

**CITY PLANNING COMMISSION AGENDA
APRIL 30, 2020**

STAFF: HANNAH VAN NIMWEGEN

**FILE NO(S):
AR FP 19-00023 – QUASI-JUDICIAL**

PROJECT: PONY PARK SUBDIVISION APPEAL

OWNER: ROCKWOOD HOMES, LLC

DEVELOPER: ROCKWOOD HOMES, LLC

CONSULTANT: ALTITUDE LAND CONSULTANTS



PROJECT SUMMARY:

1. **Project Description:** An appeal of an administrative decision to approve a final plat titled the Pony Park Subdivision was filed on March 6, 2020. The Pony Park Subdivision plat was approved by City Planning staff on February 25, 2020 following the review from all required agencies (**FIGURE 1**). This subdivision plat is for the Pony Park Residences development which was reviewed by the City Planning Commission and City Council in mid-2019. At that time, a zone change to PUD (Planned Unit Development: Single-family Residential with a maximum height of 35 feet and a maximum gross density of 9 dwelling units per acre) and a Development Plan illustrating 36 single-family detached homes was proposed and was approved by the City Council on October 8, 2019.

The purpose of the subdivision plat is to finalize property boundaries and lots for sale, establish maintenance responsibilities of common use tracts, and to formally record and dedicate any public easements or land to the City. It should be noted that final plats are, for the most part, non-discretionary if all the requirements of development plan, PUD and City standards are met.
2. **Appellant's Project Statement:** (**FIGURE 2**)
3. **Planning and Development Recommendation:** Staff recommends denial of the appeal, upholding staff's decision to approve the final subdivision plat.

BACKGROUND:

1. **Site Address:** 3055 Flying Horse Road
2. **Existing Zoning/Land Use:** PUD (Planned Unit Development: Single-family Residential with a maximum height of 35 feet and a maximum gross density of 9 dwelling units per acre) / Vacant
3. **Surrounding Zoning/Land Use:** North: PK (Park) / Pony Tracks Drive then Springs Ranch Park
East: PUD (Planned Unit Development) / Peterson Road then single-family residential
South: R-1 6000/DF/AO (Single-family Residential with a Design Flexibility and Airport Overlays) / Single-family residential
West: R-1 6000/DF/AO (Single-family Residential with a Design Flexibility and Airport Overlays) / Flying Horse Road then single-family residential
4. **PlanCOS Vision:** Established Suburban Neighborhood
5. **Annexation:** This parcel was annexed as a part of the Springs Ranch Addition in 1984.
6. **Master Plan/Designated Master Plan Land Use:** Springs Ranch Master Plan (Implemented) / Minor Public Assembly
7. **Subdivision:** The Colorado Springs Ranch Filing Number 4
8. **Zoning Enforcement Action:** None.
9. **Physical Characteristics:** The property is currently undeveloped with no significant changes in grade.

STAKEHOLDER PROCESS AND INVOLVEMENT:

Applications to rezone the property, for a development plan, and for the subdivision plat were submitted on January 9, 2019. At the time of application, the site was posted with a sign and 520 postcards were mailed to property owners within 1000-feet of the subject property. Much of the public comments received were regarding the zone change and development plan, and were not regarding the proposed final plat. The applicant also held two neighborhood meetings to discuss the proposed zone change and development plan. The rezone and development plan were scheduled for the August 15, 2019 City Planning Commission hearing, where the Commission voted to recommend approval of the applications to the City Council. Minutes from that hearing are attached as **FIGURE 3**. The applications were then scheduled to be heard by the City Council and were finally approved on October 8, 2019. Minutes from the hearing are attached as **FIGURE 4**.

In accordance with City Code Section 7.5.105 *Threshold of Review*, the final plat did not accompany the zone change and development plan to the City Planning Commission or City Council hearings for review. This Code Section states, “A project which would require the filing of more than one application for land use approval or permit may file all related applications concurrently. Processing and review would be concurrent and the final decision on the project would be made by the highest level of review authority, except for preliminary and final subdivision plats which shall be reviewed and approved administratively by the Department.” Meaning, when a final subdivision plat is submitted as part of larger application package, such as accompanying a request to rezone and development plan, the review authority of the subdivision plat remains with staff and is not raised to the applicable review authority required by the other applications in the larger package. For this particular project, review of the final plat was put on hold until after the zone change and development went through the required public hearings, and then was resumed in November 2019. As is standard practice, upon approval of the subdivision plat, City Planning notified interested parties of the approval that was then appealed.

Staff input is outlined in the following section of this report. Staff sent the application package to the standard internal and external review agencies for comments. The standard review agencies for final plats include the City Licensed Surveyor, Colorado Springs Utilities, City Engineering, Water Resources Engineering, the Fire department, City Traffic Engineering, Real Estate Services, Public Safety Street Naming Administrator, and Parks, Recreation and Cultural Services.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. Review Criteria / Design & Development:

a. Final Subdivision Plat:

The appeal pertains only to the final subdivision plat (**FIGURE 1**) and does not pertain to the zone change or development that have been approved by the City Council. The requirements for a final plat are found in Code Section 7.7.301 through 306. The review criteria for final subdivision plats differ because the code specifically states what technical information is required to be shown on the plat document versus a zone change’s or development plan’s review criteria which are relatively subjective.

The distinction between the review criteria of a final plat and a development plan is significant for this appeal, because, as mentioned the final plat’s review criteria are mechanical and procedural in nature. The review criteria for a zone change or development plan leave room for decision makers to make judgements on a proposal’s compatibility (e.g. residential product type, density, architecture, etc) and impacts to an area or existing infrastructure (e.g. impacts to traffic, parking, drainage, schools, utilities, parks, etc.). At this time, the City Planning Commission and City Council have already voted determining the Pony Park Residences’ compatibility and acceptable level of impacts to the area and existing infrastructure.

Because the final plat requirements are very technical, the Planning Department’s staff includes a Professional Land Surveyor who is licensed by the State of Colorado. The City Licensed Surveyor, the Real Estates Services Division, and Colorado Springs Utilities provide technical feedback when a final plat is submitted for review in order to ensure the information illustrated is correct and complete. Other review agencies also review the final plat for correct wording and consistency between other documents and plans. Once all reviewers agree the final plat information is correct and meets the technical requirements laid out in the City Code, the City Planning Department’s staff planner approves the document. From there, the applicant is required to circulate the approved plat for signatures, and submits the signed copy of the plat to the City Planning department for recording with the El Paso County Clerk and Recorder’s office. Also at this stage, the City Planning department collects all applicable subdivision impact fees—the most common subdivision impact fee being for drainage basins.

The appeal of this plat occurred after City Planning's approval but before recordation and fee collection. Upon receiving recommendations of approval from the required review agencies assuring the Pony Park subdivision final plat meetings the applicable criteria and illustrates correct information, City Planning staff approved the plat. For this reason, City Planning staff is of the opinion that the final plat meets all applicable review criteria for such applications.

- b. Appeal:
It is City Planning staff's opinion that the appeal does not meet the appeal review criteria found in Code Section 7.5.906. City Planning staff believes the appellant does not illustrate how the approval is against the language or intent of the zoning ordinance where related to final plat applications; and does not illustrate that the approval of the final plat is unreasonable, erroneous, or clearly contrary to law given the City Council's preceding approval of the zone change and development plan. It is City Planning staff's judgement that the matters discussed within the appeal statement (**FIGURE 2**) are either: 1) not within the purview of the City's authority such as issues with private neighborhood covenants and enforcement of those covenants; or 2) not applicable to the review criteria or other codes pertaining to final plat applications. For these reasons, City Planning is recommending denial of the appeal, upholding City Planning staff's approval of the final plat.
2. Conformance with the City Comprehensive Plan:
The City has recently adopted, in January 2019, the updated Comprehensive Plan, PlanCOS. PlanCOS is a high level and visionary document foundationally laid out as a theme based approach to alignment of development intentions for the City.

The Vibrant Neighborhoods chapter of PlanCOS calls out the associated area for development as an Established Suburban Neighborhood. The Plan identifies the need for a variety of housing types, styles, and price points to be distributed throughout the city. This application supports Strategy VN-2.A-3, "Support land use decisions and projects that provide a variety of housing types and sizes, serving a range of demographic sectors, and meeting the needs of residents and families through various life stages and income levels." The final plat is a supporting document to a land use decision made by the City Council to approve the Pony Park Residences.

Staff had found the Pony Park Residences development to be in substantial compliance with PlanCOS, and continues to find that the final plat remains in compliance with those goals.

3. Conformance with the Area's Master Plan:
The Pony Park Residences project is located within the Springs Ranch Master Plan area and is designated as Minor Public Assembly. This master plan is considered "implemented" meaning all land is currently zoned for the desired land use, however, zone changes within implemented master plans do not require subsequent amendments to said master plan. Zoning code section 7.5.603 *Findings* states, "... Master plans that have been classified as implemented do not have to be amended in order to be considered consistent with a zone change request." The Minor Public Assembly land use designation was established in 1995 where previously had been designated Single-Family Residential.

STAFF RECOMMENDATION:

AR FP 19-00023 – FINAL SUBDIVISION PLAT

Deny the appeal and uphold the administrative approval of the final subdivision plat, based on the finding that the appellant has not substantiated that the appeal satisfies the review criteria outlined in City Code Section 7.5.906.A.4, and that the final subdivision plat meets the review criteria for such applications found in City Code Section 7.7.303.