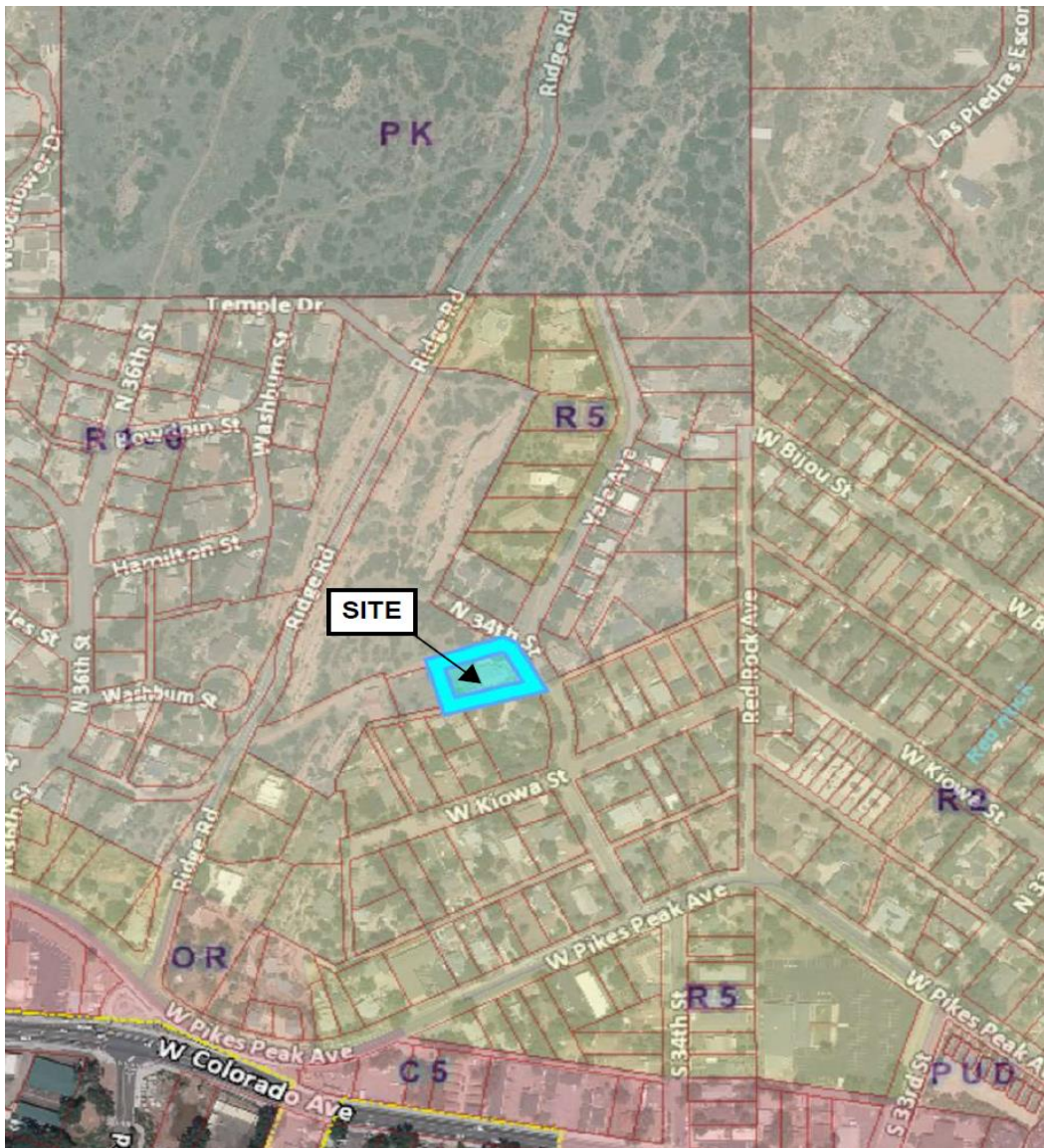


**CITY PLANNING COMMISSION AGENDA**  
June 16, 2022

**STAFF: Kerri Schott**

**FILE NO(S):**  
CPC SW 21-00056 – QUASI-JUDICIAL  
CPC DP 21-00055– QUASI-JUDICIAL

**PROJECT:** THOMAS SUBDIVISION  
**OWNER\DEVELOPER:** DAN TYLER THOMAS  
**CONSULTANT:** OLLIE WATTS ENGINEERING



## **PROJECT SUMMARY**

1. Project Description: This project is a subdivision design waiver (**see “Subdivision Waiver” attachment**) and a development plan (**see “Development Plan” attachment**) for a two-lot subdivision (Thomas Subdivision) in the R1-6 HS (Single Family Residential zone district with Hillside Overlay). A two-lot final plat is also being reviewed and processed administratively. The subdivision waiver is to City Code 7.7.605.C which states that all lots have satisfactory access to a public street. The proposed subdivision into two lots creates a new lot that does not public street. Per City Code, an alley is not considered a public street. The site is located at 120 North 34<sup>th</sup> Street.
2. Applicant’s Project Statement: (**see “Project Statement” attachment**)
3. Planning and Development Team’s Recommendation: Staff recommends approval of the applications.

## **BACKGROUND**

1. Site Address: 120 North 34<sup>th</sup> Street
2. Existing Zoning/Land Use: R1-6 HS (Single Family Residential with Hillside Overlay)
3. Surrounding Zoning/Land Use:
  - North: R1-6 HS (Single-family Residential with Hillside Overlay) and is used as Garden of the Gods Park and owned by City of Colorado Springs
  - South: R2 HS (Two-family Residential with Hillside Overlay) and used as single-family residential
  - East: R1-6 HS and R2 HS (Single-family & Two-family Residential within Hillside Overlay) and is used as single-family residential
  - West: R1-6 HS (Single-family Residential within Hillside Overlay) and is used as single-family residential
4. Annexation: The property was annexed in 1968 as part of the Columbia Addition.
5. Master Plan/Designated Master Plan Land Use: This site is part of the Westside Master Plan and is designated as low density residential land use.
6. Subdivision: The site is currently platted as part of Assembly Grounds of National Chautauqua Association Resubdivision.
7. Zoning Enforcement Action: None
8. Physical Characteristics: The site is currently developed and contains one single-family home.

## **STAKEHOLDER PROCESS AND INVOLVEMENT**

Upon submittal, public notice was provided to 232 property owners within a 1000-foot buffer of the site identifying the submittals the City received. The site was also posted with these notifications. Additional posting and public notice will be sent to neighbors prior to public hearing. Two comments were received (1 in support with general questions and 1 in opposition) (**see “Public Comments” attachment**). The concerns noted by the neighbor was additional traffic and access for neighboring residents, alley maintenance and property devaluation. These concerns will be further discussed in the review criteria section.

Staff input is outlined in the following sections of this report. Staff sent plans to the standard internal and external review agencies for comments. All comments received from the review agencies are addressed. Commenting agencies included Colorado Springs Utilities, City Engineering, City Stormwater Engineering, City Traffic, City Fire Department, School District 11, Enumerations, and Police. Fees for schools and parks will be required at time of building permit for the new unit as well as a hillside site plan to be reviewed/approved for the newly created lot.

## **ANALYSIS OF REVIEW CRITERIA/ MAJOR ISSUES/ MASTER PLAN CONFORMANCE/ & PlanCOS**

1. Review Criteria / Design & Development Issues
  - a. Subdivision Design Waiver and Development Plan and Final Plat

Per City Code 7.7.605.C each lot in a new or replatted subdivision shall be provided with satisfactory access to a dedicated public street. City Code 7.7.108 defines a public street as a street which is located and constructed in the public right-of-way. In addition, City Code 7.7.108 defines an alley as a public right-of-way, which provides only secondary access to a property and goes on to say for the purpose of this section, an alley is not considered to be a public street.

The applicant is requesting to subdivide one existing lot into two lots (one lot for the existing single-family home and the other lot for a new single-family home). The subdivision would create a 10,687 square foot lot adjacent to 34<sup>th</sup> Street and a new lot containing 6,113 square feet for the purpose of one single family home; this new lot would only have access to the alley (**see “Development Plan” attachment**). The existing lot size of 16,800 square feet supports the subdivision of the lot into two lots for one single-family home by meeting the lot size requirements (5,000 square feet for a single-family lot); however, the creation of the new vacant lot would not allow a vehicular access easement from 34<sup>th</sup> Street. If an access easement were able to be provided, the subdivision waiver would not be required because the western lot would have direct access to a public street. In absence of the easement a subdivision waiver is required to be approved by City Planning Commission.

Listed below are the requirements for approval of a subdivision waiver.

7.7.1302.B. Design Standards: Except for MU zone districts, a waiver, which shall be requested concurrently with any subdivision request, may be granted when criteria in subsections B1 through B4 of this section are met. In an MU zone district only, the following criteria in subsections B1, B4 and B5 of this section shall be met:

1. The waiver will not be detrimental to the public good or to surrounding properties;
2. There are exceptional topographic, soil or other surface conditions particular to the property, which are not ordinarily found in the general vicinity;
3. The strict application of the requirements of this part when applied to the property with its exceptional conditions prohibits the use of the property or its reasonable physical development when compared to the opportunity to use and develop similar properties in the general vicinity;
4. The waiver shall be consistent with the intent and purpose of this part, the Comprehensive Plan and State law.
5. As applied in the MU zone districts only, the applicant proposes alternative compliance to the strict application of the design standard in question, such that the alternative:
  - a. Achieves the intent of the subject design standard to the same or better degree than the subject standard;
  - b. Achieves the mixed use goals and policies in the Comprehensive Plan to the same or better degree than the subject standard, such as, but not limited to, a more compact development form; and
  - c. Results in equivalent or better benefits to the community as compliance with the subject design standard. (Ord. 96-44; Ord. 01-42; Ord. 03-157)

The review of the subdivision waiver included a review of a development plan and final plat. The major areas of review included providing utility access to the new lot, meeting fire code requirements and meeting public alley and drainage requirements.

- Access:  
The main access point for the existing lot and current driveway location is over City Parks property owned by the City of Colorado Springs. During the development plan review process, City staff required a revocable license to be

reviewed by City Real Estate Services and the City Parks and Recreation Department. A revocable license was issued and recorded on October 12, 2021; this recorded document specifically prohibited access across the parks property to any newly created lots (**see “Thomas Subdivision Revocable License” attachment**). A note was added to the development plan that the approved revocable license shall only apply to Lot 1 and not to lot 2. Access for lot 2 is required to be obtained from the alley on the south side through a subdivision waiver approval.

Historically, Princeton Avenue was platted as a public road along the northern boundary from 34<sup>th</sup> Street west (**see “Thomas Subdivision Map Sheet attachment”**). This right-of-way would have been an option for access to the newly created Lot 2 as well as future neighboring vacant lots to the west; however, this right-of-way vacation was approved by City Council in 1979 (**see “Ordinance 79-16 Princeton Rd” attachment**). Therefore, due to the Parks property to the north restricting additional access to a newly created lot and the vacation of a previous public road, the legal platted lots were left with no access to a public street. After review of the site, staff determined that the alley along the south was the most viable option for access to lot 2.

- Colorado Springs Utilities: CSU required the applicant to show all proposed Public Utility Extensions and proposed Public Utility Easement(s) that would be needed for water, wastewater, electric and gas services to be provided to Lot 2. The existing overhead electric line in the alley will provide electric service to the new lot. Wastewater and water extensions are required for lot 2. An eight-inch storm sewer line extension is proposed from 34<sup>th</sup> Street through the alley south of Lot 1 and Lot 2. The proposed water extension could not run through the alley due to being unable to meet utility separation requirements. Therefore, a six-inch water line extension from the existing water main located in 34<sup>th</sup> Street will be required to be constructed within the northern fifteen feet of the property boundary of Lot 1 and 10 feet south of an existing gas line. The existing gas line was installed when Princeton Road was a public right of way prior to vacation in 1979 and a utility easement was reserved with the vacation for the gas line. No new utility lines are permitted through Garden of Gods property per City Parks and Recreation Department. Installation of these utility extensions will be required at the time of Lot 2 development and is noted on the preliminary utility drawing included in the development plan submittal. A 15 foot drainage and public utility easement is shown along the north and south boundaries through both lots to accommodate the easement extensions.
- City Fire Department: The main concern from the City Fire Department during the review was to ensure access for fire trucks and emergency personnel. Because the alley width is only approximately 15 feet and a 20-foot access easement was not able to be provided for direct vehicular access from 34<sup>th</sup> Street, the City Fire Department required that the new single-family home be sprinklered. A note was added to the development plan to confirm this requirement.
- City Engineering: It was determined that development of the new lot would require public alley improvements. A note was added to the development plan stating that *“the minimum public improvements will include, but not limited to, installing new asphalt pavement or asphalt millings from the end of the existing pavement to the proposed driveway. If CSU utilities are installed in the alley, the property owner is responsible for reconstructing and/or repair the alley as necessary.”*

b. Geologic Hazard Report

A Geologic Hazard waiver request was submitted and accepted by City Engineering, therefore a lot specific geologic hazard study was not required. The waiver notes that slopes on site are less than 33 percent and that there is no evidence of underground mining or subsidence activity, history of landfill, or other uncontrolled landfill activity.

c. Drainage Report

A drainage letter was reviewed by City Stormwater Engineering and found to be in compliance with the City of Colorado Springs Drainage Criteria Manual (DCM) as well as in conformity with the master plan of the drainage basin. The letter states that the proposed development will follow existing drainage patterns and there will be no harm to downstream drainage facilities or structures. Therefore, no storm drainage modifications or design changes are necessary.

d. Public Comments

The public comment concerns that were noted by the neighbor included additional traffic within the alley and lack of maintenance of the alley. As was previously discussed, staff worked to provide the most viable access to the site and ensured that public improvements to the alley will be the property owner's responsibility and that all lot size requirements are met for R1-6 zone district (which is more restrictive than the R2 lots directly to the south of this property).

Staff finds that the proposed plan meets the review criteria for Subdivision Waiver, Development Plan as set forth in City Code Sections 7.7.1302 and 7.5.502.E.

2. Conformance with PlanCOS

Staff has evaluated the proposed application for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"). According to PlanCOS, the project site is identified on the Vision Map as an Established Historic Neighborhood. Per the Vibrant Neighborhoods Framework Map (**see "PlanCOS Vibrant Neighborhoods Map" attachment**), this site is part of the Established Historic Neighborhood. Established neighborhoods are predominantly built-out and have been for at least a few decades. These neighborhoods are generally stable and do not anticipate high levels of land use changes; however, most established neighborhoods should expect some degree of infill. In this case, the proposal is to subdivide the lot to create a second legal lot and use the existing zoning to create a new single-family home.

Specific policies of PlanCOS that are supported are listed below:

Policy UP-2.A: Support infill and land use investment throughout the mature and developed areas of the city.

Strategy UP-2.A-3: Continue to implement infill supportive Code changes including provisions tailored for older developed areas.

City Planning staff finds the Thomas Subdivision to be in substantially conformance with PlanCOS and its guidance.

3. Conformance with the Area's Master Plan

The designated land use for the Westside Master Plan is low density residential. This master plan has a zero to ten dwelling unit per acre requirement. The proposed lots will be 6,117 square feet and 10,687 square feet; therefore, even with the subdivision of two lots, this project meets the allowed density range and is in accordance with the Westside Master Plan.

**STAFF RECOMMENDATION**

**CPC SW 21-00056 – SUBDIVISION WAIVER**

Approve the subdivision waiver of design standards for Thomas Subdivision based on the finding that the subdivision waiver complies with the review criteria in City Code Section 7.7.1302.

**CPC DP 21-00055 – DEVELOPMENT PLAN**

Approve the development plan for Thomas Subdivision based upon the finding that the development plan and complies with the review criteria in City Code Section 7.5.502.E.