

**CITY PLANNING COMMISSION AGENDA  
JUNE 14, 2023**

**STAFF: ANN ODOM**

**FILE NOs:**  
**SUBD-23-0028 - QUASI-JUDICIAL**  
**SUBD-23-0029 - QUASI-JUDICIAL**  
**NVAR-23-0012 - QUASI-JUDICIAL**

**PROJECT:** 919 N EL PASO REPLAT  
**OWNERS:** SCOTT AND BETHANY PALMER  
**CONSULTANT:** TERILYNN PALMER



**PROJECT SUMMARY:**

1. Project Description: The project known as 919 N El Paso St includes concurrent applications for a subdivision waiver, a replat and a nonuse variance. The project site is currently zoned SU (Special Use, recently renamed to MX-T or Mixed-Use Transition) and is a 5,900 square foot parcel located northeast of E Cache la Poudre and N. El Paso St. directly adjacent to the Shooks Run Trail. The subdivision waiver will allow for a replat of the property at 919 N. El Paso without replatting all portions of the original platting configuration which includes 921 N. El Paso St and 917 N. El Paso St. The nonuse variance will allow for the creation of a lot with a substandard lot

width of 30' where 50' is required. These applications will allow for the construction of a new single-family home and detached garage. The existing parcel, now vacant, previously had a single-family home and detached garage that fell into disrepair and was demolished in 2020. The associated subdivision waiver site plan (**see 'Subdivision Waiver Site Plan' attachment**) illustrates the proposed single-family residence and detached garage.

2. Applicant's Project Statement: (**see '919 N El Paso Project Statement' attachment**)
3. Planning and Development Team's Recommendation: City Planning staff recommends approval of the applications with one condition of approval and three technical modifications.

#### **BACKGROUND:**

1. Site Address: 919 N El Paso St.
2. Existing Zoning/Land Use: The subject property is zoned SU (Special Use, recently renamed to MX-T or Mixed-Use Transition) and is currently vacant. There was previously a single-family home and detached garage on the property that was torn down in 2020.
3. Surrounding Zoning/Land Use:  
North: SU (Special Use)/single-family residence.  
South: SU (Special Use)/single-family residence.  
East: PK PBC/CR SU R1-6 R2 SS (Public Park, Planned Business Center with Conditions of Record, Special Use, Single-family Residential, Two-Family Residential, Streamside Overlay)/Shooks Run Trail  
West: SU (Special Use)/single-family residence.
4. PlanCOS Vision: According to the PlanCOS Vision Map (**see 'PlanCOS Vision Map' attachment**), the project site is identified as being within an established traditional neighborhood.
5. Annexation: The subject property is within the original Town of Colorado Springs area (1872).
6. Master Plan/Designated Master Plan Land Use: The site is not within a master plan area.
7. Subdivision: The property was part of the Uintah Addition (1911) but is proposed to be replatted as Uintah Addition Filing 1A.
8. Zoning Enforcement Action: There are no zoning violations associated with the property.
9. Physical Characteristics: The property is a narrow, flat residential parcel that is only 30' wide at the right-of-way, increasing to 31.72' in width at the rear.

#### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public notification process consisted of providing notice to adjacent property owners within 1,000 feet of the site, which included the mailing of postcards to roughly 240 property owners on two (2) occasions; during the internal review stage and prior to the Planning Commission hearing. The site was also posted during the two occasions noted above. City Planning staff received two public comments for this project which are included in the packet as (**see '919 N El Paso Public Comments' attachment**).

Staff and review agency input is outlined in the following sections of this report. Staff sent copies of the plan set and supporting documentation to the standard review agencies including City Engineering, Traffic, CSU, SWENT, Licensed City Surveyor and Real Estate Services. All reviewing agencies support the applications with a few minor technical modifications listed at the conclusion of this report.

#### **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

1. Review Criteria / Design & Development Issues:
  - a. Background

The current owners of 919 N El Paso purchased the property in 'below average condition' in 2020 and then proceeded to pull a demolition permit through Pikes Peak Regional Building Department to tear down all the existing structures. Before requesting building permits, the applicants provided documentation to prove that the parcel met the lot of record definition set forth in City Code section 7.2.201 which qualified the site for a waiver of replat. A waiver of replat is a minor administrative procedure that would consolidate the lots for zoning purposes and allow the owners to build on the parcel. Shortly after submittal of the waiver of replat, it was discovered that there were multiple encroachments across the north side property line, disqualifying the applicants from the waiver of replat application and requiring them to replat the property in order to gain building permits for new construction. After working toward gaining signatures from the neighbors at 917 N El Paso and 921 N. El Paso to move forward with the replat as an administrative application, the owners of 919 N. El Paso could not gain the necessary signatures from their neighbors and chose to pursue the subdivision waiver application. At first glance, the proposal of a new single-family home on a parcel considered a lot of record appears to be a simple administrative review but due to the existing encroachments over the north property line, additional steps were necessary to allow for a single-family home and garage to be rebuilt at this location.

b. Subdivision Plat

The replat application will allow for the replat of the parcel at 919 N. El Paso St. The intent of the replat is to allow the owners to construct a new single-family home and detached garage. The replat application will replat the parcel in its existing configuration which is a historic lot of record with a deed dating back to 1931.

c. Subdivision Waiver

The proposed final plat application is accompanied by a subdivision waiver to the procedural requirements of a subdivision plat to allow for a replat of a single parcel without replatting all portions of the original platting configuration in accordance with City Code Section 7.7.305. The proposed replat will allow for the construction of a new single-family home and detached garage.

Procedural Requirements: A waiver, which shall be requested prior to any subdivision request, may be granted when all of the following criteria are met:

1. Specific application of the procedural requirements makes strict enforcement an unreasonable burden upon the property and presents a difficulty unique to the development of that property given its circumstances. An assertion or showing that compliance increases cost of development does not satisfy this test.
2. The benefit to the public in waiving the requirement outweighs the harm to the property owner in strictly enforcing the requirement.
3. The intent and purpose of this part are implemented and waiver from any requirement may be reasonably calculated to substantially secure the objectives of this article and the Comprehensive Plan, as well as the requirement so waived.

The applicant proposes that the subdivision waiver request is justified because the replat will support the construction of a new single-family residence and detached garage where a single-family residence and detached garage previously existed. Prior to submitting for the final plat and subdivision waiver, the applicants were instructed by Planning Staff to submit for a waiver of replat, a minor administrative procedure intended to alleviate platting costs in older subdivisions. Upon review of the waiver of replat application, multiple encroachments from the structures on the neighboring lot to the north were identified and due to these encroachments, the site no longer qualified for the waiver of replat application. The waiver of replat was withdrawn in October of 2020 and the property owners of 919 N El Paso worked to gain the signatures of the neighboring property owners who made up the remainder of the platting configuration. After over two years of efforts and no progress toward gaining the necessary signatures, the applicants have chosen to move forward with the request to replat only the subject parcel.

d. Nonuse Variance – Lot width

The proposed replat will require a nonuse variance to allow for a 30' wide lot where 50' is required for new lots created in the SU (Special Use) zone district.

Criteria For Granting: The following criteria must be met in order for any nonuse variance to be granted:

1. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district; and
2. 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; and
3. That the granting of the variance will not have an adverse impact upon surrounding properties.

The applicant proposes that the lot width variance is justified because they are replatting the parcel in its existing configuration which has existed since 1931. The site previously had a single-family home and detached garage that was constructed in the early 1900s that remained on site until 2020 when it was demolished due to the extent of disrepair. The proposed single-family residence and detached garage is in line with the development patterns of the immediate surrounding area and will not increase the density of the block beyond historical conditions. The applicants have also demonstrated that despite the narrow lot, they will still be able to dedicate the necessary easements and meet all the setback and lot coverage requirements of the SU (Special Use) zone district without any additional variances.

2. Conformance with the City Comprehensive Plan:

City Planning staff has evaluated the proposed application for conformance with the City's current comprehensive plan ("PlanCOS"), adopted in January 2019. According to PlanCOS Vision Map (**FIGURE 4**) the project site falls within a traditional established neighborhood. PlanCOS includes a number of Goals, Policies and Strategies that support the proposed project, including:

- Goal VN-2: Strive for a diversity of housing types, styles, and price points distributed throughout our city through a combination of supportive development standards, community partnerships, and appropriate zoning and density that is adaptable to market demands and housing needs
- Strategy VN-3.E-3: Though a combination of Zoning Code changes and development review decisions, encourage and support flexible site and building designs and residential densities that are adaptable to the specific site
- Policy UP-2.A: Support infill and land use investment throughout the mature and developed areas of the city
- Strategy UP-2.A-1: Encourage the development or redevelopment of vacant properties in the core area of the city by using a combination of incentives, rezoning, and creative design solutions
- Strategy UP-2.A-4: Actively support ongoing and potential infill projects, employ problem-solving approaches and continue to implement process improvements in support of infill and redevelopment

3. Conformance with the Area's Master Plan:

The project site is not a part of a formal master plan but is near the northern edge of the Shooks Run master plan boundary and a few blocks away from the Experience Downtown master plan boundary. Despite not being within the limits of these plans, the proposal is consistent with a number of priorities for both plans.

**STAFF RECOMMENDATIONS:**

**SUBD-23-0028 – Subdivision Waiver**

Approve the 919 N. El Paso St. Subdivision Waiver based upon the findings that the review criteria for granting a subdivision waiver as set forth in City Code Section 7.7.1302 have been met. This recommendation includes the following technical modifications:

Technical Modification:

1. Update the site plan to include the lot coverage calculation and the location and extent of all encroachments on the property.
2. Update the elevations to show utility meters and meet height requirements for accessory structures.

**SUBD-23-0029 – Final Plat**

Approve the 919 N. El Paso St. Final Plat based upon the findings that the review criteria for granting a subdivision waiver as set forth in City Code Section 7.7.1302.A and the replat requirements set forth in City Code Section 7.7.305 have been met. This recommendation includes the following technical modifications:

Condition of Approval:

1. Gain final acceptance of the project's drainage study

Technical Modification:

1. Update replat plans to reflect additional minor details requested by SWENT and Real Estate Services

**NVAR-23-0012 – Nonuse Variance**

Approve the 919 N. El Paso St. nonuse variance to City Code section 7.3.104.A to allow a 30' wide lot where 50' is required in the SU (Special Use) zone district, based upon the findings that the review criteria for granting a nonuse variance as set forth in City Code Section 7.5.802.B have been met.