

COMMENTS OF THE HISTORIC NEIGHBORHOOD PARTNERSHIP
TO THE COLORADO SPRINGS PLANNING COMMISSION
REGARDING THE PROCESS TO VET THE PROPOSED UDC
AND REGARDING DEVELOPMENT PLAN REVIEW AND ADS-O

To: Chairman Hente and members of the Colorado Spring Planning Commission.

From: James Kin, 1530 Mesa Road.

Date: October 10, 2022.

* * * * *

I LIVE ON THE WESTSIDE IN THE MESA ROAD CORRIDOR.

THE CITIZENS OF COLORADO SPRINGS WANT VIBRANT NEIGHBORHOODS.

THE COMPREHENSIVE PLAN RECOGNIZES THIS AS ONE OF THE SIX CRITICAL THEMES OF OUR COMMUNITY PLAN.

PRESERVATION OF THE CHARACTER OF OUR NEIGHBORHOODS IS CRITICAL TO MAINTAINING THEIR VIBRANCY. THAT IS THE GOAL OF THE HISTORIC NEIGHBORHOOD PARTNERSHIP.

THE UDC IS A MAJOR PIECE OF OUR REGULATIONS WHICH WILL IMPLEMENT THAT VISION.

IT IS CRITICAL WE GET THE DEVELOPMENT CODE RIGHT.

THE PLANNING DEPARTMENT HAS PREPARED A DRAFT UDC.

THERE ARE SIGNIFICANT POLICY CHANGES PROPOSED EMBETTED IN THE DRAFT NOT DISCUSSED OR DEBATED IN THE COMMUNITY.

WE, NOW AS A COMMUNTIY, NEED TO VET THAT DRAFT.

HOWEVER, THE VETTING PROCESS IS FLAWED.

PUBLIC COMMENTS AND BUREAUCRATIC RESPONSES WITH NO OPPORTUNITY TO DISCUSS AND EXCHANGE VIEWS DOES NOT ALLOW MEANINGFUL EXCHANGE OF IDEAS, VETTING OR GOOD REGULATIONS.

FROM THE PROCESS AND THEIR COMMENTS, THE PLANNING DEPARTMENT THINKS THIS IS ITS CODE.

IT'S NOT. IT'S THE COMMUNITY'S CODE

WE, THE COMMUNITY, NEED A MEANINGFUL OPPORTUNITY TO DISCUSS AND EXCHANGE OUR VIEWS.

WE HAVE INVESTED HUNDREDS OF HOURS EXAMINING THE CODE. WE HAVE SUBMITTED OUR COMMENTS AND RECOMMENDED IMPROVEMENTS TO THE PLANNING DEPARTMENT AND TO YOU THE PLANNING COMMISSION.

WE NEED TO HEAR WHAT PLANNING COMMISSION THINKS AND DISCUSS WITH YOU WHY THESE CHANGES ARE CRITICAL BEFORE YOU MAKE YOUR RECOMMENDATIONS TO COUNCIL.

IF THIS IS OUR ONLY OPPORTUNITY TO GET OUR VIEWS BEFORE YOU, WE NEED TO TAKE THE TIME TO GO THROUGH EACH OF OUR CONCERNS AND RECOMMENDED IMPROVEMENTS TO THE CODE SO CRITICAL TO PRESERVING OUR NEIGHBORHOOD CHARACTER.

MY ITEMS ARE THE TWO TOOLS WHICH ARE ESSENTIAL TO THE PRESERVATION, PROTECTION AND ENHANCEMENT TO OUR NEIGHBORHOODS' CHARACTER AND VIBRANCY:

- Development Plan Review requirements: 7.5.3 and 7.5.516
 - Requirement for a finding of compatibility with surrounding properties
- Overlay zone: 7.2.507
 - Allowing neighborhoods to establish development standards necessary to protect their character in the Area Design Standards-Overlay (ADS-O)

THREE MINUTES IS NOT SUFFICIENT TIME TO EXPLAIN OUR CONCERNS AND RECOMMENDED IMPROVEMENTS TO THE UDC. SO, I AM PRESENTING THE CONTEXT AND RECOMMENDATIONS AGAIN. I WILL BE AT THE PLANNING COMMISSION HEARING WEDNESDAY AND HOPE TO HEAR YOUR VIEWS ON THESE TWO TOOLS AND HOW WE PROPOSE TO IMPROVE THEM. WE NEED TO HAVE A MEETING WITH DISCUSSION, NOT JUST THREE MINUTE STATEMENTS IN A HEARING.

FIRST, **WHY WE NEED EFFECTIVE TOOLS** TO PROTECT, PRESERVE AND ENHANCE OUR NEIGHBORHOODS.

THERE ARE AREAS WHICH HAVE HISTORIC DEVELOPMENT PATTERNS NOT PROTECTED BY ZONING.

AN EXAMPLE IS WHERE I LIVE, THE MESA ROAD CORRIDOR, ON THE WESTSIDE ALONG MESA ROAD BETWEEN CORDERA AND 19TH STREETS. *[See attached Mesa Road Corridor Map].*

1. The Mesa Road Corridor is a unique residential area on the mesa, which is **rural in character and zoned RE**, with the following characteristics:
 - a. Large lots (over 1 acre, average 1.5 acres);
 - b. Single-family houses set back 100 feet from Mesa Road;
 - c. Set 50 feet from adjoining houses;
 - d. Low profile, generally of earth tones, built of fire-resistant materials such as stucco, with native landscaping that blends into the environment;
 - e. Enhanced by two areas of open space—Rawles Open Space, 7.67 acres; The Commons, 9 acres;
 - f. A nature trail, instead of sidewalks, gutters, or streetlights; and
 - g. Creating unobstructed view corridors of Pikes Peak and the Front Range.
2. **These characteristics are not protected by the R-Estate zoning code.**
 - a. The R-Estate zone is the least dense residential zone in zoning code that

- i. allows lots of 20,000 sf (less than ½ acre),
- ii. set back 25 feet from Mesa Road,
- iii. spaced 15 feet apart
- iv. with heights of 35 feet
- v. requiring sidewalks, gutters, and streetlights.

WHY WE NEED **CLEAR MANDATORY TOOLS** IN THE DEVELOPMENT CODE.

1. **Incompatible development:** If developed within the development standards of R-Estate, the 38 parcels could be developed into three times the historic density or over 120 parcels, with two-story houses, 25 feet from Mesa Road, and 15 feet apart.
2. The Planning Department **ignores** the **current requirement** that a development plan **cannot be approved unless it makes a finding** that the development plan is **compatible** with the Surrounding Properties and Neighborhood (Sec. 7.5.502).
 - a. In 2021, the Planning Department administratively approved an incompatible development plan, subdividing an irregular 40,000 sf parcel into
 - i. Two 20,000 sf lots
 - ii. For two two-story residences
 - iii. Set back 25 feet from Mesa Road
 - iv. Set 15 feet apart
 - v. *See Mesa Road Corridor Map.*
 - b. The Planning Department refused to explain why it did not address the compatibility of the 2021 Development Plan or make any findings regarding compatibility in its review letter and administrative approval.
 - i. *See the attached 2021 Correspondence with Planning Department: exchange between James Kin and the Planning Department of February 28, 2021 through March 12, 2021.*
 1. Peter Wysocki refused to state why that requirement was ignored, only stating that the development plan met all the development standards of the zoning district.

WHAT IMPROVEMENTS ARE BEING PROPOSED BY THE HNP TO DEVELOPMENT PLAN REVIEW AND ADS-O AND WHY IT IS IMPOPRTANT.

DEVELOPMENT PLAN REVIEW:

- The reason and context for requiring a finding of compatibility with the surrounding properties and neighborhood to preserve its character is not clear. Zoning does not always preserve, protect or enhance the character of an area. The requirement of compatibility needs to be explicit so it cannot be ignored. The purpose, scope and areas of review need to be expanded and there must be a clear requirement of a finding of compatibility with the surrounding properties and neighborhood for approval of the Development Plan. These recommended improvements are from the current code.
 - Recommended language for Para C of 7.5.302.
 - *7.5.302. C. All combinations of permitted uses and development standards in a zoning district may not be appropriate at a particular location. It is necessary to require a development plan in order to review the specific development standards and impacts, including intensity of use and adverse effects on public health, safety, and welfare of the proposed land use and site design on the surrounding properties, neighborhood, schools, parks, road systems, and existing and planned infrastructure. The proposed Development Plan can be evaluated against all the circumstances weighing upon this individual case. Development Plan review may indicate that the most appropriate development is one that is less intensive than the maximum allowed by the zone district and [or] that the most appropriate site design is one that requires greater than the applicable minimum standards. A Development Plan may be denied on that basis. No development plan shall be approved unless there are specific findings that the plan complies with all the requirements of the zone district in which it is located, is consistent with the intent and purpose of this Unified Development Code, and is compatible with the land uses and historic development standards and patterns of surrounding properties and neighborhood.*

- The scope and criteria for development plan review do not cover all the conditions which need to be addressed to preserve the character of the surrounding properties and neighborhood. The Development Plan Review Criteria needs to be expanded to include lot size, density, maximum lot size, height, intensity of use and public safety. Without these specific criteria for review, these matters will be ignored.
 - Recommended language for the criteria for development plan review and approval [7.5.516.D.1(c)].
 - Add a new criterion after c:
 - *The development plan is compatible and harmonious with the lot size, density, maximum lot coverage, setbacks, height, intensity of use, and public safety of the surrounding properties and neighborhood.*

AREA DESIGN STANDARDS OVERLAY:

- The context and purpose for the ADS overlay that allows neighborhoods to establish regulations necessary to preserve its character are too limited and not clear. The purpose of the ADS Overlay is more than preserving the size and shape of buildings. The purpose is to preserve the areas with distinctive characteristics and the intent is to preserve, protect, and enhance the area's character.
 - Recommended language for 7.2.507.A
 - *The purpose of the Area Design Standards Overlay is to preserve the areas with distinctive characteristics that are worthy of conservation and enhancement but are not historical or within a Historic Preservation Overlay (HP-O) district. The intent of the ADS-O is to preserve, protect, and enhance the area's character and to foster rehabilitation, development, and redevelopment in character with the existing development, or as recommended in an adopted neighborhood plan.*
- Requiring an adopted neighborhood plan of less than 5 years to simply submit an application for an ADS-O makes no sense. The Rawles Neighborhood Master Plan which is in the Mesa Road Corridor, was adopted in 2015 based on 80 years of consistent development patterns. It would not qualify to even make an application for adoption of an ADS-O. Who knows whether there will ever be a neighborhood plan produced by the Neighborhood Planning Program. Neighborhoods need to be protected now. What problem is Planning trying to fix with this requirement, except to prevent anyone from applying? Let anyone who can present the characteristics of an area worthy of preservation with a consensus of from the area make an application.
 - *Eliminate the requirement that there must be a Council adopted neighborhood plan of less than 5 years to apply for an overlay. 7.2.507.B.1.*
- Another requirement to apply for an ADS-O is that the area has a recognized identity and character. "Recognized" raises the question of how it is to be recognized and by whom. We suggest "identifiable" is a more useful word.
 - *Change recognizable to "**identifiable** identity and character". 7.2.507.B.2.a.*
- Enumerated criteria for standards that can be established in an ADS-O are too limited, but need to include lot size/density, maximum lot coverage, intensity of use, and public safety. The limited criteria do not allow for sufficient flexibility in the regulations to achieve the goal of protecting and enhancing the area's character. There are uses that are not compatible with the established development patterns and need to be addressed. No justification has been offered as to why the criteria of incompatible intensity of uses or uses adversely affecting public safety and welfare should not be included. These additional criteria are essential to preserving the character of a neighborhood. If not included, they will be ignored.
 - Recommended language for 7.2.507.C.
 - Add two development standards to the UDC:

- *Requirements for lot size and maximum lot coverage. Lot size requires that (1) development and redevelopment be no less than, (2) maximum lot coverage be no greater than, and (3) improvements be similar to those on adjacent or nearby properties, regardless of the lot size and maximum lot coverage in the base zone district;*
- *Limitations on uses of development or redevelopment that adversely affect the area's character by the intensity of the use or uses, public health, safety, and welfare than that permitted in the base zone district.*

THESE ARE RASONABLE CLARIFICATIONS AND IMPROVEMENTS TO THE PROPOSED CODE WHICH DESERVE SERIOUS CONSIDERATION AND DISCUSSION.

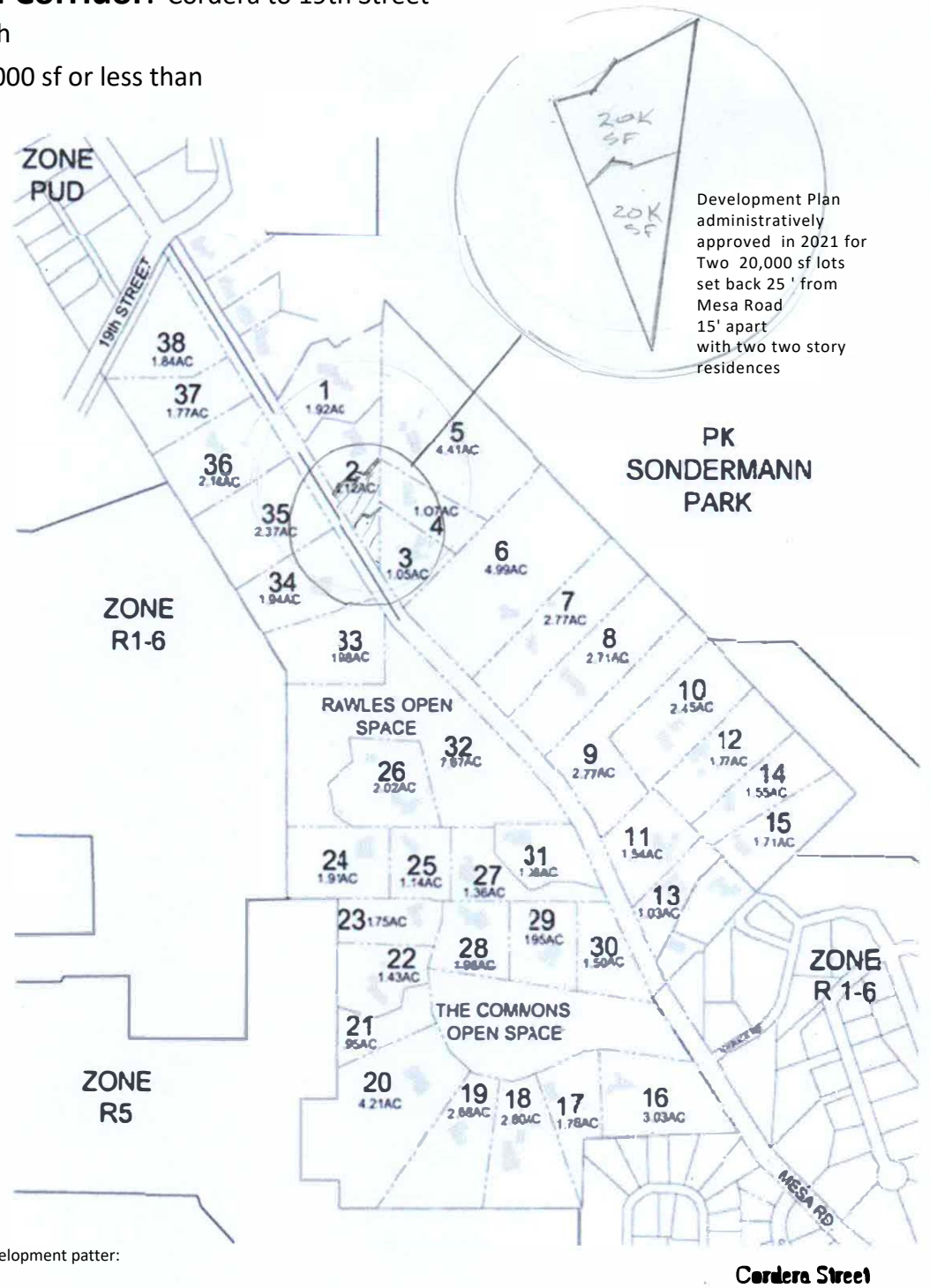
I HOPE YOU FIND THIS INFORMATION HELPFUL. I LOOK FORWARD TO AN OPPORTUNITY TO HAVE A DISCUSSION AND EXCHANGE OF VIEWS BEFORE YOU MAKE YOUR RECOMMENDATIONS TO COUNCIL.

James Kin
1530 Mesa Road
Colorado Springs, CO 80904
jwkin.gkh@gmail.com
C: 719 640-2259

Mesa Road Corridor: Cordera to 19th Street

West of Uinitah

RE Zone: 20,000 sf or less than
1/2 acre



80 year historic development patter:

James Kin

From: James Kin <jwkin.gkh@gmail.com>
Sent: Sunday, February 28, 2021 7:49 AM
To: planningdev@springsgov.com; 'Brackin, Tasha'
Cc: Richard.Skorman@coloradosprings.gov; 'Sandy Graham'; grahamjeffreyroy@gmail.com; jwkin.gkh@gmail.com
Subject: Re: Administrative Approval of Mesa View Subdivision and Development Plan

Peter Wysocki, Planning & Development Director
planningdev@springsgov.com

Tasha Brackin, Senior Planner
Tasha.Brackin@coloradosprings.gov

Re: Administrative Approval of Mesa View Subdivision and Development Plan
File Nos. AR DP 20-00191 and 192; 1731 Mesa Road.

Mr. Wysoki and Ms. Brackin:

I am a resident at 1530 Mesa Road and live in the Rawles Open Space Neighborhood just to the east of 1731 Mesa Road. I have reviewed the Review Letter and record regarding the administrative approval of the Mesa View Subdivision and Development Plan. I could find no evidence that the Colorado Springs Planning Department addressed, reviewed, analyzed or determined whether the Development Plan complied with City Code §7.5.502: Development Plans, specifically including but not limited to A, B and E; namely whether the development plan is compatible and harmonious with the surrounding properties and neighborhood.

As background for Mayor Suthers and Councilman Skorman, §7.5.502 requires there must be a finding for approval of the development plan that the development plans are compatible and harmonious with the surrounding properties and neighborhood, noting that the most appropriate land use may require less intensive use than the maximum allowed and the most appropriate site design is one that requires greater than minimal standards. This is to insure the character of a neighborhood is not adversely changed and that unique areas and development patterns are protected and preserved. The development plan proposed subdividing a 40,000 sf parcel into two 20,000 sf lots to construct a two story residence on each lot, located 25 feet from Mesa Road with spacing between the structures of 15 feet. The surrounding properties and neighborhood are lots in excess of one acre (43,000 sf) with an average size of 1.5 acres or 65,000 sf, are low profile single story residences, set back from Mesa Road with spacing between the residences of greater than 50 feet. The proposed development is in the Mesa Road corridor running from Commons Road to 19th Street. The properties along Mesa Road are low density, low profile, single story residences set back from Mesa Road with designated open space marked by natural landscaping, and a pedestrian trail creating a unique open rural corridor.

My inquiry is to ask **why the Planning Department did not address, review, analyze and make a finding** in the record regarding the requirements that the development plan be compatible and harmonious with the surrounding properties and neighborhood in its administrative approval. Jeff and Sandra Graham live across Mesa Road from the development. They asked this question to Ms. Brackin by email dated February 25, 2021. Their inquiry was ignored. I would hope your response will not be a lot of bureaucratic mumbo jumbo or that if aggrieved we should file an appeal. The question goes to whether the Planning Department is doing its job for the citizens of Colorado Springs and the Planning Department's integrity and professionalism. We deserve a straightforward, honest answer.

James Kin
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C: 719 640-2259

CC:

John Suthers, Mayor
City of Colorado Springs
30 S. Nevada Ave
Colorado Springs, CO 80903
By mail

Richard Skorman
City Council District 3
Richard.Skorman@coloradosprings.gov

Jeff and Sandra Graham

From: James Kin <jwkin.gkh@gmail.com>

Sent: Tuesday, March 2, 2021 8:12 AM

To: Brackin, Tasha <Tasha.Brackin@coloradosprings.gov>; Skorman, Richard <Richard.Skorman@coloradosprings.gov>; City Council <CityCouncil@coloradosprings.gov>; Suthers, John Private <jwcs@coloradosprings.gov>

Cc: PlanningDev - SMB <PlanningDev@coloradosprings.gov>; 'Sandy Graham' <grahamsandy.colorado@gmail.com>; grahamjeffreyroy@gmail.com; Wysocki, Peter <Peter.Wysocki@coloradosprings.gov>; Herington, Meggan <Meggan.Herington@coloradosprings.gov>

Subject: RE: Administrative Approval of Mesa View Subdivision and Development Plan

CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!

[I am addressing my email to Mr. Wysoki but I am sending this to the recipients of Ms. Brackin's email because I do not have the email addresses for all parties. Mr. Wysoki, please acknowledge receipt.]

Mr. Wysoki:

I presume the two emails yesterday from Tasha Brackin is the response from the Planning Department to my February 28, 2021 email. I am copying the Mayor because he is responsible for city staff and Richard Skorman because he is our district representative on Council which is the primary recipient of the work of the Planning Department.

The Planning Department did not answer my questions. My inquiry relates to process, competence, professionalism, and effective communication of the Planning Department in this matter. We are telling you we don't understand what you do or how you do it. As a result, we don't have any trust or confidence the land use system is competently managed or fair. The Grahams gave up and won't appeal because it will be a waste of their time. The latest example is the information provided by Ms. Brackin which is as shrouded in mystery as your department's approval of the development plan. I would ask that you, the Mayor and Mr. Skorman read the Review Letter and Record of Final Decision as ordinary citizens and tell me what determination and findings were made by your department in approving the development plan regarding whether the development plan is compatible and harmonious with the surrounding properties and neighborhood.

Ms. Brackin notes she is AICP certified as I presume many if not all planners on your staff. The AICP Code of Ethics and Professional Conduct provides among other things:

- Preamble: Our primary obligation is to **serve the public interest** and we, therefore, owe our allegiance to a conscientiously attained concept of the public interest that is formulated through continuous and open debate. We shall achieve **high standards of professional integrity, proficiency, and knowledge.**
- We shall have special concern for **the long- range consequences of present actions.**
- We shall provide timely, **adequate, clear, and accurate information on planning issues to all affected persons** and to governmental decision makers.
- We shall promote excellence of design and endeavor **to conserve and preserve the integrity and heritage of the natural and built environment.**
- We owe **diligent, creative, and competent performance of the work we do** in pursuit of our client or employer's interest. Such performance, however, shall always be consistent with our faithful service to the public interest.
- Strive to **give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;**
- Ensure that reports, **records** and any other non-confidential information which is, or will be, available to decision makers is made available to the public **in a convenient format** and sufficiently in advance of any decision;

- Pay special attention to the interrelatedness of decisions and **the long range consequences of present actions.**

So let me ask you again for a straightforward, honest answer. What did the Planning Department do to determine whether the development plan is compatible and harmonious with the surrounding properties and neighborhood as required by Section 502? What was its analysis? What findings did it make? Why were these matters not included in the review letter or Record of Decision? The review letter is five pages and addresses such things as adding a file number and noting bearings are missing. Certainly, the Department's review, analysis and finding regarding Section 502 are as important as these.

There is another matter I have not raised that needs to be addressed. It is my experience your department ignores community and neighborhood master plans. The Rawles Open Space Neighborhood has an adopted master plan for the area just to the east which addresses this very issue. It is part of the city's planning documents. It offers insight and guidance in planning decisions. It was referenced initially and then removed. In its stead, the Mesa Springs Community Plan was referenced in the review letter and then ignored. The Mesa Springs Community Plan provides at p 66: *1(A): All new development in the Neighborhood Strategy Area should be the **same density as the existing residential developments.** The new developments should have **similar building types, building layouts, and yard areas as surrounding developments.*** That community plan was never addressed. Why?

I look forward to your responses to my specific questions.

James Kin
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Colorado Springs, CO 80904
Jwkin.gkh@gmail.com
C: 719 640-2259

James Kin

From: Wysocki, Peter <Peter.Wysocki@coloradosprings.gov>
Sent: Thursday, March 4, 2021 12:18 PM
To: 'jwkin.gkh@gmail.com'
Cc: 'Sandy Graham'; grahamjeffreyroy@gmail.com; Herington, Meggan; Brackin, Tasha; City Council; Suthers, John Private
Subject: RE: Administrative Approval of Mesa View Subdivision and Development Plan

Mr. Kin,

I am in receipt of your emails. I would be happy to meet with you in person or virtually to discuss the land use review process, legal parameters of city code, staff qualifications/professional certifications and explain to you "what we do and how we do it".

As a point of clarification for others copied on the chain of emails, the applicant is splitting an approximately one acre lot into two, 20,000 SF lots, which is permitted by the R (Single-Family Estate) zoning and substantially compliant with the Mesa Springs Community Plan. The end result is construction of one additional single-family home.

The subject property is NOT with the Rawles Open Space Neighborhood Master Plan; therefore, it is NOT governed by it. Being close or next to the master plan does not give the City the authority to apply it.

Yes, the property is within the Mesa Springs Community Plan. The Mesa Springs Community Plan Land Use Plan (adopted by the City Planning Commission on September 7, 2000) illustrates this property to be within the "Estate Density – 0 to 2 units per acre). The R (Single-Family Estate) zoning of the property allows 20,000 SF lot sizes. All city code required dimensional standards are met. Furthermore, the applicant issued a 16-page response to many questions addressing compatibility/analysis of the proposed 20,000 SF lots with less-than one acre lots in the vicinity, consistency with the Mesa Springs Community Plan, among many other topics raised by staff and the neighboring property owners.

The property is also within the Hillside Overlay and is subject to geological hazards review. Both reviews were completed and approved.

Again, I offer to meet with you in person or via virtual platforms. I think verbal communication to explain these topics will be more fruitful than emails. Please let me know if you would like to meet.

Thank you.

PETER WYSOCKI, AICP

Director of Planning and Community Development
City of Colorado Springs, Colorado

30 South Nevada Street
PO BOX 1575, Zip Code 80901-1575
Land Line: 719.385.5347

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James Kin

From: James Kin <jwkin.gkh@gmail.com>
Sent: Thursday, March 4, 2021 4:31 PM
To: 'Wysocki, Peter'
Cc: 'Sandy Graham'; grahamjeffreyroy@gmail.com; 'Herington, Meggan'; 'Brackin, Tasha'; 'City Council'; 'Suthers, John Private'; jwkin.gkh@gmail.com
Subject: RE: Administrative Approval of Mesa View Subdivision and Development Plan

My Wysoki:

The planning department has again failed or refused to answer my questions. Let me try for a third time. Please provide detailed information.

1. What did the Planning Department do to determine whether Malloy the development plan is compatible and harmonious with the surrounding properties and neighborhood as required by Section 502?
2. What was **its** analysis?
3. What findings did **it** make?
4. Why were these matters not included in the review letter or Record of Decision?

If you answer these questions for the record, I would be happy to meet with you.

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C: 719 640-2259

James Kin

From: Wysocki, Peter <Peter.Wysocki@coloradosprings.gov>
Sent: Friday, March 12, 2021 7:59 AM
To: James Kin
Cc: 'Sandy Graham'; grahamjeffreyroy@gmail.com; Herington, Meggan; Brackin, Tasha; City Council; Suthers, John Private
Subject: RE: Administrative Approval of Mesa View Subdivision and Development Plan

Mr. Kin –

Thank you for the reminder. It's been a long week with several deadlines and meetings.

I appreciate the opportunity to re-state staff's reasons for approval of the plat and hillside development plan. Please rely on the information that was already provided to you by the project planner, Tasha Brackin, and the record in the project file. After reviewing the project – meaning the plat dividing the existing lot in to two, 20,000 SF lots meeting the City's dimensional standards, the hillside development plan and the Mesa Springs Community Plan – I have no additional comments.

My offer to meet in person or virtually is still open.

Sincerely,

PETER WYSOCKI, AICP

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