



## Legislation Text

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**File #:** AR DP 21-00551, **Version:** 2

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An appeal of the Planning Commission's action to deny an appeal regarding the Creekwalk Filing 1 Development Plan which illustrates the construction of a new 23,175 square foot grocery store on a 2.7-acre site located on the southwestern corner of S. Nevada Ave. and E. Ramona Ave.

(Quasi-Judicial)

Related File: AR FP 21-00552

### **Presenter:**

Ryan Tefertiller, Planning Manager, Planning and Community Development Department  
Peter Wysocki, Planning and Community Development Director, Planning and Community Development Department

### **Summary:**

Owner: Creekwalk North LLC

Developer: Creekwalk North LLC

Representative: Kimley-Horn

Location: Southwest corner of S. Nevada Ave. and E. Ramona Ave.

Planning Staff administratively approved a development plan and subdivision plat on January 20, 2022 which allow construction of a 23,175 square foot grocery store and a 122-stall parking lot, on a 2.7-acre site located at the southwest corner of S. Nevada Ave. and E. Ramona Ave. An appeal was filed on January 31, 2022 by "Protect Colorado Springs" which is represented by Mr. Randall M. Weiner of the Law Offices of Weiner and Cording. The City's Planning Commission held a public hearing on March 17, 2022 where both appeals were unanimously denied. An appeal of Planning Commission's decision was filed on March 28, 2022.

### **Background:**

The project area totals roughly 2.7 acres of land on the west side of S. Nevada Ave. south of E. Ramona Ave. The site falls within the South Nevada Urban Renewal Area which was established in 2015 with the goal to "reduce, eliminate and prevent the spread of blight and to stimulate and catalyze growth and investment within the area boundaries" (Section 3.0 - Plan Purpose; 2015 South Nevada Urban Renewal Plan). The subject property is considered the second phase of the Creekwalk Commercial project; the first phase being located immediately to the south and nearing full completion and occupancy. After multiple rounds of formal review, Planning Staff administratively approved a development plan and subdivision plat, to allow construction of the project's second phase, a 23,175 square foot grocery store and a 122-stall parking lot, on the site.

Both applications were found to be consistent with City standards for the C5 zone district, parking requirements, landscaping standards, grading standards, and all applicable review criteria. The

City's Stormwater staff reviewed and approved the development plan, plat, and drainage report for compliance with the drainage criteria manual and other relevant requirements. The City's Traffic Engineers reviewed and accepted the proposed access points and associated public improvements. Colorado Springs Utilities has accepted the project's public facilities to adequately serve the building with water, wastewater, gas, and electric services. The project was found by Planning Staff to conform with previously approved master plans and concept plans for the area and to comply with the South Nevada Urban Renewal Plan and public space design guidelines. The project's subdivision plat was reviewed by all agencies, including the City's surveyor, and was found to meet all standards and requirements of the subdivision code.

An appeal of Staff's administrative approvals was filed on January 31, 2022 by "Protect Colorado Springs" which is represented by Mr. Randall M. Weiner of the Law Offices of Weiner and Cording. The formal appeal statement cited several concerns about the approved applications, however, the dominant concern within the statement is the project's stormwater system design. Specifically, the appellant argued that the use of an underground detention facility is prohibited by the Drainage Criteria Manual (DCM). Furthermore, the appellant contended that use of a StormTech Chamber (the propriety type of underground detention facility) violates State Statutes and burdens the public. These actions together are believed to negatively affect water quality in the area. The appellant also included one sentence within their appeal statement claiming that the project will increase traffic in the area and decrease levels of service beyond acceptable limits. No data or detail is provided for this claim.

The City's Planning Commission held a public hearing on March 17, 2022, where both appeals were discussed. The appellant presented their concerns to the Commission and expanded upon the claims within the appeal statement. The applicant and developer presented at the hearing describing the project's stormwater system, the standards that were applied to the review of the project, and the process for which administrative approval was provided. City Staff from the Planning Department and the Stormwater Division participated, answering Commissioner questions and addressing the appellant's concerns. After roughly one hour of discussion, the appeals for both applications were unanimously denied by the Planning Commission.

An appeal of Planning Commission's decision was filed by the same entity on March 28, 2022. While the statement provided as part of the Planning Commission appeal largely focuses on stormwater issues, it has been updated to reflect some new concerns including phasing, the size of the parking lot, and the maintenance of an underground stormwater facility.

**Previous Council Action:**

City Council has taken action on the properties affected by this appeal in the recent past. In 2015, City Council approved creation of the South Nevada Urban Renewal Area. In October of 2021, City Council approved a Master Plan amendment, zone change, right-of-way vacation, and major amendment to the Creekwalk concept plan. Mr. Randall Weiner spoke at the Council hearing expressing concerns about stormwater issues related to the project. City Staff provided additional information to City Council at the hearing and the applications were all approved unanimously. Council's approval allowed Planning Staff to administratively process the associated development plan and subdivision plat for the project.

**Financial Implications:**

N/A

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

On March 17, 2022 the Planning Commission unanimously denied the appeal of Staff's administrative approvals for the Creekwalk North development plan and subdivision plat. Discussion lasted roughly one hour and focused on stormwater related issues. No additional members of the public spoke in support or in opposition to the project.

**Stakeholder Process:**

The appellant, Mr. Randall Weiner on behalf of Protect Colorado Springs, spoke at the October 2021 City Council hearing for the master plan amendment, zone change, right-of-way vacation, and concept plan for the Creekwalk Commercial. Despite the concerns that Mr. Weiner raised at that time, City Council approved all four applications. Shortly thereafter, Mr. Weiner contacted Planning Staff and requested to be notified with the associated development plan and subdivision plat were approved. Staff notified Mr. Weiner via email on January 20, 2022 that the applications had been approved. Mr. Weiner submitted his appeal application on Monday, January 31, 2022.

Prior to the Planning Commission hearing for the appeal, the site was posted and postcards mailed to 128 property owners within a 1,000-foot buffer of the site. No additional stakeholder comments were received prior to the Planning Commission hearing and no additional stakeholders spoke at the appeal hearing. Prior to the City Council hearing the site will be posted and postcards will be mailed to all property owners within a 1,000-foot buffer of the site.

Staff sent the plans and supporting documents to all standard internal and external review agencies for comments as part of the administrative review process. Several review agencies had technical comments upon first review; all issues were resolved after multiple rounds of review allowing staff to approve both applications. Commenting agencies included City Engineering, Colorado Springs Utilities, Water Resource Engineering, the City Surveyor, and others

**Alternatives:**

1. Deny the appeal, thereby upholding the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Approval the appeal, overturning the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration.

**Proposed Motion:**

Deny the appeal, upholding Planning Commission's action and Staff's administrative approval of the Creekwalk Filing 1 Development Plan, based upon the finding that the application complies with the review criteria in City Code Section 7.5.502.E, and that the appeal criteria found in City Code Section 7.5.906 are not met.

N/A