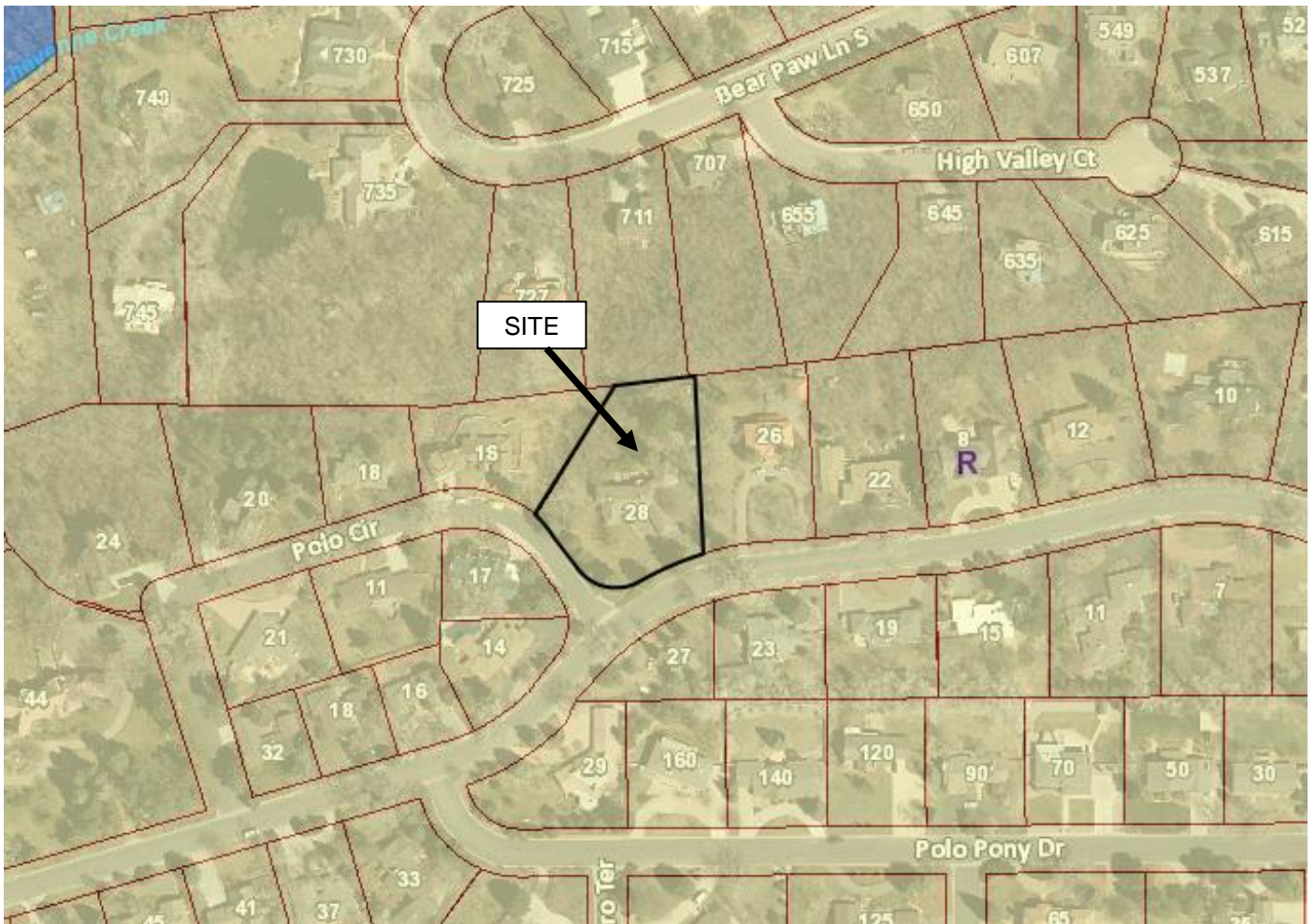


CITY PLANNING COMMISSION AGENDA
January 17, 2019

STAFF: LONNA THELEN

FILE NO(S):
AR PFP 18-00678 – QUASI-JUDICIAL
AR NV 18-00679 – QUASI-JUDICIAL
AR NV 18-00680 – QUASI-JUDICIAL

PROJECT: 28 POLO
APPLICANT/OWNER: 28 POLO LLC
CONSULTANT REPRESENTATIVE: 28 POLO LLC



PROJECT SUMMARY:

1. **Project Description:** This project consists of a preliminary and final plat and two nonuse variances. The preliminary and final plat application is for a 2 lot single-family residential subdivision that is located at 28 Polo Drive, contains 38,460 square feet, and is zoned R (Estate Single-Family Residential). The lot layout is illustrated on the preliminary plat (**FIGURE 1**) and the final plat (**FIGURE 2**). The nonuse variances are for lot size and lot width. The lot size variance allows two-19,230 square foot lots where 20,000 square foot lots are required in the R zone district. The lot width variance allows a 67 foot lot width at the rear setback line for Lot 1 and a 59 foot lot width at the rear setback line for Lot 2 where 100 foot lot width is required at the front and rear setback line.

Similar applications for preliminary and final plat, nonuse variance for lot size and nonuse variance for lot width were submitted in 2017 and administratively approved on June 5, 2017. (**FIGURE 3**) The applications were then appealed (by opposing neighbor) to City Planning Commission (**FIGURE 4**). The City Planning Commission denied the appeal and upheld the administrative approval on July 20, 2017 with a 6-3 vote (Aye: Fletcher, Graham, McDonald, Markewich, Satchell-Smith, Smith, No: Henninger, Raughton, Walkowski) (**FIGURE 5**). The applications were then appealed (again by opposing neighbor) to City Council. The City Council heard the appeal on August 22, 2017. City Council and voted 9-0 to approve the appeal, thus denying the project (Aye: 9 - Avila, Bennett, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, and Strand) (**FIGURE 6**).

Per City Code 7.5.907, nonuse variances disapproved by City Council or City Planning Commission cannot be resubmitted for consideration until a period of twelve months has passed since the original decision by City Council. The applicant waited twelve months and resubmitted the plans on October 3, 2018.

2. **Applicant's Project Statement:** (**FIGURE 7 and FIGURE 8** -response to neighborhood concerns from initial review).
3. **Planning and Development Team's Recommendation:** Staff recommends approval of the applications.

BACKGROUND:

1. **Site Address:** 28 Polo Drive
2. **Existing Zoning/Land Use:** R/Single-Family Residential
3. **Surrounding Zoning/Land Use:** North: R/Single-Family Residential
South: R/Single-Family Residential
East: R/Single-Family Residential
West: R/Single-Family Residential
4. **Annexation:** Reannexation of the Southwest Annexation Area, 1980
5. **Master Plan/Designated Master Plan Land Use:** There is no master plan for this site.
6. **Subdivision:** Polo Park Addition to Broadmoor
7. **Zoning Enforcement Action:** There are no current enforcement actions on this site.
8. **Physical Characteristics:** The site is relatively flat toward Polo Drive and Polo Circle. The northwest corner of the lot slopes steeply northward toward Bear Paw Lane.

STAKEHOLDER PROCESS AND INVOLVEMENT: The public process involved with the review of these applications included posting the site and sending postcards to 131 property owners within 1000 feet for internal review and a neighborhood meeting held on October 23, 2018. Approximately 40 people attended the meeting. Comments were received during internal review; **FIGURE 9** documents the public comments received from the internal reviews. The site was also posted and postcards sent for the City Planning Commission meeting to 131 property owners within a 1,000 foot buffer of the site.

The major areas of concern documented by the neighborhood are that this item was already heard by City Planning Commission and City Council and ultimately denied by City Council. They also stated that the new applications should also be denied as the previous applications were and reiterated that the major neighborhood concerns raised previously still apply. These concerns include a change to neighborhood character, drainage patterns from the new home, and geologic hazard concerns.

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 Traffic, City Fire, Police, Enumerations, Floodplain, Real Estate Services, Comcast, School District 12 Colorado Geologic Survey and E-911. This site is not within the Airport Overlay and was not seen by the Airport Advisory Committee and is outside of the buffer for review by USAFA.

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

1. Review Criteria / Design & Development Issues:

Background

The original home addressed as 28 Polo was constructed in 1951. At the time of the first review of the project, the original home was still on the property. After the denial of the original application, the current owner tore down that structure and built a new single-family home on the east half of the lot. The owner is applying to plat the property into two lots and build a new single-family home on the to-be-created west lot. As was outlined in the project summary section above, the applicant previously submitted and received administrative approval for a preliminary and final plat to subdivide the lot into two lots and two nonuse variances. That administrative approval was appealed to City Planning Commission and the administrative approval of the applications upheld. Upon an appeal of the City Planning Commission decision to City Council, the Council upheld the appeal and denied the applications.

Per City Code 7.5.105, the current application is permitted to be approved or denied administratively; however, given the history of this project, staff has decided to forward this application to City Planning Commission for approval or denial. The rationale for forwarding this application is due to the large response from the neighborhood primarily in opposition to the project and opposing decisions on the appeals by the Planning Commission and City Council.

The justification for the nonuse variances are detailed below:

Variance 1 – A nonuse variance to allow 19,230 square foot lots where 20,000 square feet is required in the R (Residential Estate) zone district. This equates to the new lot sizes being 770 square feet less than the required lot size or 3.85% less than the required lot size.

Per City Code, if the percent of the reduction in a dimensional standard is less than 15%, the request qualifies for an administrative relief (which has a lesser standard of review than a variance). However, the applicant was required to submit a nonuse variance instead of an administrative relief due to the creation of a new lot, which meant that he could not comply with the review criteria for granting administrative relief.

7.5.1102.D - The granting of the administrative relief will not allow an increase in the number of dwelling units on a parcel. Administrative relief shall not be used to create or modify lots to the extent that they no longer meet the minimum lot size for the zone district in which they are located

Variance 2 – A nonuse variance to allow 67-foot lot width at the rear setback line for Lot 1 and a 59-foot lot width at the rear setback line for Lot 2 where 100 feet of lot width is required at the front and rear setback line. Note that the 100-foot lot width requirement is being met at the front setback abutting the public roadway and that the variance is only required for the rear setback line deficiency.

The major neighborhood concerns raised in 2017 and with the current review include a change to neighborhood character, drainage patterns from the new homes, and geologic hazard concerns. These concerns are discussed in detail below.

Neighborhood Character (Nonuse variances):

The neighbors opposed to the project claim that the lot size of 20,000 square feet is consistent with existing lots throughout the neighborhood and therefore a nonuse variance request for less than the 20,000 square foot minimum in the R zone district is contrary to the neighborhood character. **FIGURE 10** shows the lot sizes of the surrounding lots and provides context to show the varying sizes of lots. The majority of the properties that access to Polo Drive, Polo Circle and Polo Pony Drive are between 20,000 and 25,000 square feet. Seven of the nearby properties are less than 20,000 square feet. There is a significant grade change between the homes on Polo Drive and Polo Circle to the homes on Bear Paw Lane. The majority of the homes along Bear Paw Lane are over 25,000 square feet. Staff found that a consistent neighborhood character of 20,000 square feet or greater was not present in the neighborhood and therefore a nonuse variance to allow two 19,230 square foot lots was not out-of-character with the neighborhood.

The record of decision for the nonuse variances is attached as **FIGURE 3**. Staff has found that for each of the nonuse variance requests the three nonuse variance criteria have been met.

Nonuse variance justification for lot size:

1. 7.5.802 (B.1) Exceptional or Extraordinary Conditions Met

The property shape is more similar to a pie shape instead of a rectangular shape. The majority of the surrounding properties exhibit a typical rectangular shape lot, with the exception of the properties at 17 Polo Circle, 14, 16, 27 and 32 Polo Drive and 655 High Valley Ct which also do not meet the rear yard lot width of 100 feet (see **FIGURE 10** for locations). In addition, the property has a steep slope on the north side of the property. The applicant has placed a preservation area easement over the steep slope on the property in order to protect the slope. In addition, the applicant has limited the lot coverage for the lots to 15% to help limit the impact on surrounding properties. Therefore, the properties shape and topography provide exceptional or extraordinary physical conditions to the site.

2. 7.5.802 (B.2) No Reasonable Use of Property Met

The applicant is requesting a 3.85% reduction in lot size for each of the two lots. An analysis of the surrounding properties shows that the properties range in lot size from 14,000 square feet to 31,000 square feet. Seven of the nearby properties do not meet the 20,000 square foot requirement for the R zone district. The neighborhood standard that exists with the lots ranging in size from 14,000 square feet to 31,000 square feet demonstrates a less reasonable use for this property.

3. 7.5.802 (B.3) No Adverse Impact to Surrounding Property Met

The granting of the variance will not adversely impact the health, safety and welfare of the surrounding properties. A drainage report and geologic hazard report in addition to a preliminary and final plat have been approved for the site. The plans demonstrate there will be no adverse impacts to the neighborhood.

Nonuse variance justification for rear lot width:

1. 7.5.802 (B.1) Exceptional or Extraordinary Conditions Met

Due to the lot configuration that is similar to a pie shape instead of a rectangular shape the lot width at the front setback line of the property can be met, but the lot width at the rear setback line where the lot narrows cannot be met. City Code requires that the lot width be met at both the front and rear setback lines. Both properties exceed the 100' lot width minimum at the front setback line. In addition, the northern portion of the property has a very steep slope. The preliminary and final plat documents required that the steep slope be placed in a preservation easement. The lot

is also limited to a 15% lot coverage that will limit the size of the home. The lot shape and the steep slopes provide the exceptional or extraordinary conditions for the site.

2. 7.5.802 (B.2) No Reasonable Use of Property Met

Without the granting of the variance, due to the unique physical conditions of lot shape and topography, the property owner would not be able to use their property with the same reasonable use as surrounding properties. The majority of the surrounding properties have lot shapes that are rectangular allowing the properties to meet the lot with requirement at the front setback and rear setback lines.

3. 7.5.802 (B.3) No Adverse Impact to Surrounding Property Met

The granting of the variance will not adversely impact the health, safety and welfare of the surrounding properties. A drainage report and geologic hazard report in addition to a preliminary and final plat have been approved for the site. The plans demonstrate there will be no adverse impacts to the neighborhood.

The property is not zoned with the Hillside Overlay and therefore, is not required to comply with the hillside overlay criteria. The owner has acknowledged that a portion of the property has hillside characteristics and has voluntarily agreed to place that portion of the property in a preservation area. The preservation area cannot be built on or disturbed.

The applicant has also voluntarily agreed to a 15% maximum lot coverage or 2,884 square feet maximum footprint for all structures. The R zone district allows a 20% maximum lot coverage or in this case 3,846 square foot footprint for all structures. The smaller footprint limits the drainage impacts and potential geologic hazard concerns that were raised by the neighborhood.

Drainage:

The drainage report was reviewed and approved by Water Resources Engineering. The drainage report does not show significantly increased drainage flow rates or change the existing drainage patterns. The proposed project will split the 0.88 acre lot into two 0.44 acre lots with a new residential house on each lot (one of the new homes is already built). According to the Final Drainage Report, the proposed development will maintain the current drainage patterns to the northwest, and will not increase the impervious surface. Resulting in developed five year and 100 year runoff rate of 0.9 cfs and 3.0 cfs, which is slightly less than the existing runoff rate of 1.2 cfs and 3.3 cfs. The drainage report recommends the builder install and maintain construction BMP's (Best Management Practice) to control sediment and erosion during and after project excavation.

Geologic Hazard

A geologic hazard study was required for the property, which was prepared by the applicant's geotechnical consultant - Entech Engineering. The study was approved by City Engineering and was reviewed by the Colorado Geologic Survey (CGS); see their comments in **FIGURE 11**. Entech's geologic hazard report identified expansive soils, downslope creep areas, potentially unstable slopes, seasonal shallow groundwater and artificial fill as geologic hazards and or geotechnical constrains on the site. CGS agreed with the hazards identified and the recommended mitigations including avoidance, prevention, and mitigation of the hazards, especially downslope creep, expansive soils, and potentially unstable slopes. The preservation area shown on the plat limits the ability to build in the area with the majority of the geologic hazards identified.

Groundwater concerns were raised by neighbors during the review of the project. Entech completed one test boring drilled down to 20 feet. Groundwater was not encountered in the test borings at the 20 foot depth. Because the ground water was not detected at 20 feet, foundations are not expected to be affected on the site; however, groundwater fluctuation may occur due to variation in rainfall or other factors. As such, the builders should be cognizant of the potential for the occurrence of subsurface water features during construction.

Staff finds that the applications associated with this project have adequately addressed all of the issues raised by the internal review agencies and meet the review criteria as set forth in City Code.

2. Conformance with the City Comprehensive Plan:

PlanCOS that will be adopted by the City Council on January 22, defines this area as an established historic neighborhood with the typology of an established suburban neighborhood. This proposal meets the Comprehensive plan goals as it provides for infill and supports small diversity to the neighborhood housing type. It also increases density in the neighborhood that already has established utilities and roadway systems.

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-2.A-3: Support land use decisions and projects that provide a variety of housing types and sizes, serving a range of demographic sectors, and meeting the needs of residents and families through various life stages and income levels.

Strategy VN-2.A-4: Allow for zoning residential bonuses that result in the provision of additional attainable housing, such as increased heights or densities.

The site is also supported by the Infill and Redevelopment Action Plan goals of density, fiscal efficiency economic stimulus. The site is built in an existing neighborhood and therefore does not require any extensions of roadways or utilities. In addition, the subdivision creates additional density in an existing neighborhood.

The soon to be superseded 2001 Comprehensive Plan 2020 future Land Use Map calls out this area as "General Residential", which is a designation to be used for the vast majority of existing and future residential areas. Primary uses for this type of residential development are areas with an average gross density of greater than three dwelling units per acre. The density proposed by this development is less than three dwelling units per acre. The development that is proposed is compatible with the surrounding existing large lot residential. The Comprehensive plan encourages infill and use of existing infrastructure for new developments.

Objective LU 2: Develop A Land Use Pattern That Preserves the City's Natural Environment, Livability, And Sense of Community

A focused pattern of development makes more efficient use of land and natural and financial resources than scattered, "leap frog" development. In contrast to dispersed patterns of development, a consolidated pattern helps to decrease traffic congestion and facilitates the ability of the City to provide needed services and public facilities, such as street maintenance, public transit, police and fire protection, and emergency services.

Objective LU 4: Encourage Infill and Redevelopment

Encourage infill and redevelopment projects that are in character and context with existing, surrounding development. Infill and redevelopment projects in existing neighborhoods make good use of the City's infrastructure. If properly designed, these projects can serve an important role in achieving quality, mixed-use neighborhoods. In some instances, sensitively designed, high quality infill and redevelopment projects can help stabilize and revitalize existing older neighborhoods.

Objective LU 5: Develop Cohesive Residential Area

Neighborhoods are the fundamental building block for developing and redeveloping residential areas of the city. Likewise, residential areas provide a structure for bringing together individual neighborhoods to support and benefit from schools, community activity centers, commercial

centers, community parks, recreation centers, employment centers, open space networks, and the city's transportation system. Residential areas also form the basis for broader residential land use designations on the citywide land use map. Those designations distinguish general types of residential areas by their average densities, environmental features, diversity of housing types, and mix of uses. Residential areas of the city should be developed, redeveloped and revitalized as cohesive sets of neighborhoods, sharing an interconnected network of streets, schools, parks, trails, open spaces, activity centers, and public facilities and services.

3. Conformance with the Area's Master Plan:
No master plan exists for this site.

STAFF RECOMMENDATION:

AR PFP 18-00678 – PRELIMINARY AND FINAL PLAT

Approve the preliminary and final plat for 28 Polo, based upon the finding that the preliminary and final plat complies with the review criteria in City Code Section 7.7.102, 7.7.204, 7.7.303 subject to the following technical modifications:

Final plat technical modifications:

1. Revise Note 5 (FEMA Floodplain) to the recently approved revision to the effective date and panel number.
2. Add "a Colorado Limited Liability Company" following 28 Polo under Notarial.
3. Include the specific geologic hazards identified in the approved geologic hazard report in the Geologic Hazard Statement.
4. Revise all dates to "2019".

Preliminary plat technical modifications:

1. Revise Note 5 (FEMA Floodplain) to the recently approved revision to the effective date and panel number.
2. Include the specific geologic hazards identified in the approved geologic hazard report in the Geologic Hazard Statement.
3. Include the correct file numbers in the lower right hand corner.
4. Provide all quoted paragraphs from the Fire Department review as notes. See previously disapproved comment and provide all quoted paragraphs as notes on the plans.
5. Switch the file numbers for the nonuse variances, AR NV 18-00679 is for lot width and AR NV 18-00680 is for lot size.

AR NV 18-00679 – NONUSE VARIANCE

Approve the nonuse variance to allow a 67 foot rear yard lot width for Lot 1 and a 59 foot rear yard lot width for Lot 2 where 100 feet is required, based upon the finding that the nonuse variance complies with the review criteria in City Code Section 7.7.802.B.

AR NV 18-00680 – NONUSE VARIANCE

Approve the nonuse variance to allow two 19,230 square foot lots where 20,000 square feet is required, based upon the finding that the nonuse variance complies with the review criteria in City Code Section 7.7.802.B.