

CITY OF COLORADO SPRINGS PLANNING COMMISSION

MINUTES / RECORD-OF-DECISION

**THURSDAY, August 18, 2016, CITY HALL COUNCIL CHAMBERS
107 NORTH NEVADA AVENUE, COLORADO SPRINGS, COLORADO 80903
CHAIRMAN PHILLIPS CALLED THE MEETING TO ORDER AT 8:36 A.M.
THE MEETING ADJOURNED AT 4:23 P.M.**

PRESENT:

Phillips, Henninger, Markewich, Shonkwiler, Walkowski, Smith

ABSENT:

McDonald, Gibson, Graham

ALSO IN ATTENDANCE:

Mr. Peter Wysocki, Planning and Development Director
Mr. Marc Smith, City Senior Corporate Attorney

NEW BUSINESS CALENDAR

DATE: August 18, 2016
ITEM: 6.C.
FILE NO.: CPC SWP 16-00057
PROJECT: 543 Robbin Place
STAFF: Michael Turisk, Planner II

STAFF PRESENTATION:

Michael Turisk, Planner II gave a Power Point presentation. He discussed where the property is located, what it's zoned, surrounding zones, what is the type of homes in the area, as well as the west side overall plan. He has spoken with city traffic about the alley and they will make the alley a One-Way access. City fire has also recommended mitigation of the potholes for the entire length of the alley. In a recent conversation with city fire they are "OK" with the alley. Initially there was a suggestion to widen the alley but from a practical standpoint that would be difficult. The access point from west Boulder must be mitigated or enlarged for fire apparatus. The final suggestion from city fire is the applicant would be required to install sprinkler systems in the units. A neighborhood meeting was done in June and they received 13 letters of opposition. We've encouraged the applicant to work with the neighbors which he's done.

APPLICANT PRESENTATION:

Paul Risen with Terra Custom Homes and owner of the property. He's owned the property for about 13 years. His plan is to build nice duplexes and comply with all ordinances and code and submit plans in the next few weeks.

Questions:

Commissioner Shonkwiler asked if Mr. Risen had any problems with the requirements for repaving the alley and putting in sprinkler systems. Mr. Risen said no.

Commissioner Smith asked repaving the entire alley not just fill the potholes. Mr. Risen said he's would comply with what the fire department request to fill the potholes and improve both ends of the alley. Commissioner Smith verified there'd be no building in the preservation easement.

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Commissioner Smith asked if Mr. Risen would try to level out where they'd build the duplexes and what the depth of the duplexes would be. Mr. Risen described how the duplexes would be situated and said the depth was about 40-feet. Commissioner Smith referenced the geological information about the piers drilled and how would that be done. Mr. Risen described how it would be done and what the size of the pillars would be and how far down they'd go. Commissioner Smith verified the types of soil the piers will bear on which is, Pierre Shale. Commissioner Smith asked if there would be a type of retaining wall. Mr. Risen said no.

Commissioner Walkowski commented about parking and how far the driveway was setback from the alleyway? Mr. Risen said 25-feet from the alley and the driveway is 20-feet wide.

Commissioner Walkowski asked where drainage flowed from this development. Mr. Risen said to the alley and all downspouts and underground drainage to the alley and tie into the city system. Mr. Risen said the down spouts are along an underground drainage to the alley. Commissioner Walkowski asked if he had an engineering report for that. Mr. Risen said yes.

Commissioner Walkowski said the Geotechnical Report from Colorado Geological Survey says the area is susceptible to future landslide activity but you're going to try and mitigate that with pillars, correct. Mr. Risen said he was complying with everything Entech has designed.

Commissioner Walkowski said as he read the report and was trying to make sure if what is being done doesn't affect the neighbors. Mr. Risen said he understood and the submittal from Entech to Colorado Geohazard has all been reviewed and approved city staff and they plan to comply. Commissioner Walkowski said staff recommends plat notes regarding the Geotech hazards regarding the site. Mr. Risen said yes and Entech will submit a letter after they're done stating they're satisfied with all they've done. Commissioner Markewich said in the Geohazard report it stated there is the concern about slippage. So from a drainage standpoint are there any special notes about this due to how the property is situated. Mr. Risen said the drainage plan and the engineering has been done and stipulated on the drainage plan what has to be done. Commissioner Markewich asked if there were plans to divert drainage before it comes to the duplexes. Mr. Risen said yes.

Commissioner Markewich said information at the Informal meeting and in their packets it said the 12-foot alley would become a 20-foot wide and be improved. That's different from what Mr. Turisk said today. Mr. Risen said a 20-foot alley is impossible they'd only do improvements.

Commissioner Markewich asked how tall the duplexes would be. Mr. Risen said three-stories with a flat top roof and 32-feet high building.

City Attorney Marc Smith gave some clarification to narrow the issues. They are looking at a very narrow portion of the project related strictly to access. A project has to have access off a street. Due to topography of the area that is not possible; so the question is if the Planning Commission will grant access in the alley. Geotechnical and drainage issues will be reviewed administratively. The focus needs to be on the specific subdivision waiver and the review criteria under the subdivision code.

Commissioner Shonkwiler stated correspondence in their packet from Steve Smith with City Fire stated, "The alley must be paved with all potholes repaired." That it doesn't say it's in front of your property or the entire length of the alley. Mr. Risen said Steve Smith was at his property and said a couple of times, "all you need to do is repair the potholes and improvements to each side of the alley." Mr. Turisk said per Steve Smith with city fire, Mr. Smith recommended a plat note stating, "All pot holes on Robbin Place will be repaired prior to building permit," thus to Mr. Turisk it meant the entire alley.

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Commissioner Shonkwiler reiterated he was making sure that everyone knew exactly what was expected. Mr. Turisk said Mr. Risen's property is some of the worst. There are specifics that discuss Entech's, Colorado Geological Survey's and city staff's concerns. Thus the reason for the plat notes and they want to make sure that any buyer has as much disclosure as possible before they purchase.

Commissioner Smith he understands what their focus should be but he's concerned about how this will be built. Mr. Turisk said if approved the applicant would only need to submit a building permit. However, oversight would continue by him and other reviewing experts. Commissioner Smith said he wanted the development plan come back to them. Mr. Turisk said there wouldn't be a development plan for something like this. Meggan Herrington, Planning Manager, stated they wouldn't see it again because each zone district is treated differently regarding development. In this situation this would come in with a final plat and move straight to building permit. If you're uncomfortable just having potholes repaired and not paved you can put conditions on the approval.

Citizens in Support: None

Citizens in Opposition:

Sarah Poe lives in the neighborhood and is speaking on behalf of several them. They aren't opposed to development but want to make sure what is developed is safe. She understands this is just about the waiver but in the code the waiver states, "The development needs to have a benefit that will outweigh the harm to property owners under A2. Under B1 it states, "The development will not be detrimental to the public good." They think there will be increased hazards to the neighborhood which include land slippage and the access and want to voice all their concerns. The Geological Survey says, "The slope as it is today is marginally stable and susceptible to future landslide activity." They feel this is unsuited for safe development because this hillside could end up in their backyards. Regarding a disclosure statement to future homeowners this alone will lower their property values. Widening at the entrance and exit ways could impede on homes on the corner. Not only is the access difficult for a firetruck and emergency vehicles but for day to day traffic. Fixing potholes before construction doesn't make since. The storm water issues are significant because right now all the water from the hill comes down the alley and into their back yards. They feel this development is not compatible and harmonious with their neighborhood because a three-story high duplex doesn't make since in a single-family area. Welling Clark with the Organization for the Westside Neighbors, the HOA for this area said in a letter, "If the alley access is the only hurdle to construction intended by the property owner, OWN, the Organization for Westside Neighbors recommends the request for the alley access be denied."

Commissioner Markewich asked if Ms. Poe's home back up to the alley, she said it did. Commissioner Markewich asked about traffic in the alley.

Don Hargrove lives on Cooper on the east side of the alley at the very south end of this property. The alley has been raised twice that he knows of but due to the runoff from Chestnut after they built on top of that hill all the water comes down the alley. The alley was chip sealed three years ago and they have potholes because of the run off from this property. The trash trucks have a hard time in this alley. Since the alley has been raised he's had to put a lip in his garage to keep the water from running into the garage. A chip sealed it won't last. If they build these units will there have to be a new water and sewer line. The neighbors aren't against building but want it within reason but understands they are talking about the alley and not the building area.

QUESTIONS OF STAFF:

Commissioner Markewich asked for clarification about the alley. At Informal he heard the 12-foot alley was not sufficient and a quote from city fire says, "the alley was measured approximately 12-feet and

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fire code requires fire lanes to be 20-feet minimum.” Mr. Turisk said in the initial review city fire provided broad statements regarding the project and viability regarding emergency services access and said widening the alley. Mr. Risen met with city fire staff on two occasions and per the formal comments provided by city fire they have indicated widening of the alley wouldn’t be necessary but to help mitigate concerns the applicant would be compelled to install city approved sprinkler systems in the units, repair the pot holes, and mitigate entrances to the alley from Boulder and St. Vrain.

Commissioner Markewich asked if that information was in their packet. Mr. Turisk said he didn’t know it could’ve come in after the packet was completed. Commissioner Markewich said this was a significant change and that was disturbing that it was changing on the fly. Commissioner Markewich quoted from an email where it says, “The alley is a mixture of decomposed pavement as well as some intact pavement with potholes throughout. The alley must be paved with all potholes repaired.” So it sounds like pothole repair is not sufficient. Mr. Turisk said per city fire’s recent comments they recommend notes on the plat that read, “All potholes on Robbin Place shall be repaired prior to building permit application.” Commissioner Markewich said this also that had changed since Informal. Mr. Turisk said it seemed that way.

Meggan Herington, Planning Manager, stated as part of the review of the subdivision waiver while unclear on what fire recommended the Planning Commission could change that condition to say that it be has to be paved because it’s directly related to access of the alley.

Commissioner Markewich asked if they have the ability to require widening. Ms. Herington said she didn’t know if that was possible. The right-of-way for the alley is 20-feet. The pavement mat is 12-feet. Theoretically you could expand the alley within that right-of-way but there are overhead utility lines that will prevent that. Some of the confusion may be from what’s the right-of-way, what’s the alley, verses what is the actual drivable width of the alley. Mr. Turisk said he indicated earlier widening the alley is not doable because of the overhead utility lines and other infrastructure as well as private structures close to the pavement mat.

Commissioner Markewich said the other issue is the drainage. The applicant wasn’t exactly clear on where the water is going and what the requirement will be. There’s the runoff from the slope and having an impervious surface will increase the flow from the slope. He didn’t see anything that would channel flow in the alley to keep water from going into backyards, garages and homes for the people to the east. He’d like some clarification on that. Steve Kuehster with City Engineering Development Review said they had a professional engineer look at the drainage report and reviewed it since it was less than one acre of improvements it wasn’t enough of an impact to warrant or cause a rationale for access to the storm sewer system. The drainage flows off the site like all of the other houses along that area.

Commissioner Markewich said that’s not the only drainage its’ from above and the slope. With the entire impervious surface at the bottom that will cause more water to come off the property to the alley, but you’re saying it was examined. Mr. Kuehster said there wasn’t that much detail in the drainage report but he’d heard testimony stating some water already flows off the east side and that wasn’t expressed much in the drainage report.

Commissioner Markewich asked if Mr. Kuehster had been to the site. Mr. Kuehster said yes but he didn’t he was looking more at geological. Commissioner Markewich said he made one visit to the site and putting impervious adjacent to the alley is going to cause more run off from the slope. Mr. Kuehster said that was correct. When they ask for improvements they will ask for some type of inverted crown or whatever is necessary to get that water to flow to the south and not the east. Commissioner Markewich said he didn’t think filling potholes would be sufficient to bring the alley up to specs it will have to be

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filled along with some type of swale along the east side to make sure everything stays in the alley. Mr. Kuehster said that was correct.

Commissioner Markewich said if you're increasing the water the connection from the alley to Boulder Street it must be done properly so water doesn't come into Mr. Hardgrove's garage. Mr. Kuehster said he'd have to see where Mr. Hardgrove's property was located.

Mr. Kuehster said rebuilding the two entrances off the street for the fire truck will require them to provide lighting of the alley aprons which is what the fire department was also recommending.

Commissioner Markewich said what if the alley has to be rebuilt could drainage be underneath the alley and connect it to city sewer system. Mr. Kuehster said he didn't look at the sewer system.

Commissioner Phillips said these were great ideas and he'd like to hear something like this from the applicant.

Rebuttal:

Mr. Risen said this was a small development. He thinks water and sewer are in the alley but doesn't know where the taps are but he was planning on paving from Boulder or St. Vrain past his development anyway because they will dig up an alley to put in the infrastructure. So if they have to put some soil in alley to accommodate drainage, but he relies on Colorado Geotech and his engineers in the drainage department to advise him and they will follow all the requirements necessary to take care of drainage for each unit but all down the hillside.

This alley is no different for other alleys in southern Colorado. He'd like to improve it and control drainage that's his first concern because they could be units he keeps as investment property. He's built on the west side with alley access and this alley is in better shape than most. But if they to pave the entire alley they'll do it because they are tearing up 2/3rds of it.

Commissioner Smith said in the packet where it said potholes have to be done prior to building permit he thought repaving should be done at the end of the project not at the beginning. Mr. Risen said they'd improve the alley as much as possible before construction and then pave when everything is done.

Commissioner Markewich asked what point would you decide a tap into the city sewer, utilities and how to redirect drainage. Mr. Risen said before they break ground. Mr. Risen said the alley would be paved in a V for a swale in the middle but he defers to his drainage engineer. Commissioner Markewich asked if Mr. Risen would be willing to pave the alley from top to bottom. Mr. Risen said yes.

Meggan Herington said there was no other place the utilities could be other than in the alley. City specs require to not have a patch. So she could see where public works would require the entire alley be paved. Regarding the drainage report, she believes it's already been approved and has all the specific requirements per the engineering criteria manual for the development of this size. So we may have a technical glitch if you determine you want to attempt to put some requirements on the drainage report that's already been reviewed and approved.

Commissioner Markewich said he wants to make sure that additional runoff from the slope or from possible build are done so people on the east side aren't adversely affected. Mr. Risen said the drainage report addresses all that and he defers to that.

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Commissioner Markewich said they discussed at Informal backing into alleys and needing a special variance would we need a special variance this. Mr. Turisk said he doesn't think that would apply based on what Mr. Risen has said. Ms. Herington said that provision applies more so to when you pull off the right-of-way into a parking space while not having a parking lot that has internal access and then you back out to the right-of-way. This is a driveway just like any other driveway you back out of, so the variance doesn't apply in this situation.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION:

Commissioner Shonkwiler said to stop urban sprawl we must redevelop and reengineer difficult sites. This site is more difficult than others but properly engineered you can build it. This issue before us is all other access points are closed off. You have a right to use the public rights-of-way. The streets to this property should've never been closed off with vacations years ago. We've had testimony that it will be engineered properly before it's built. He will support this project. It's compatible with the neighborhood so as long as engineered properly and believes it will be so he will support it.

Commissioner Markewich said he was frustrated that major changes were made since the packet was given to them at Informal and they never received any information with those changes. He understands some of them are clarification in definitions but there were things introduced that weren't discussed before. So he'd like a condition of record requiring the repaving and proper construction be up to engineering requirements for the whole alley. Infill is a priority and something like this is exactly why it's so difficult. He appreciates Mr. Risen's willingness to spend a lot of extra money to get this done. It's a difficult site with unique challenges. He'd encouraged Mr. Risen to be careful and conscientious regarding the people on the east side and the drainage. If the alley is done properly it will solve a lot of the problems. It's hard for him to make a decision when they don't have all the facts in front of them. So if they can get that condition of record he'll be in full support.

Commissioner Henninger said he appreciates the effort to try and redevelop this property. The question is access to the property and that has to be within the alley. He has a concern about the alley as far as fire access and a concern about moving people into these properties. It will be tight and difficult. But if the builder takes the proper approach with what needs to be done it can be done.

Commissioner Walkowski said even though he has reservations about the whole project, the stability of the soil, the compatibility and the height that is not what we are charged with. They have to determine the access. Looking through the criteria for granting a subdivision waiver the project meets those. It was mention that a couple of those may not be met but if we improve the alley it's no longer a detriment and could actually be a little bit of improvement. He'd be in favor of the project if they can get a repaving of the alley and is in agreement with Commissioner Markewich about the condition of record.

Commissioner Shonkwiler said there are 13-15 other houses in front of this alley and requiring this developer to repave the entire alley seems unreasonable. If the condition is put in he'd like it to be narrowed by saying where it's been disturbed by the developer or utilities that it'd be completely repaved. He's concerned they might be overreaching.

Commissioner Walkowski agrees with Commissioner Shonkwiler about overreaching but the whole alley will be used by the additional cars especially since it's one way. The fire department is requesting the entire length of the alley be improved.

Commissioner Markewich concurs with Commissioner Walkowski especially because the applicant has said he already agreed to that. He doesn't know if the whole alley needs to be engineered but repaving, yes, especially with it being a one-way along with the improvement to Boulder and St. Vrain per the Fire Department, so he doesn't feel it's putting undue burden on the applicant.

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Commissioner Phillips says if the applicant agrees to pave it and do the work why are they making it a condition of record? Mr. Turisk said it would be to memorialize it for a measure of assurance

Motion by Commissioner Markewich, seconded by Commissioner Walkowski, to approve the request for a subdivision waiver of design standards for the property located at 543 Robbin Place based on the finding the subdivision waiver request complies with the review criteria in City Code Section 7.7.1302, with a condition of record that the applicant complete the repaving of the alley per the fire department's recommendation and properly engineer the southern part of the alley to accommodate storm water runoff as to not affect the neighbors to the east.

Aye: Phillips, Shonkwiler, Walkowski, Smith, Markewich.

No: Henninger

Excused: McDonald, Gibson, Graham

Motion Passed