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MAY 15 2017

LAND USE REVIEW

Kathryn A. Abrams

24 Friendship Lane Colorado Springs, CO 90904

May 15, 2017

To: Planning and Community Development Department - Land Use Review Division

Re: AR PFP 17-0246

Dear Ms. Van Nimwegen,

Thank you for your consideration in this important matter.

I have been a resident of Colorado Springs for the past 39 years after moving here from the Midwest.

After buying and selling many homes in different areas of the city, my husband and I discovered our "dream come true" neighborhood. It's a charming, secret, intimate loop where Friendship and Crescent Lanes converge. We tried many times to become homeowners here and finally prevailed to invest, remodel, add-on, landscape and create what we had hoped would be our "forever home." This quiet and private neighborhood has become our sanctuary after long active work weeks.

It has come to our attention that a request to eliminate this private, quiet, safe neighborhood is being brought before you. One of the last desirable, valuable infill lots in this area has been snapped up only to be subdivided for a public access path from Pioneer Park to Friendship Lane and then quickly sold to an unassuming buyer.

By assigning this tract, Tolerance Trail Subdivision, to the City, we fear our "forever home" will now be overrun with walkers and runners sporting their unleashed dogs defecating on our pristine landscape, we will face addition crime hidden by easy ingress and egress from the park, and we will face excessive noise, trash, traffic, etc.

We have concern for the increased cars parked and traveling on an already congested narrow, vintage city lane. We have concerns about additional calls to service that an already overtasked police department doesn't need. But the biggest concern is the potential tragedy of emergency vehicles being unable to pass parked cars on a congested narrow lane that need to assist our elderly citizens.

We believe that the request for the subdivision of this residential lot and the creation of a PUBLIC ACCESS assigned to the Parks Department is a scheme to eliminate personal responsibility and liability by the landowner only to create turmoil for what was once a "gem" of a neighborhood in this City.

If the landowner wants a path through their property, let it be private, let it be their own responsibility and liability.....and let it not be "a problem waiting to happen" for the City of Colorado Springs.

Please deny the request from Eric Vaillancourt on behalf of Tolerance, LLC., for this land development application. Thank you.

Kind Regards,



Kathryn A. Abrams

FIGURE 4

Christopher M Abrams

24 Friendship Lane Colorado springs, Co. 80904

May 16, 2017

To: Planning and Community Development Department- Land Use Division

Re: AR PFP 17-0246

Dear Ms. Van Nimwegen,

I am writing to express my opposition to the possible subdividing of a property in my neighborhood.

This particular property is bordered by three widows, Cristin Byrne at 8 Friendship Lane, Deborah Demo at 12 Friendship Lane, and Paul Brooks (he is in his nineties) at 17 Friendship Lane. Needless to say, these are some of the most vulnerable people in our neighborhood and they will face the negative impacts of this city owned trail on a daily basis. Directly across the street from the proposed city owned trail are two lovely families with impressionable teens still living at home, the Staffords at 11 Friendship Lane and the Bartons at 15 Friendship Lane. Both of these families have children that will face the same impacts daily.

The negative impacts of the Tolerance Trail Subdivision will be:

- Increased traffic on a narrow street built in the fifties.
- Parking which is already a daily problem on this part of our street due to the nearby middle school.
- An already exponential increase in pedestrian traffic along Ms. Byrne's property line due to the change in the access point already imposed by this project. (I have already seen Ms. Byrne in tears over this).
- The possibility of homeless people finding this city owned trail and it becoming a sanitary and criminal problem.
- Turning a once peaceful residential neighborhood into a busy thoroughfare.

I work in Manitou Springs and every day I see the unintended consequences of well-intended projects that have rendered entire neighborhoods nearly unlivable for the residents of these neighborhoods. I hope that this will not be allowed in this Colorado Springs neighborhood.

Tolerance LLC. Is a shell corporation formed in October of 2016 for the express purpose of buying and selling this property. This reminds me of dark money provided by political action committees during elections .

Patty Freudenberg has made it very clear that Tolerance LLC. will do absolutely nothing to mitigate any negative impacts for nearby neighbors.

Please deny this request that shows no consideration or compassion for the neighbors surrounding this proposed city trail.

Thank You,

Chris Abrams



FIGURE 4

May 16, 2017

Re: File #AR PFP 17-00246 (10 Friendship Lane)

To Whom It May Concern:

Very recently Tolerance, LLC put a pathway right next to my property line from Friendship Lane to Pioneer Park. My house faces this lot. Therefore this pathway is adjacent to my front property line.

This path is 30 feet from my front door and kitchen window. I have lost all sense of privacy in the front of my house as people are looking in my windows. I feel very uncomfortable working in the yard in front of my house. I no longer have peaceful enjoyment of my property. The noise is also a problem not to mention the trash being dropped along the way.

The other day someone was riding their bicycle so fast through there I almost hit him with my car. This is putting me at unfair liability. If this pathway becomes "public access" to Pioneer Park, the parking by my house will be constant and unsafe. It will be hard to watch for pedestrians, bicyclists and children as they enter and exit the trail next to my driveway. I should not be put in this position in my "residential" neighborhood.

I objected profusely to the pathway going in from the very beginning and was lied to from the start. I was told it was to be 3 feet from my property line. In some cases it has crossed my property line and is within 12 inches of it. What happened to the 10-foot buffer zone on each side of a public pathway next to a residential lot to protect residential privacy?

MAY 19 2017

LAND USE REVIEW

FIGURE 4

As awareness of this “public pathway” connecting Pioneer Park to Friendship Lane grows, more people from outside of our neighborhood will be passing almost at my front door. Being a widow, I am becoming very nervous as to who is using this pathway and fear it will only get worse.

I am in the process of getting an appraisal to see what effect this “public pathway” will have on the property value of my home. Buying a property in this small residential neighborhood with its narrow street trying to accommodate outside persons and traffic will not be an asset.

Please see the following attachments:

- Photos of the pathway and its intrusion on my property
(my property line is the split rail fence)
- A copy of the buffer zone requirements
- A copy of my attorney’s letter prior to the pathway going in and the sale of the property to Tolerance, LLC (represented by Eric Vaillancourt)

Thank you for your time.

Sincerely,



Cristin Byrne
8 Friendship Lane
Colorado Springs, CO 80904

Attachments: Photos
Copy of Buffer Zone
Letter from Attorney Debra Fortenberry



FIGURE 4



FIGURE 4

1.5. BUFFER AND SCREEN AREAS BETWEEN DIFFERING USES OR ZONE DISTRICTS

→ 1.5.1. Purpose

Buffering and screening is used to block displeasing views; reduce noise, odors, glare, and dust; mitigate traffic; protect residential privacy; and reduce trespassing. Buffering and screening can also make uses more compatible, such as with Special Uses. Between similar uses, buffering and screening (perimeter landscaping) can help identify parking areas and property boundaries.

1.5.2. Water Conservation

Water conservation can be incorporated into buffer and screen areas. Swales can be used to direct water to planted areas to minimize irrigation needs and detention pond volumes, the use of appropriate plant materials can conserve water and minimize maintenance costs, and the creative use of a variety of plants will provide four-season interest and effectiveness.

→ 1.5.3. Required Buffers/Screens

Circumstances for each site and use are unique, and additional buffering/screening may be required to accomplish appropriate design. Of special concern are sites adjacent to residential areas or environmentally sensitive areas, areas with significant view corridors, industrial uses, or uses that are visible from highly-traveled roads.

(A) Buffer/Screen Between Non-Residential and Residential Uses Separated by a Non-Arterial Road

Along the road side property line in any non-residential project in any zone district where the project is separated from a residential use by a non-arterial street, a buffer meeting the requirements of the LDC is required. Non-arterial streets are those not designated as arterial streets or above on the County's Functional Classification Map, as amended. Private streets and any alleys are also considered non-arterial roads. The figures below provide two examples of how the standards can be met. Note that the parking area screening requirements resulting in more landscaping being required within the use buffer area when a parking area abuts the roadway.

September 15, 2016

*Sent Via certified mail and
1st Class mail, postage prepaid*

Rich Serby
President of Friendship-Crescent Neighborhood Association
2350 Mesa Rd.
Colorado Springs, CO 80904

Larry and Mary Gilland
1133 Terrace Road
Colorado Springs, CO 80904-2834

Re: 10 Friendship Lane/Covenants/Consent Prior to Fence Installation

Dear Board of Directors, Architectural Review Committee and Mr. and Mrs. Gilland,

Cristin Byrne, who resides at 8 Friendship Lane, Colorado Springs, Colorado 80904 ("Byrne Property"), has retained this firm to represent her interests as they relate to construction and work proposed at 10 Friendship Lane. Please direct your response or communications regarding this matter to our firm. The purpose of this letter is to articulate Ms. Byrne's objections and the basis for her objections. Ms. Byrne opposes the proposed relocation and improvement of the trail on Lot 10 and intends to take action if necessary to prevent the relocation closer to her property than the trail currently exists.

Ms. Byrne has recently observed survey work being conducted along the northern boundary of 10 Friendship Lane (the "Gilland Property") in preparation for the installation of a fence that apparently would abut her property. She observed survey markings for the intended fence location that were on the cement apron of her driveway. During conversations with the individuals conducting the preparatory work, Ms. Byrne has been informed that the fence height will be seven feet and is to extend the length of the northern edge of the Gilland Property line to the street running the length of Ms. Byrne's driveway. Ms. Byrne further informs us that no application for the fence, the proposed relocation of the trail or other work has been submitted to the Architectural Control Committee. She has been informed that the HOA takes the position that such improvements or work are not an HOA matter and do not require approval.

According to Section 2.2 of the *Amended Declaration of: Covenants, Conditions Restrictions & Easements for the Garden of the Gods-Mesa Development Additions 1,2, and 3* ("Covenants"), **the construction** or remodeling of any dwelling, building, **fence** or other structure or any **work** on any Lot **which requires governmental approval** is subject to review and approval by the Architectural Review Committee ("ARC") of the Friendship-Crescent Neighborhood Association ("HOA"). All decisions of the ARC are subject to review and approval by the HOA. Covenants, Section 2.1. Any replat by the City of the property to create a new parcel meets the definition of work which requires governmental approval. Moreover, a public trail violates the use restrictions at Section 1.2. Given the plain and unambiguous language of the Covenants,



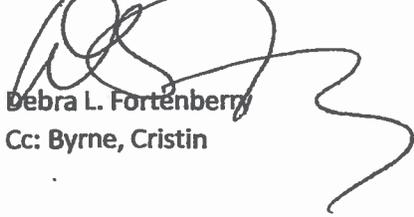
we are curious how the HOA comes to the conclusion that this is not an HOA matter. Without an exemption or other legal exception, it appears that the ARC and the HOA are failing to enforce the clear mandates of the Covenants out of favoritism or personal support for the proposed public trail. Such failures would appear to be a breach of the Board's fiduciary duty to enforce the covenants. See, for example, *Colo. Homes v. Loerch-Wilson*, 43 P.3d 718 (Colo. App. 2001).

Based upon review of the Covenants, even if prescriptive rights have been acquired over the course of years, the relocation and improvement of the trail triggers the applicability of the Covenants. Please understand that if the lot owner for 10 Friendship Lane submits an application to the City to amend the plat, Ms. Byrne will object to the replat because the proposed use for the new parcel is prohibited by the Covenants and is illegal because no application has been submitted for the proposed work as required by the Covenants.

During any review process, be it ARC review or City Planning review, Ms. Byrne will demonstrate the negative impacts on her property including safety, intrusion, disruption of peaceful enjoyment and nuisance, all impacts that the Covenants are intended to protect against. But before an in-depth discussion of negative impacts, the threshold question is on what basis is this proposed construction and work exempt under the Covenants?

Thank you for your time, attention and response.

FORTENBERRY LAW GROUP P.C.



Debra L. Fortenberry
Cc: Byrne, Cristin

Hannah Van Nimwegen

May 17, 2017

City of Colorado Springs

File # AR PFP 17-00246

Reviewing planner

10 Friendship Ln.

Please consider the following viewpoint from 11 Friendship Ln. (Directly across the street)

For the 18 years that I have lived in the neighborhood, the “vacant lot” (10 Friendship) was always understood as accepted trespassing on the decades old access to and from the park. We all purchased our homes knowing this and the fact that we live by a school which creates its own traffic.

Over the years this “unofficial access” to the park has grown in popularity. This has caused a hardship to the connecting properties, as I’m sure you are aware of. Trash, parking, turnarounds...

My concern is this: The neighborhood was designed as a low density traffic street. Narrow, (24 feet wide !) with no sidewalks. This has served the existing neighborhood but will not be able to handle the increase in pedestrian and vehicle traffic.

Specific areas of concern / hardship of connecting property owners if this path is made public:

- Safety of more pedestrians and more cars on the existing narrow street.
- Parking along Friendship Lane will increase with the public access becoming the EAST access to Pioneer park. In the past, cars have parked part on the road and part on the private property of 10 Friendship Ln. Once developed, this parking will be forced on the street. All neighbors will be impacted when EMS can’t get through. (if approved, the property owner should grant a 10 foot parking easement) A solution to this would be to put up no parking signs. Then the connecting home owners can’t have guests park in front of their own home?
- Before and after school there is already a parking issue at the neighborhood entrance.
- Illegal turnarounds from vehicle traffic using private driveways as turnarounds. This will increase with the trail becoming public. A true hardship to the connecting properties. We currently have to block off our circular driveways to prevent drive through vehicles. Forcing all of us to back out into Friendship Ln. Safety concerns with more kids from the trail, and parked cars blocking the view of neighbors backing out of their driveways will increase.

As the city planner, I very much ask you to consider the input of the future property owner of 10 Friendship Ln. Especially if they are going to live next to it. This should not be “bullied through” by neighbors who are not as affected by it as the connecting property owners. They are very transparent in their quest to push the trail through and sell the lot. Exhibiting no concern for their other neighbors.

In closing, I feel that this would be a negligent act by the city to approve this public trail into an old neighborhood not logistically set up for it. If approved as a public access, the city should update the street with proper width and sidewalks. Safety should preside over easy access to a park, and there is future liability involved in this decision.

Thank you very much for your time and attention to this very important matter.

Phil Stafford, 11 Friendship Ln.

From: Dale <dmuellersmith@msn.com>
Sent: Wednesday, May 17, 2017 4:52 PM
To: Van Nimwegen, Hannah
Subject: Friendship Lane Tollerance Ilc Path-Against

Hi Hannah!

It was nice to talk to you this week! I am very concerned about the Tollerance Ilc proposed path and the public access on the lot 10 Friendship Lane. My reasons follow below:

1. I question the placement of the trail on the lot...that it is placed too close to 8 Friendship Lane. Is it a city code that there must be a buffer zone between mixed use lots? Public Path and Single Family Dwelling?
2. I am very concerned for the people who live closest to the lot and those who live between the proposed path and Mesa Rd. because most DO NOT WANT this path and public access through. That is verified by: most of those address signatures are not found on the consent to change the FCMNA Covenant to allow the Tolerance Ilc Subdivision to be a neighborhood exception.
3. I am very concerned by the current dangerous bottleneck effect of cars who use Friendship Lane to drop off and pick up students at Holmes Middle School. Friendship Lane is narrow. There are many Senior drivers in this neighborhood. There have been car accidents at the intersection of Friendship and Mesa. If the path were public access it would likely attract more cars to the already congested area. I am concerned we will see more car accidents.
4. I am very concerned for the physical and bodily safety of the students who currently use the path to get to and from school. There are no sidewalks. Teenagers frequently walk between the middle of the street and the side of the street and are regularly reluctant to move out of the street during my daily comings and goings from my house to Mesa Road and back. Along with the traffic concerns listed in 3. above, I am very concerned that a teenager might get hit by a car.
5. I am very concerned that we might see additional parking on our street to access Pioneer Park, were the path to become public.
6. I am very concerned that the congestion of both people and cars on Friendship Lane, the safety risks, as well as the loss "quiet enjoyment" for those who live closest to the proposed path will offset the the proposed gains of the public path and therefore decrease property values for all.

Best,
Dale Mueller Smith
27 Friendship Lane
719.359.7787

May 18, 2017

Hannah Van Nimwegen

Reviewing Planner

Planning and Community Development Department - Land Use Review Division

File Number: AR PFP 17-00246.

Dear Ms. Van Nimwegen:

With my parents, I moved to this neighborhood in 1973, and have enjoyed living here for the past 44 years. I have served the middle class of Colorado Springs as a licensed real estate broker for the past 36 years. Just when I think I have seen it all, there is something new. This new trail located at the northern edge of the vacant lot at 10 Friendship Lane, inches from my neighbor's driveway, separated only by an old split rail fence, is one of the most egregious things I have ever seen. This has been perpetrated on us by Tolerance, LLC, founded by a wealthy trust fund beneficiary, Patricia Freudenburg. And now this wealthy private owner wants to shift all responsibility and liability for her newly installed narrow trail, on to our City and Parks Department, by donating it with the intent of making it a public access. She will benefit from a tax deduction for the donation, and by re-selling the remaining lot at a profit, for a to-be-built house. **This trail and proposed public access is a huge liability for our City and Parks Department!** It is a Trojan horse, just waiting to spill endless costly problems. Following are some of the facts you need to know:

This proposed narrow trail donation for public access is the biggest traffic hazard to school children, bicyclists, joggers with unleashed dogs, and other pedestrians, that I have ever seen. Friendship Lane was developed in the early 1950's. At only 23 feet in width, it is narrower than most city streets, and it does not have side-walks, curbs or gutters, or a storm drainage system. It is a dead-end road with already congested traffic problems. **Fixing this would be a huge expense for our City.** On school days at 3:50 PM, the entrance to our dead-end street is completely impassable with already out of control traffic from parents trying to pick up their child from nearby Holmes Middle School. If an emergency vehicle ever had to get in or out at this time of day, it would be impossible. We have taken numerous photographs in front of our house over the years on school days, at 3:50 PM, of impatient and careless drivers, school kids, and bicycles, dodging each other just looking for an accident. Now I watch in horror as my neighbor across the street at 8 Friendship Lane tries to back out of her driveway with this new trail located just inches from it. The narrow trail has become an endless funnel of pedestrians, dogs, and bicyclists. And an increasing number of cars are parking legally on both sides of our narrow street, creating a bottle neck, with people trying to gain access to Pioneer Park via the new trail from this unsafe location. This is to say nothing of the complete loss of privacy my neighbor has suffered in her front yard and front windows.

If you want to accept this type of trail donation, you must enforce the code of the City of Colorado Springs Parks System Master Plan, for a Tier 2 Feeder Trail, as described on Page 67 of Table 16. A Tier

RECEIVED

MAY 19 2017

LAND USE REVIEW

FIGURE 4

2 Feeder Trail must be 12 feet wide, and it must have a 4 foot soft shoulder on each side. This requires that the private owner allocate and donate a total of 20 feet for this type of trail. This would provide a "Use Buffer Zone", on both the north and south sides of this new trail, at the private owner's expense. Not only is it necessary to comply with the code for a Tier 2 Feeder Trail, but it is necessary to accommodate two conflicting zoning uses, a special use for the new trail, and the existing residential R-1 zoning use on each side of it. As it is right now, this Tier 2 Feeder Trail is only 5 to 6 feet wide, (see attached photographs), and the private owner has not complied with the code or provided any buffer zone. The new trail needs to be re-located to a safer position at the private owner's expense.

Our neighborhood has been battling this problem of traffic and school children with Colorado Springs School District 11 for years. The traffic light south of the intersection of Friendship Lane and Mesa Road should be re-located to the intersection. It will have to be if you want to add more pedestrians and cyclists to this already congested traffic mess. **Another huge expense for our City.** And where is the room for them all? It doesn't exist on this street. And is our Parks Department going to pave this public access trail and connect it with the already paved trails in Pioneer Park? Right now, the trails do not connect. **Damage to Pioneer Park that our Parks Department has to repair is already occurring from this new trail.**

The person filing this application on behalf of the private owner, Eric Vaillancourt, is a licensed real estate broker, and has and will be receiving real estate commissions for this project from the wealthy private owner. Eric is also a member of various bicycling organizations. This has provided him with easy access to obtain some of the endorsement letters from various trails and bicycling organizations that are in the file for this project. Both Patricia Freudenburg and Eric Vaillancourt are serving their own special interests with this project. Recently they "railroaded" a "vote" from uninformed and unsuspecting members of the Friendship Crescent Mesa Neighborhood Association, FCMNA, to change the covenants. This issue is currently being investigated by a group of attorneys as to its legality. This is all in the disguise of doing something they are promoting as a "benefit" to our neighborhood, Parks Department, and City.

The lists of signatures you have on statements in support of the replotting of 10 Friendship Lane were collected by Eric Vaillancourt, in 2015, and are old and out-of-date. Many of them are duplicates. Very few of these people live near the subject lot and trail. Check how far away the addresses are. At the time these statements were signed, these people did not know where the proposed trail was going to be placed on the lot, or that it would become a Tier 2 Feeder Trail that requires code compliance. Now that the new trail has recently been put in place, and it is not code compliant, many of the 2015 signors have told me they would not sign such a statement again.

Susan Davies of the Trails and Open Space Coalition has never seen this new trail, does not know what type it is and that it is not compliant with the code, and has no idea what she wrote a letter in support of! And there is no date on her letter. A worthless endorsement.

Daniel Byrd of Kids on Bikes has never seen this new trail, does not know what type it is and that it is not compliant with the code, and had no idea of the dangerous situation he wrote a letter in support of.

Cory Sutela, president of Medicine Wheel Trail Advocates. Another worthless endorsement from someone completely out of touch with the reality of this situation. This trail has nothing to do with mountain biking.

Shanti Toll, Manitou Springs Trail Cats. Again, they are nowhere near the area, and don't know anything about it. A "blind" endorsement.

If you deny this application, the allowable trespass that has gone on for more than the 44 years I have lived here, will likely be allowed to continue. And our neighborhood will continue to manage the problems privately.

If you deny this application, this wealthy private lot owner might decide to donate, sell, or lease, the entire lot to someone who will keep the whole thing vacant as a more appropriately sized access to Pioneer Park. The reality is, she wants the park access too, and she can easily afford to donate the whole lot!

AND IF THE ABOVE DOESN'T HAPPEN, AND YOU DENY THIS APPLICATION, WHERE ARE ALL THESE TRAIL USERS TO GO? TO COMMERCIAL ZONED FILLMORE STREET, THAT ALREADY HAS A 20 FOOT WIDE PARKWAY AND SIDEWALK, PROVIDED MANY YEARS AGO, FOR THIS VERY PURPOSE!! AND THIS WILL COST THE CITY AND PARKS DEPARTMENT NOTHING! AND SOLVE ALL OF OUR PROBLEMS!

Please save the neighbors bordering this new trail, our broader community, our Parks Department, and our City from this PENDING DISASTER, by denying this application! Thank you.

Sincerely,



Kristin Spiers-Maxwell

9 Friendship Lane and 1103 Cenotaph Circle



FIGURE 4

This is a photo of the newly installed "Tolerance Trail", with my neighbor's driveway and house on the right, and the back of my home at 1103 Cenotaph Circle in the rear, next to Pioneer Park.

Taking this photo, I am standing in front of 10 Friendship Lane looking west.



FIGURE 4

Re: AR PFP 17-00246

Stephen Maxwell [REDACTED]
[REDACTED]
[REDACTED]

Hannah Van Nimwegen:

I am a property owner at 9 Friendship Lane and also 1103 Cenotaph Circle in Colorado Springs, and have lived in the neighborhood for 11+ years.

The property at 9 Friendship Lane is very close to the proposed Tolerance Trail (within 100 feet) while the other property on Cenotaph Circle actually borders the proposed trail. The west entrance/exit to the trail is right up against our property line, and only 25 feet from our bedroom window.

For many years there has been a semi-established trail of sorts which cuts through the vacant lot at 10 Friendship Lane and connects Pioneer Park with Friendship Lane.

Previous owners of 10 Friendship Lane have allowed the public to use it in a "non enforceable trespassing", blind eye approach dating back to the 1970's. Prior to 1994, when a house was built on 12 Friendship Lane, the trail was located there. Then it moved to approximately the center of 10 Friendship Lane, where it has been since 1994, until recently when Tolerance LLC relocated the trail to the northern edge of the lot at 10 Friendship Lane. This is unacceptable to all of the neighbors surrounding 10 Friendship Lane and many beyond.

I am very much "AGAINST" the new proposed Tolerance Trail to be taken possession of and maintained by The City of Colorado Springs. Period.

Here are my concerns AGAINST granting ownership and possession of proposed Tolerance Trail to The City of Colorado Springs:

RECEIVED

MAY 19 2017

-Safety.

LAND USE REVIEW

I believe if and when Tolerance Trail is City owned it will greatly increase pedestrian traffic through the lot by students at Holmes Middle School, Coronado High School and many home owners in the surrounding neighborhoods. Many students and adults simply do not currently use the existing trail access because they respect the "No Trespassing" sign and Private Property rights of the lot owner. This will change if Tolerance Trail becomes "legal". With that will come a wide variety of unintended consequences.

Think back to the situation with the Manitou Incline Trail. When it had "No Trespassing" signs on the property, a few hikers still commonly used the trail because the property owners allowed permissible trespassing with no accountability. Many others had respect for the law and respected private property ownership and did not use the trail. Once the Manitou Incline was made "Legal", the trail use exploded with a vast number of people wanting to now use the allowable trail. Unintended consequences resulted with trail over-use, parking issues, noise, litter, dog waste, and more, all of which are a major concern for those who live directly nearby. Those who do not live nearby do not feel or experience the wrath of those unintended consequences, yet are fully supportive of the Manitou Incline. It's the ill and selfish Philosophy of "I like it as long it's not in my backyard, and to hell

FIGURE 4

with the others". I believe the property owners on Friendship Lane and Cenotaph Circle who live extremely close to the trail will experience similar negative actions, perhaps on a smaller scale, but just as detrimental to the daily life we have grown accustomed to and enjoy. Those who live in the neighborhood, but far away from the trail and down the street, will benefit in a positive way only, by gaining legal use of the trail. It will only create an unfair situation of neighbor vs. neighbor.

Friendship Lane is a unique street in Colorado Springs which has no sidewalks and is narrower in width (23 feet) than other residential neighborhood streets. When two cars are legally parked (width of an average car is 5-6 feet) on opposite sides but parallel to each other on the trail entrance/exit on Friendship Lane, it reduces the access through the middle of the road to about 12 feet. Oversized vehicles such as fire trucks, ambulances, garbage trucks, and FedEx and UPS delivery vehicles will now choke off much of that 12 feet space as they try to drive through. School children entering or exiting Tolerance Trail in such a situation will be subject to many blind spots on Friendship Lane and this greatly increases the risk of getting hit or possibly even run over. A potentially dangerous and deadly situation.

The property owner at 8 Friendship Lane on the north side of proposed Tolerance Trail has her entire driveway border actually touch the trail with NO easement setback to provide a buffer between the trail and the driveway. This property owner will be at great liability when exiting and entering her single family residence garage, each and every time. No property owner should have to live with this undue burden. This remains a paramount issue and needs to be addressed.

In accordance with The City of Colorado Springs Park System Master Plan, the proposed Tolerance Trail would fall into the category of a "Tier 2 Trail" requiring it to be at least 12 foot wide with 4 foot soft shoulders on either side of the trail (reference page 67, Table 16). The current proposal from Tolerance, LLC completely disregards this requirement.

Furthermore, the Pioneer Park East Access for Kids (PEAK) presentation from January, 2017 supports and includes a 12'6" ACC Setback between the south side of the proposed trail and the plot where a single family residence shall be erected, yet makes no reference to a similar symmetrical 12'6" ACC Setback on the north side of the trail (reference the last slide in the PEAK presentation called "Site Plan").

There needs to be, and should be, a mirroring setback or easement on the south AND north side of Tolerance Trail, if The City insists upon taking ownership and possession of Tolerance Trail.

I cannot understand nor fathom the rationale here, as the PEAK presenter, Eric Vaillancourt appears to only have the interest in the property at 10 Friendship Lane in mind, with complete disregard to the property owner at 8 Friendship Lane.

-Intent.

Referring to FCMNA (Friendship Mesa Crescent Neighborhood Association) "Amended Declaration of Covenants, Conditions, Restrictions and Easements" pages 4 and 5:

- A. Protect and enhance the quality of life within and around the geographic boundaries of the Association.
- B. Preserve the natural beauty of the area.
- C. Address land use and similar issues of local interest so as to advance the interests of the members.
- D. Maintain a harmonious and attractive single family residential development where the quality of life and safety of community residents are secured.
- E. Protect and enhance property values.

By having The City of Colorado Springs take possession of Tolerance Trail, it would violate every one of these preamble items. Not in a legal sense, rather a moral and ethical sense because it does not take into FULL consideration the concerns and blowback of the property owners who surround the proposed trail directly.

-Maintenance.

City of Colorado Springs Park and Trail hours are the following (reference City of Colorado Springs.gov/parks/park hours and rules):

November 1st to April 30th: 5:00am to 9:00pm.

May 1st to October 31st: 5:00am to 11:00pm.

How will this be enforced? Will there be lockable gates on either side of Tolerance Trail entrance and exits to enforce such hours? Who will be responsible to lock and unlock those gates? How many phone calls to The City will need to be made in regards to people using the trail after hours, until future action is taken to curtail such activities?

City Code requires all dogs to be on a leash while in City Parks and on City Trails (reference City of Colorado Springs Park System Master Plan page 182).

How will this be enforced? Who will enforce it? Where will the liability lie when a dog not on a leash gets hit by a car?

Will Tolerance Trail comply with all requirements within the ADA (Americans with Disabilities Act), specifically Title III, Public Accommodations? Will there be a paved pathway connecting to the existing paved pathways in Pioneer Park? Will the present gravel surface be sturdy enough for all people wanting to use the trail with disabilities? How will it connect safely into Friendship Lane which has no sidewalks? A very bad and dangerous idea.

-Application Form deficiencies.

In accordance with The City of Colorado Springs, Preliminary Plat Application Requirements: The following items will NEED TO BE INCLUDED with any Preliminary Plat review submittal.

Missing are the following for City File Number AR PFP 17-00246.

Copies of a Geo-Hazard technical report.

Copies of a Drainage Report, prepared by a qualified engineer will be required.

Copies of a Traffic Study, prepared by a qualified engineer will be required.

Copies of a Wastewater Facilities Master Report.

Utilities Line Locates.

I would be interested in the review of those reports, especially the one concerning Traffic Counts on Friendship Lane and Cenotaph Circle.

It is with these concerns, and those unknown concerns that will arise from unintended consequences, that I am strongly AGAINST The City of Colorado Springs taking possession, ownership and future maintenance of proposed Tolerance Trail, from Tolerance, LLC.

Sincerely,

Stephen Maxwell
9 Friendship Lane
Colorado Springs

A handwritten signature in black ink, appearing to read "Stephen Maxwell", written in a cursive style.

FIGURE 4

May 19, 2017
Ms. Hannah Van Nimwegen
Reviewing Planner
Planning and Community Development Department – Land Use Review Division

Reference/File Number: AR PFP 17-00246

Dear Ms. Van Nimwegen,

I have lived here at this address for the last 23 years, enjoying raising our children in a friendly, quiet neighborhood. The divisiveness being created to push a one-sided agenda without considering how it affects all of us should be unacceptable.

We, the concerned neighbors, have filed a complaint with the current HOA Board to review the issues over the legal validity and way the vote was conducted and the allowed land use of lots within the development subject to the HOA covenants. If this vote is legally overturned the Tolerance Trail Subdivision plat request would be invalid per our existing HOA covenants that only allows for a single family residence on each lot. We believe the City should either deny the replat request or at a minimum wait on its determination of the replat until after the legalities of the HOA vote can be determined. The Tolerance LLC group is trying to ramrod their agenda through the system without fully vetting these valid issues and concerns.

Additionally, my husband performed a rudimentary test to try to determine possible additional impact of the proposed public/private park access on the traffic and parking on our street. The first one was performed on a Saturday morning, not even during the highest traffic times of school closing on weekdays, where he parked only two cars on the street 6-12 inches from the edge of the pavement and not even across from each other, completely within the current parking laws. It lasted only 4 hours and during that time, while re-graveling our driveway, he observed congestion along our narrow street and frustration by drivers along with plenty of nasty glares. As you can imagine, this could be just the beginning of these type of developing issues and could directly affect our road, quietness of our neighborhood as well as general access for the entire neighborhood. I believe we will need a full review by traffic engineering prior to any final determination.

We don't believe it is in the best interest of the neighborhood or the City to take on the liability of a public access. We also don't believe the private access currently there meets the Cities planning codes for this type of access. It is for this reason that we respectfully request you deny the replat request by Eric Vaillancourt on behalf of Tolerance, LLC.

This neighborhood was originally developed as a single family dwelling neighborhood, zoned R1-6000 (single family residential) and no public park access to Pioneer Park was ever planned from Friendship Lane into Pioneer Park. All of the residents purchased their properties knowing that there was no public access into Pioneer Park. This meant that this was a quiet, dead-end street, neighborhood in the center of Colorado Springs.

We respectfully request that the City deny planning permission for the splitting of the lot at 10 Friendship Lane and the ultimate intent of assigning total responsibility for this proposed public access to the City of Colorado Springs. Thank you for your attention and consideration.

Respectfully,



Debra Barton
15 Friendship Lane, CS, CO 80904
(719)444-0833
Cjbarton1@msn.com

RECEIVED
MAY 19 2017
LAND USE REVIEW

May 19, 2017

Ms. Hannah Van Nimwegen
Reviewing Planner
Planning and Community Development Department – Land Use Review Division

Reference/File Number: AR PFP 17-00246

Dear Ms. Van Nimwegen,

I wanted to write this letter to provide additional input on the trail subdivision request currently under review by your department.

I am one of the neighbors at 15 Crescent Lane who signed the change to our HOA covenants allowing the park access. During my discussions with Patti Freudenburg on the access, I specifically made clear that I would provide my approval if, and only if, the access was to remain private. She assured me that would be the case and since that time I have come to understand that the intent is to create a public access at the 10 Friendship location. I would reconsider my vote if the HOA covenant change vote was found to be legally invalid. I live far enough down the street that the issues my other neighbors close to the proposed access are facing don't directly affect me but I am very concerned about what a public access would do to our street that has never had a legal public access to the Pioneer Park.

Please deny this application.

Thank you for your consideration on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Seguna', with a long horizontal line extending to the right.

Ed Seguna
15 Crescent Lane
Colorado Springs, CO 80904
Phone: (719)491-4555

RECEIVED
MAY 19 2017
LAND USE REVIEW

May 19, 2017

Ms. Hannah Van Nimwegen
Reviewing Planner
Planning and Community Development Department – Land Use Review Division

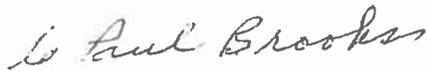
Reference/File Number: AR PFP 17-00246

Dear Ms. Van Nimwegen,

I have lived in my house since the late 50's and was one of the first people to build on this street. This neighborhood was always quite and I am concerned that a replat of the lot at 10 Friendship that was originally planned for a single family home into a public access will create a lot of hazards to many of the older neighbors living here. There are people coming through the current created access that don't show concern for our neighborhood and don't respect the street and the people living here. They ride fast through the lot and onto our street and I am concerned for the safety of people on our street and also in the cars driving down the street. I am also concerned about the potential for vandalism and loitering that quite often surrounds a public access of this type.

Please don't allow this path to be put through our neighborhood.

Respectfully,



Paul Brooks
17 Friendship Lane
Colorado Springs, CO 80904
Phone: (719)633-5734

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MAY 19 2017
LAND USE REVIEW

FIGURE 4

May 19, 2017

Ms. Hannah Van Nimwegen
Reviewing Planner
Planning and Community Development Department – Land Use Review Division

Reference/File Number: AR PFP 17-00246

Dear Ms. Van Nimwegen,

I wanted to write this letter to let you know that I do not support a replat and subsequent donation of a public trail access on the lot next door to my house.

We have observed numerous issues including increased foot and car traffic while the access has been private and I don't believe it is in the best interest of our neighborhood and especially the impact it will have to the immediately surrounding homes. Please deny this replat.

Sincerely,



Deborah Demo
12 Friendship Lane
Colorado Springs, CO 80904
Phone: (719)306-8987
dandbdemo@yahoo.com

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MAY 19 2017
LAND USE REVIEW

FIGURE 4

STINAR ZENDEJAS & GAITHE, PLLC

Attorneys at Law
121 E. Vermijo Avenue, Suite 200
Colorado Springs, CO 80903
Telephone (719) 635-4200, Ext. 202
Facsimile (719) 635-2493
jim@coloradolawgroup.com

May 19, 2017

Via Email: hvannimwegen@springsgov.com

Hannah Van Nimwegen
Planning & Community Development Department
30 S. Nevada, Suite 105
Colorado Springs, CO 80903

**Re: Reference Number AR PFP 17-00246
Preliminary and Final Plat for the Tolerance Trail subdivision**

Dear Ms. Nimwegen:

Please be advised that this firm represents the concerned neighbors of the Tolerance Trail Subdivision regarding the above-referenced matter.

There is significant concern and liability developing over the assignment to the City of a newly proposed park access through the lot at 10 Friendship Lane, reference TSN: 7402101006, across from the already identified congested area in front of District 11 Holmes Middle School in the 80904 zip code.

There are a number of neighbors and citizens concerned over the additional traffic, parking, and pedestrian congestion that is likely to result from the proposed public access of this nature. My clients are already experiencing significant safety issues on Friendship Lane that stem from a, not to spec (24 ft. wide existing asphalt road, no curbs, no sidewalks), and narrower older road. Children are already walking down the side of the road and sometimes in the center of Friendship Lane in order to get access that has been developed through the, currently, private lot that adjoins Pioneer Park at 10 Friendship Lane.

The main issues from a City liability standpoint are: 1. Public safety 2. Traffic flow and additional congestion and; 3. Parking around a public park access.

1. Public safety and especially the safety of the children are of the utmost concern. We believe the City will be taking on unnecessary safety liability in this area surrounding the District 11 Holmes Middle School. This could create additional financial burden on the City to alleviate and/or mitigate safety concerns surrounding a public access at this proposed location.

Additional legal liability is also of paramount concern with the currently non-existent pedestrian sidewalks and the, aforementioned, narrowness of the existing street.

2. The traffic flow on Friendship lane is already exceeding normal flow for a dead-end street of this density during school opening and closing times. The City and school are already aware of the traffic problems that surround these school times and additional special events at the school. The road, at its current width of 24 feet, is too narrow to accept additional traffic burden that can be reasonably expected due to the use of, or around the, proposed public park access. This is expected to be compounded during sporting events and private gatherings that utilize Pioneer Park during the week and on the weekends. We believe this public access will undoubtedly introduce an additional risk to the existing pedestrian traffic currently using the street to get to the 10 Friendship lot for access into Pioneer Park.

3. The additional parking issues surrounding a public access will only be compounded over the currently, property owner, allowed private access. There is not room on Friendship Lane for parking on either side of the street to allow for normal traffic flow. A granted public access will cause congestion due to additional cars parked along the road and could result in an impassable street if cars were to park legally on both sides of the street during, for example, a high-density sporting event in Pioneer Park. This additional parking will create access issues for Emergency Vehicles and service vehicles such as trash trucks, etc. Additionally, my clients currently have an issue of cars turning around in many of the circular driveways during school times causing damage and excessive wear and tear on the front yards and this issue would only be compounded by an additional public access granted by the City.

The concerned citizens in and surrounding this neighborhood believe it is in the best interest of the City and the neighborhood not to accept or incorporate this currently private access into the City's sphere of responsibility and control through the splitting and gifting of this proposed park access path to the City of Colorado Springs. There is no reason the City should want or need to accept this additional liability at this time. The group driving this agenda is attempting to pass off maintenance and legal liability for this access to our City, unnecessarily. If the City does nothing, we believe this access will continue as it has in the past as "allowable Trespass" and the additional risks mentioned above will be mitigated from a City standpoint.

As additional information, there may be legal concerns over the change to the neighborhood covenants allowing the splitting of this parcel and the use of this lot for anything other than a single-family dwelling. This neighborhood was originally developed as a single-family dwelling neighborhood and no public park access to Pioneer Park was ever planned from Friendship Lane into Pioneer Park. All of the residents purchased their properties knowing that there was no public access into Pioneer Park. This meant that this was a quiet, dead-end street, neighborhood in the center of Colorado Springs. In short, a private/public access is not what was planned nor expected along this street and for this neighborhood.

My clients respectfully request that the City deny planning permission for the splitting of the lot at 10 Friendship Lane and the ultimate intent of assigning total responsibility for this proposed public access to the City of Colorado Springs. Additionally, we believe a full review and

potential study should be performed by Traffic Engineering prior to any approval of a re-plat at this location.

We are in the process of reviewing the Declarations and Covenants as it has come to our attention that the vote may not have been performed in compliance with said declarations.

Very truly yours,

STINAR, ZENDEJAS & GAITHE, PLLC

/s/ M. James Zendejas

M. James Zendejas

MJZ:llb

From: cbartont6 <cbartont6@gmail.com>
Sent: Monday, June 05, 2017 12:36 PM
To: Van Nimwegen, Hannah
Cc: krispimax@gmail.com; cjbyrne12@gmail.com; kitqli@aol.com; philipdstafford@gmail.com; dmuellersmith@msn.com; 'Linsey Baldwin'; Krager, Kathleen
Subject: Tolerance Trail Subdivision, File no. AR PFP 17-00246
Attachments: IMG_20170531_193211559b.jpg

Ms. Van Nimwegen,

Thanks for the discussion late last week. As a representative of the concerned neighbors of Friendship lane, I would like to formally request that a traffic study be performed, during normal school times, on Friendship Lane prior to any final decision on this proposed subdivision referenced above. As we discussed, the City is already dealing with traffic issues across the street at Holmes Middle School and this represents a compounding issue to that already existing problem.

We feel that there are significant concerns over the increased traffic on Friendship Lane, parking, and pedestrian safety, that will result if this public path is allowed through to Pioneer Park from Friendship Lane. We have current trail cam data that shows over 90 pedestrians accessing this current trespass path during a school weekday and would expect this number to rise significantly if it is made public and especially during school opening and closing times and during sporting events in Pioneer Park.

One of the biggest concerns is the safety due to the increased automobile traffic that has safety and parking implications on a dead-end street that is only 24 feet wide, without curbs and sidewalks. We cannot support additional traffic and parking on such a narrow street. I have attached a photo of the already existing wear from cars parking on the lot verge and trespassing through the lot to Pioneer Park. This gives some indication of the already existing volume of traffic and helps to justify the need for a traffic study in the Fall to understand the impact from this proposed access during the school year.

With this volume of car and foot traffic, and the fact that it is clear that the owner plans to make this a public access park footpath, this would require the subdivision plan comply with the current park access codes for a Type 2 feeder trail requiring a 12 foot wide path with a 4 foot soft shoulder on either side, totaling 20 feet. The subdivision path diagram submitted would need to be amended to comply with the applicable park path codes and requirements and also additional easements required for Colorado Springs Utilities along the lot edge.

We believe there are a number of real concerns that are being overlooked as the landowner tries to ramrod their agenda through the planning process, effectively circumventing the Cities codes and guidelines and what is best for the community. Thank you for your consideration in this matter and please let me know if I can help by talking through some of the issues with the traffic engineering team.

Best regards,

Chris

Chris Barton
M:(719)338-1667



FIGURE 4

July 27, 2017

Sent Via Email: hvannimewegen@springsgov.com

City of Colorado Springs
Planning and Community Development
Land Use Review Division
Attn: Hannah Van Nimwegen
30 S. Nevada Avenue Ste. 105
Colorado Springs, CO 80901



RE: Tolerance Trail/AR PFP 17-00246

Dear Ms. Van Nimwegen,

This firm represents Cristin Byrne, property owner at 8 Friendship Lane, Colorado Springs, CO, immediate adjoining property owner to the proposed public trail subject to the replat application.

This morning, Ms. Byrne, together with a group of property owners in the immediate vicinity of the proposed trail, met with traffic and pedestrian safety consultant Dave Lethbridge to discuss their concerns about the proposed zoning and plat modifications. It is Mr. Lethbridge's opinion that further evaluation of the pedestrian safety risks are indicated because the proposed improvement of the trail and public designation may exacerbate the existing pedestrian safety and traffic congestion issues experienced in the immediate vicinity of the proposed trail. It is also his opinion that evaluation by the City Traffic Engineering Department will likely be helpful to the planning process. He intends to immediately recommend evaluation of the proposal to the City Traffic Engineering Department.

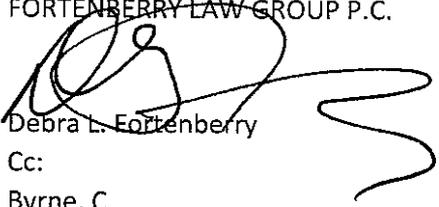
We are in receipt of your comments on this issue in your email dated July 5, 2017. Because exacerbation of existing traffic and safety issues is a risk in approving this proposal, we do not agree that the traffic and pedestrian safety issues should be narrowly framed and considered. Rather, Ms. Byrne and some neighbors directly impacted are pursuing a more encompassing review and input on the identified safety risks.

Additionally, during the site visit, an encroachment by boulders associated with the trail construction onto Ms. Byrne's property was identified. We request that this encroachment and any other identified encroachments caused during construction of the trail be corrected prior to approval.

For these reasons, we request that the Land Use Review Division take no action to approve the proposal for two weeks to allow further evaluation and input regarding the identified safety and traffic concerns and decline to approve the application until the encroachment issue(s) is corrected by the applicant.

Thank you for your time, attention and patience as the broader impacts are duly considered.

FORTENBERRY LAW GROUP P.C.


Debra L. Fortenberry

Cc:

Byrne, C.

D. Lethbridge, DRL Bridge Consulting