



Legislation Text

File #: CPC PUD 20-00109, **Version:** 4

An appeal of the Planning Commission's decision to approve a PUD development plan for Creekside at Rockrimmon, subdividing 17.47 acres into 43 single-family residential lots and open space areas, located at 252 Heavy Stone View.

(Quasi-Judicial)

Presenter:

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Peter Wysocki, Director, Planning & Community Development

Summary:

Owner/Developer: Pueblo Back & Trust Company
Representative: Premier Homes, Inc.
Location: 252 Heavy Stone View

This is an appeal of City Planning Commission's decision to approve a detached single-family PUD development plan. The basis of the appeal includes adverse possession claim of property, lack of trail connectivity, inadequate landscape buffering between developments, and relocation of a proposed street for more separation between existing and proposed neighborhood. Although adverse possession claim is included in the appeal statement, it is a private civil matter between property owners that the City will not address.

The City's Planning Commission, on November 18, 2021, reviewed and approved, with a vote of 7-1 to approve, the Creekside at Rockrimmon project. This project includes an application for a PUD development plan for 17.47 acres of vacant land located at 252 Heavy Stone View. This is a single-family detached residential development of 43 proposed lots with public and private improvements. Due to geologic hazard concerns raised in 2008, the City Council applied a condition of record that all development plans for development of the subject property be reviewed and approved by the City Planning Commission.

Background:

The subject property was part of an original PUD zone change and concept plan, known as Creekside at Rockrimmon, that was reviewed and approved in 2008. It was envisioned for residential development consisting of 62 units. Over the years, the neighboring townhomes were built, and this site is the last piece to develop. The PUD zone district included a condition of record, that required all development plans to be reviewed and approved by the City's Planning Commission. Due to identified jurisdictional wetlands on-site, the Applicant re-designed certain aspects of the original proposal in order to meet Army Corp of Engineers (ACOE) permitting requirements. The original project design would have impacted the identified wetland areas through the construction of a stormwater detention pond over the wetlands on the east edge of the site near the confluence with

North Rockrimmon Creek.

The proposed PUD development plan illustrates 43 single-family detached residential lots that are approximately 7,400 square feet in size. The site can be accessed either from a proposed private residential right-of-way that ties into South Rockrimmon Boulevard at the west end of the site or through the extension of Heavy Stone View to a connection with South Rockrimmon Boulevard near the southeast corner of the site. Public and private improvements include three public residential streets with 6-foot attached concrete sidewalks, a detention pond to include a 10-foot-wide maintenance access, and trail connections to the existing cul-de-sac directly to the north and Rockrimmon Open Space. In order to reduce impacts to the jurisdictional wetland areas, the Applicant modified the development plan by: shortening Cherry Faith Court, eliminate two lots, the size of ten lots were reduced, and the stormwater detention pond was relocated. All agencies have re-reviewed the re-designed plans and support the revised project scope. This proposed residential development was found to be compatible with surrounding residential developments to the north and west, which also include existing detached single-family homes on similar lot sizes and development standards.

| PROPOSED DIMENSIONAL STANDARDS | | | | | | |
|---|---------------|--------------|--------------|------------------------------|--------------|-------------|
| Development | Front setback | Side setback | Rear setback | Height (from existing grade) | Lot coverage | Density |
| Saddle Ridge Fil 1 | 18' | 5' | 20' | 35' | 40% | 5.07 u/acre |
| <u>Rockrimmon Vista Fil 1</u> | 20' | 5' | 20' | 30' | 40% | 5.07 u/acre |
| <u>Proposed Creekside at Rockrimmon Fil 1</u> | 20' | 5' | 25' | 35' | 40% | 3.77 u/acre |

The Applicant contracted Drexel Barrell and Company to develop a traffic impact study, which was reviewed by the City’s Traffic Engineering Division of Public Works (City Traffic Engineering). City Traffic Engineering accepted this traffic study and found it to be in compliance with the City’s Traffic Control Manual. Overall, City Traffic Engineering’s assessment of the project is in favor of residential development. There are two proposed access points to Creekside at Rockrimmon. The east side of the development will tie into the Heavy Stone View, an existing street that connects with multi-family residential development, which leads to the intersection of South Rockrimmon Boulevard and Red Ash Point. The western entrance to the site has a proposed “Stop” controlled intersection with South Rockrimmon Boulevard approximately 750 feet east of Fence Post Drive. The proposed intersection for the western access offers left and right turn movements onto South Rockrimmon Boulevard. Using ITE rates, Drexel Barrell and Company determined that the development is anticipated to generate about 425 daily trips. City Traffic Engineering and the Division of the Fire Marshal ensured that the development had adequate traffic and safety infrastructure to meet the needs of current and new residents. Pikes Peak Regional Office of Emergency Management works diligently with Traffic, Fire and Colorado Springs Police Department to create the safest and most effective emergency evacuation. City Planning and Traffic will monitor the build-out of this project to determine if additional roadway or intersection improvements are necessary.

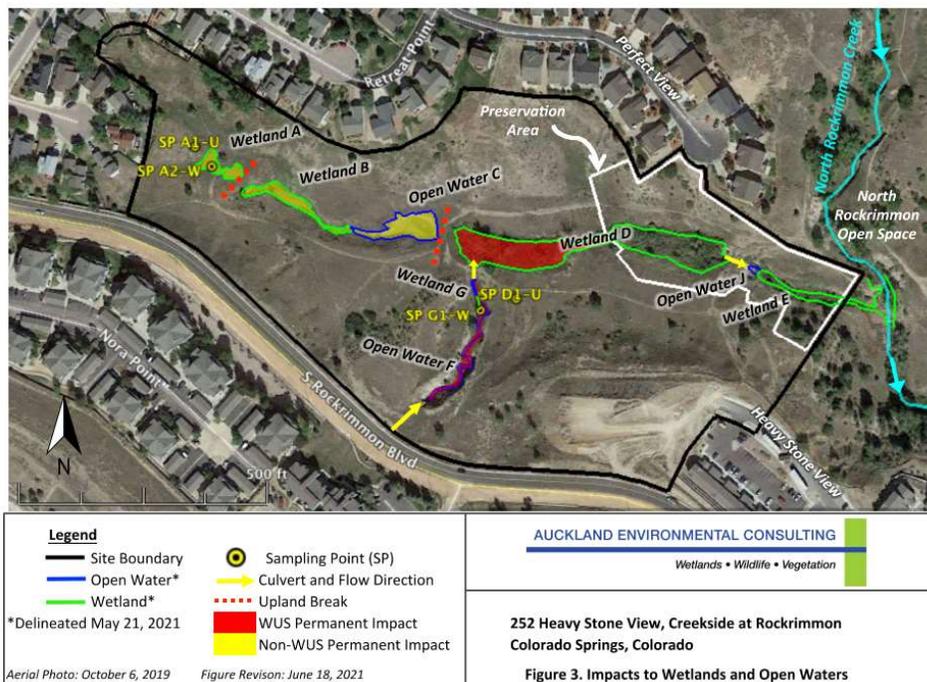
The City’s Stormwater Enterprise of Public Works has reviewed the PUD development plan and

accompanying final drainage report, prepared by Drexel Barrell and Company. The site lies within the North Rockrimmon Drainage Basin and discharges into North Rockrimmon Creek. Historic flows from a property to the south and one property to the west will be captured and routed through this site and discharged into the drainage to the east of the site. A private on-site full spectrum extended detention basin is proposed in the center of the project site just south of Cherryfaith Court. The proposed stormwater facility has been designed to limit the release of storm runoff and mitigate the impacts of identified open waters area per ACOE. It was found that the proposed development will not negatively impact the downstream and surrounding developments. SWENT has accepted the analysis and recommendations set forth in the report and as designed, all proposed stormwater improvements were found to comply with the City's Drainage Control Manual.

During the project's review it was identified that may or may not have Waters of the US (WUS). City Planning staff thus requested that prior to Development Plan approval, the Applicant must complete ACOE coordination and permitting for the WUS. The Applicant provided a wetland analysis, prepared by Auckland Environmental Consulting, which was used by ACOE as part of permitting process and confirmed the jurisdictional evaluation of WUS. Based on this information, the Applicant redesigned the project to minimize impacts to WUS. The environmental analysis was also included in the final drainage report.

Per the environmental analysis and ACOE permitting, the direct permanent impacts to WUS is 0.36 acres and is further identified in the section below.

- 0.32 acres of moderate quality palustrine shrub scrub wetlands that would be mitigated through purchase of a minimum of 0.72 credits from Maria Lake Wetland Mitigation Bank. This area is identified as Wetland D and Wetland G. The majority of the direct impacts would be to Wetland D caused by grading of slopes for lots and construction of the stormwater detention pond
- 0.04 acre of open water within a deep stormwater runoff gully that would be mitigated by new stormwater management designed to sustain downstream wetlands. This area is identified as Open Water F.
- Additional permanent impacts to 0.13 acres of wetlands and 0.14 acres of seasonal pond were determined non jurisdictional by ACOE due to no surface connection to WUS. The project also includes multiple measures to minimize indirect WUS impacts; such as, approximately 2.2 acres on the west side of the site that will be preserved as open space and 0.35 acres of wetlands.



Because permanent impacts to WUS is less than 0.5 acres, the project has been reviewed by ACOE under the Nationwide Permit Number 29 (NWP 29) for Residential Development. The final determination letter by ACOE confirms that the current proposal is in accordance with all ACOE requirements regarding the jurisdictional wetlands

The City’s Engineering Development Review Division (EDRD) of Public Works and Planning & Community Development Department, with consultation from the Colorado Geological Survey (CGS), has reviewed the PUD development plan and accompanying geological hazard investigation report, prepared by Entech July 16, 2021. The reviewing agencies have accepted the analysis and recommendations set forth in the report prepared by the applicant’s consultant and found it met City criteria. While Entech’s report did not directly recommend or require site-specific geologic hazard report for the individual lots, it referenced recommendations from a previous subsidence report and evaluation prepared by CTL Thompson, Inc. The recommendations will not prevent movement from subsidence, but only decrease the potential of damage. The City’s standard geologic hazard disclosure statement has been added to the plans and further identifies the documented geologic hazards (unstable and potentially unstable slopes, areas of seasonal shallow groundwater and ponding water, floodplains, artificial fill, undermined areas and expansive soils) on the project site. A note was also added to the development plan stating that subsidence insurance is recommended in all undermine areas. Upon approval of this project, City staff is prepared to execute the provided report.

The above discussed development parameters and supportive land use, mitigates the impacts of this infill development and reinforce why this project will be compatible with the surrounding neighborhood. The City’s Planning Commission and Planning staff found that the proposed plan, as stipulated, is in conformance with the purpose for establishing PUD development plan, as set forth in City Code Section 7.3.601, and a concept plan, as set forth in City Code Section 7.5.502.

As a supplement to this memo, please see the details of the proposed development, staff's analysis of the review criteria and breakdown of the comprehensive plan in the City Planning Commission Staff Report.

Appeal Statement:

The Appellant's appeal statement includes four reasons for the appeal (see "Appeal Statement" and "Appeal Statement Supplement" attachments), which include:

1. The first reason stated is that the Appellant believes they should have open space access due to living at their property for twenty-three years and being eligible for an adverse possession claim. The property behind 420 Ocelot Drive is privately owned and no adverse possession ruling was provided to staff. The adverse possession claim is a private matter and must be determined by a court, not the City.
2. The second reason for appeal is that the proposed development does not provide a public trail access once developed. City Planning staff believes this has been remitted as it has been identified following the Planning Commission that the streets identified within this development are intended to be public as opposed as private. Staff has confirmed that the roadway design and layout is consistent with the City's Traffic Control Manual and subdivision requirements. The correction of the public vs. private street designations can occur with a subsequent application for a minor modification that would be concurrently submitted with a future final subdivision plat application.
3. The third reason for the appeal focuses on the land use compatibility and transitioning of uses from the established residential to the west and north to this project. As proposed and discussed in the development parameters above, the Creekside at Rockrimmon project is a single-family detached residential development with development standards and a density consistent with surrounding residential developments as shown in "Developmental Standards" table above. In accordance with City Code Section 7.4.323 *Landscape Buffers and Screens*, providing buffers and/or transitions between single-family to single family uses is not required.
4. The fourth reason focuses on the relocation of Goa Way to the east to provide more separate from this connector roadway to the established residential to the west. According to the City's Traffic and Engineering Development Review Divisions of the Public Works Department, the current siting and design of Goa Way is optimal to avoid sightline issues from east and west vehicle turning movements off Goa Way. The positioning of the new intersection balances grade changes along South Rockrimmon Boulevard and affords reasonable separate between the entrances of the Rockrimmon Apartments and Crossings at Rockrimmon developments that exist along the southside of South Rockrimmon Boulevard.

Previous Council Action:

City Council previously took action on this property in 2008 when the property was reviewed for a concept plan.

Financial Implications:

N/A

City Council Appointed Board/Commission/Committee Recommendation:

At the City Planning Commission meeting held on November 18, 2021, the Planning Commission voted for approval of the proposed development plan 7-1-1. (Commissioner Wilson was absent). The dissenting vote was made by Commissioner Slattery, who had raised concerns regarding geologic hazards and the impacts this development may have on existing homes. City Planning staff

explained during deliberations that the geologic hazard report provided and accepted by the City for the project included a requirement for site-specific geologic hazard reports be submitted for each lot prior to building permit approval, and that future homeowners would need to secure geologic hazard insurance. Please reference the minutes from the hearing for a detailed record.

Stakeholder Process:

The public notification process consisted of providing notice to the surrounding property owners within 1,000 feet of the site, which included mailing postcards to 228 neighboring property owners on four occasions: during the initial review, prior to a neighborhood meeting conducted virtually on October 19, 2020, the initial City Planning Commission public hearing set for July 15, 2021, and prior to today's City Council hearing. (The initial City Planning Commission hearing was subsequently postponed to the November 18th, 2021, hearing date to accommodate further wetland analysis through ACOE permitting.) The site was also posted during the occasions noted above as well prior to this City Council hearing for the appeal. City Planning staff received a total of 30 comments in opposition to the project throughout the review process. Neighborhood concerns included how the proposed project would affect the wetland areas on the site, traffic impacts on Rockrimmon Boulevard, geologic hazard risks and subsidence, trail connectivity to Rockrimmon open space and the effects on wildlife and property values.

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:

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Deny the appeal and approve PUD development plan for Creekside at Rockrimmon based upon the findings that the appeal does not meet the appeal criteria set forth in City code Section 7.5.906(B) and does meet the criteria for development plans as set forth in City Code Section 7.5.502(E) and the criteria for a PUD development plan as set forth in City Code Section 7.3.606.

Uphold the appeal and deny the PUD development plan for Creekside at Rockrimmon based upon the findings the appeal met the requirements of City Code Section 7.5.906(B) and did not meet the criteria for development plans as set forth in City Code Section 7.5.502(E) or PUD development plans as set forth in City Code Section 7.3.606.

N/A