



City of Colorado Springs

City Hall
107 N. Nevada Avenue
Colorado Springs, CO
80903

Meeting Minutes - Draft Planning Commission

Thursday, January 17, 2019

8:30 AM

Council Chambers

**6.G. AR PFP
18-00678**

An appeal of City Planning Commission's decision to deny a preliminary and final plat for 28 Polo to subdivide one 38,460 square foot lot into two single-family lots located at 28 Polo Drive.

(Quasi-Judicial)

Related Files: AR NV 17-00123, AR NV 17-00124, AR PFP 17-00122

Presenter:

Peter Wysocki, Director Planning and Community Development
Lonna Thelen, Principal Planner, Planning and Community Development

Before the presentation, City Attorney Ben Bolinger reminded the commissioners this is a new hearing on a new application and that any past similar applications that had been voted on should not influence the new application being presented.

Staff presentation:

Lonna Thelen presented a PowerPoint detailing the scope and intent of the project.

Applicant Presentation:

David McConkie presented a PowerPoint detailing the intent and scope of the project.

Questions:

Commissioner Raughton asked if the issuing of the permit for the now new house on the site was based on the entire lot because the new proposed lot would be insufficient in terms of square footage by a few hundred square feet. Ms. Thelen said that was correct and a building permit was approved based on the fact that it is currently one lot.

Commissioner McMurray wanted confirmation as far as the review criteria was concerned that it has to satisfy all three and not just one or two. Ms. Thelen confirmed that all three must be met.

Commissioner Eubanks asked Ms. Thelen if she had the lot square footage with

the preservation area taken out. Ms. Thelen said she did not have that calculation.

Commissioner Hente asked when the new house was built, if the criteria had been applied for the new lot, would it have met all the City's standards as far as setbacks and lot coverage. Ms. Thelen explained that it does meet all setbacks, it does meet lot coverage and height for the site. It is just deficient in lot size for the new proposal.

Commissioner Hente then stated if the lot was approved the way it is shown with the two lots, would it have still met the criteria in regards to the one-half of the theoretical lot that would exist. Ms. Thelen said yes it was designed to meet that criteria.

Commissioner Hente asked Mr. McConkie if the overhead picture he showed of a house with a tarp on it was the previous home and not the one that is there now. Mr. McConkie said that was correct. Commissioner Hente said that when Mr. McConkie addressed the driveway, but that the problem was alleviated with the construction of the new home. Mr. McConkie said that was correct.

Commissioner Eubanks thanked Mr. McConkie for getting the lot sizes for the preservation areas. Commissioner Eubanks calculated that the west lot would have about 10,700 square feet of buildable space, and the east lot would have about 16,700 square feet of buildable space presuming the preservation area is on a steep slope and wouldn't be considered to be buildable. Mr. McConkie agreed with that assessment.

Commissioner Eubanks asked if the west lot (10,700 sq. ft.) would be one of the smallest lots in the area. Mr. McConkie responded that it would be, but that you don't subtract the preservation area from the lot. He further added the preservation area adds quality to the lot with the green space. Mr. McConkie said the current structure is just under 2,500 square foot, so it is pretty small in terms of its footprint, but the home that is being proposed is also around that 2,500 square foot footprint.

Commissioner Eubanks asked if the house for the other lot would be similar to the house at 28 Polo. Mr. McConkie said the intent is to build a similar sized house on the lot. Commissioner Eubanks asked for clarification on if they were counting 26 Polo Drive's extra green space as their own green space. Mr. McConkie said as a technical matter no, but said that there is a beauty there in that space, which ought to appease some of the concerns that the neighbors have.

Commissioner McDonald asked Mr. McConkie for clarification that all of the lots

sizes that were looked at probably have some preservation area or non-buildable area included in the lot sizes. Mr. McConkie said that was the only one he was aware of, he could not speak to the other lots.

Supporters:**Jen O'Neal** - neighbor on Oak Avenue

- Supports the application
- Old house that was on the lot prior required significant investment to be brought to livable standards

Scott Brown- known Bruce for about 10 years

- Said he did not know a lot about the property but saw the condition of the property before the new house was built and it is significantly improved
- Has been familiar with Bruce's designs and gets the job done quickly

Chris Herbster - lives a half mile from the property

- Likes the house Bruce built
- Increases property value
- Improves the infrastructure with the sewers
- Happy that it has a preservation area, more animals, more beauty
- Thinks the variances are minimal

Opponents:**Audrey Mathieu** - lived in Broadmoor area for 5 years and lives on Polo Pony

- Not in support of subdividing the lot
- 2 of the criteria are not being met
- Lot is very awkward in size and adding a home will make it more awkward
- Does not want the nature of the neighborhood to be changed
- Additional traffic

Steve Draper - neighbor on Polo

- The property with the new house will be one of the smaller lots and pushed up next to the street
- Said it would look like apartment buildings

Marlo Garvens - lives on Polo Circle

- Loves the historic nature of the neighborhood and doesn't want to see it changed
- Does not want the subdivision to happen

Jay Garvens -

- Historic neighborhood is important for the neighborhood
- Does not like the new house that was built and said was not a high end construction
- The quality of the proper is not that of the surrounding neighborhood

- Gate on Polo Drive and danger with traffic
- Will interrupt the root grown of 100 year old trees
- Precedence will open doors for developers to subdivide lots and build apartments

Tom Perkins - lives in the neighborhood

- The three criteria are not being met
- Should not change the requirements to fit the project because requirements were put in for a purpose
- Precedence always makes a difference

Paul O'Brien - lives on Polo Drive

- Property has been in use for years as a single-family lot and can continue to do that
- Setting a precedence on subdividing lots in the area
- Driveway and safety with traffic
- Views between the homes were originally between a one-story home and a two-story home...now it is between 2 two-story homes
- Lot size - all lots that were smaller were annexed in and grandfathered

Aaron Johnson - lives across the street

- Explained they put a lot of money into their house because it had a lot of character and wanted to keep with the character of the neighborhood
- Opposed to this project
- The driveway at Polo Circle is still there and it was noted that it was not being used, but is untrue as Bruce uses every time he comes to the house. The driveway on Polo is not being used
- The community meeting had 39 opposers and one supporter

Gerry McLaughlin - 27 Polo across the street from 28 Polo

- Lived in Colorado Springs 72 years, lives on the smallest lot on the list
- The neighborhood does not want this to happen
- Bruce is trying to change the neighborhood and bring density into the neighborhood. That's not what we want

Questions of Staff:

Commissioner Graham -

- Asked if this process could have gone through the administrative process and not come to Planning Commission.
- Ms. Thelen explained that was correct and City Code states preliminary and final plats and non-use variances are applications that staff can act on administratively.
- Commissioner Graham asked if the appeal process would be the same.
- Ms. Thelen stated that is correct and that they could have appealed the administrative decision which would require it be heard at Planning

Commission.

Rebuttal:

Lonna Thelen commented on the preservation area on the lot. Ms. Thelen explained the area was annexed in 1980 and the lots were already platted so there would not be any preservation areas. If any of the lots were replatted or platted today, we would look to put preservation areas on those properties. There are some properties that could benefit from preservation areas. Preservation areas are meant to preserve parts of properties that may need preservation and it is not meant to be taken out of the entire lot size, so they are still counted towards that lot size and that happens all across town.

Commissioner McDonald clarified that when you calculate the lot square footage and the percentage of coverage the entire lot is taken into consideration.

Ms. Thelen said that was correct and that the lot is 19,230 square feet is the lot size, and there is a preservation area on that lot, but that does not deduct from the total lot size of the lot, which is standard across the City.

Mr. McConkie on rebuttal

- What has changed with this application
- It has improved making the property more beautiful by removing the septic system, the overgrowth, and removed the leaky, vacant structure
- The lot size proposed is 19,230 square feet and the preservation easement does not reduce that lot size
- The weight of the professional studies that have been done ought to bear significant sway in the decision

Commissioner Smith said there were several comments of Mr. FallHowe using the driveway that was going to be abandoned and would like clarification of why the existing driveway is not locked up and not used, and he uses the one that is supposedly going to be used. And that there would be another driveway for the new house.

Mr. McConkie

- There is one driveway that is at the apex (the driveway for the old house that was there). That driveway is still being used because a new driveway has not been constructed until the subdivision is approved.
- This will make it safer having one point of egress on an open road with no blind spots, and the other on Polo Circle where there are no blind spots.

Commissioner Smith asked if this was approved, the existing driveway will be closed off. Mr. McConkie said that was correct.

Commissioner Smith stated to Mr. McConkie that he mentioned Mr. McLaughlin having benefited from a non-use variance, but the correct way to describe that when the Broadmoor was annexed into the City, Mr. McLaughlin's property was grandfathered in and did not get a variance.

Commissioner Hente asked if the correct driveway was being used according to the approved site plan. Mr. FallHowe explained which driveway was being used and that permission was granted by the city to use that driveway temporarily.

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Hente said he is very mindful of the instructions given by the City Attorney at the beginning of the hearing and that only the new information and project is to be considered. Commissioner Hente added he was not on the Planning Commission when the previous application was heard.

Commissioner Hente said though part of the package includes the minutes from the prior hearing and since it is part of the package it can be used as part of the rationale to make a decision on what to do.

Commissioner Hente said he was particularly persuaded by Councilmembers Pico and Knight's comments concerning the comparison of the small lots to this one since the others are all legal non-conforming with the annexation. Commissioner Hente said based on that and other comments he read in the minutes that he would not be supporting this.

Commissioner Smith said he spent quite a bit of time driving around the neighborhood. Commissioner Smith said the homes in that neighborhood are so diverse with 50 year-old homes, homes that have been remodeled, all kinds to shapes and sizes. Commissioner Smith gave a personal example of how neighborhoods change and how some people will love everything and other that will hate everything. Commissioner Smith said he does not think a precedence would be set if this project is approved. Commissioner Smith believed this project meets the criteria presented by staff and will be in support of the application.

Commissioner Raughton said some of these variances are from self-composed conditions and he believed the character of the neighborhood is important to the long term view of the area. Commissioner Raughton said he will not be in support of this application.

Commissioner Eubanks said her main concern is the precedence of subdividing the lot and will use that to make her decision.

Commissioner McMurray said conceptually he sees no trouble with this project, however, criteria 2 (no reasonable use of property). Commissioner McMurray said there is something on the property that is tangible reasonable use of this property, which is a single-family home that has been on the property for decades and now recently reconstructed. Based strictly on that criteria, Commissioner McMurray will not be in support of the application.

Commissioner Almy said when he drove by the property, he was taken aback of the size of the lot and tried to visualize the second home on that small footprint. Commissioner Almy said two buildings in his mind did not seem to be further out of character of the neighborhood, and he will not be in support of this application.

Commissioner McDonald said she feels this application has met all of the criteria for this property. She also feels there are other homes in the area that will be torn down and replaced. Commissioner McDonald said there are a lot of communities that deal with this as the product ages, as the population changes, and as the market changes based on what the population wants.

Commissioner McDonald is in favor of preserving large lots and this application does preserve the large lot area. Commissioner McDonald said she would be voting in favor of this and can totally see why this makes sense and adds value to the neighborhood.

Motion by Smith, seconded by Eubanks, to approve the preliminary and final plat for 28 Polo, based upon the finding that the preliminary and final plat complies with the review criteria in City Code Sections 7.7.102, 7.7.204, and 7.7.303 subject to the following technical modifications:

Final plat technical modifications:

- 1. Revise Note 5 (FEMA Floodplain) to the recently approved revision to the effective date and panel number.**
- 2. Add "a Colorado Limited Liability Company" following 28 Polo under Notarial.**
- 3. Include the specific geologic hazards identified in the approved geologic hazard report in the Geologic Hazard Statement.**
- 4. Revise all dates to "2019".**

Preliminary plat technical modifications:

- 1. Revise Note 5 (FEMA Floodplain) to the recently approved revision to the effective date and panel number.**
- 2. Include the specific geologic hazards identified in the approved geologic hazard report in the Geologic Hazard Statement.**
- 3. Include the correct file numbers in the lower right hand corner.**
- 4. Provide all quoted paragraphs from the Fire Department review as notes. See previously disapproved comment and provide all quoted paragraphs as notes on the plans.**
- 5. Switch the file numbers for the nonuse variances, AR NV 18-00679 is for lot width and AR NV 18-00680 is for lot size.**

The motion failed with a vote of 2:6:1

Aye: 2 - Chairperson McDonald and Smith

No: 6 - Hente, Raughton, McMurray, Vice Chair Graham, Eubanks and Almy

Absent: 1 - Satchell-Smith

**6.H. AR NV
18-00679**

An appeal of City Planning Commission’s decision to deny a nonuse variance for 28 Polo to allow a 67 foot lot width at the rear setback line for Lot 1 and a 59 foot lot width at the rear setback line for Lot 2 where 100 feet of lot width is required at the front and rear setback line located at 28 Polo Drive.

(Quasi-Judicial)

Related Files: AR NV 17-00123, AR NV 17-00124, AR PFP 17-00122

Presenter:

Peter Wysocki, Director Planning and Community Development
Lonna Thelen, Principal Planner, Planning and Community Development

See Item 6.G.

Motion by Smith, seconded by Vice Chair Graham, to approve the nonuse variance to allow a 67 foot rear yard lot width for Lot 1 and a 59 foot rear yard lot width for Lot 2 where 100 feet is required, based upon the finding that the nonuse variance complies with the review criteria in City Code Section 7.5.802.B.

The motion failed by a vote of 2:6:1

Aye: 2 - Chairperson McDonald and Smith

No: 6 - Hente, Raughton, McMurray, Vice Chair Graham, Eubanks and Almy

Absent: 1 - Satchell-Smith

**6.I. AR NV
18-00680**

An appeal of City Planning Commission’s decision to deny a nonuse variance for 28 Polo to allow two 19,230 square foot lots where 20,000 square feet is required in the R zoned district located at 28 Polo Drive.

(Quasi-Judicial)

Related Files: AR NV 17-00123, AR NV 17-00124, AR PFP 17-00122

Presenter:

Peter Wysocki, Director Planning and Community Development
Lonna Thelen, Principal Planner, Planning and Community Development

See Item 6.G.

Motion by Smith, seconded by Vice Chair Graham, to approve the nonuse variance to allow two 19,230 square foot lots where 20,000 square feet is required, based upon the finding that the nonuse variance complies with the review criteria in City Code Section 7.5.802.B.

The motion failed by a vote of 2:6:1

Aye: 2 - Chairperson McDonald and Smith

No: 6 - Hente, Raughton, McMurray, Vice Chair Graham, Eubanks and Almy

Absent: 1 - Satchell-Smith