



## Legislation Details (With Text)

**File #:** AR NV 20-00020      **Version:** 2      **Name:** Colorado Springs Storage

**Type:** Planning Case      **Status:** Passed

**File created:** 10/1/2020      **In control:** City Council

**On agenda:** 11/24/2020      **Final action:** 11/24/2020

**Title:** A Nonuse Variance to code section 7.4.206 to allow asphalt millings as the paving surface for a vehicle storage area generally located west of the Resort Point and Garner Street intersection.

(Quasi-Judicial)

Related Files: CPC V 18-00183, CPC PUZ 18-00182, AR NV 20-00020, CPC PUD 18-00184

**Presenter:**  
Hannah Van Nimwegen-McGuire, Senior Planner, Planning & Community Development  
Peter Wysocki, Director, Planning & Community Development

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Nonuse Variance Justification Statement, 2. 7.4.206.K General Prov-Restrictions-Prohibitions (Paving), 3. 7.5.802.B Nonuse Variance Criteria, 4. 7.5.802.D Parking and Storage Variance Criteria, 5. 7.5.802.E Guidelines for Review of Variance

Date	Ver.	Action By	Action	Result
11/24/2020	2	City Council	approved	Pass
10/15/2020	1	Planning Commission	recommended for approval	Pass

A Nonuse Variance to code section 7.4.206 to allow asphalt millings as the paving surface for a vehicle storage area generally located west of the Resort Point and Garner Street intersection.

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Peter Wysocki, Director, Planning & Community Development

**Summary:**

Owner: Colorado Springs Storage, LLC  
Developer: Colorado Springs Storage, LLC  
Representative: RMG Architects and Engineers  
Location: 118 Resort Point; generally located west of the Resort Point and Garner Street intersection

This proposal includes requests for a zone change, right-of-way vacation, development plan, and

nonuse variance in order to permit a recreational vehicle, trailer, and watercraft storage yard on 3.88 acres. The requests originated with a zoning enforcement complaint regarding the establishment of an automotive storage facility within the R (Estate Residential) zone district. The zone change proposes a Planned Unit Development (PUD) zone specific to the recreational vehicle, trailer, and watercraft storage with a site layout as depicted by the development plan. The right-of-way vacation proposes to vacate dedicated public rights-of-way between platted parcels, and the nonuse variance requests relief to the requirement to pave the site and proposes asphalt millings as the ground surface. Please see the "Project Statement" attachment for additional details.

### **Background:**

The 3.88-acre subject site is made up of 20 platted parcels, portions of Pagosa Street, Blanco Street, Osage Street, and an alley which runs parallel and between Pagosa and Blanco Streets as platted by the Portland Heights subdivision. The Portland Heights subdivision was recorded in 1901 prior to annexation in 1967. The R (Estate Residential) zone district was assigned upon annexation. Of the 88 total properties within this subdivision, none north of Blanco Street have been developed other than the subject properties. Properties south of Blanco Street have been developed with residential land uses.

The property owner and contractor scheduled a pre-application meeting with City Planning staff to discuss the development of the subject parcels into a recreation vehicle storage lot in mid-2016. At that time, it was indicated that a zone change, development plan, right-of-way vacation, and nonuse variance would be required in order to convert the land to the proposed commercial land use with an alternative paving material (see "2016 pre-application meeting summary" attachment). In November of 2016, the City Engineering division issued an approval of a Grading, Erosion and Stormwater Control Plan (GESCP). This plan issues an approval to grade the site, however, does not approve proposed land uses, site layout, or paving materials. Based on aerial imagery, the property was graded sometime between the approval of the GESCP and May 2017 in accordance with that approved plan. Then sometime between August 2017 and March 2018, the property was paved and began storing recreational vehicles.

In August of 2018, city staff noticed the commencement of a commercial use on the property zoned for residential land uses while studying aerial imagery of a nearby property. Following a visit to the site to confirm that the property was being used for the storage of recreational vehicles and that asphalt millings had been used to cover the ground surface, staff requested a case be opened in order to bring the property into compliance. The subject applications were submitted as a response to the staff initiated zoning enforcement complaint. In August of 2018, a violation (#1806926) was issued to the property owner for converting vacant land to a commercial use without approval of a development plan and for commencing a commercial land use not permitted within the R (Estate Residential) zone district (see the "Notice of Violation" attachment).

The site has been graded and the central portion is relatively flat. A drive aisle along the southern portion of the storage area leads to the upper portion of the site near the southern property line. This upper portion of the site sits approximately twelve feet (12') higher in elevation than the central portion of the storage area. Natural grasses and shrubs surround the storage area and are to remain. The subject property also exhibits notable geological hazards discussed further in this report.

The property was zoned R (Estate Residential) upon annexation in 1967. The proposed zone change requests to rezone from R (Estate Residential) to a PUD (Planned Unit Development) to accommodate a recreational vehicle, trailer, and watercraft storage yard. According to Code Section

7.2.201 Definitions Enumerated, the following items are defined and would be allowed to be stored at the subject site:

**Recreational Vehicle:** A vehicle used for transient living quarters which can be towed, hauled or driven and is designed for recreational, camping or travel use and including, but not limited to, travel trailers, camper trailers, motor home, pickup camper, watercraft or snowmobiles.

**Trailer:** A vehicle designed to transport passengers and/or freight and constructed with integral wheels to make it mobile and/or towable by a motor vehicle.

**Watercraft:** A vehicle that is used for water travel or pleasure, either mounted on a boat trailer or unmounted.

Because the site is subject to volatile soils which prevent the construction of structures (discussed in more detail below) staff is supportive of the utilization of the Planned Unit Development zone district to strictly limit the land use and further development of the site without additional investigation and assessment. Staff is of the opinion that the R (Estate Residential) zone district is inappropriate due to these limitations and the inherent need for structures to utilize an R (Estate Residential) zoned property.

The subject development plan illustrates 84 parking spaces for the storage of recreational vehicles, trailers, and/or watercraft on 3.88 acres (see "Development Plan" attachment). While pavement striping is not practical on asphalt millings over the long-term, each parking space is to be demarcated by a railroad tie at the head of the parking space. Additionally, boulders are to be placed along the perimeter of the asphalt millings in order to prevent parking outside of the designated area. A detention pond with sand filter is to be provided on the northeast corner of the property with a drainage swale leading from the upper (southern) portion of the property. Site lighting is proposed along the perimeter of the parking area, but shall be fully shielded from nearby properties to avoid light spillover.

The sole entrance point is located to the east of the property and is accessed via Resort Point, a private road which leads to Garner Street which then leads to 8th Street. A thirty-foot (30') wide ingress/egress easement aligning with Resort Point and reaching Garner Street was prepared in order to provide adequate access from a public right-of-way.

A nonuse variance was submitted requesting approval of asphalt millings as an alternative paving surface in early 2020. Code Section 7.4.206 reads, "The surface of all parking spaces, drives, aisles, maneuvering and automobile outdoor sale and/or rental display or storage areas shall be paved. For the purpose of this section, 'paving' shall mean covered with semipermeables, asphalt, concrete, brick, pavers, or other similar surfaces..." Asphalt millings and gravel are not considered a semipermeable surface because of their ability to compact over time and become impermeable. Also, asphalt millings and gravel are not an automatically accepted paving surface due to their higher potential of breaking down/eroding and draining into the water quality pond and clogging the filter. However, staff is supportive of a variance to this section code to allow asphalt millings as the ground surface due to the potential for expansive soils that could break apart concrete or asphalt (see "Nonuse Variance Justification Statement" attachment). This concern is also noted in the project's overall geologic hazard report authored by CTL Thompson stating, "Pavements constructed over undocumented fill are likely to perform poorly..." It is staff's opinion that the criteria set forth in Code

Section 7.5.802.B Review Criteria for Nonuse Variances and in Code Section 7.5.802.D Additional Review Criteria and Guidelines for Regulations of Vehicle Parking and Storage have been met.

Portions of Pagosa Street, Osage Street, Blanco Street and the alley within block 5 are proposed to be vacated. These portions of right-of-way were platted with the Portland Heights subdivision in 1901 and were intended to service only those lots which are now a part of the subject proposal. The portions proposed to be vacated are not necessary for access to any lot other than those lots within the scope of the subject proposal. A large electric transmission line runs within Osage Street and an easement will be retained for utility access and maintenance purposes. No other public utility lines exist within the rights-of-way proposed for vacation, so no other easements are to be retained. Also a part of the application package, but not up for consideration with the City Planning Commission, is a final plat to replat all properties and vacated rights-of-way into one lot. This final plat will reserve the standard side and rear utility easements required on all lots.

Staff is supportive of the right-of-way vacation finding that: 1) The right-of-way is no longer needed for public transportation purposes; 2) it will not necessary for public utilities or drainage; 3) access to other lots or properties outside of the subject proposal will not affected; and 4) it is consistent with the purpose of the subdivision code.

As previously discussed, the asphalt millings which currently exist on the site were installed without approval. Also, as previously discussed, asphalt millings are generally not an acceptable paving surface due to their likelihood of breaking down and eroding, and making their way into drainage ponds and potentially clogging stormwater infrastructure. During initial review of the applications, the Stormwater division commented that asphalt millings would not be an acceptable paving surface citing the potential for clogging the sand filtered basin. However, following additional conversation regarding the volatile soils and the difficulty surrounding paving the site with a standard material, the Stormwater division found that the Drainage Criteria Manual does not prohibit the use of millings. All private drainage and detention facilities are inspected annually to ensure they are working properly and being maintained. The drainage pond on the subject site would be subject to this inspection. The Stormwater Engineering division has determined that the standard yearly inspection of private detention ponds will be sufficient in ensuring the sand filter has not clogged with millings.

Lastly, according to the Drainage Criteria Manual, the drainage swale is required to be paved with an impermeable material, and proposed is a concrete drainage swale. While it is not recommended that inflexible ground surface is used, concrete is necessary to move the water from the southern portion of the property to the drainage pond. The position of the Stormwater Engineering division is that the maintenance agreement required for private detention basins covers the swale, and if upon inspection (to occur annually) the swale is cracked or damaged, the inspector has the ability to require the concrete swale to be mended. At this time, the Stormwater Engineering division does not have any outstanding comments on concerns about the project as proposed. A drainage report was approved on August 29, 2019.

A geologic hazard report was prepared for the site and proposed land use. This report was then referenced in the justification for the nonuse variance request. This larger geologic hazard report summarizes:

1. The land to the north of the site has experienced lateral earth movement over the past 30+ years and most recently in the spring of 2015. The movement historically has been to the north of the property line of the subject site. The current head scarp is about 50 feet to the

north of the planned development. The northern portion of the site is also underlain by undocumented fill, some of which includes organic and inorganic debris. These conditions represent the more significant potential hazards to development of the northern 100± feet of the property.

2. A majority of the site is underlain by silty sand and sandy clay over expansive claystone bedrock. Ten feet of undocumented sand fill was found over the natural soils south of the property as well as the debris laden fill along the northern property line.

Colorado Geologic Survey (CGS) reviewed this report and agreed with its conclusions that the proposed use is appropriate and then states “permanent structures should not be allowed” (see “Colorado Geologic Survey Review” attachment). City Engineering also concurs within these findings. City Planning staff feels it is appropriate to write this limitation into the PUD (Planned Unit Development) zone district in order to give staff and hearing bodies the opportunity to require additional testing, reporting, and assessment if a structure were to ever be proposed on the subject site.

The review by CGS also states increased subsurface water content would likely result in decreased strength, instability, and potentially landslide reactivation. For this reason, the drainage pond is to be lined with an impermeable barrier to minimize water infiltration from the pond. To also address this concern, staff is supporting the applicant’s request for administrative relief to the landscaping requirement in order to remove the need for irrigation to support the plantings.

The project applications have been evaluated for conformance with the City’s current comprehensive plan (herein referred to as “PlanCOS”), adopted in January 2019. According to PlanCOS, the project site is identified as a Newer Developing Neighborhood due to the vacant land which is zoned residential and due to new subdivisions being constructed. This location is also near Highway 24 which is illustrated as a Reinvestment Area and an Intercity Corridor. Colorado Springs Storage is an infill development which provides a needed service to residents. Staff must compare the appropriateness of the subject proposal over what was originally anticipated for the property, and while not exactly the context contemplated, adaptive and responsive land use change is one of the core values of PlanCOS. Because the proposal works within the limitations caused by the geologic conditions, City Planning staff finds that this infill development proposal and its associated applications to be in substantially conformance with PlanCOS and its guidance.

**Previous Council Action:**

N/A

**Financial Implications:**

N/A

**City Council Appointed Board/Commission/Committee Recommendation:**

At their meeting on October 15, 2020, the Planning Commission approved the subject applications as part of the consent calendar. The Planning Commission voted 8-0-1 to recommend approval the land use applications to the City Council (Aye: Wilson, Hente, Rickett, Almy, McMurry, Raughton, Slattery, and Eubanks; Absent: Graham).

Please reference the minutes from the hearing for a detailed record.

**Stakeholder Process:**

The public notification process consisted of providing notice to surrounding homeowners associations and adjacent property owners within 1,000 feet of the site, which included the mailing of postcards to 165 property owners on three occasions: during the internal review, prior to the Planning Commission hearing, and prior to the City Council hearing. The site was also posted during the three occasions noted above. City Planning staff received two written correspondences stating concerns with compatibility and appearance (see “Public Comment & Applicant Response” attachment).

Staff sent copies of the plan set and supporting documentation to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, Colorado Geologic Survey (CGS), City Traffic Engineering, City Fire, City Stormwater Engineering, City Landscape, Parks, Recreation and Cultural Service, Police, and E-911. All comments received from the review agencies have been addressed.

**Alternatives:**

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration.

**Proposed Motion:**

AR NV 20-00070

Approve the non-use variance to City Code Section 7.4.206 to allow asphalt millings as the paving surface for a vehicle storage area, based upon the findings that the request meets the review criteria for granting a nonuse variance, as set forth in City Code Sections 7.5.802(B) and 7.5.802(D).

N/A