



City of Colorado Springs

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

Meeting Minutes - Draft Planning Commission

Thursday, December 19, 2019

8:30 AM

Council Chambers

Newport Heights

- 6.C. [CPC PUZ 18-00101](#) Postponement of an appeal of City Planning Commission's decision to deny a rezoning of 10.71 acres from PUD/AO (Planned Unit Development single-family residential, 2.9 dwelling units per acre, 30-foot maximum building height with Airport Overlay) to PUD/AO (Planned Unit Development: single-family residential, 4.6 dwelling units per acre, 30-foot maximum building height with Airport Overlay) located north of the intersection of Bridle Pass Drive and Shimmering Moon Way.

(Quasi-Judicial)

Related Files: CPC PUZ 18-00101, AR DP 19-00281

Presenter:

Tasha Brackin, Senior Planner, Planning & Community Development
Peter Wysocki, Director Planning and Community Development

Staff presentation:

Ms. Tasha Brackin, City Planning, informed the commissioners about the public notification that occurred prior to the meeting. Normal procedure for posting a poster on the project site was completed and began on December 8, 2019, as required by code.

The normal procedure for mailing postcards to property owners within 1000 feet was completed; however, a mistake was made with the distribution list and the postcards were sent to neighbors for a different project.

On December 11, the corrected distribution list was mailed the postcards. In addition, on December 12, Ms. Brackin sent an email to each and every email address that she had received correspondence from over the course of the project, including emails that were received by the prior planner.

City attorney, Ben Bolinger, read into the record section 7.5.902(B)(3) of the City Code regarding public notice.

B. Public Notice Is Required: Public notice may be provided during the following three (3) stages of development project review, subject to the following

provisions:

3. Final disposition: During this stage of the review process, public notice shall be required only if public hearing(s) are to be conducted. Public notice for public hearings shall include: posting and publication. The purpose of the public notice is to provide notice of the specific time, date and location of the public hearing on the proposed development project. No additional notice is required if the Planning Commission or City Council adjourns the hearing to a date certain.

Mr. Bolinger further explained that subsection (C) sets forth the specific requirements for publication and posting, and that mailed public notification was not a public notice requirement for a hearing. Ms. Brackin confirmed that hearing was published in the newspaper.

Commissioner Graham asked if there were any commissioners who felt this project was not properly noticed, and all commissioners agreed the project was properly noticed.

Ms. Brackin proceeded to present a PowerPoint with the scope and intent of this project.

Applicant Presentation:

John Olson, formerly with Altitude Land Consultants (recently a sole proprietor), presented a PowerPoint with the scope and intent of this project.

Jeff Webb, Altitude Land Consulting, continued with the presentation on the scope and intent of this project.

Questions:

Commissioner McDonald asked what would be the smallest lot size. Mr. Webb said the smallest allowed is 4000 square feet, but he believed the actual smallest lot size was just over 4,000 square feet at 4,024 or 4,028.

Commissioner McMurray asked if the existing zoning of 2.9 dwelling units per acre was established in 1997. Ms. Brackin confirmed the zone was established in 1997, along with another 150-acre portion of the Norwood Master Plan.

Commissioner McMurray asked if the underlying zoning was ever changed when the original master plan was amended by adding the school site. Ms. Brackin confirmed that the underlying zoning was not changed. Commissioner McMurray asked if it has always by right been 31 units on this site and essentially there would be no need to come before the Planning Commission. Ms. Brackin informed him that was correct.

Commissioner McMurray asked at what point in time were the neighboring subdivisions platted or developed. Ms. Brackin said that from roughly 1999 to 2002, there were several filings made under the Norwood Master Plan, approximately seven of them. Commissioner McMurray asked if the filings all took place prior to the 2002 Master Plan Amendment. Ms. Brackin said most generally, yes.

Commissioner Rickett asked what the densities of the neighborhoods to the northeast and southwest of the project were. Mr. Olson said in general the one of the neighborhoods was one unit to the acre under and one was one unit to the acre over.

Mr. Webb added that across the creek, the new development was small lot planned unit developments with high densities. Mr. Olson also said there was significant density that is not calculated into the Nor'wood Master Plan.

Supporters:

Doug Marsh, past resident in the neighborhood

- Excited about the development
- Wants to move back into the neighborhood
- Looking for affordable housing and will be looking at Newport Heights
- Enjoys the trail system and the sense of neighborhood

Opponents:

Beth White (speaking on behalf of several neighbors, including those who ceded time as follows:)

- David White - ceded time
- Don Vogue - ceded time
- Kyle White - ceded time
- Jean Danforth - ceded time

Beth White:

- Rezoning to 49 homes is not in line with the prior zoning of 9 single-family homes and a park
- When homes were originally bought, homeowners had a reasonable expectation of what would be developed on this property
- Items of concern
 - maximum net density
 - original maximum net density 5.27 units per acre
 - proposed 3.36 units per acre
 - concerned this increased density and smaller lot sizes will not have a good impact on property values, will lead to parking and traffic issues, and

- will have an impact on quality of life
- this plan is not complimentary or harmonious to the neighborhood
- the average lot size
- the minimum lot size
 - asks that the developer meet at least the 4,500 square feet that was the minimum lot size in the Newport Heights development plan
- Concerned about parking safety on the narrow street and that fire and emergency vehicles would have difficulty getting in and out
- Only wants one or two-story homes with gabled roofs to conform with the neighborhood (no three-story homes or flat roofs)
- Neighbors have an expectation and right that new development at least meet the minimum requirements in the Newport Heights development plan

Mark Loos (speaking on behalf of several neighbors, including those who ceded time as follows:)

- Caroline Fernandez-Loos - ceded time
- Marlo Madamba - ceded time

Mark Loos:

- Resident since 2002
- Environmental concerns
 - Pollutant and water runoff in Cottonwood Creek
 - Concerned all the development will compound the issue
 - Trash in the creek
- Concerned about the wildlife
- Concerned about the vegetation, cactus, trees
- Asks that any new development compliments the Newport Heights development plan with no higher than 5.27 homes per acre, no homes over two-stories, and consider the wildlife and habitat

Commissioner Raughton advised Mr. Loos to consider contacting the City's parks department in terms of maintenance or lack thereof along the trail.

Commissioner McDonald asked for clarification on the units per acre, as the opponents are asking the development to match 5.27 units per acre in the master plan, and the developers are requesting 4.6 units per acre.

Ms. Brackin explained the existing neighborhood was developed at 5.27 units

per acre, but the master plan gives a range in gross density of 3.5 to 5.5 units per acre. The proposed Newport Heights development has a gross density is 4.6 and a proposed net density of 6.36 dwelling units per acre. Ms. Brackin explained that the reference to the proposed net density for the existing neighborhood is not based on the master plan. It is based on a development plan that was adopted that does not dictate what is to happen on this site. The development plan only dictated the development of the previous homes.

Commissioner Raughton asked if there were any architectural indications of what the units would look like. Ms. Brackin explained that since the lot size in this proposal was over 6,000 square feet, it was not considered a small lot PUD, and therefore the architectural design was not within her purview.

Mr. Peter Wysocki, Director of Planning and Community Development, explained that sometimes a builder will show architectural renderings when they know what kind of project they are proposing. However, it is typically not a requirement of a PUD to submit building elevations nor are there any standards for single-family building elevations. Code does not require establishing single-family residential design standards or guidelines.

Commissioner McDonald asked Mr. Olson to clarify if the referenced three-story homes that are being built by Classic, The Midtown Collection, would be built on this site because this is a completely different development with different terrain.

Mr. Olson said in terms of density and intensity, he agreed with that statement. MR. Olson went on to say there could be multiple builders on this site, but the way development was envisioned was working with the land and sloping down, so on the high side, it could be only one story.

Commissioner McDonald reiterated for the neighbors that the three-story design really could not be built at this site.

Ryan Gilman, attorney representing a group of the Cottonwood homeowners

- Stressed how many neighbors showed in opposition and that the development would not be harmonious to the neighborhood
- Developer is trying to make as much money as possible but ultimately not being a good neighbor
- Development should be harmonious with the neighborhood

Andrea Johnson (speaking on behalf of several neighbors, including those who ceded time as follows:)

- Heaven Johnson - ceded time
- Daryle Hamblin - ceded time

Andrea Johnson:

- From the original 9 homes, school, and park changing to 49 homes and no park was not what we expected when we bought these homes
- Life changing and negative impact for this neighborhood
- Site is not on the outskirts of a neighborhood but right in the middle of a well-established neighborhood
- Construction traffic is a concern and will be difficult to maneuver around the parked cars
- Potential added traffic and future traffic will negatively affect the residents of Newport Heights
- Development will destroy the area that is filled with wildlife
- Children would not be safe at bus stops with increased traffic
- Construction would go on for years
- Pedestrians would have to go into the street and in between cars in order to get to the Cottonwood Trail
- Development would be so dense that a tree could not be planted in some of the front yards
- This density and construction will block all access to Cottonwood Park for years

Darlene Hunera (speaking on behalf of several neighbors, including those who ceded time as follows:)

- Artie Clemens - ceded time

Darlene Hunera:

- More density shows up in traffic generated
- Already a significant amount of street parking along Bridle Pass Drive
- Raises safety concerns
- Minimize the number of new homes on Bridle Pass Drive
- More congested traffic will result in a risk of extended response time for emergency vehicles
- Requesting less density to reduce the detrimental impact to public interest, our safety and the general welfare of the community
- Bus stops need to be centrally located no parked cars nearby to reduce the safety risk to children
- According to the newly revised plan, sidewalks will be removed from one of the cul-de-sacs and it is only 24-feet wide, which is not standard
- Many residents bought homes in the area because of the low density
- Homes should be consistent and compatible with the architecture of adjacent homes

- Developer has not taken into consideration the request of the Newport Heights' homeowners to minimize density in order to maintain the integrity of the neighborhood

Bob Rosenthal (speaking on behalf of several neighbors, including those who ceded time as follows:)

- Giulian Rosenthal - ceded time

Bob Rosenthal:

- Resident on Bridle Pass for twelve years
- Concerned about the Cottonwood Creek open space
- The four new developments will impact the neighborhood

Steve Hosp

- Resident on Shimmering Moon Lane since 2006
- Asked the City to grandfather the Newport Heights area and build higher densities elsewhere

Todd Fisher

- If the developer builds any homes in the vacant space, it will affect the view
- If three story homes are built, it will wipe out the view
- Plan being proposed has minimum lots of 4000 square feet, but should go by the development plan of no less than 4,500 square feet
- Width of the street is a concern

Ben Fromuth

- 49 houses on lots as small as four to 5000 square feet constitutes urban sprawl
- 49 houses will degrade the feel of this neighborhood which is generally made up of larger lots
- Supports development as long as it leaves some open space and a reasonable number of homes

Skylar Johnson

- Grew up at 4724 Bridle Pass Lane
- Note the lack of disregard the developer has for the community
- Life altering for this community

Bob Koelble

- Changing the dwelling unit from 2.9 to 4.6 units per acre is a 63% increase
- Traffic will be a concern

- On-street parking is a concern
- Doesn't want property values to decrease by the development

Jim Child

- Not opposed to change, but want responsible change
- Developer knew when he bought the property that it was zoned for 30 homes
- Safety concerns and parking issues will be horrendous

Janice Grennon

- The development affects the creek
- Retaining pond will be a mosquito borne infestation
- Many neighbors climb up the hill to work out every day and walk dogs and that will be taken away
- Cut the number of homes in half and develop responsibly

Mark Frydenberg

- Losing the view is a concern
- Does not want any three-story buildings
- Wants larger houses with more space so cars can park on the property and not on the street

Rebecca Olsen

- Agreed with other neighbors and opposes the rezone
- Safety of children with traffic
- Build responsibly to keep the integrity of the neighborhood

Rebuttal:

Mr. Olson:

- Project has gone through a full development plan process, including the stormwater drainage detention design
 - Pointed out that he did not think the original development plan for this project even had a detention and stormwater management for the existing homes
 - The reason the project has a detention pond is because it is a requirement
 - Noted that it is a detention pond, not retention pond, so there should not be standing water in there unless there is a storm and then it will dissipate and infiltrate
- There is no park because the City does not want a park in that location
- There is a portion of the Cottonwood Trail located on this property, but it has been given back to the City

- A school has not been desired in this project from the school district
- The comment that 4,000 and 5,000 square foot lots is suburban sprawl. PlanCOS has emphasized infill and added density to help provide something in a tax base that can pay for our resources as a City
- Even though everybody has been able to use this site and access the trail through the sight, there are no legal easements and it is private property
 - The project will be adding three access points to get to the trail through this site
- This will be an HOA neighborhood so landscapes will be taken care of
- In regards to parking, applicant is willing to potentially add a condition of record to require that the garage spaces are used for cars and not storage if parking is truly a concern
- One of the original plans was for 44 patio homes in a gated community with open space. That was changed because a neighbor on Shimmering Moon Lane was opposed to a gated community and wanted the homes to be more like the surrounding homes
- An elementary school would have a greater impact on traffic, noise, and parking than what 49 single-family homes would have
- Streets and sidewalks - the streets in this development are public streets and will be built and designed to the standard of public streets
- Trees - it was asked to have two trees to each front yard, which has been added as a condition when it is possible due to Colorado Springs Utilities requirement for a 15-foot offset from any wet utility, and generally a 6-foot offset from any dry utility, so there will be places trees are not allowed

Questions of Staff:

Commissioner Rickett said it had been mentioned a couple times that the Norwood development plan had a minimum lot size of 4500 feet, but this development plan had a minimum lot size of 4000 feet. Commissioner Rickett asked if the Norwood development plan with the 4,500 square-feet was still standing, and if not, when did that change.

Ms. Brackin explained the development plan referenced is not in effect for this 10-acre piece, because the master plan was amended in 2002, which designated the site as a primary school. That amendment superseded the development plan, which is why there is a new development plan proposed today.

Commissioner Rickett wanted to know what date did the dwelling units per acre change back to 2.9?

Ms. Brackin said the 2.9 dwelling units per acre was part of the PUD zoning, which was established in 1997. The zoning would allow an elementary school so it was not required to be changed in 2002 when the master plan was changed.

Commissioner Rickett said the current the master plan allowed 3.5 to 5.5 units per acre gross, which this falls within and was trying to understand why this particular 10 acres was at 2.9, which is below that master plan.

Ms. Brackin explained the 2.9 units per acre is the density reflected on the approved Development Plan that was approved for the entire area within the 150 acres that were zoned that way in 1997. However, when the master plan was revised to allow the 10-acre school site, that action rendered the development plan inconsistent with the master plan. Ms. Brackin explained the development plan was not a guiding document and that the guidance was taken from the comprehensive plan, the Nor'wood master plan, and then zoning would be governing except that it was being requested to be changed for the density increase.

Commissioner Almy commented that the Newport Heights development plan does not specify any architectural design and asked if a developer could build anything in that community.

Mr. Olson explained that the setback and height requirements match what is already there, but there is not an architectural design because there could be multiple builders. The single-family home parameters are being followed. The original PUD also did not have architectural standards and provided the same things that are currently being provided in this project, which is defining the lot setbacks, building height, etc...

DISCUSSION AND DECISION OF PLANNING COMMISSION:

Commissioner Hente assured the neighbors that with a limit of 30 feet for the building height, 3-stories would not be possible and those concerns were unfounded. Commissioner Hente said it sounded like a number of people who spoke in opposition were the original owners and that they bought their homes with certain expectations of the neighborhood. Commissioner Hente said there was a point with the density and conformance with the master plan and that any new development should conform with that master plan. The Newport Heights development with the gross densities are not in conformance with that. Commissioner Hente said he cannot support the project based on those comparisons of the diversity between the master plan and the proposed development.

Commissioner Raughton commended the neighbors for coming to the meeting

and showing pride for their community. Commissioner Raughton believed it would be a reasonable accommodation by the developer to have a condition of record that would make it architecturally compatible with the existing neighborhood.

Commissioner McMurray said he was conflicted about this project. He believed the development was largely in conformance with the density of the master plan. However, Commissioner McMurray pointed out the master plan indicated there was going to be some public benefit involved with this land and that was what the neighboring property owners expected. Commissioner McMurray said he realized the City opted out for any park land and the school district did not want the land for a school, but he said if the public benefit were included with the plans, he would have supported the gross density of the project.

Commissioner Eubanks pointed out that this was not urban sprawl and that this is the opposite of that with extreme density infill. Commissioner Eubanks said it is good to have more housing, but it should match the current neighborhood and that when the neighbors bought their homes, they had a reasonable expectation of that. Commissioner Eubanks thought trying to fit more houses on the land would not be the best fit for this neighborhood and she would not be supporting the project.

Commissioner Almy said the idea that the elimination of the school project somehow released all the specifications to the master plan did not seem reasonable and thought it should have defaulted back to the original master plan. Commissioner Almy said he would not be supporting this project.

Commissioner Rickett mentioned a prior Planning Commission meeting where he had asked the homeowners if they had actually looked at the zoning before moving into their properties. Most had agreed that they had. Commissioner Rickett addressed the homeowners in the audience and commended them for knowing what would be developed in the area before they bought their homes. Commissioner Rickett said he agreed that the development size needed to match the existing neighborhood and would not be supporting the project.

Commissioner McDonald expressed that she had a different viewpoint on this project. Commissioner McDonald pointed out the site had been on the market for years, everyone knew it would eventually sell and that homes would be developed on it. Commissioner McDonald commended the developer for coming up with a plan for the land because it was not an easy development. Commissioner McDonald said she really did not like the 4,000 square foot lot sizes, but there were several homes in the neighborhood that were very small. She further explained that all the homes should not have to be large and on large lots. Commissioner McDonald did say that she would like to see the

density be the same as the current neighborhood. For the density, it depends on how you calculate it. Based on the gross acres, it is well within the guidelines of the master plan, but based on the net acres it is not; however, there is more open space around the home, so there is kind of a give and take. Commissioner McDonald said that was a solution that needs to be reached with the neighborhood because there are several people who would be affected.

Commissioner McDonald also had concerns about the construction traffic and said something had to be done to get construction traffic in and out of there. Commissioner McDonald does not agree with requiring any type of architecture be put on the master plan to match the current neighborhood because those houses were built a long time ago and new housing is built differently with new styles and new material. Commissioner McDonald said she would not be supporting this only because she thought this needed to be worked out with the neighbors and to make this site in conformance per acre with the existing master plan.

Chairman Graham noted that the concerns with the environmental impact and maintenance of the creek should be taken up with Parks and the City. Chairman Graham said it was not the fault of the developer that the City did not want a park at that site. Chairman Graham shared the concerns of the other commissioners on density and how to calculate it. He stressed the density should be very similar to what the density is now. Commissioner Graham said this is an infill project and meets PlanCOS, and the site will not remain vacant. He also agreed with Commissioner McDonald in that the homes should not be built the same as the homes built 20 years ago. Chairman Graham said he would support the project and that the developers did the best they could with this piece of land, but hoped the developer would make the density similar to what it is currently.

Motion by Commissioner Raughton, seconded by Commissioner Rickett, to deny recommendation to City Council the zone change of 10.71 acres from PUD/AO (Planned Unit Development: single-family residential, 2.9 dwelling units per acre, 30-foot maximum building height with Airport Overlay) to PUD/AO (Planned Unit Development: single-family residential, 4.6 dwelling units per acre, and 30-foot maximum building height with Airport Overlay), based upon the findings that the zone change request complies with the review criteria for establishment of a PUD zone as set forth in City Code Section 7.3.603 and the zone change criteria as set forth in Section 7.5.603.B.

The motion passed by a vote of 8:1:0

Aye: 8 - Vice Chair Hente, Commissioner Raughton, Commissioner McMurray, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

No: 1 - Chair Graham

6.D. [AR DP
19-00281](#)

Postponement of an appeal of City Planning Commission’s decision to deny the Newport Heights Planned Unit Development (PUD) Development Plan proposing 49 single-family lots on 10.71 acres with a maximum building height of 30-feet, located north of the intersection of Bridle Pass Drive and Shimmering Moon Way.

(Quasi-Judicial)

Related Files: CPC PUZ 18-00101, AR DP 19-00281

Presenter:

Tasha Brackin, Senior Planner, Planning & Community Development
Peter Wysocki, Director Planning and Community Development

See Item 6.C. (CPC PUZ 18-00101)

Motion by Commissioner Rickett, seconded by Commissioner Eubanks, to deny recommendation to City Council the PUD development plan for Newport Heights, based upon the findings that the development plan meets the review criteria for PUD development plans as set forth in City Code Section 7.3.606, and the development plan review criteria as set forth in Section 7.5.502.E.

The motion passed by a vote of 8:1:0

Aye: 8 - Vice Chair Hente, Commissioner Raughton, Commissioner McMurray, Commissioner McDonald, Commissioner Eubanks, Commissioner Almy, Commissioner Rickett and Commissioner Wilson

No: 1 - Chair Graham