



# City of Colorado Springs

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

## Meeting Minutes - Final Planning Commission

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Thursday, January 18, 2018

8:30 AM

Council Chambers

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**6.A.1. AR DP  
17-00039**

An appeal of an approved development plan for The Ridge illustrating a 60-unit multi-family development on 3.72 acres located at 4375 Broadmoor Bluffs Drive and zoned R-5/HS (Multi-Family Residential with a Hillside Overlay).

(QUASI-JUDICIAL)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development

**Staff presentation:**

Ms. Van Nimwegen gave a PowerPoint presentation discussing the range and scope of the project.

**Appellant Presentation:**

Mr. Dan Martin Broadmoor Bluffs Neighborhood Assoc. gave a PowerPoint presentation. Cindy Grey with the Las Casas Condo Owners Association gave a PowerPoint presentation.

**Applicant Presentation:**

Mr. Daryn Murphy with Commonwealth Development gave a PowerPoint presentation discussing the scope and plans for the project. Mr. Murphy stated there were members of his engineering team and general counsel for Commonwealth Development also present for the hearing.

Mr. Murphy introduced Lee Patke, Executive Director of Greccio Housing who gave a brief statement

**Questions:**

Commissioner Graham asked the applicant about the stability of site and the height of the retaining walls. Mr. Murphy stated exhaustive research and testing were done and due to not knowing when the walls were built they decided to tear down and rebuild them. Engineer Carl Henderson discussed the specifics of the analysis done for the site and all the testing showed the site was stable, the redesigned walls were stable, and there was no movement of the slope.

Commissioner Roughton asked if this project will be part of the HOA. Mr. Murphy stated it wouldn't. Commissioner Roughton asked their site will have their own liability insurance? Mr. Murphy said yes.

Commissioner Roughton asked about a sidewalk to Broadmoor Bluffs Drive. Mr. Murphy said this was one shortfall of the site, and that a sidewalk to Broadmoor Bluffs Drive couldn't be done. The road is a 60-ft private access drive aisle and is the main ingress and egress for the condos and the multi-family. If it's safe for the condos residents it will be safe for their residents.

Commissioner Satchell-Smith confirmed all the land suitability analysis information was present within the plans and to combining the information onto one document wasn't necessary. Ms. Van Nimwegen said yes, all information is found within the preliminary grading plan, the preliminary utility plan, and the geologic hazard report. The title "land suitability analysis" is what's different. No additional information would be gained with that type of drawing with all that information that already exists on other pages wasn't needed in a separate page.

Commissioner Satchell-Smith confirmed the site was ADA compliance Ms. Van Nimwegen stated City Planning reviews for the accessible parking stalls, the routes from the stalls, and considers whether there is a route from the public right-of-way. Mr. Wysocki, Planning Director, stated the City's Title II ADA Coordinator along with the City Attorney's Office evaluated this project for ADA Compliance and both the City Attorney and the Title II ADA Coordinator agreed the project sufficiently conforms.

Commissioner Markewich had several areas of concern that staff had not adequately address or didn't answer:

1. Staff ignored Hillside Overlay guidelines
2. Allowing an exemption by the applicant and ignoring the rules required with an exemption.
3. Not completing a Land Suitability Analysis
4. The cut and fill along with the height and breadth of the retaining walls were in contradiction between appellants' information and Staff's information
5. Access to the site, safety of the access, and ADA compliance
6. This site is not in an area which needs low-income housing, and how the access will limit people in wheelchairs or who have to walk and felt the project would be better suited for south Academy or The Citadel area.
7. The area is in the susceptibility area that Colorado Geologic Survey (CGS) is studying for suitability
8. A letter from July 2017 from CGS stating geologic hazard report

was insufficient and what was needed to bring it into compliance. Then the letter from November 2017 where CGS stated the applicant satisfactorily resolved previous concerns. What was done for compliance?

Ms. Van Nimwegen addressed question of the hillside by stating the Hillside Development Design Manual has guidelines that aren't codified, what codified is the Hillside Overlay Zone in City Code. She referenced the key components for the codified is the Hillside Overlay Zone and that the plan followed all those requirements and was in compliance

Ms. Meggan Herington, Assistant Planning Director, clarified the applicant had not asked for an exemption to the hillside. She added the parts of the Land Suitability Analysis were completed but were packaged differently so all the information was there and that was how Ms. Van Nimwegen completed her analysis based on the information.

Ms. Meggan Herington refuted the statement of cut and fill and quoting from City Code Section 7.3.504.D about the requirements focusing on Street type and Placement along with cut and fill discussing height limitations and how cut and fill are related to streets.

Ms. Van Nimwegen addressed the access and deferred to the applicant for specifics.

Mr. Murphy discussed access from Broadmoor Bluffs is owned by Safeway shopping center, the condos, and their development. The condos refuse to give up their easement for that access. Thus they repositioned their building and built a parallel access to reach northern access to their site. Mr. Murphy restated if the access was safe for the condo residents it would be safe for their residents.

Mr. Wysocki addressed the concerns raised about the appropriateness of the location of the development and that the Commission was to base their decision only on what was in the review criteria. He also stated the access will be used by all types of individuals and the development was approved with this access.

Kathleen Krager, Division Manager for Traffic Engineering, provided clarification about the access for the site stating a full traffic impact analysis was conducted, and there are alternative access points through the Safeway. They didn't find there'd be any problems with traffic.

Ms. Krager added the question of the safety of the access by stating as long as everything in their development plan accommodates access the

criteria is met.

Mr. Wysocki addressed the concern of being in the susceptibility zone and confirmed CGS is completing a study. Mr. Wysocki stated there is not a moratorium on development in the susceptibility zone prohibiting applications from being filed, and Planning from processing them. With this application the applicant followed code and submitted everything; they complied with the new geohazard ordinance; CGS will continue to be a review agency throughout the remainder of the approval process. Mr. Wysocki stated we've taken care of every detail, even minor ones, and been very meticulous on this project.

Mr. Wysocki described the overall CGS review of applications. Regarding the July 17, 2017 CGS review letter, his thought was the areas of concern in the letter were shared with the applicant, and they were able to bring all of the deficient areas of the geologic hazard report up to compliance. Mr. Wysocki stated we want the building to be safe. A corporation will own this and take care of it instead of like a single family home. But any changes will be reviewed by the city. But there's a different context between single family homes and projects like this.

Ms. Van Nimwegen further addressed the July 17, 2017 CGS review letter, and what was done to have an approval letter from November 13, 2017-the following review. She stated the consultant for the geotechnical report is not local, and every jurisdiction is different on what is required in their reports. The applicant was not provided a checklist for geotechnical or geohazard reports like other applications. This was the problem here. The geotechnical engineer was unfamiliar with what we needed to see. Once he had that information he was able to provide all the information requested by CGS. Mr. Murphy with Commonwealth also gave further comment that there'd been meticulous investigation of this site.

Commissioner Walkowski had several areas of questions for the appellant, the applicant and their engineer:

1. The soils stability and a possible tension crack and how to mitigate the crack
2. Were there any other visible signs of cracks
3. The stability of the slope and what testing was done
4. The type of wall
5. Excavating affecting upper slopes
6. The drainage plan

The appellant, Mr. Martin, addressed the tension crack by stating he called his geotech engineer who stated there wasn't a way to say it was or was not a tension crack. The engineer recommended put clay in the

crack once it warmed up. Mr. Martin stated there no other visible cracks in the area due to the dense vegetation but didn't mean they weren't there.

Mr. Henderson, Commonwealth Engineer, confirmed he was comfortable with the slope stability of the site. They completed a global stability analysis of the wall, including proposed grading in front of the wall, and looked at the overall factor of safety and that the wall would be an engineered wall. Mr. Henderson also stated any work wouldn't affect the slope behind it. But he hadn't seen any plans for utilities trenches cut in front of it that would compromise the toe stability.

Mr. Murphy addressed the question of the drainage report not being for this project stated there may have been an erroneous label on the plan. Their drainage plan is labeled The Ridge, it's been reviewed and approved. They'll have catch basins and the runoff will not be more than historic flows.

Commissioner McDonald stated the plat for Cheyenne Montana Lodges dated May 14, 2001, had six buildings three built, three not built. The plan for The Ridge is very similar, but if the original development had been built out they wouldn't be here today. Ms. Van Nimwegen stated yes.

Commissioner McDonald confirmed there's a new owner with a new plat. Ms. Van Nimwegen said yes. When the condo plat was done it left a remnant of land, and in order to build new structures a new plat was required.

Commissioner McDonald reiterated if the plat from 2001 had been completed there'd be no discussion about this today at all. Ms. Van Nimwegen stated it could depend on several things that could have been done, and how it would've played out. Commissioner McDonald confirmed it's the same amount of land and similar to what was proposed previously. Ms. Van Nimwegen said yes.

**Supporters:**

Gail Homier is a resident of Broadmoor Bluffs and attended most of the meetings. She doesn't believe people are not in support because it's on an unsafe site. This is a worthwhile project. People want affordable housing in safe and good areas and want their children to attend good schools. She believed the development has met all the requirements and it would be an asset to their community.

**Opponents:**

Rich Martin said his biggest concern is for the amount of kids there could.

The truck route, the parking lot, and the retaining walls are where they'll play. Many may be unsupervised. The Safeway will be used as a way into the area. He is for low-income housing because he grew up in low-income housing and he knows we need it. He doesn't see the area being the right area for this.

Jana Blanter she's resident above the site. Greccio is important to our community and providing an excellent service. However this project will cost more than the entire portfolio that Greccio currently operates. It's not cost effective. No other site was looked at although the property next to Bentley Commons could've accommodated more than 60 units. She didn't believe it was an economical decision.

Wanda Smith stated she's in property management and operates some affordable apartment housing complexes. She opposed because she feels there's safety risks for the future tenants. There's no walkability. Transportation is a key. The closest bus route is over a mile away and some would have to walk across HWY 115 where there are no sidewalks and the speed limit is 50mph. There's no busing to school. There's no onsite manager. This won't benefit anyone in the community because they don't qualify.

Fred Boettcher, he's speaking as a resident. He and his wife have had a life of service in the military and they understand what it means to follow rules and there's different guidance for different areas. He didn't believe all the issues have been fully addressed. All the questions raised by everyone today indicate there's some unresolved issues. Traffic, safety, suitability as well as some of the federal laws need to be address in the future.

Suzanne Boettcher stated they tried hard to stay within the issues that pertain to code, have a building that's safe place to live, that's accessible, that serves the purpose and complies with the rules that were established in the City is what we expect. They feel most of the code wasn't followed or it was ignored on multiple levels. She's offended about letters written to council members, articles were printed in the newspaper, and that ill-informed presentations were made on TV represent the people of who Broadmoor Bluffs area. She has an expectation that the area she lives in is an area that abides by codes, regulations and all the laws of the City.

**Questions of Staff:** No additional comments

**Applicant Rebuttal:**

Mr. Murphy stated they could debate the merits of safety, green space,

everything discussed during the public comment. They've done a lot of work and research on this site, weighed the pros and cons, and their experts have done a significant amount of work on the site. All they are asking for is the same treatment as any other multi-family development in this development zone. The Ridge is similar to the existing condos, and they want to be held to the same standard as they were. The package they have in front of them speaks to the adherence to the code and all the requirements.

**Appellant Rebuttal:**

Mr. Martin urged them to apply the same standards, the same city codes, the same rules and treatment that are applied to any other building project in the Hillside Overlay. Regarding the delivery lane, it was suggested there was a second way out through the Safeway parking lot but the shopping center owners are considering prohibiting pedestrian activity along the truck route and are also considering putting up barrier poles so you can't drive into the shopping center. The parking lot is not set up to handle that kind of traffic so they want to protect themselves and discourage that kind of traffic.

**Applicant Final Rebuttal:** No additional comments

**DISCUSSION AND DECISION OF PLANNING COMMISSION:**

Commissioner Henninger stated there's been a lot of information from everyone. Addressing low income housing is very important. He commends those pursuing this. He's looked at several things.

We're repurposing condos with almost the same footprint for apartments. The communication between parties is poor and confusing so he encourages the parties to work on that. The amount of people could be significant so he's concerned about the care and feeding those people will receive. He's concerned about access. He didn't think it was a good plan. The neighborhood uses the same access as the trucks and it's not laid out appropriately to handle the additional housing. Considering the lack of transportation and the location he has grave concerns the way this is set up. There are better places for this. Because of these things he's not decided which way he'll he'd vote. But agrees it's very important to have affordable housing.

Commissioner Markewich stated the need for housing is a necessity in all of Colorado Springs. He appreciates Greccio Housing and what they do and all the support of service agencies that help low income people or disabled people. With so much assistance in the community it's frustrating we can't get ahead of this. He hopes with the new comprehensive plan and some of the other things being done will help this problem. He believes the development review criteria is very black

and white. His decision isn't based on this being a low income facility or a high income facility. It doesn't matter to him and has no bearing on his decision. He looks at walkability, access to public transportation, and access to health care. None of which this site provides. Those are important considerations for anyone regardless of their income. Putting these residents here is putting them on an island without access to public transportation, a park or playground for their children, and 1,000 sq. ft of dedicated playground for potentially 150 children is insane. They'll play in the traffic and in the parking lot regardless of the lifestyle or economic situation of those living here. He believes the Planning Department was loose on their Hillside Overlay requirements. Regarding ADA, because the primary access point is jointly owned, he's considering that access point as part of the development plan. He doesn't see how you could reasonable say this project is compliant with ADA although we don't enforce ADA as a Planning Commission, but he wanted that as part of the record. The development review criteria 7.5.502.E numbers 1, 2, 6, 9 and 11 have not been met at all nor has the subdivision plat review criteria that is very similar to the development review been met at all. So no matter if this project is low income housing or high income housing he doesn't believe it meets the criteria. He will be voting to uphold the appeal.

City Attorney Marc Smith stated there's been a lot of talk about children and 100 kids in the complex. Familial status is protected under the Fair Housing Act. He wants the Commissioners to be very cautious relating to that particular topic-there could be no kids in this complex.

Commissioner Roughton complements the tenor and thoroughness of the Broadmoor Bluffs Neighborhood, the applicant's presentation and staff presentation. This is a transitional site and as such it's an appropriate multi-family site. He sees this as workforce housing. The references to low income housing are not fully descriptive of what he sees this type of housing being. We need to accommodate employment levels with appropriate housing and this could fall into that category. Proximity to amenities is positive, as far as he's concerned, in that it's close to shopping and although it doesn't have a bus route right now it potentially could in the future. It is an infill development-one of our goals of our overall planning. He will support staff's position and deny the appeal.

Commissioner Walkowski echoed Commissioner Raughton's comments. He thanked the neighborhood for a very detailed and thorough examination of the process. The applicant did a good job of vetting the project beyond what would be needed for other projects. If he had to vote only on the affordable house issue it'd be an easy vote. But that's not what we're doing here. We have to determine if City Planning

Staff made a decision against the language or purpose of the zoning code, if they're erroneous in their decision or unreasonable, or contrary to law. He thought planning staff addressed all the issues that the appellant brought up as far as ADA, drainage, Hillside Overlay, retaining walls, building height, and even the access with the traffic study. He thought that the staff decision was appropriate in his mind. His big concern is the public safety and welfare of the subsidence issues with this site. Slope stability to the north with the evidence as far as the cracking above, the site being in a landslide area, the retaining walls collapsing, sink holes are all good indications that something is going on with that land. However, it's been studied by engineers, geotechs and the site has been designed to take this all into account. He's hopeful the engineering and CGS study will provide all the remedies and mitigation that need to happen for the site.

Commissioner Fletcher thanked planning for an exceptional job and thoroughly reviewing all aspects of this complicated project. He thanked the people from Broadmoor Bluffs and those who came in to let them know their positions and the great presentation. To Greccio housing, it's important and honorable work. In terms of the two motions before them there are some drawbacks. This is an infill project. It's far from perfect but he agrees with Commissioner Raughton and Walkowski the planning department convinced me in both their report and comments today that the issues meet the review criteria for both the development plan and the final plat and he will be in support of those motions.

Commissioner Graham stated this has been a very spirited discussion. He applauds both sides for putting a lot of time and effort into this. But as a commissioner, we are responsible looking at whether or not the staff as met all criteria and in his opinion they have. We've heard talk about whether or not this is the right spot or not. That is not within our purview as commissioners to determine whether or not an applicant should build on a certain spot. If they had met the criteria that are laid out by code then it's up to us as commissioners to follow what staff has presented. He doesn't believe this is a perfect site, but he does believe it's met all of the criteria. He's in favor of denying the appeal.

Commissioner Satchell-Smith thanked both sides for their time. We hear everyone loud and clear and the thoughtful presentations on both sides. Her job is to look at the development plan criteria and compare it to what City Staff has presented to us and the effort they put forth. Initially when she read the packet, her concerns included drainage, geological hazard, ADA and emergency. She listened to City Staff and in her opinion those criteria and those concerns have been looked into appropriately. She has to rely on City Staff and she's confident in their ability to come to the

appropriate conclusions. In regards to Greccio and what they're doing for affordable housing this puts a new face on affordable housing and she appreciates that effort.

Commissioner McDonald stated she felt all involved in this project on both sides are trying to do the right thing. She doesn't believe anyone is trying to create a problem. She really appreciates what everyone is trying to do on behalf of the City of Colorado Springs to have such great citizens and people coming in, Greccio Housing, and Commonwealth Development to step in and do some of these infill projects. This plan has been in place for a very long time, technically. She's familiar with the site and spent a lot of time there and she thinks there have been several things put in place to avoid any future problems with the geological hazards or sliding or any of those concerns. We have CGS checking everything every step of the way now and that has been very beneficial to avoid future problems like we've had in the past. As a commission, it's not our job to consider whether or not Commonwealth is making a good investment or a bad one, or what type of project they put there. As long as it meets the code criteria then we're satisfied that it meets all those guidelines that's our job here. We don't decide the rent that's charged, who's going to live there that's not something we do. She will be voting to deny the appeal and in favor of the project going forward.

**Motion by Graham, seconded by Fletcher, to Deny the appeal and uphold Planning Staff's administrative approval, 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 development plan application meets the review criteria in City Code Section 7.5.502.E.**

**The motion passed by a vote of 6:2:0:1**

**Aye:** 6 - Satchell-Smith, Graham, Chairperson McDonald, Raughton, Walkowski and Fletcher

**No:** 2 - Henninger and Markewich

**Recused:** 1 - Smith

**6.A.2. AR FP  
17-00040**

An appeal of an approved final plat for The Ridge Subdivision illustrating one lot on 3.72 acres located at 4375 Broadmoor Bluffs Drive and zoned R-5/HS (Multi-family Residential with a Hillside Overlay).

(QUASI-JUDICIAL)

Presenter:  
Hannah Van Nimwegen, Senior Planner, Planning and Community Development

See Notes on associated Item 6.A.1., File ID AR DP 17-00039

**Motion by Fletcher, seconded by Satchell-Smith, to Deny the appeal and uphold the administrative approval of the final plat for The Ridge Subdivision, 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 plat complies with the review criteria in City Code Section 7.7.102 and City Code Section 7.7.303.**

**The motion passed by a vote of 6:2:0:1**

**Aye:** 6 - Satchell-Smith, Graham, Chairperson McDonald, Raughton, Walkowski and Fletcher

**No:** 2 - Henninger and Markewich

**Recused:** 1 - Smith