



# City of Colorado Springs

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

## Meeting Minutes City Council

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Tuesday, August 22, 2017

1:00 PM

Council Chambers

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### **1. Call to Order**

**Present:** 9 - Councilmember Yolanda Avila, Councilmember Merv Bennett, President Pro Tem Jill Gaebler, Councilmember David Geislinger, Councilmember Don Knight, Councilmember Bill Murray, Councilmember Andy Pico, President Richard Skorman, and Councilmember Tom Strand

### **2. Invocation and Pledge of Allegiance**

The Invocation was made by Pastor Dr. David Tomme from the First Southern Baptist Church.

President Skorman led the Pledge of Allegiance.

### **3. Changes to Agenda/Postponements**

Eileen Lynch Gonzalez, City Council Administrator, stated Items 7.A. and 10.A. relating to stormwater have been moved to before the Consent Calendar and that she received notification from staff that Items 12.B., 12.C., and 12.D. relating to the Robbin Place appeal has been requested by the appellant to be postponed until the September 12, 2017 City Council regular meeting. Ms. Gonzalez also stated that she received a request that Item 4B.B. be withdrawn from the Consent Calendar due to changes to the appointments to Boards and Commissions.

Consensus of Council agreed to these changes on the agenda.

### **4. Consent Calendar**

**These items will be acted upon as a whole, unless a specific item is called for discussion by a Councilmember or a citizen wishing to address the City Council. (Any items called up for separate consideration shall be acted upon following the Mayor's Business.)**

#### **4A. Second Presentation:**

**Attachments:** [FIGURE 1A.rev - Preliminary Plat](#)

[7.5.802 Nonuse Variance](#)

[7.5.906 \(A\)\(4\)](#)

This Item was postponed to the September 12, 2017 City Council Meeting.

**Motion by Councilmember Strand, seconded by Councilmember Bennett, that appeal hearing of the City Planning Commission's approval of a nonuse variance for lot width and associated subdivision waiver to allow primary legal access via a public alley and preliminary and final plat applications re-platting the subject property from three lots into six lots be postponed to the City Council meeting of September 12, 2017. The motion passed by a vote of 9-0-0**

**Aye:** 9 - Avila, Bennett, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, and Strand

- 12.D.** [CPC PFP 16-00156](#) An appeal of City Planning Commission approval of a Preliminary and Final Plat to create six (6) lots for the development of three (3) duplex buildings located at 543 Robbin Place.

(Quasi-Judicial)

Presenter:

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

**Attachments:** [FIGURE 1A.rev - Preliminary Plat](#)

[FIGURE 1B - Final Plat](#)

[7.7.102 Subdivision Plats Review Criteria](#)

[7.7.204 Preliminary Plat Req - Subdivision Plats Review Criteria](#)

[7.7.303 Final Plat Req - Subdivision Plats Review Criteria](#)

[7.5.906 \(A\)\(4\)](#)

This Item was postponed to the September 12, 2017 City Council Meeting.

**Motion by Councilmember Bennett, seconded by Councilmember Strand, that the appeal hearing of the City Planning Commission's approval of a preliminary and final plat and associated subdivision waiver to allow primary legal access via a public alley applications re-platting the subject property from three lots into six lots be postponed to the City Council meeting of September 12, 2017. The motion passed by a vote of 9-0-0**

**Aye:** 9 - Avila, Bennett, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, and Strand

- 12.E.** [AR NV 17-00123](#) An appeal of the Planning Commission decision to approve a nonuse variance to allow two 19,230 square foot lots where 20,000 square feet is required in the R zone district located at 28 Polo Drive.

(Quasi-Judicial)

Related Files: AR NV 17-00024, AR PFP 17-00122

Presenter:

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

Attachments: [FIGURE 1 - Preliminary Plat](#)

[7.5.802 Nonuse Variance](#)

[7.5.906 \(A\)\(4\)](#)

Marc Smith, City Attorney, discussed ex parte communications with City Council prior to proceeding with this Quasi-Judicial matter. All Councilmembers indicated they have the ability to hear this matter and make a fair and impartial decision based on the review criteria presented.

Lonna Thelen, Principal Planner, Planning & Community Development, provided an overview of the 28 Polo Drive vicinity map, the existing property zoning, the plat configuration, and the neighborhood meetings that were held. She stated the neighborhood identified three areas of concern which included neighborhood character, drainage and geologic hazards. Ms. Thelen said the City Planning Commission voted 6-3 to approve the applications.

Councilmember Pico asked why the other lots in the area did not meet the 20,000 square feet requirement. Ms. Thelen said they were developed prior to the R zone district being placed on those properties.

Gary McLaughlin, the appellant, stated the neighborhood is opposed to subdividing the lot into two lots. Mr. McLaughlin compared the lot information to City Code 7.5.802 nonuse variance criteria for granting a variance. He identified the street conditions and the steepness of the property. He presented the lot sizes in the neighborhood and stated that there is not a need to divide the property.

Bruce Fallhowe, Manager for 28 Polo, LLC representing the applicant, stated the approval was granted by the Planning and Community Development Department to subdivide 28 Polo Drive into 30 Polo Drive and 12 Polo Circle on June 5, 2017 and that first appeal was denied on July 20, 2017. Mr. Fallhowe reviewed the subdivision process and the appeal application details. He explained how the property would be divided and how the houses would be set on the properties.

Councilmember Geislinger asked why 28 Polo Drive was not compared to the lots on top of it. Mr. Fallhowe stated those were located at the bottom of the hill on Bearpaw with a height difference of one hundred feet. Councilmember Geislinger also asked how big the size of the house was. Mr. Fallhowe replied approximately 4,000 square feet. He stated that by

subdividing the lot and building two smaller houses, the drainage would improve on the lots.

Councilmember Knight asked what would be the undue property loss if Council upheld the appeal. Mr. Fallhowe said it would result in building a small home on 40,000 square feet of property as opposed to 20,000 square feet. Mr. Fallhowe said he provided public notice to forty-nine neighbors in regards to his intent.

Citizen Marjory Frost, Pat Severn, Susan Marquez, Audrey Matthew, Lisa Sacco, Tom Perkins, Paul O'Brien, Aaron Johnson, Didi Dieterich, and Linda McLaughlin spoke in favor of the appellant.

Ms. Thelen stated that any landslide conditions were reviewed and approved by the geologic hazard report and that the preservation areas purpose is to retain land or water in the natural scenic or open condition and it cannot be changed unless it is for fire mitigation.

Councilmember Bennett said that due the multiple variances being requested, he would approve of the appeal.

Councilmember Geislinger said that the requested variances are very small and supports the denial of the appeal.

Councilmember Knight said that he supports to uphold the appeal because he feels the variances are sizeable and because the other surrounding lots that do not meet the criteria are legally non-conforming lots, not variance lots.

Councilmember Pico said at least half of the lots are below the lot size criteria, but they were grandfathered in and not due to variance.

President Skorman said he is going to vote to uphold the appeal because subdividing the lot sets a bad precedent and changes the nature of this neighborhood.

**Motion by Councilmember Bennett, seconded by Councilmember Murray, to approve the appeal and overturn the City Planning Commission's decision to approve the nonuse variance allowing two 19,230 square-foot lots where 20,000 square feet is required, based upon the finding that the appellant met the review criteria contained in City Code Section 7.5.906.A.4. and that the nonuse variance request does not comply with the review criteria in City Code Section 7.5.803.B. The motion passed by a vote of 7-1-1**

**Aye:** 7 - Avila, Bennett, Knight, Murray, Pico, Skorman, and Strand

**No:** 1 - Geislinger

**Absent:** 1 - Gaebler

- 12.F. [AR NV 17-00124](#) An appeal of the Planning Commission decision to approve a nonuse variance 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 PFP 17-00122, AR NV 17-00123

Presenter:

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

**Attachments:** [FIGURE 1 - Preliminary Plat](#)  
[7.5.803.B Use Variance Review Criteria](#)  
[7.5.906 \(A\)\(4\)](#)

Please see comments in Agenda Item 12.E.

**Motion by Councilmember Bennett, seconded by Councilmember Murray, to approve the appeal denying the City Planning Commission's decision to approve the nonuse variance allowing 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 appellant did not meet the review criteria contained in City Code Section 7.5.906.A.4 and that the nonuse variance request does not comply with the review criteria in City Code Section 7.5.803.B. The motion passed by a vote of 6-1-2**

**Aye:** 6 - Bennett, Knight, Murray, Pico, Skorman, and Strand

**No:** 1 - Geislinger

**Absent:** 2 - Avila, and Gaebler

- 12.G. [AR PFP 17-00122](#) An appeal of the Planning Commission decision to approve the Preliminary and Final Plats 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

Presenter:

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

**Attachments:** [EXHIBIT A - Appeal Memo](#)  
[Vicinity Map](#)  
[CPC Staff Report\\_28 Polo](#)  
[FIGURE 1 - Preliminary Plat](#)  
[FIGURE 2 - Final Plat](#)  
[FIGURE 3 - 28 Polo Appeal](#)  
[FIGURE 4 - Project Statement](#)  
[FIGURE 5 - 1st Review - neighborhood comments](#)  
[FIGURE 6 - 2nd Review - neighborhood comments](#)  
[FIGURE 7 - Record of Decision](#)  
[FIGURE 8 - CGS Geologic Hazard Review](#)  
[7.7.102 Subdivision Plats Review Criteria](#)  
[7.7.204 Preliminary Plat Req - Subdivision Plats Review Criteria](#)  
[7.7.303 Final Plat Req - Subdivision Plats Review Criteria](#)  
[7.5.906 \(A\)\(4\)](#)  
[CPC July 20 2017 - 28 Polo Minutes](#)

Please see comments in Agenda Item 12.E.

**Motion by Councilmember Bennett, seconded by Councilmember Murray, to approve the appeal and deny the City Planning Commission's decision to approve the preliminary and final plats for 28 Polo Drive, based upon the finding that the appellant did not meet the review criteria contained in City Code Section 7.5.906.A.4 and that the preliminary and final plat request does not comply with the review criteria in City Code Section 7.7.102, 7.7.204, and 7.7.303. The motion passed by a vote of 7-1-1**

**Aye:** 7 - Avila, Bennett, Knight, Murray, Pico, Skorman, and Strand

**No:** 1 - Geislinger

**Absent:** 1 - Gaebler

### **13. Added Item Agenda**

There were no items added to the Agenda.

### **14. Executive Session**

There was no Executive Session.

### **15. Adjourn**

There being no further business to come before City Council, Council adjourned.

Sarah B. Johnson, City Clerk