CITY PLANNING COMMISSION AGENDA

ITEM NO: 7

STAFF: LARRY LARSEN

FILE NO:
CPC AP 04-00138 – QUASI-JUDICIAL

PROJECT: APPEAL BY JANE MCDougALL OF THE APPROVAL OF THE BARNACLE BOB’S SUBDIVISION DEVELOPMENT PLAN

APPELLANT: JANE MCDougALL

OWNER: ROBERT CAMPBELL

PROJECT DESCRIPTION:
An appeal of an administrative approval of a development plan approving the Barnacle Bob Subdivision Development Plan, a three lot single-family residential subdivision, located at 3502 West Pikes Peak Avenue and consisting of 0.56 acres.

STAFF’S RECOMMENDATION:
ITEM 7: CPC AP 04-00138 – APPEAL OF ADMINISTRATIVE DECISION
Deny the appeal and uphold the administrative approval of the development plan approval of the Barnacle Bob’s Subdivision Development Plan.

SUMMARY:
The appellant, Jane McDougall, the adjacent property owner to the east, has filed an application for the appeal of the administrative decision approving the Barnacle Bob’s Subdivision Development Plan. (Refer to FIGURES 1, 2, & 3.)

This development plan, subdivision plat, and vacation of alley right-of-way application project has been under review since January of 2003 and recently administratively approved on May 4, 2004. The project consists of three single-family lots that incorporates the site’s hillside natural features into its design.

The project has been extensively reviewed by the neighborhood, including McDougall, since the early pre-application stage. Two neighborhood meetings were conducted, as well as other meetings with the owner and his consultants and with McDougall and her representatives to seek cooperation to resolve the issues.

The two outstanding McDougall issues, as including in her appeal justification letters, are the obstacles to her proposed driveway and obstruction of her views to Pikes Peak.

City Planning Land Use Review Staff has sought resolution of these issues throughout the review process, but was not successful to do so. Refer to the Analysis of the Major Issues section for specific detailed information regarding these issues.

BACKGROUND:
Existing Zoning/Land Use: “PUD/HS/CR” / vacant, undeveloped. (Refer to FIGURE 4.)
Surrounding Zoning/Land Use: North – “R-2/HS” / single-family residence
South – “C-5/HS” / vacant
Annexation: Colorado City (June 1917).
Subdivision: Resubdivision of Arensdale (recently approved the Barnacle Bob Subdivision, not yet recorded).
Physical Characteristics: This site contains significant hillside characteristics includes trees, scrub oak and the Hogback rock formation. The recently approved development plan protects the features by including a house design that incorporates the rock formation in and around the house and the use of preservation areas to preserve the most significant stand of vegetation. The site is moderately sloping and drains to the south.
Master Plan: Westside Master Plan designates the site for low density residential (0 to 10 dwelling units per acre).

DEPARTMENTAL REPORTS: Not Applicable.

PETITIONERS' JUSTIFICATIONS: (Refer to FIGURES 1, 2, & 3.)

ANALYSIS OF MAJOR ISSUES:

Driveway: This project is accessed by a shared driveway for the two lots fronting Pikes Peak Avenue and an alley access serving the northern lot. Recent City Council action vacated a portion of the alley adjacent to this site. However, the entire vacated alley was preserved as a public utility, drainage and egress & ingress access easement. This access easement abuts another recorded 10’ access easement from the vacated alley to adjacent Lot 15, McDougall's property. The Barnacle Bob Development Plan clearly shows both easements and the intent of each. (Refer to FIGURES 5 & 6.)

The owner and developer of the Barnacle Bob project, Robert Campbell, granted the 10’ access easement to the then owner of Lot 15 in July of 1989 and recorded the easement document in January of 2003. Campbell now questions the validity of the easement due to a clause that states that if the easement is not used for its intended purpose continuously for a period of two years it shall cease and reverse. He contends that it has not been used. It is the opinion of City Planning and the City Attorney’s office that this recorded easement does continue to exist, until such time as it may be determined by Court action.

McDougall and the City has recognized this easement; accordingly the City Development Review Enterprise Office has issued their approval of a hillside site plan to construct the driveway and parking pad site on December 2, 2003.

As the review of the development plan proceeded, obstructions to McDougall’s driveway were removed. The first draft of the development plan, submitted with the application on August 5, 2003, showed a retaining wall separating Campbell’s property from McDougall’s, with the existing base of wall elevation at 6192’ and to be re-graded to base elevation of 6192’ on one side and 6194’ at the other, with the height of wall and wall detail not shown or provided. This was unacceptable since it could not be determined if the wall would be an obstruction to McDougall’s property.

Draft No.2 of the plan, submitted January 23, 2004, showed two boulder retaining walls, with the base of the lower wall elevation to be re-graded to 6192’ with the total height of both walls together at 5’ and setback and stepped back from the common property line. However, the wall detail, now added, showed the re-graded base elevation at 6190’, which conflicted with the provisions of the development plan drawing and the grading plan. This was unacceptable since it was inconsistent and would provide an obstruction to McDougall’s property.


Draft No.4 and No.5, submitted April 15, 2004 and April 28, 2004, showed one “redi-rock” interlocking block concrete retaining wall, with the base of the wall elevation at 6192' with the height of the wall at 3’ and built immediately adjacent to the common property line. This design was determined to be
acceptable since the plan was determined to be reasonable, internally consistent and did not obstruct access to the McDougall property.

The final plan, stamped approved on May 4, 2004, was unchanged from the previous draft, which was deemed acceptable. (Refer to FIGURES 5, 6, & 7.)

McDougall’s driveway plan, approved on December 2, 2003, was based upon the originally submitted Barnacle Bob plan, that was deemed unacceptable since the plan did not provide adequate information. The plan, as approved, provides for a reasonable finished base elevation at the shared property line and does not obstruct access from Campbell’s property to McDougall’s property.

View Protection: This project will obstruct the views of Pikes Peak from the McDougall property. The two houses that are planned to be located adjacent to Pikes Peak Avenue will align with the McDougall house to the view of the Peak. The location of these two houses was determined to be the best to avoid a significant stand of scrub oak and rock outcropping in the middle of the property, which has been placed within a preservation easement, to utilize this portion of the property that was previously distributed, and to maintain a minimum front yard setback of 15’, less than the adjacent “R-5” 20’ standard.

The Barnacle Bob property was rezoned to “PUD” in 1988 that included a maximum 30’ building height restriction. The building elevations submitted with the approved development plan indicates a building height of 29’4” for these two houses at less than the previously approved “PUD”, maximum height standard. The maximum height standard for the adjacent McDougall “R-5” property is 45’.

McDougall expressed this concern very early in the review process. City Planning Staff tried to negotiate a lower building height by advocating a garden level house design and lowering the pitch of the roof. However, Campbell and his consultants felt this design was unacceptable due the presence of bedrock near the surface and a desire to have a steeped roof design.

The proposed drive-under garage house design and the maximum height of 30’ will impact the view from the adjoining property.

However, private or public view protection criteria is not a development standard applied to this or to any other City land use review applications.
To Whom it may concern,

I wish to appeal Bob Campbell’s development plan that was approved on May 4th, 2004. Bob Campbell has been strongly encouraged to cooperate with me as a future neighbour in the proposed construction of a shared driveway. However, his recently approved development plan presents unnecessary obstacles for my driveway construction plan which was approved earlier this year.

The driveway development plan which John Towner of Pinnacle Surveying created for me in November of 2003 was consistent with the original development plan that Bob Campbell had originally submitted to City Planning. Now however, Bob Campbell’s team has changed the original contour lines, adding in an additional foot of height. The result is that my driveway development becomes much more costly. The unnecessary extra foot of height means that my retaining walls will now need to be engineered at a much greater cost, and I will have to use a much greater volume of fill. I think this is unfair, and request that the Planning Commission reconsider the approval of this plan as it stands. Please see the attached note from John Towner regarding technical details.

I have a second objection to the development plan. I currently have unobstructed views of Pikes Peak from both the upper and lower level of my house. There are two houses proposed under Bob Campbell’s development plan (Lots One and Two on page 6, or Lots Two and Three on page 1 of the approved plan). The roof of the proposed unit that is closer to my house peaks at 12 to 15 feet above the eye level view from my balcony, thus obscuring my view of Pikes Peak from the upper level, and even more so from the lower level. I request that the commission consider requiring these two units to have a lower height. Precise and detailed information will be shown at the Planning Commission hearing.

I am not requesting that Bob Campbell be prevented from building, but only that his development plan should show consideration to such concerns as property access and view of the existing neighbours. I feel that the development plan as it currently stands creates unnecessary hardships for my construction of a driveway, and that my potential loss of view be considered and accommodated in this plan.

Sincerely,

Jane McDougall,
Resident,
May 13, 2004

Mr. Larry Larson
City of Colorado Springs
Planning Department
30 S. Nevada Avenue
Colorado Springs, CO 80901

RE: Barnacle Bob’s Subdivision

Dear Mr. Larson,

This letter is an attachment to the appeal by Ms. Jane McDougall of the Administrative Approval of Barnacle Bob Subdivision. Under Article 7.5.906A.3 Criteria for Review of an Appeal of an Administrative Decision, I believe that 3.b.(3)(4) apply in this situation.

3.b(3) states “if the decision is unreasonable”. The development plan that was approved does not consider the adverse affects the “Top of Wall elevation” will have on Ms. McDougall’s proposed drive and parking plan. The additional 1 foot of grade which the approved development plan exhibits actually adds 2 feet of fill to existing grade thus creating unreasonable and financially unfeasible expectations on Ms. McDougall.

Additionally, under Article 3.b(4) an erroneous decision was made on the development plan which presumed that drainage from the common driveway easement could not cross a portion of Ms. McDougall’s property and then re-enter the development.

Under 3.C “identify benefits and adverse impacts created by decision” it is very clear that the higher elevation of the wall will add substantially more fill dirt, more wall height or if Ms. McDougall does not add more fill then a considerably steeper grade will occur on the drive and parking area.

FIGURE 2

CPC AP 04-138
PLANNER: LARSEN
In conclusion, it would benefit the relationship between neighbors if this development plan was amended to consider Ms. McDougall's concerns.

Respectfully,

John W. Towner
President
Pinnacle Land Surveying Company, Inc.
LOT SIZE INFORMATION

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<th>LOT NO.</th>
<th>LOT AREA</th>
<th>BLDG FOOTPRINT</th>
<th>GROSS BLDG AREA (c)</th>
<th>BLDG COV %</th>
<th>PARK'G SPACES (b)</th>
<th>PAVING AREA (d)</th>
<th>PAVING % (d)</th>
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</table>

36,269 gsf  5,467 sf  6,433 gsf  15.1%  7  5,285 sf  14.6%

TOTAL DENSITY 4.8 DU/ac (5.4 allowed)

(a) parcel to the west is not part of this project
(b) provided in garages - additional parking is available in driveways
(c) includes garage square footage
(d) all paving is pervious gravel surface. total excludes lot 4

EASEMENT NOTES:

1. ALL EGRESS & INGRESS ACCESS EASEMENTS NORTH OF LOT 1 SOUTHERN PROP, LINE SERVING ADJOINING LOTS SHALL BE BUILT TO THE STANDARDS SHOWN ON THE DEVELOPMENT PLAN, MAINTAINED BY THE OWNER OF LOT 1, & REMAIN FREE OF ANY PERMANENT OBSTRUCTIONS.

2. ALL EGRESS AND INGRESS ACCESS EASEMENTS SOUTH OF LOT ONE SOUTH PROPERTY LINE AND SERVING ADJOINING LOTS SHALL BE BUILT TO THE STANDARDS SHOWN UPON THE DEVELOPMENT PLAN, AND SHALL BE MAINTAINED JOINTLY BY THE OWNERS OF LOTS 2 & 3, AND SHALL REMAIN FREE OF ANY PERMANENT OBSTRUCTIONS.
