

CITY PLANNING COMMISSION AGENDA

STAFF: LONNA THELEN

FILE NO(S):

AR PFP 17-00122 – QUASI-JUDICIAL

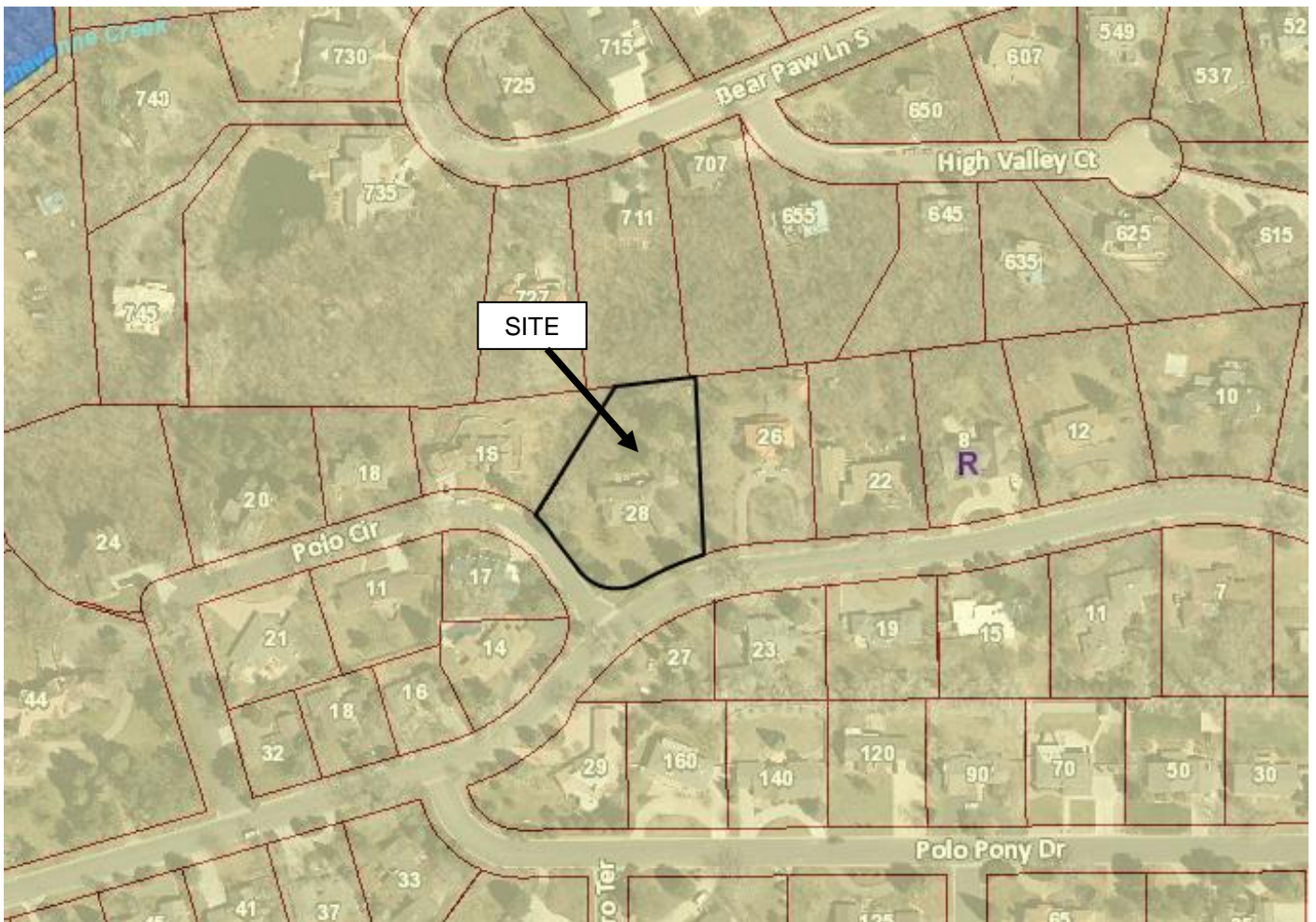
AR NV 17-00123 – QUASI-JUDICIAL

AR NV 17-00124 – QUASI-JUDICIAL

PROJECT: 28 POLO

APPLICANT: 28 POLO LLC

OWNER: 28 POLO LLC



PROJECT SUMMARY:

1. **Project Description:** This project is an appeal of a preliminary and final plat and two nonuse variances. The preliminary and final plat application is for a 2 lot single-family 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 a 20,000 square foot lot is 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 feet lot width is required at the front and rear setback line.

These applications were approved administratively on June 5, 2017 and appealed by Gerald McLaughlin on June 15, 2017. (**FIGURE 3**)

2. **Applicant's Project Statement:** (**FIGURE 4**)
3. **Planning and Development Team's Recommendation:** Staff recommends denial of the appeal and 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. **Comprehensive Plan/Designated 2020 Land Use:** General Residential
5. **Annexation:** Reannexation of the Southwest Annexation Area, 1980
6. **Master Plan/Designated Master Plan Land Use:** There is no master plan for this site.
7. **Subdivision:** Polo Park Addition to Broadmoor
8. **Zoning Enforcement Action:** There are no current enforcement actions on this site.
9. **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 129 property owners within 1000 feet for internal review and a neighborhood meeting held on March 15, 2017 . Approximately 41 people attended the meeting. Multiple rounds of public comments were received during the internal review; **FIGURES 5-6** document the public comments received from the first and second review. Finally, the site was also posted and postcards send for the City Planning Commission appeal meeting to 129 property owners within a 1,000 foot buffer of the site.

The major areas of concern documented by the neighborhood are compatibility with neighborhood character, drainage concerns, and geologic hazard concern. These areas of concern will be discussed in the following review section of the 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 Traffic, City Fire, Police, Enumerations, Floodplain, Real Estate Services, Comcast, School District 12 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 existing home on 28 Polo was constructed in 1951. The current owner is proposing to tear down the existing structure, plat the property into two lots and build two new single-family homes. The applicant has submitted and received approval for a preliminary and final plat to subdivide the lot into two lots and two nonuse variances. The nonuse variance approvals are detailed below.

Variance 1 – A nonuse variance to allow 19,230 square foot lots where 20,000 square feet is required. The lot size is 770 square feet less than the required lot size or 3.85% less than the required lot size.

Normally if the percent relief is less than 15%, the applicant could apply for administrative relief. However, the applicant was required to submit a nonuse variance and not 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.

The major neighborhood concerns raised included a change to neighborhood character, drainage patterns from the new homes, and geologic hazard concerns.

Neighborhood Character (Nonuse variances):

The appellant and neighbors opposed to the project claim that the lot size of 20,000 square feet is consistent 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. Pages three and four of **FIGURE 4** of the applicant's project statement show the lot sizes of the properties surrounding the current lot. The nearby properties range in size from 14,000 to 31,000 square feet and seven of the nearby properties are less than 20,000 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 7**. 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. In addition, the property has a steep slope on the north side of the property. The applicant has placed a preservation area 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 the lot width at the front setback line of the property is able to be met, but the lot width at the rear setback line where the lot narrows is not able to 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 in shape 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 a 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 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 agreed to a 15% maximum lot coverage of 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 remove the existing house and split the 0.88 acre lot into two 0.44 acre lots with a new residential house on each lot. 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 as compared to the existing single lot and house. 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 maintains 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. The study was approved by City Engineering and was reviewed by the Colorado Geologic Survey (CGS); see their comments in **FIGURE 8**. 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 borings 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, 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:

The 2020 Comprehensive Plan 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 17-00122 – PRELIMINARY AND FINAL PLAT

Deny the appeal and uphold the approval of the preliminary and final plat for 28 Polo Drive, based upon the finding that the preliminary and final plat complies with the review criteria in City Code Section 7.5.906.A.4.

AR NV 17-00123 – NONUSE VARIANCE

Deny the appeal and uphold the approval of 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 7.5.906.A.4.

AR NV 17-00123 – NONUSE VARIANCE

Deny the appeal and uphold the approval of 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 7.5.906.A.4.