

CITY OF COLORADO SPRINGS PLANNING COMMISSION

MINUTES / RECORD-OF-DECISION

THURSDAY, JULY 21, 2016

CITY HALL COUNCIL CHAMBERS, 107 NORTH NEVADA AVENUE

MEETING CALLED TO ORDER AT 8:33 A.M., AND ADJOURNED AT 12:12 P.M.

PRESENT:

Phillips, McDonald, Henninger, Shonkwiler, Smith, Walkowski, Gibson, Graham

ABSENT:

Markewich (excused)

ALSO IN ATTENDANCE:

Mr. Peter Wysocki, Planning and Development Director

Mr. Marc Smith, City Senior Corporate Attorney

RECORD OF DECISION: Motion by Commissioner Walkowski, seconded by Commissioner Henninger to approve the June 16, 2016, Meeting Minutes. Aye: Phillips, Henninger, Shonkwiler, Walkowski, Graham, Gibson, McDonald No: Smith (Markewich excused) Motion Passed

COMMUNICATIONS: None

CONSENT CALENDAR:

4.A.1 – CPC MPA 05-00278-A3MN15- Request by West Works Engineering, on behalf of Integrity Bank and Trust and Mariano Rocha, for approval of a minor amendment to the Northgate Master Plan.

4.A.2 – CPC ZC 15-00040 - A zone change from PIP-1 (Planned Industrial Park) to PBC (Planned Business Center) for commercial development.

4.A.3 – CPC ZC 15-00095 – A zone change from PIP-1 (Planned Industrial Park) to PBC (Planned Business Center) for commercial development.

4.A.4 – CPC CP 07-00189-A1MJ16 – A major amendment to the Black Squirrel Office Park II Concept Plan. Planner: Katie Carleo, Principle Planner

4.B. – CPC ZC 16-00087 – A request by Ryan Trujillo on behalf of the City of Colorado Springs for approval of a zone change for the properties located at 702 and 704 East Boulder Street to be rezoned from OR/CR (Office Residential Estate with Conditions of Records) to OR/CR (Office Residential Estate with Conditions of Record). Planner: Hannah VanNimwegen, Planner II

4.C. – CPC CU 16-00078 – A conditional use to allow a large daycare home for seven (7) to twelve (12) children located at 7023 Sapling Place. Planner: Conrad Olmedo, Planner II

4.D. – CPC CU 16-00081 – A conditional use to allow a large daycare home for seven (7) to twelve (12) children at 2103 Clarkson Drive. Planner: Conrad Olmedo, Planner II

4.E.1 – CPC ZC 16-00064 – A zone change from R-5/CR/AO and PBC/CR/AO (Multi-Family Residential and Planned Business Center with Conditions of Record and Airport Overlay) to OC/CR/AO (Office Complex with Conditions of Record and Airport Overlay) zone district.

4.E.2 – AR CP 11-00482-A2MJ16 – A major amendment to the Southwest Powers Boulevard & North Carefree concept plan to allow General/Medical Office uses.

4.E.3 – CPC DP 16-00066 – A development plan for a new two (2)-tenant 5,946 square-foot medical/office building. Planner: Conrad Olmedo, Planner II

These items will be acted upon as a whole, unless a specific item is called for any discussion by Commissioner, Staff, or citizen. No items pulled off. Vote on consent calendar as a whole.

Aye: Phillips, Henninger, Shonkwiler, Walkowski, Graham, Gibson, McDonald No: Smith (Markewich, excused) Motion Passed

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NEW BUSINESS CALENDAR

ITEM: 6.B.1
FILE NO.: CPC CA 16-00079
PROJECT: Geological Hazard Ordinance
STAFF: Peter Wysocki

STAFF PRESENTATION:

Mr. Wysocki handed out information. Mr. Wysocki discussed the ordinance and when current one was adopted. Clarified where the code says Geohazard studies are required and exempt. Discussed how the report is submitted, comments are provided, and how those comments are incorporated as part of the plan. Discussed what a geotechnical report is and what a Geohazard study is and how they are different.

The ordinance is being done as an expedited process. Council feels this was an urgent matter and wanted it addressed as quickly as possible. Discussed the information handed out to the commissioners and referenced different pages within that document. Discussed what is being added to the ordinance and what additional steps will be done with a development plan that has a Geohazard report done.

Discussed when a Geohazard study is required, who signs off on report, what the report provides, potential impacts and if the project can be completed due to the potential hazards. Discussed the requirements coordinated with Regional Building and the Geohazard requirements have been incorporated to the design and the requirements have been addressed. Regional Building has they own requirements of what is required and discussed how to bring awareness later home buyers. Also discussed the industries haven't vetted the final document.

This is scheduled for Council Work Session Monday, July 25, and to proceed to the regular meeting Tuesday, July 26. The plan is the Ordinance will have a normal reading but be adopted on first reading to go into effect after that first reading.

Questions:

Commissioner Walkowski asked about Geohazard done east of I-25 and asked about possible waivers. Mr. Wysocki discussed processes staff uses. Commissioner Walkowski discussed what's required and what's done in residential areas. Commissioner Walkowski asked if a report shows potential impacts what happens and if mitigation can't be done could a building permit be issued. Mr. Wysocki said he didn't know. Commissioner Walkowski asked about resubmittal and what the ordinance says will happen. Mr. Wysocki said the language was intentional because CGS doesn't have land use authority, they provide comments and staff decides what to do. Commissioner Walkowski asked about information being provided to later buyers? Mr. Wysocki explains different options available and Steve Kuehster gave other options available.

Commissioner Henninger discussed how he saw the ordinance. Mr. Wysocki said what the ordinance was designed to do. Commissioner Henninger discussed what happens if they accept as written or not. Mr. Wysocki explains the differences in the language, the process and steps needed. Commissioner Henninger asked if this increased any type of inspections. Mr. Wysocki clarified the City doesn't do residential building site inspections; the builder submits showing it was completed. The city inspects commercial sites, regarding parking, landscaping, etc.

Commissioner Shonkwiler said he's concerned with the stigmatization of west side and thought the ordinance should be for the entire city and analyzing effects on neighboring properties and how that would be done.

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Commissioner Smith said he agreed with Commissioner Shonkwiler's statement and is also concerned with all the changes trying to be done and how it will affect construction from a cost point of view along with the geotechnical community. He's concerned about liability and if there's litigation what would be the worse impact.

Commissioner McDonald said she was trying to understand what the process will be about. She's concerned what's being responded to, what is the city trying to achieve, what's the goal, and how does it fix what happened. Mr. Wysocki said what it doesn't change but explained what it would do.

Commissioner McDonald said much of this is already done and asked if there could be another way to link this process with RBD. She concerned reports go to CGS and come back but who reviews the reports. Mr. Wysocki said they asked CGS this and CGS said what they wanted from the city as well as what they will do, how the process would work and how it works now. Commissioner McDonald discussed the 2nd review as stated in the ordinance. Mr. Wysocki explained the reviewing process.

Commissioner Graham discussed construction defect laws and liability surrounding that. Mr. Wysocki said it was discussed but no consensus was reached.

Commissioner Walkowski asked about data on last few years. Mr. Wysocki said they looked at the number of lots and vacant lots and it's in the 1,000's.

Councilman Knight gave some clarifications to some of the concerns raised by the commissioners and why the sense of urgency was clarified. The number permits were discussed and how to put the ordinance into practice.

Questions:

Commissioner Shonkwiler said he was concerned about the stigma for west side and asked if the ordinance could be changed to say if you meet certain conditions then you need a Geohazard study but it would be for the whole city. Councilman Knight said how the code is written, discussed waivers and what they say. Commissioner Shonkwiler asked for clarification on what is said in the ordinance. Councilman Knight acknowledged the point of the west side and stated they wanted to get something in place so any new homes built are done with the right mitigation and anyone buying a home would know they're in a Geohazard area. Commissioner Shonkwiler said he'd like the Geohazard study to be done locally. Councilman Knight discussed the reason for outsourcing.

Commissioner McDonald asked if buyers would be notified and if it could be recorded with the deed as just part of the buying process? Councilman Knight said that made sense but it's not that simple. Commissioner McDonald said she doesn't understand how the second verification would work and doesn't have a lot of faith of it working.

Councilman Strand discussed why it came on so fast.

Commissioner Smith said he thought they we're going too fast and that the urgency you say you have really isn't there. We have brought up many questions. Let's be careful and get it right the first time.

Citizens In support:

Kyle Campbell with Classic Consulting Engineers and Surveyors representing the HBA today but more specifically the Public Policy Council. The industry is in support of looking at, reevaluating and refreshing ordinances and are not opposed to relooking at the Geological Hazard Ordinance to make changes to bring it up to date. But the best amendments are ones that are vetted by all but this hasn't had enough stakeholders input. So as of right now HBA can't support what is being proposed but want to work as quick as they can and get the questions answered.

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Commissioner Shonkwiler said the HBA or a builder looks at it they know what do. But the average person doesn't. You have to have a certain level of skill. Mr. Campbell said the stakeholder process would help with that.

Commissioner McDonald clarified that at the Informal meeting they were told the HBA had seen the document they received this morning and had a chance to comment. But since then changes have occurred you're saying you do not believe the normal stakeholder process has occurred in this particular ordinance change. Mr. Campbell said yes.

Commissioner Gibson asked about the stakeholder process, the scope of study and said parts of the ordinance seemed ambiguous and wondered about how homeowners would be affected from an adjacent site. Mr. Campbell said those questions would be asked as part of that stakeholder process.

Commissioner Phillips clarified the HBA is in support but against how it's been done. Mr. Campbell said they are not in support of what is in front of them today due to their inability to have an effective stakeholder process but they are in support of changes.

City Attorney Marc Smith clarified the intent is not to apply anything that hasn't already been applied for until after the 1st reading. So if you've already applied for it, there shouldn't be problems.

Mr. Bill Hoffman with CTL Thompson Inc. Everyone has summed up his comments. The Ordinance won't change what has happen. They want more time to vet this. As a Geotechnical community they haven't had the opportunity to talk internally to see what it will mean. Verify and certified are the same and it will void their liability insurance to use those terms. The current ordinance is the most restrictive in the state but as written it's worked. They found some things could be better so something good came out of it.

Commissioner Phillips clarified that Mr. Thompson was in support. Mr. Thompson said the same as Mr. Campbell, he's in support of reviewing it and making some changes but it needs to take a little longer to get it done right.

Commissioner Shonkwiler asked about bonding and insuring, what it means. Mr. Thompson said it's the term that is used that affects the bonding and insuring. It's their job is to evaluate risk and mitigate where they can.

Commissioner Graham asked if they were transferring the risk from the general contract to the engineering firms. Mr. Thompson said that exposure already exists.

Mr. Joe Good with Entech Engineering he's in support as his other colleagues. Mr. Good discussed how reports are currently signed but now they want both to sign the document and most instances they are already signed by both. But in other instances for something small there are isn't a need for both to sign it and that doesn't up the cost. This will not help affordable housing in the Springs. He agrees about the liability issue. So he's in support but slow it down and get it right.

Mr. Nate Dowdin a Geotechnical Engineer with RMG. He's in the same as previous speakers. He supports the intent but opposes the current structure of how the language is written, it needs more fine tuning and more time to be taken.

Roger Lovell is the Building Official at Pikes Peak Regional Building (RBD) and also a licensed engineer. His role is to look at it from public safety. He's in support but has some concerns with the ordinance. The building codes they adopt locally are written by the international code council and are used exclusively across the United States. They cover a wide range and they work in a majority of areas. Locally those codes are amended specifically for foundation elements in Colorado Springs and El Paso County. Mr.

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Lovell discussed what a builder or homeowner can do when looking to build and the steps that are followed by RBD.

Commissioner Shonkwiler discusses current standards and if problems exist in areas where building has happened in the last 20 years. Mr. Lovell said there are foundation issues here in this area but he's not aware of any significant problems other than in the Broadmoor Bluffs. Commissioner Shonkwiler stated the problems have been 50-70 years in the making. Mr. Lovell agreed with that. Commissioner Shonkwiler stated standards have changed over the last 20 years. Mr. Lovell said as a building official and engineer every time they make a code change we get better and close gaps. In the last 20 years the process works and works well but he is in support of some modifications but believes they have a very solid process now.

Commissioner Smith discussed foundations and ask Mr. Lovell if they depend on the Geological Technician's information that's provided to them. Mr. Lovell said yes. Commissioner Smith discussed the document given to them this morning and wondered if Mr. Lovell thought they needed that level of detail because in the last 20 years we've done pretty good job. Mr. Lovell said it was a valid question but he looks at it from the perspective on the regulatory side. He's confident engineers are doing everything possible and when an engineer stamps a document he's putting his license on the line. The level of oversight in the industry from the engineering side is adequate but believes there are some areas that could be improved and that is why he's in support.

Citizens in Opposition: None

Rebuttal/Questions of Staff:

Commissioner Phillips asked Councilman Stand that after hearing everything, what would be the process for council. Councilman Stand said he wanted to see the commissioner's decision. He's looking for the Commission's recommendations to see how they're going to deal with this and see if the sense of urgency was a little overstated. Is this ordinance ready to go forward. Everyone raised questions about that and said yes but with grave reservations.

Commissioner Shonkwiler said he'd like it be postponed 30 days and there be a more thorough vetting process and so postponement seems the best option.

Councilman Strand said he didn't know why that couldn't be done, but also ask for Mr. Wysocki's input. Mr. Wysocki discussed how council could handle the item. So the decision is up to the council on Tuesday. Commissioner Shonkwiler said he was comfortable with a postponement for 30 days. Councilman Strand asked what Councilman Knight thought a postponement. Commissioner Phillips clarified with Mr. Wysocki that the council could go forward without any changes despite what their decision is. Mr. Wysocki said yes.

Councilman Knight said his concern was that unless something is dramatically wrong with the ordinance it will add more time to the process but felt it was better to have it right the first time. They're not designing the solution they're only improving the coordination and not changing mitigation standards.

Commissioner McDonald asked Councilman Strand if they had more information and all the documents it would help mitigate some of the panic. Councilman Strand discussed what happened at a recent conference he was at with developers. The developers told him they needed to do the steps carefully and deliberately. Anyone who is in the process would be grandfathered in whenever it gets passed and so they don't have the uncertainty. Commissioner McDonald said from a public safety view if everyone knew what RBD does people would be more comfortable and wouldn't be so panicked. Councilman Strand discussed what the purpose was and ultimately they don't want to stop building of homes in the city they want that, they just want to be sure people are informed.

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Commissioner Smith said in the last 15-20 years there have not been any problems with how the mitigations issues and hazardous studies have been handled. It's the first time that's been said by RBD and that's telling him the problem is not as immediate as they think it is. He's in favor of the process moving along but he felt they shouldn't move forward at this time, have council postpone it and get everyone together and do it right.

Councilman Strand said we're not undermining the process and they want what is in the best interest of the community.

Councilman Murray asked to speak and provided a point of view of how he saw this and if they recommend postponement to have precise language of what they want done.

DISCUSSION AND DECISION OF THE PLANNING COMMISSION

Commissioner Phillips asked the commissioners' comments be specific and realistic.

Commissioner Graham said he's in favor of the process but we haven't refined the details and he's not sure how to do the second phase of the process. The intent is good but didn't think they have the details in how it will happen. It needs more time to refine it. Council needs to look at the language a bit more in-depth and get it right the first time.

Commissioner Henninger said he went back and looked at what the language would impact, what's the current situation with home building and the history. What's the problem we are trying to fix? He looked at the language and still sees there are big concerns and the concern is not being correctly addressed with what's been presented. We need to identify the goal and problems, address the problem with a well thought-out design and a coordinated effort. If we need to address this let's do more research and look at it again, he is not in support but they should bring it back so that it's a more comprehensive package.

Commissioner McDonald said she feels like everyone is concerned about safety and that's the important piece in this. Everyone is in favor of making some geotechnical changes. But what are we looking for? We want the engineering sector to have a chance to go through the documents to see if they can provide the services that are being suggested, if the insurance company can provide those services for something like this, for the HBA to see how this is going to work, for RBD to figure out what their part of this will be and how they will implement those things and for the city to see how they are going to do the pieces they need to do. She is in favor of postponement and having the stakeholders getting together and have a chance to have those things answers then bring it back with a full package so we can do it right from the beginning.

Commissioner Smith said Commissioner McDonald had some good points. Regarding Councilman Murray's request for being specific there was a lot of discussion that morning that had those specifics he mentioned that he wanted and that had already been discussed. He's going to recommend for postponement. There are so many gaps in this. There has to be a review of how RBD works with this. We don't have the problems we think we do.

Commissioner Gibson said to Councilman Murray that she'd mention specifics and referenced the part of the Code this is discussing earlier in the morning and felt those sections were ambiguous and left numerous unintended consequences. We need to look at that in terms of once they give the potential impacts what's required to other homeowners as a potential affected property and what do they then need to do. She is in favor of postponement to give an opportunity to the stakeholders to have further discussion before moving forward.

Commissioner Shonkwiler said doesn't want to stigmatize the west side but look at the city as a whole. He also wants to make sure what is done, is something that can actually be done.

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Commissioner Phillips said they've heard a lot information and comments, we know there is a gap. Have we rushed through this, yes. Does he believe that we're in imminent danger - maybe, but he doesn't feel like it should be delayed. Put it in the hands of the city council. They have to listen to the experts, make the right decision and the city needs to understand they need to do the same. So he is not for a delay but trusts the city council that they know what they need to do in this situation.

Motion by Commissioner Walkowski, seconded by Commissioner Smit to recommend to City Council to deny the ordinance as written and ask that further vetting and meetings with stakeholders and other interested parties happen before the ordinance is brought back to the City Planning Commission for approval. The ordinance is amending Part 5 (Geological Hazard Study and Mitigation) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to geological hazard study and mitigation.

Aye: Phillips, Henninger, Shonkwiler, Walkowski, Graham, Gibson, McDonald No: Smith (Markewich, excused) Motion Passed

July 21, 2016

Date of Decision

Eric Phillips

Commission Chair

Adjourned: 12:12