

CITY OF COLORADO SPRINGS

INTEROFFICE MEMORANDUM

DATE: May 27, 2021

TO: Peter Wysocki, Director of Planning

FROM: Sarah Johnson, City Clerk

SUBJECT: Notice of Appeal

ITEM NO. 6.D CPC MP87-00381-A28MJ21; ITEM NO. 6.E CPC PUP 16-00013-A3MJ21

An appeal has been filed by Janet and Robert Adams in regards to the Planning Commission meeting that took place on May 20, 2021.

I am scheduling the public hearing on this appeal for the City Council meeting of June 22, 2021.

Please send a vicinity map.

CC: Katelynn Wintz
Elena Lobato

Janet and Robert Adams
4383 Hessite Loop
Colorado Springs, CO 80938

Jim Byers
8605 Explorer Drive, Suite 250
Colorado Springs, CO 80920

Jon Romero
619 N Cascade
Colorado Springs, CO 80903

Robert & Janet Adams
4383 Hessite Loop
CITY CLERK'S OFFICE Colorado Springs, CO. 80938

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Katelynn Wintz
City Planner
City Hall
Colorado Springs, Co.

Dear Ms. Wintz,

We would like to make a formal appeal regarding the master plan amendment of the vacant/undeveloped property located just east of Marksheffel Rd. between Zircon and Graphite streets. As residents of the paired patio homes on the adjacent property, we are very concerned about any development of the property until the issue of fixing Marksheffel Rd. is addressed.

At this time, several residents are worried about the impact of trying to exit onto Marksheffel Rd. We feel that safety should be the primary concern of any proposed expansion/development that should occur.

On the issue of a proposal of putting a school at this location, we feel that should be evaluated further. As retired teachers, my husband and I are very worried about school buses getting on and off Marksheffel Rd. This property does not seem like the appropriate location for any type of school.

Please evaluate/consider our safety and the safety of children when discussing any type of development/expansion of this property.

Thank you for your consideration.

Janet and Robert Adams

Janet Adams

Robert Adams



CITY OF COLORADO SPRINGS

CITY CLERK'S OFFICE

APPLICATION FORM FOR APPEAL OF ADMINISTRATIVE DECISION

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Appellant: Janety Robert Adams Telephone 719-598-7789 Fax N/A
Address: 4383 Hessite Loop Zip Code 80938 e-mail murph163014@yahoo.com

Premises Involved: _____
City Planning File Number (if applicable): Master Plan# CPCNP87-00381-828 m J21

Address: Concept plan# CPC PUP 16-00013-83 m J21

Direction from nearest street intersection _____

Tax Schedule No. _____ Acreage _____

(The tax schedule number can be obtained from the El Paso County Tax Assessor located at 27 E. Vermijo Avenue on the 2nd Floor; phone: 520-6600 or at their web site <http://www.land.elpasoco.com>)

Date of Receipt of Notice and Order or Date of Final Administrative Decision _____

Appeal of Decision Regarding:

- Development/Landscape Plan _____ Subdivision Plat _____ Notice and Order _____
- Hillside Site Plan _____ Administrative Relief _____ Non-Conforming Use _____
- Sexually Oriented Business _____ Temporary Use Permit _____ Relocation payments _____
- Similar Use Determination _____ Property Boundary Adjustment _____
- Preservation Area Boundary Adjustment _____ Building Permit to Unplatted Land _____
- Building Permit prior to Platting _____ Historic Preservation Board Determination _____
- Home Occupation Permit _____ Human Service Establishment _____
- Other: _____

OFFICIAL CITY PLANNING USE:

Fee Receipt # _____	Date Application Accepted _____
Completed Form _____	Intake Staff _____
Appeal Statement (2) _____	Vicinity Map _____
Authorization _____	Copy of Notice and Order (if applicable) _____
Applicant informed of Poster Pickup Date? Yes <input type="checkbox"/> No <input type="checkbox"/>	If Yes, Date of Poster Pickup _____
Notification Options: Waive Notification <input type="checkbox"/> Adjacent <input type="checkbox"/> 500' <input type="checkbox"/> 1,000' <input type="checkbox"/>	
Assigned to: _____	(Notice to be sent at time of CPC/CC Hearing only)

OWNER/APPLICANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Janet Adams 5/27/21
Signature of Appellant Date

PRE-APPLICATION CONFERENCE:

A pre-application conference with the planning staff is not mandatory for these applications. However, if you would like a pre-application meeting, please call 385-5905 and one will be scheduled for you.

PROJECT TRACKING

City Planning maintains an internet-based project tracking system (LUIStrack) that reflects all significant processing benchmarks associated with each development application. Go to <http://www.springsgov.com/luispublic/luispublic.asp> to search for your application in LUIStrack project tracking.

PUBLIC NOTICE:

The following public notice requirements will be imposed in conjunction with the review of these applications:

- Written notification to the adjoining property owners within 500 or 1,000 feet (at planner’s discretion) of the property site will be required. City Planning will coordinate with the applicant on the required postage amount with the postage amount required to be paid when the applicant picks up the public notice poster.
- A public notice poster will be provided to the applicant a minimum of ten (10) days prior to the public hearing date. The proposed project site must be posted, by the applicant for a minimum of ten (10) consecutive days. The poster should be posted in a very visible location on the site, which can be viewed by passing motorists and/or pedestrians without trespassing. The applicant is required to complete the affidavit (a copy will be attached to the poster) attesting to the specific dates that the site was posted. The applicant must check the site occasionally to confirm that the property continues to be posted throughout the posting period. If the poster is no longer in good shape or has disappeared from the site, please contact the City Planning Office at 385-5905 for a replacement poster.

FEES:

An application review fee will be required to accompany these applications (checks payable to City of Colorado Springs). The fee schedule is as follows:

Appeal of Administrative Decision to Planning Commission	\$176
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If you are indigent, your fee may be waived; please ask the planning staff for an Indigent Fee Waiver form if you wish to apply for this fee waiver.

APPLICATION REQUIREMENTS:

This application should be submitted to the City of Colorado Springs-Planning Office at 30 South Nevada Avenue, Suite 301. All applications must be completed in full and accompanied by the following information:

APPLICANT

PLANNER

1. Two (2) copies of an **APPEAL STATEMENT** identifying the following:
 - A clear **DESCRIPTION** of the appeal. The file number, ordinance and/or provision must be identified and a brief summary of facts.
 - A **JUSTIFICATION** based on the review criteria as set forth in Section 7.5.906 Justifying why the appeal should be approved.
2. A **VICINITY MAP** showing the parcel outlined with the adjacent streets within the neighborhood noted on a separate 8½” x 11” page.
3. A copy of the **NOTICE and ORDER** from the issuing agency (if applicable).
4. City Planning, City Planning Commission and/or the City Council may require other **ADDITIONAL INFORMATION** for this application as needed.

INFORMATION REGARDING APPEAL OF A NOTICE and ORDER:

If you are appealing a Notice and Order issued by an official of the City of Colorado Springs, you are stating that one or both of the following are true:

1. You are not in violation of City Code and you believe the official is in error; and,
2. The abatement period is unreasonable and should be lengthened.

INFORMATION REGARDING APPEAL OF A NOTICE AND ORDER, continued:

A perfected appeal shall operate as a stay of the enforcement process unless the City Agency which issued the Notice and Order certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare or the violation is of such a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site. You should take no further action regarding the alleged violation during this stay of proceedings. Do not continue construction, add on or otherwise modify your property or buildings. If you do, it is at your own risk and a completed project will not guarantee automatic approval. In no event will a variance be granted upon appeal from any order, requirement, decision or determination. Any variance will require the filing of a separate application and payment of applicable fees.

INFORMATION REGARDING AN APPEAL OF AN ADMINISTRATIVE DECISION:

An individual aggrieved by a decision made by an administrative officer of the City may appeal such a decision by filing a written notice specifying briefly the grounds of the appeal within ten (10) days from the date of mailing, posting, or personal service of notice of the decision. City Planning shall place the appeal on the Planning Commission agenda at the next regularly scheduled meeting occurring at least twenty-one (21) days but not more than forty-eight (48) days thereafter. After the public hearing, the Planning Commission shall have the power to affirm, reverse, or modify such decisions.

In accordance with the Zoning Code, individuals filing appeals of an administrative decision made by City Planning staff must substantiate the following in written form:

1. Identify the explicit ordinance provisions which are in dispute.
2. Show that the administrative decision is incorrect because of one or more of the following:
 - a) It was against the express language of the Zoning Ordinance, or
 - b) It was against the express intent of the Zoning Ordinance, or
 - c) It is unreasonable, or
 - d) It is erroneous, or
 - e) It is clearly contrary to law.
3. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.

Investigation: City Planning shall investigate the application and the facts bearing on the case to provide the information necessary for action consistent with the intent, purpose and requirements of the Zoning Code. City Planning shall report the findings to the Planning Commission.

Appearance: If making an appearance of record, the following persons, are hereby defined as parties and shall be entitled by themselves or through a representative to participate in a public hearing before the Planning Commission:

1. The applicant or the appellant;
2. Either the owner or lessee of property of agent for the owner or lessee which is directly affected by the matter which is before the reviewing authority;
3. Any person, organization, group or governmental entity who demonstrate to the Planning Commission that they have a significant interest in the subject matter of the hearing;
4. Any member of the City administration.

The "appearance of record" shall mean either:

1. An oral statement sufficiently identifying the person making the same or by his representative made at the hearing, or
2. A written statement giving the name and address of the person making the appearance signed by their representative and filed with the Planning Commission either prior to the beginning of the hearing or when permitted by the Planning Commission.

FINAL DISPOSITION:

In consideration of an appeal, the Planning Commission may affirm, reverse or modify an administrative decision under their jurisdiction in accordance with of the Zoning Code. After receiving testimony, the Planning Commission shall announce its decision at the conclusion of the public hearing. The decisions shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety and welfare. The Planning Commission may recommend conditions, which are necessary and reasonable in order to further, the purpose of the Zoning Code. Such conditions may include, but are not limited to, setbacks, from adjacent uses or property lines, landscaping, screening, placement and size of signs, placement and amount of parking and access restrictions.

Appealing a Decision of the Planning Commission:

The decision of the City Planning Commission to approve or deny an application may be appealed to the City Council within ten days from the date of the public hearing decision. The appeal must be in writing and should be submitted to the City Clerk at 30 South Nevada Avenue, Suite 101 along with a \$175.00 non-refundable fee. The appeal must include the file number of the item and specify briefly the grounds for the appeal. If a perfected appeal is filed within this ten-day period, the decision to approve or deny will be suspended until the appeal process is finalized.

Upon receipt of the subsequent appeal, the City Clerk shall schedule a public hearing before the City Council at the next meeting occurring at least thirteen (13) days thereafter. City Council has the power to refer any matter appealed back to Planning Commission for further consideration or affirm, reverse or modify the action of the Planning Commission. In all matters before the City Council relating to the actions of the Planning Commission, the entire file from City Planning pertaining to such matters shall be made a part of the record of the City Council. The file shall include but not be limited to Planning Commission minutes, maps, drawings, departmental reports and application. If the appellant wants to submit additional exhibits to Council to include in the record, the original of such exhibit and twelve (12) copies must be submitted to the City Clerk. If the exhibits are electronic, a disk must be given to the City Clerk. All exhibits are kept for a maximum of ten (10) working days after the time of appeal has expired.

At the public hearing, City Planning staff will summarize their recommendation and the Planning Commission's recommendation for the record. The appellant may present an argument in support of their position. An individual who has not appealed may present an argument in support of the appellant's position. A short rebuttal by the applicant shall be limited to issues raised during the preceding argument. Final comments from the applicant and all other parties are allowed only by permission of the Mayor. Final comments from City staff and staff's recommendation shall conclude the hearing. All questions will be directed through the Mayor who will then direct the question to the appropriate person. Council may then make a decision on the matter or delay the decision. If final action is not taken at the public hearing, the Mayor will advise the audience when the matter will be considered.

Appealing a Decision of the City Council:

Once City Council has made a final decision to grant or deny an appeal, the administrative process shall be deemed to be exhausted. Any subsequent appeal must be made to the court.

DO NOT REMOVE THIS PAGE – IT MUST BE KEPT WITH THE ORIGINAL APPLICATION FORM!

The City of Colorado Springs-Planning Group is committed to ensuring that all of our services are accessible to those with disabilities. We encourage participation by all individuals. If you have a disability, advance notification of any special needs will help us better serve you. Please call City Planning at 385-5905 to request any special service that you may require. A one (1) week advance notice to allow us to accommodate your request is appreciated.