanto on June 10, 2016. This easement burdens property now owned by your client, The Newport Company.

The purpose of this letter is to notify you that the Alberts are in the process of interviewing potential tenants for the home at 12 El Encanto and will be showing the home for that purpose. Please be advised the easement requires that any repairs or construction activities within the easement must be pre-approved, in writing, by the Alberts, and as a condition of such approval, any such work would need to be scheduled so as not to unreasonably interfere with access to the home at 12 El Encanto by the Alberts and their potential tenants.

I would appreciate it if you could forward this letter to Richard Delesk so he is aware of his obligations under the easement in the hope that we can avoid any potential dispute over the use of this easement.

Sincerely,



BRUCE M. WRIGHT

BMW/gad
cc: Dr. James Albert (via email)

Thelen, Lonna

From: Bette Ann Albert <basalbert1@gmail.com>
Sent: Wednesday, January 25, 2017 12:18 PM
To: Thelen, Lonna
Subject: bette ann albert

Hi Lonna,

In case I have misunderstood the north south easement that bisects the proposed property for I know that the developer has some kind of easement off Mayfield that runs in to the property, my husband and I want to make sure that there will be no utilities being installed in the private easement that goes in to 12 El Encanto Drive. This road needs to remain open at all times due to access in and out of 12 El Encanto. There was never any discussion or permission provided from us to dig up the private easement that is north-south in to 12 El Encanto Drive. There needs to remain unfettered access in and out of 12 El Encanto Drive. Any work on this private easement will interfere with the daily movement in and out of 12 El Encanto Drive from the current time into the future should there ever be any utilities maintenance work necessary. Nothing can interfere with the road in and out of 12 El Encanto Drive.

Please can you confirm with us that our current utililites that come from the Marland Road easement in to 12 El Encanto and serve four grandfathered homes in our neighborhood including 9 El Encanto Drive will not be interfered with and will be protected.

Thank you,
BA

Thelen, Lonna

From: Bette Ann Albert <basalbert1@gmail.com>
Sent: Wednesday, January 25, 2017 12:04 PM
To: Thelen, Lonna
Subject: Bette Ann Albert

Sorry Lonna...when studying the plans for the property of 10 El Encanto Drive, please include our home at 12 El Encanto, which makes 8 HOMES that are going to be served by any entrance and vehicles in and out of the Archer Park development. It is deceptive to only talk about 7 homes although they are the potential new homes. We are not going to be part of the Archer Park HOA and will need continued protection and clearance in and out of 12 El Encanto Drive. All communication and activities that involve the 7 homes will involve our home as well due to the nature of the only access in and out of Archer Park that interferes with the only access in and out of our house at 12 El Encanto Drive.

BA

Thelen, Lonna

From: Bette Ann Albert <basalbert1@gmail.com>
Sent: Wednesday, January 25, 2017 11:59 AM
To: Thelen, Lonna
Subject: Bette Ann Albert

Hi Lonna,

Just a quick response to your email from today. My husband and I will be submitting an official response by the date that you have given; however, just so you are aware, we have no plans to vacate the private easement that runs north-south and bisects the property. We have no plans to destroy the home at 12 El Encanto. We are actively looking to rent the house at 12 El Encanto and have a good promise on a near-future tenant. We are going to be renting this property as there are other properties on El Encanto that are rented by homeowners including Kristen Heggam who owns two homes and understands that El Encanto is a good location to invest in a rental property as both of her homes are currently rented. Families like this neighborhood because of its connection and access to Broadmoor Elementary. The home and property of 12 El Encanto Drive is an active home just like all of the homes on El Encanto Drive and Mayfield and will be as far in to time as we can see.

BA



February 6, 2017

Ms. Lonna Thelen
Principal Planner, South Team
Land Use Review Division
City of Colorado Springs
30 South Nevada Avenue, Suite 105
Colorado Springs, CO 80903

Re: **Archer Park Preliminary and Final Plat Resubmittal**

Dear Lonna:

This response in connection with the above referenced matter follows letters I have sent to you that are dated October 19, 2016 and December 16, 2016 (copies attached). These prior letters requested this item not be administratively approved, but sent to the City Planning Commission for its consideration.

The limited additional information that was provided in the applicant's January 24, 2017 response to staff comments from December 20, 2016, does little to address the most substantive of staff's comments or fundamental neighborhood concerns. Consequently, it is hoped that a referral to Planning Commission is accompanied by a staff recommendation for denial of this request.

Substantive deficiencies of this application continue to include: 1) inadequate provisions for drainage, 2) issues pertaining to the use of easements for ingress/egress as well as installation of utilities and 3) traffic circulation internal to and in the vicinity of the site.

My December 16th letter to you, among other things, expressed concerns about how drainage reports submitted by the applicant had changed between the initial submittal and first response letter. Getting information on this subject has not been forthcoming. It does, however, appear that a significant amount of flow onto the site is not being considered. This is important because the Mayfield Estate property to the north of the subject site, developed by the same developer 20 years ago, is burdened by inadequate storm drainage and subject to flooding from the applicant's property during storm events. The neighborhood is further concerned that improper sizing of the proposed detention pond and associated facilities coupled with the significant increase of impermeable surface adjacent to their properties would be problematic. Included is a memo that has been sent to the Engineering Department on this topic, although we have heard no response as of yet.

Letter to Ms. Lonna Thelen
February 6, 2017
Page Two

Important questions persist about the applicant's legal right to utilize various easements for the purposes intended (See February 3, 2017 memo to Les Gruen from Bruce Wright, attached). The easements that exist are for very limited purposes. The easement proposed to accommodate water and sewer (which is actually limited to a maximum of 2 sewer taps) requires approval by both parties to the easement, which is unlikely because of the relationship between these parties. In addition to questions about utility service, there are questions about ingress/egress. Entry to the property is likely to be restricted into and out of the aforementioned easement as well as along Mayfield Lane, which is a private road owned by the Mayfield Estates Homeowners Association. The Mayfield Estates HOA has indicated they would not support temporary or permanent access into the subject property.

The Fire Marshall met on site and explained the rationale for CSFD not objecting to the applicant's request for a 20' road that would serve the proposed Archer Park subdivision. While the Fire Marshall has discretion for determining how to measure and when to approve special permits for roadways that do not meet city standards, the main criteria is his determination on the fire department's ability to safely serve a site. A 20' road does, however, require that "No Parking" signs be posted. In the event of a violation, it is the responsibility of an already overburdened fire department or police department for enforcement. Why set the stage for a problem simply to squeeze more density on to a site?

The Colorado Springs Subdivision Code requires preliminary and final plat applications to meet six criteria. The Archer Park proposal fails to meet most, if not all of the review criteria necessary for the application to be approved and therefore should be denied.

Archer Park, as proposed, will not *promote the health, safety, convenience and general welfare of the citizens of the City*. In fact, this subdivision, if approved, will almost certainly degrade the health, safety, convenience and general welfare of immediate neighbors and the entire neighborhood. It is hard to imagine how this development meets this standard.

The Archer Park subdivision design would not *contribute to the development of stable neighborhoods or a healthy living environment, nor does it conform to many of the goals and policies of the Comprehensive Plan*. Streets are not designed to handle anticipated traffic flow and the proposed street design will place added burden an already overburdened police and fire departments to enforce traffic restrictions (that would not have been required on an appropriately designed road). Comprehensive Plan Objectives N1 and N2, Policy N101 and Strategy N102b and N201c do not appear to be met.

Letter to Ms. Lonna Thelen
February 6, 2017
Page Three

It is unclear whether the applicant is able to meet the standard *of providing adequate storm drainage, sewage disposal and other utilities*. A substantial portion of the drainage basin has been excluded from flow calculations on to the subject property. In addition, it is unclear whether the applicant has the legal right to utilize the easement that has been proposed to connect water and sewer with city mains. Comprehensive Plan Policy LU201c does not appear to be met, as a consequence.

My client is very concerned that *adequate and safe circulation will not be provided by the proposed design*. The lack of sidewalks on such a narrow street is a safety issue in a neighborhood where a number of children walk to school or play in and around the streets. Further, proposed circulation adversely affects access to at least one parcel located to the southeast of the subject site. Comprehensive Plan Objective T2, Policy T201, T201a and T201g do not appear to be met by this application.

We do not believe that public facilities are provided in accordance with the City Comprehensive Plan, nor do we believe this proposal, if approved, would *ensure the appropriate development of the community through the implementation of the goals and policies of the Comprehensive Plan*. Specifically, this application does not conform to Comprehensive Plan Policy T201, Strategies T201a, T201g, T201h

Preliminary and Final Plats require design of the proposed subdivision to comply with the provisions of the Subdivision Code (7.7.108). Because of serious deficiencies that were not recognized in the initial submittal or in two subsequent opportunities to respond to staff comments, ***I urge you to refer this item to Planning Commission with a staff recommendation for denial.***

Sincerely,



Les Gruen
President

e-Memo

FW File No. 3365.001

To: Les Gruen (urbanstrategies@msn.com)
Cc: James Albert (jalbert1@comcast.net)
Roland Obering (rgoowa@mindspring.com)
From: Bruce M. Wright
Date: December 16, 2016
Re: Archer Park Drainage Report

Here is a suggested section on the drainage report to include in your letter of comment to Lonna Thelen. Feel free to edit as you feel appropriate.

Please give me a call if you want to discuss.

Drainage.

Although the drainage report is dated September 24, 2016 and had obviously been in the developer's possession since that time, we only received the drainage report two days ago (and it was only given to City Staff shortly before that). Consequently, we have not had time to properly review it; however, from our cursory review, it appears to have significant deficiencies.

- Ownership and Maintenance of Pond. Plat Note #9 on the proposed final plat states the detention pond is to be "privately owned and maintained by Deborah Enoch Davis, Ryan Scott Hale, David McKinley and Barton Lewis Enoch."

These are the prior owners who have now sold the property and have no further involvement with it. The developer should be required to form an HOA acceptable to Staff which must assume responsibility for ownership and maintenance of the detention pond, as well as the private streets and other common tracts.

- Offsite Flows. The City's FIMS database indicates a 15.3 acre contributing area of largely undeveloped land in this sub-basin upstream of this Project (see attached map). These flows have historically passed through this property onto Mayfield Road and El Encanto on the northeast corner of the site. Contrary to the statement in the drainage report that the 1987 Broadmoor Northstar Subdivision "accounted for these flows," they do not pass through that subdivision, although the Northstar Subdivision sized offsite outfall on El Encanto sufficient to handle them. No provision has been made for conveyance of these flows through the Project. In a 100-year storm, the historic flows entering the property from upstream using the runoff coefficient in the report would be 28.3 cfs. Adding the offsite flows to the 18.9 csf generated onsite results in total flows through this Project of 47.2 cfs in the 100-year storm, or 2-1/2 times greater than what the proposed drainage improvements and detention pond are sized to handle. Thus, the proposed drainage improvements will be totally overwhelmed in any significant storm. They must be sized to handle existing upstream flows, as well as flows generated by the Project.

- Swales. As noted above, the proposed swales are insufficient to handle the upstream historic and onsite flows. Additionally, no provision has been made for how to maintain the functionality of the swales where driveways cross them.

- Lot 3. The drainage report excludes Lot 3 since it was previously platted, and the report states the detention pond was sized to provide detention for only the 3.5 acre unplatted portion of the site. This is inappropriate. Existing Lot 3 contemplated a single residence. It is being replatted for two home sites, the proposed access drive, and the detention pond, thus substantially increasing the impervious area over what was contemplated when Lot 3 was platted. The developed flows from this significant increase in impervious area must be accounted for, and the detention pond sized accordingly.

Pond Overflow. The report states that in the event of an overflow, the pond will overtop and convey flows toward El Encanto Drive. However, to get to El Encanto, the flows must first traverse Mayfield Lane, which is a private drive. Permission to convey developed flows over that private drive must be obtained from its owners, and adequate assurances for maintenance, debris removal, etc., must be provided for if that private property is to be utilized for overflows.

Impervious Area. We have not had time to confirm the size of impervious areas being added to this site which generate developed flows. But at first blush, it appears the impervious area assumed by the report may be significantly low. We request the right to supplement this letter after we have had an opportunity to review these calculations.

Curb and Gutter. Curb and gutter should be provided on the easterly edge of proposed Ridge View to prevent storm water from the street entering onto the adjoining property to the east.

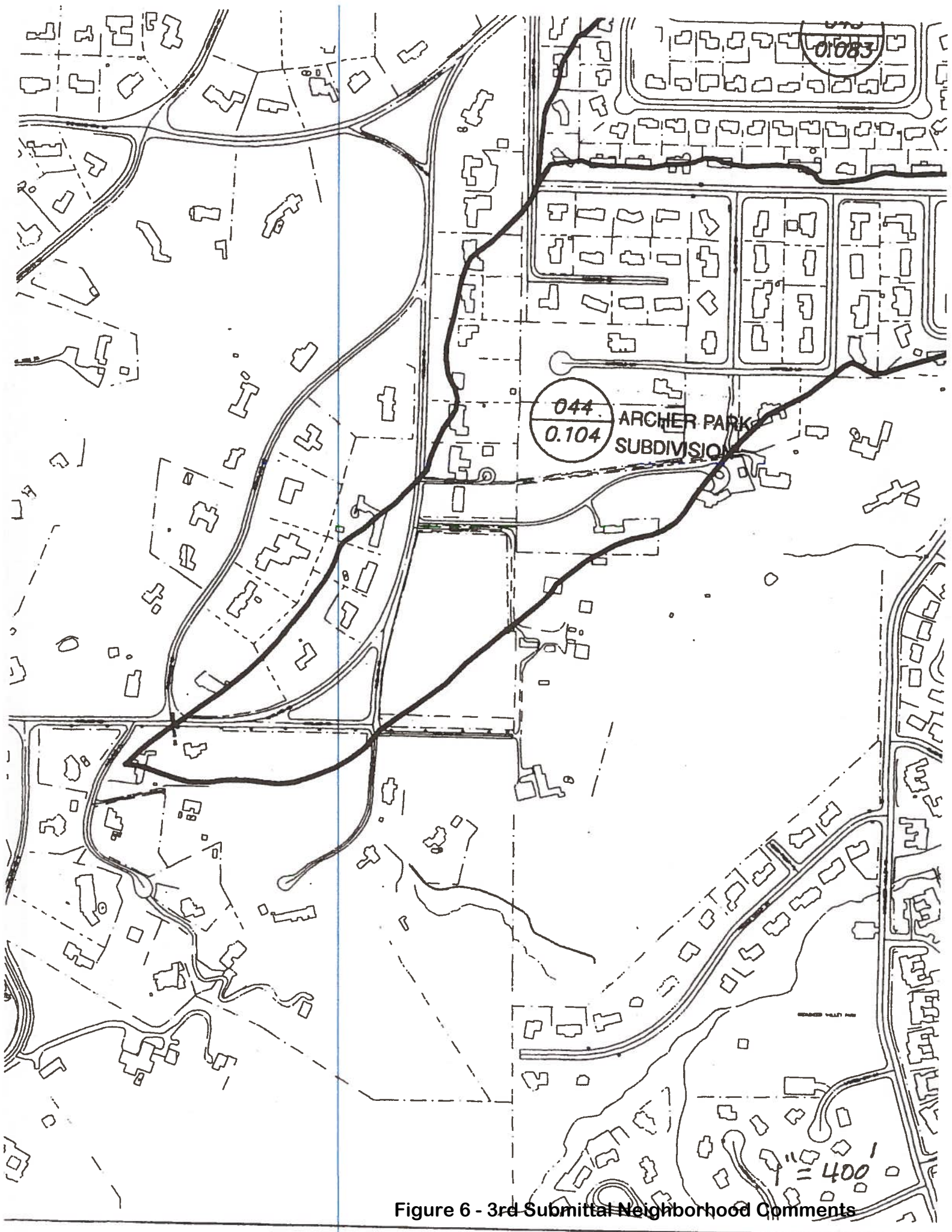


Figure 6 - 3rd Submittal Neighborhood Comments

e-Memo

FW File No. 3365.001

To: Les Gruen (urbanstrategies@msn.com)
Cc: Dr. James Albert
From: Bruce M. Wright
Date: February 3, 2017
Re: Archer Park Utilities

I understand Delesk may be contemplating bringing utilities to his project using the Alberts' 20 foot access easement as opposed to the existing City utility easement out to Mayfield. As noted in my January 27 letter to Lonna, neither the 1877 nor the 1968 easement would allow for this. If Delesk wants to use the Alberts' 2016 access easement for his utilities, there are some significant constraints:

1. Any utility installation cannot interrupt use of the easement for ingress or egress since it expressly grants the "absolute right" to use the easement for ingress and egress "at any time." Thus, construction would have to be done in such a way that there is continuous unimpeded access for vehicles. While this may be possible for connecting up to two sewer taps for the Delesk property crossing the easement and tying into the existing sewer line per the 1968 easement, it is unlikely it could be accomplished if utility lines are to be installed longitudinally along the length of the easement. This suggests the "utilities" language in the 2016 easement was meant to confirm sewer lines for these two taps could be placed in the access easement for connecting into the existing sewer line for 12 El Encanto.


2. The 2016 easement requires general upkeep must be pre-approved in writing by both parties. This would certainly include restoration of the easement after any utility work. Thus, the Alberts would need to review and approve, in writing, any plans by Delesk for installation of utilities and reclamation of the access easement.

3. Since enlargement of the existing sewer line is not permitted per the 1968 easement, the integrity of that line must be maintained during any additional utility work within the 20 foot access easement. This would not be a problem for connecting two sewer taps to the existing line, but would be problematic if a parallel sewer line and new water, gas and electric lines were to be installed maintaining the spacing required by code.

Memo
Les Gruen
February 3, 2017
Page 2

In short, utility service to the Delesk property should be provided via the existing utility easement to Mayfield, which was created for that purpose. For the reasons discussed above, Delesk's ability to use the Alberts' 20 foot access easement for these utilities is highly problematic.

Please call if you have questions.

From: Les Gruen urbanstrategies@msn.com 
Subject: Archer Park Resubmittal
Date: December 16, 2016 at 4:15 PM
To: Thelen, Lonna Lthelen@springsgov.com
Cc: Meggan Herington mherington@springsgov.com, Peter Wysocki PWysocki@springsgov.com, Jeff Greene jhgreene@springsgov.com
Bcc: jdalbert1@comcast.net, basalbert1@gmail.com, diane@matsingerlaw.com, bwright@fwflegal.com



Good afternoon Lonna -

My comments connected with the Archer Park re-submittal are attached. As indicated to you previously, I believe there are so many issues surrounding this application that an administrative review would be highly inappropriate. Not only is the re-submittal not responsive to staff and departmental requests for further information and/or clarification, but it is incomplete because certain requirements of the application have not been met (for example, the submittal of a geologic hazards report).

For the reasons outlined in the attached letter, I urge you to refer this application to the Planning Commission for its review. Prior to doing so, I would also urge that all required reports be submitted to the city for analysis and all of staff's questions be adequately addressed by the applicant with enough time for affected parties to review and evaluate material associated with the application.

Thank you for your serious consideration of these requests.

Les



Archer Park Resubmittal
Comments.pdf

Les Gruen



December 16, 2016

Ms. Lonna Thelen
Principal Planner, South Team
Land Use Review Division
City of Colorado Springs
30 South Nevada Avenue, Suite 105
Colorado Springs, CO 80903

Re: **Archer Park Preliminary and Final Plat Resubmittal**

Dear Lonna:

I wrote to you on October 19, 2016 concerning the above referenced subject on behalf of the Albert's, owners of the contiguous property to the east (copy of letter attached). At that stage of the review process, the planning staff had indicated its predisposition to administratively approve this application subject to department review comments.

From my perspective as a former planning commissioner and as indicated in my earlier letter, the proposed Archer Park project described in the application does not meet the various criteria that must be met for a project of this nature to be approved. In addition, this proposal has generated an extraordinary amount of concern from the surrounding neighborhood. Therefore, it was ***requested that this item not be administratively approved, but sent to the City Planning Commission*** for its consideration.

The applicant has responded to the city's initial review with a short letter, red-lined comments dated November 21, 2016 accompanied by a revised preliminary plat, final plat and drainage report. The new plan shows 7 instead of 8 lots and shows a new linear parking strip as well as a tract reserved for joint parking and storm water retention uses. ***The resubmittal is both unresponsive and incomplete.*** For this reason alone it is incomprehensible that this application would be considered for administrative approval.

General areas of concern include:

- The proposed project does not meet the standards of subdivision design, does not provide adequate and safe circulation and is inconsistent with key goals and policies of the City's Comprehensive Plan.
- A 20' road, not even allowable without special approval under the fire code because of its 780'+ length, is not consistent with neighborhood standards. The applicant neglected to explain why a 28' road would not work for the site, as requested by the planning staff. Could the planning staff and/or traffic staff prepare a map showing all 20' roads within a 2 mile radius for Planning Commission review?
- A revised Drainage Report was released to the public on Tuesday December 13th when comments were due three days later on Friday December 16th. The revised report was substantively different from the initial report and though there has not been sufficient time to properly analyze the new report, it appears that significant flow on to the subject property has not been considered as summarized in the attached comments pertaining to drainage. If this is the case, facilities that have been proposed would be insufficient to accommodate actual flows by a significant factor.

Letter to Ms. Lonna Thelen
December 16, 2016
Page Two

- No geologic hazard report was submitted with the initial submittal or with the resubmittal, as requested and required. In light of the geologic sensitivity of this part of the city, any consideration of a project such as what has been proposed must require a proper geo-hazard review to go forward.
- The applicant responded to a staff question that no fence around the property is currently proposed. If this project is ultimately approved, we ask that this be a condition of record based on representations that were made by the applicant in connection to the Marland Park development that were not honored.
- The lack of sidewalks and gutters internal to this plan are not only inconsistent with neighborhood standards, but suggest an overall cost-cutting approach versus developing infrastructure that is of similar standards and quality of the surrounding neighborhood. Staff had requested sidewalks, curb and gutter be shown on the revised plan.
- Any issues pertaining to access related to the shared easement between the applicant and my client must be addressed as conditions of record if any plat is ultimately approved. Initially a gate was proposed within the jointly owned easement that would have impeded access to property not owned by the applicant.
- Tracts A, B and C must be owned and maintained by an HOA responsible for perpetual ownership and maintenance. A condition of record, if this project is approved, should be that as long as the developer controls the HOA there must be a bond or letter of credit sufficient to guarantee perpetual maintenance.
- Applicant's Stakeholder and City Comment Response letter dated December 5, 2016 indicates that the applicant's research did not show any existing easement along the south property line. We invite you to research El Paso County Clerk and Recorder Reception #906743, Book 1397 Pages 217-219.

Even without all of the deficiencies of this preliminary and final plat application, this **proposal is controversial enough that administrative review should not be a consideration.** Administrative approval of a similar proposal by the same applicant, which the neighborhood believes was done improperly, has resulted in numerous problems since the approval was granted. A proposed project that is such a significant departure from surrounding uses requires Planning Commission review, in our opinion, and we urge staff to refer these items accordingly.

Sincerely,



Les Gruen

Attchs: October 19, 2016 Letter from Gruen to Thelen
Preliminary Drainage Report Comments

Les Gruen



October 19, 2016

Ms. Lonna Thelen
Principal Planner, South Team
Land Use Review Division
City of Colorado Springs
30 South Nevada Avenue, Suite 105
Colorado Springs, CO 80903

Re: Archer Park Preliminary and Final Plat Application

I represent the owner's of 9 and 12 El Encanto Drive in their opposition of the Archer Park subdivision plat that has been proposed for the 5.2 acres located adjacent to them. Based on project details presented at the applicant's office and last night's neighborhood meeting, this proposal clearly does not meet the standards of subdivision design, does not provide adequate and safe circulation, nor does it ensure the appropriate development of the community through the implementation of the goals and policies of the Comprehensive Plan, as required by the Subdivision Code of the City of Colorado Springs (7.7.102).

Elements of this application that are particularly problematic include: scale, fire safety and roadway design.

While the Subdivision Code provides for administrative review of preliminary and final plat applications, it also allows staff the discretion to refer for Planning Commission disposition (7.7.203.C and 7.7.302.C). This application begs for referral.

We request that this item be referred to the Planning Commission for the following reasons:

- The subject preliminary and final plat application for Archer Park clearly does not meet the criteria necessary for approval
- Since administrative approval of this item would be appealed to the Planning Commission, it would be most efficient for everyone involved to refer the application for Planning Commission review
- Questions pertaining to utility service/access on the southern portion of the subject property as well as the current status of the reported easement to Marland Road on the west side of the property should be adequately addressed.

Please keep me informed of any actions that are taken by Land Use Review in connection with this application.

Sincerely,

cc: Meggan Herington