

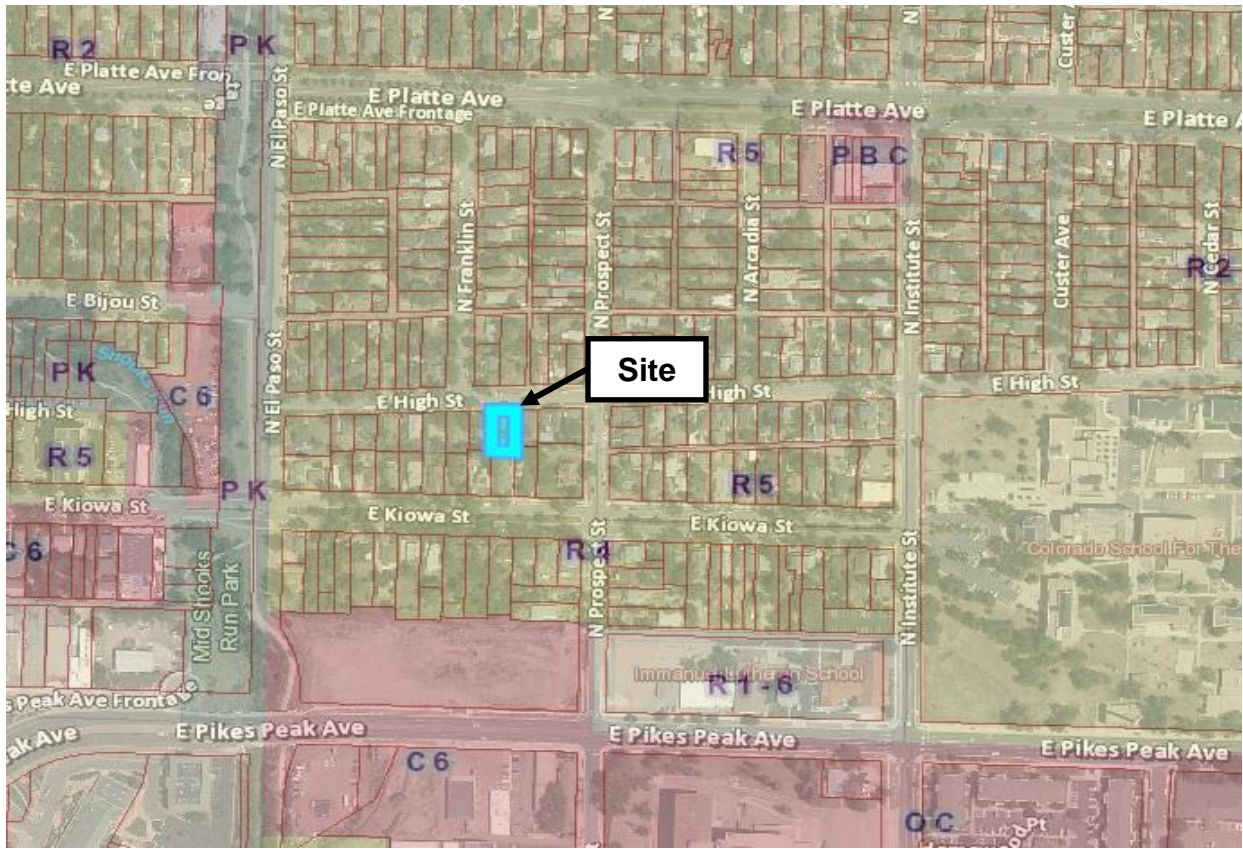
**CITY PLANNING COMMISSION AGENDA
APRIL 21, 2022**

STAFF: MATTHEW ALCURAN

FILE NO(s):
CPC UV 21-00149– QUASI-JUDICIAL
CPC NV 21-00150– QUASI-JUDICIAL
CPC NV 21-00151 – QUASI-JUDICIAL
AR NV 22-00237 – QUASI-JUDICIAL

PROJECT: 739 & 741 EAST HIGH STREET

OWNER/DEVELOPER: DANIEL POWELL



PROJECT SUMMARY:

1. **Project Description:** The project applications are for approval of the 739 & 741 East High Street use variance application for an accessory dwelling unit, where a duplex is already constructed, a nonuse variance application to City Code Section 7.3.104.A to allow for a 0'-0" side yard setback where 5 feet is the minimum allowed, a nonuse variance application to City Code Section 7.3.104.A to allow for

a 0'-0" rear yard setback where 25 feet is the minimum allowed, and a nonuse variance application to City Code Section 7.3.104.A to allow for a 5,000 square foot lot size for an existing duplex where 7,000 square feet is the minimum required. The site is zoned R-2 (Two-Family Residential) and located at 739 & 741 East High Street consisting of approximately 5,000 square foot lot. (see "Use Variance Development Plan" / "Graphic" attachment).

2. Applicant's Project Statement: (see "Project Statement" attachment)
3. Planning and Development Recommendation: City Planning staff recommends approval of the application as proposed.

BACKGROUND:

1. Site Address: The project site is addressed 739 and 741 East High Street.
2. Existing Zoning/Land Use: The property is currently zoned R-2 (Two-Family Residential) and currently residentially developed with an existing 1,064 square foot first floor unit, a 1,122 square foot finished basement unit and a detached 861 square foot accessory dwelling unit.
3. Surrounding Zoning/Land Use: (see "Context Map" attachment)
 - North: R-2 (Two-Family Residential) across from East High Street and currently developed with a single-family residence.
 - East: R-2 (Two-Family Residential) adjacent and currently developed with a single-family residence.
 - South: R-4 (Multi-Family Residential) adjacent and currently developed with a single-family residence.
 - West: R-2 (Two-Family Residential) adjacent and currently developed with an existing duplex residential use.
4. PlanCOS Vision: According to the PlanCOS Vision Map (see "PlanCOS Vision Map" attachment), the project site is identified as an Established Traditional Neighborhood.
5. Annexation: The property was annexed into the City on September 1, 1872 under the Town of Colorado Springs.
6. Master Plan/Designated Master Plan Land Use: The project site is part of the Shooks Run Redevelopment Plan Master Plan (Publicly Initiated).
7. Subdivision: Haynes Addition Colorado Springs).
8. Zoning Enforcement Action: None
9. Physical Characteristics: The project site is currently residentially developed with an existing duplex and detached accessory dwelling unit.

STAKEHOLDER PROCESS AND INVOLVEMENT:

The public process included posting the site and sending postcards to 255 property owners within 1,000 feet of the site, on two occasions: during the internal review stage and before the Planning Commission hearing. The site was also posted during the two occasions noted above. Two public comments were received by staff (**see “Public Comment” attachment**). Interested residents cited concerns about overcrowding and a drainage issue with existing gutters. Further details related to these areas of concern are covered below as part of the findings of this report.

The applicant provided a written response to the received public comments, in a document dated April 21, 2022 (**see “Applicant’s Response Letter” attachment**).

Staff input is outlined in the following section of this report. Staff sent plans to the standard internal and external review agencies for comments. All comments received from the review agencies are addressed. Commenting agencies included Colorado Springs Utilities, City Engineering, City Stormwater, City Parks and Recreation, Engineering, City Traffic, City Fire, and Police. Agreements between the City of Colorado Springs and the surrounding military installations establish a two-mile buffer for land use application review. This application is not within the two-mile buffer for military notification.

ANALYSIS OF REVIEW CRITERIA, COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. Review Criteria / Design & Development Issues:

a. Use Variance Development Plan Proposal

The Applicant’s proposal is for a Use Variance Development Plan to permit an existing detached accessory dwelling unit (ADU), where a duplex is already constructed, within the R-2 (Two-Family Residential) zone district (**see “Use Variance Development Plan” attachment**). The project site consists of an existing 1,064 square foot first floor unit, a 1,122 square foot finished basement unit and a detached 861 square foot ADU known as 739/741 East High Street. The R-2 zone district accommodates small or medium lots primarily for detached one-family or attached two-family residential use. The existing ADU increases the density which is not permitted in the R-2 zone district per City Code Section 7.3.103.

The applicant purchased the property in December 2020 and does not have personal records or plans of the original building or remodeling of the property and the individual units. Since that time, the applicant corresponded with Colorado Springs Utilities and confirmed that water and electric service for the ADU has been established since 1989. In addition, the applicant recently worked with the Parks, Recreation, and Cultural Services (PRCS) Department regarding the legalization of the added net new one unit (ADU), which was determined to be subject to the Parkland Ordinance. The PRCS Department provided the applicant with the Parkland Dedication Ordinance fee in lieu of land dedication and Planning staff confirmed receipt of payment on March 23, 2022.

The current residential use configuration is similar to existing nearby properties and contributes to meeting the needs for good housing. The residential structures are legally recognized by El Paso County as a duplex and accessory structure both constructed in 1910. No new additions, exterior renovations, or increase in building height are proposed, as these three units already exist in good livable condition. The basement unit was remodeled as far back as 1988 per Pikes Peak Regional Building Department permit records. There is no encroachment on public or neighboring property lines as all structures have been confirmed to be within the existing property lines.

- Traffic
 - Traffic Engineering has no comment with the use variance.
- Fire Department
 - CSFD has no concerns with the proposed project.
- Engineering
 - According to the project statement no new construction or renovation is proposed. Therefore, EDRD has no comments on this use variance item or the nonuse variance applications.
- Enumerations
 - Reassigning of the unit number for the duplex. 741 East High Street seems to be a single-family home. Permit history is lacking on this structure.

b. Findings for Granting a Nonuse Variance

- *The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning*
- *That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief.*
- *That the granting of the variance will not have an adverse impact upon surrounding properties*

As a guide to applying any of the criteria for nonuse variance applications, City Planning staff has considered the applicable criteria as set forth in City Code Section 7.5.802(E) (1-3) for each nonuse variance request and because the property was annexed into the City on September 1, 1872, under the Town of Colorado Springs and the lot size is limited based on the existing 5,000 square foot (0.11 acres) lot size. Also, denying the current and historical use of this property as an existing duplex and ADU residential use, in its current condition, would represent less reasonable use compared to proximate and similar properties. Furthermore, the proposed nonuse variance will not have an adverse impact upon surrounding properties because the existing duplex and ADU, in their current configuration, are within the existing property boundary lines.

City Planning staff finds that the proposed project addresses all the applicable review criteria set forth in City Code.

2. Conformance with the City Comprehensive Plan:

City Planning staff has evaluated the proposed project for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. According to the PlanCOS Vision Map, the project site is identified as an Established Suburban Neighborhood (**see "PlanCOS Vision Map" attachment**). This project is consistent with one of the core values of PlanCOS, which reinforces the importance of redevelopment in older neighborhoods. One of the "Big Ideas" in the Vibrant Neighborhood Chapter 2 of PlanCOS is entitled "Reclaim Neighborhood Space", which has goal VN-3 that states:

"Through neighborhood plans, associations, and partnerships, empower neighborhoods to reinvest in order to create community, vibrancy, and to address their specific vision and needs."

A "Big Idea" from Chapter 4, entitled "Embrace Sustainability", has Goal TE-4 that states:

"Focus on productively developing and redeveloping areas already in, nearby, or surrounded by the city in order to preserve open spaces, maximize investments in existing infrastructure, limit future maintenance costs, and reduce the impacts of disinvestment in blighted areas."

Adaptive and responsive land use change is one of the core values of PlanCOS. On balance with this perspective, City Planning staff has determined that the project's land use and location meet the overall intent of this idea. For the reasons provided in this overall staff report, City Planning staff finds that this use variance proposal and its associated applications to be in substantial conformance with PlanCOS and its guidance.

3. Conformance with the Area's Master Plan:

The project site is located within the adopted Shooks Run Redevelopment Plan master plan area. The neighborhoods surrounding the project are developed with comparable residential land uses. The applicant's residential accessory use proposal is complementary and supportive of the current land use patterns.

STAFF RECOMMENDATION:

CPC UV 21-00149 – USE VARIANCE DEVELOPMENT PLAN

Approve a use variance for an accessory dwelling unit where a duplex is already constructed in the R-2 (Two-Family Residential) zone district, based upon the findings the request meets the review criteria for granting a use variance as set forth in City Code Section 7.5.803(B) and meets the review criteria for granting a development plan as set forth in City Code Section 7.5.502(B).

CPC NV 21-00150 – NONUSE VARIANCE

Approve a nonuse variance to City Code Section 7.3.104.A to allow for a 0-foot side yard setback where 5-feet is required in the R-2 (Two-Family Residential) zone district, based upon the findings the request meets the review criteria for granting a nonuse variance as set forth in City Code Section 7.5.802(B).

CPC NV 21-00151 – NONUSE VARIANCE

Approve the nonuse variance to City Code Section 7.3.104.A to allow for a 0-foot rear yard setback where 10-feet is required in the R-2 (Two-Family Residential) zone district, based upon the findings the request meets the review criteria for granting a nonuse variance as set forth in City Code Section 7.5.802(B).

AR NV 22-00237 – NONUSE VARIANCE

Approve the nonuse variance to City Code Section 7.3.104.A to allow for a 5,000 square foot lot for an existing duplex where 7,000 square feet is required in the R-2 (Two-Family Residential) zone district, based upon the findings the request meets the review criteria for granting a nonuse variance as set forth in City Code Section 7.5.802(B).