

CITY OF COLORADO SPRINGS

INTEROFFICE MEMORANDUM

DATE: December 30, 2019

TO: Peter Wysocki, Director of Planning

FROM: Sarah Johnson, City Clerk

SUBJECT: Notice of Appeal

ITEM NO. 6.C. CPC PUZ 18-00101; ITEM NO. 6.D. AR DP 19-00281

An appeal has been filed by John Raptis of Rockwood Homes, LLC regarding the Planning Commission action of December 19, 2019.

I am scheduling the public hearing on this appeal for the City Council meeting of January 28, 2020. Please provide me a vicinity map.

CC: Tasha Brackin
Elena Lobato

John Raptis
Rockwood Homes, LLC
6455 N Union Blvd Ste 103
Colorado Springs CO 80918



THE PLANNING & DEVELOPMENT DEPARTMENT APPEAL TO CITY COUNCIL

Complete this form if you are appealing **City Planning Commission's, Downtown Review Board's or the Historic Preservation Board's** decision to City Council.

APPELLANT CONTACT INFORMATION:

Appellants Name: John Raptis, Rockwood Homes, LLC Telephone: 719.930.5087
Address: _____ City Colorado Springs
State: CO Zip Code: _____ E-mail: john@rwhomes.co

PROJECT INFORMATION:

Project Name: Newport Heights
Site Address: Bridle Pass Rd. and Shimmering Moon Ln. (Not Platted/No Address)
Type of Application being appealed: Rezone Application and Development Plan Submittal
Include all file numbers associated with application: CPC PUZ 18-00101, AR PUD 19-00281
Project Planner's Name: Tasha Brackin, Senior Planner
Hearing Date: December 19th, 2019 Item Number on Agenda: Items 6.C and 6.D

2019 DEC 30 A 11:07
CITY CLERK'S OFFICE

YOUR APPEAL SUBMITTAL SHOULD INCLUDE:

1. Completed Application
2. \$176 check payable to the City of Colorado Springs
3. Appeal Statement

See page 2 for appeal statement requirements. Your appeal statement should include the criteria listed under "Option 1" or "Option 2".

Submit **all** 3 items above to the **City Clerk's office (30 S Nevada, Suite 101, Colorado Springs, CO 80903)**. Appeals are accepted for 10 days after a decision has been made. Submittals must be received no later than 5pm on the due date of the appeal. Incomplete submittals, submittals received after 5pm or outside of the 10 day window will not be accepted. If the due date for the submittal falls on a weekend or federal holiday, the deadline is extended to the following business day.

If you would like additional assistance with this application or would like to speak with the neighborhood development outreach specialist, contact Katie Sunderlin at (719) 385-5773.

APPELLANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Signature of Appellant

Date

12/30/19

THE APPEAL STATEMENT SHOULD INCLUDE THE FOLLOWING

☐ **OPTION 1:** If you are appealing a decision made by City Planning Commission, Downtown Review Board, or the Historic Preservation Board that was **originally** an administrative decision the following should be included in your appeal statement:

1. Verbiage that includes justification of City Code 7.5.906.A.4
 - i. Identify the explicit ordinance provisions which are in dispute.
 - ii. Show that the administrative decision is incorrect because of one or more of the following:
 1. It was against the express language of this zoning ordinance, or
 2. It was against the express intent of this zoning ordinance, or
 3. It is unreasonable, or
 4. It is erroneous, or
 5. It is clearly contrary to law.
 - iii. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and show that the burdens placed on the appellant outweigh the benefits accrued by the community.

☐ **OPTION 2:** If the appeal is an appeal of a City Planning Commission, Form Based Zoning Downtown Review Board, or Historic Preservation Board decision that was **not made administratively initially**, the appeal statement must identify the explicit ordinance provision(s) which are in dispute and provide justification to indicate how these sections were not met, see City Code 7.5.906.B. For example if this is an appeal of a development plan, the development plan review criteria must be reviewed.

CITY CLERK'S OFFICE
2019 DEC 30 A 11: 14

CITY AUTHORIZATION:

Payment: \$ 176.00

Date Application Accepted: 12/30/19

Receipt No: 117632

Appeal Statement: _____

Intake Staff: F. Wagner

Completed Form: yes

Assigned to: _____

TO: CITY OF COLORADO SPRINGS PLANNING DEPARTMENT
FROM: JOHN RAPTIS, ROCKWOOD HOMES, LLC
CC: TASHA BRACKIN, SENIOR PLANNER, CITY OF COLORADO SPRINGS
DATE: DECEMBER 27TH, 2019

SUBJECT: NEWPORT HEIGHTS PLANNING COMMISSION DECISION FORMAL APPEAL TO CITY COUNCIL
(PROJECT NUMBERS: CPC PUZ 18-00101 & AR PUD 19-00281)

Dear Mrs. Brackin and the City of Colorado Springs Planning Department,

We are writing this memo to formally request an appeal of the Colorado Springs Planning Commission's decision on December 19th, 2019 concerning the proposed Newport Heights development project. Per City Code 7.5.906, we would like to request an appeal of the denied rezone application and development plan application to City Council for their further review.

Our appeal to City Council for their review of the December 19th Planning Commission vote is based on our respectful disagreement with the Commission's interpretation of the City of Colorado Springs City Code concerning rezone applications and development plan review criteria. In the professional judgment of City of Colorado Springs Planning Department, the Newport Heights projects meets all relevant criteria for a rezone and development plan application. Further, based on the project's adherence to and achievement of all relevant City Code Criteria, the City of Colorado Springs Planning Department recommended approval of this project's rezone and development plan applications.

Without impugning the commitment, dedication, and sacrifice of the Planning Commission, we respectfully argue that by opposing the recommendations of Planning Staff and by interpreting City Code in a loose and inconsistent manner, Planning Commission made a decision that warrants additional review by City Council. The areas of City of Code that we believe are particularly relevant in this appeal include 7.3.603, 7.3.606 (A-C), and 7.5.603 B.

We have included the relevant City Code below with a brief statement in red describing the relevance to this appeal:

7.3.603: Establishment and Development of a PUD Zone

"A PUD Zone District may be established upon any tract of land under a single ownership.... provided the application for the establishment of the of the zone district is accompanied by a PUD concept plan or Development plan covering the entire zone district which conforms to the provisions of this part" – The property is wholly owned by the applicant and a development was submitted to the rezone application demonstrating conformance to City Code Provisions.

7.3.606: Review Criteria for PUD Development Plan

7.3.606 (A): Consistency with City Plans: *"Is the proposed development consistent with the Comprehensive Plan or any City approved master plan that applies to the site?"* – Planning Department staff fully reviewed the PUD Development Plan and found it to be consistent with the Comprehensive Plan as well as consistent with the fully implemented Norwood

neighborhood master plan that governs the project area. In particular, the City noted that proposed density of the development falls within the guidelines set by the neighborhood master plan.

7.3.606 (B): Consistency with Zoning Code: *"Is the proposed development consistent with the intent and purpose of this Zoning Code?"* - City Staff determined that the development is consistent with the intent and purpose of the Zoning Code

7.3.606 (C): Compatibility Of The Site Design With The Surrounding Area:

1. ***"Does the circulation plan minimize traffic impact on the adjacent neighborhood?"*** – Traffic Engineering and Planning Staff determined there would be no undue traffic impacts as a result of this project. Any increase in traffic falls well within the design capacity of nearby roads.
2. ***"Do the design elements reduce the impact of the project's density/intensity?"*** – The planning team spent a great deal of time developing a site plan and grading plan that reduces the impact of this project's density/intensity. For example, the density of development falls within the range of density identified within the neighborhood master plan. Additionally, the lowest density areas of this development were placed adjacent to existing homes to minimize potential impacts. The site has proposed grading that allows homes to fit neatly into the landscape, provided a 'stepped' layout that helps to preserve views. Finally, the site dimensional controls (setbacks, lot coverage, home heights) are all consistent with the existing neighborhood.
3. ***"Is placement of buildings compatible with the surrounding area?"*** – Proposed lots are substantially similar in size, configuration, and dimensional controls to the surrounding neighborhood. Home locations within these lots are typical of a traditional suburban development and will be consistent with the surrounding neighborhood. Home square footage is also anticipated to be consistent and similar with surrounding neighborhood homes.
4. ***"Are landscaping and fences/walls provided to buffer adjoining properties from undesirable negative influences that may be created by the proposed development?"*** – In the judgment of the planning team and City Staff, this has been accomplished.

7.5.603.B: Zone Change Criteria:

7.3.606.B. Establishment Or Change Of Zone District Boundaries: A proposal for the establishment or change of zone district boundaries may be approved by the City Council only if the following findings are made:

1. ***The action will not be detrimental to the public interest, health, safety, convenience or general welfare.*** – The proposed development will not have a negative or detrimental impact on the public health, safety, convenience, or general welfare. The project will create a neighborhood at a substantially similar density to nearby homes. The proposed density falls within the guidelines established within the neighborhood master plan and will result in a vibrant new infill neighborhood. The project will create three new neighborhood trails, it will convey a portion of

the Cottonwood Creek Trail to the City at no charge, and it will create the first large-scale storm water management facility in the entire neighborhood.

2. The proposal is consistent with the goals and policies of the Comprehensive Plan. – The Planning Department identified three major Comprehensive Plan policy goals this project will help the city to achieve. Most significant of these is infill development that adds new housing options without overburdening City infrastructure and resources.

3. Where a master plan exists, the proposal is consistent with such plan or an approved amendment to such plan. 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 project site is located within the jurisdiction of an implemented master plan and as such no amendment is required. However, it is worth noting that this project still meets the criteria established in the master plan concerning density, dimensional controls, building height, and residential landscaping.

We appreciate the time the Planning Commission gave to the consideration of this project. However, based on what we view as a misinterpretation and uneven application of these (and other) City Codes, as well as the Commission's disregard for the professional recommendation of City Staff, we request a formal appeal of this project to City Council.

We look forward to discussing this project in further detail with City Council. Additionally, we recognize there is opposition from some neighbors and we are willing to consider significant reductions in the number of lots proposed for this development.

We respectfully thank the Colorado Springs Planning Commission, City Council, and City of Colorado Springs Planning Department Staff for your consideration of this formal appeal.

Respectfully,

John Raptis, Rockwood Homes, LLC.