CITY PLANNING COMMISSION AGENDA

STAFF: MICHAEL TURISK

FILE NOS.:

<u>CPC SWP 16-00155 – SUBDIVISION WAIVER – QUASI-JUDICIAL</u> <u>CPC PFP 16-00156 – PRELIMINARY/FINAL PLAT – QUASI-JUDICIAL</u> <u>CPC NV 17-00141 – NON-USE VARIANCE – QUASI-JUDICIAL</u>

PROJECT: ROBBIN PLACE DUPLEXES

APPLICANT: MR. PAUL RISING

OWNER: TARA CUSTOM HOMES, INC.



PROJECT SUMMARY:

Project Description:

There have been a number of postponements of this item since the staff report was originally prepared. Language added to describe the actions and updates since the postponements is added within the report as bold and italic text.

Under consideration is a request for a subdivision waiver (from design standards) to provide primary legal access via a public alley to an approximately one half-acre vacant residential property located approximately ¼-mile west of the intersection of North Spruce and West Boulder Streets on the City's Westside.

Associated with the waiver request are preliminary/final plat and non-use variance applications. The plat applications propose six lots oriented in a perpendicular fashion to the comparatively short and narrow alleyway in order to facilitate future residential access. The non-use variance request is to allow for reduced lot widths (50-feet minimum is required in the R-2 [Two Family Residential] zoning district (FIGURE 1A & 1B). The intent of the applications is to facilitate the construction of three duplexes, a residential use permitted in the R-2 zoning district.

The subject property is located approximately ¼-mile west of the intersection of North Spruce and West Boulder Streets between St. Vrain at the north and West Boulder Street at the south on the City's west side.

- 1. Applicant's Project Statement: (FIGURE 2)
- 2. Planning and Development Team's Recommendation: Staff recommends approval of the applications with technical modifications.

BACKGROUND:

- 1. Site Address: Known unofficially as 543 Robbin Place
- 2. Existing Zoning/Land Use: R-2 (Two Family Residential)
- 3. Surrounding Zoning/Land Use: North: R-2 Residential)/single-family (Two-Family residential South: R-2 (Two-Family Residential)/single-family residential East: R-2 (Two-Family Residential)/single-family residential West: PUD (Planned Unit Development: duplex and triplex land uses) (Ordinance 81-192 establishing the PUD limits the use to attached single-family type development at 6.6 units per acre and 35-feet maximum height). 4. Comprehensive Plan/Designated 2020 Land Use: General Residential
- 5. Annexation: Town of Colorado Springs
- 6. Master Plan/Designated Master Plan Land Use: The property is located within the Westside Master Plan.
- 7. Subdivision: Shermans Addition to Colorado Springs, Lots 1-11, B.3 Resubdivision
- 8. Zoning Enforcement Action(s): None
- 9. Physical Characteristics: The property is unimproved and shows abrupt and significant slope at its western third where there is a recorded preservation easement.

STAKEHOLDER PROCESS AND INVOLVEMENT:

For the new applications submitted in December 2016, public notice was mailed to property owners within 1,000-feet of the subject property during the internal review phase and prior to the staff-facilitated neighborhood meeting on February 6, 2017. In addition, notice was mailed prior to the public hearing before City Planning Commission on May 18, 2017. The applicant posted a notice on-site during the internal review phase, prior to the staff-facilitated neighborhood meeting on February 6, 2017 and prior to the City Planning Commission hearing on May 18, 2017.

There were approximately twenty (20) residents who attended the neighborhood meeting on February 6, 2017, many of whom voiced concerns regarding drainage, landslide potential, adequate emergency services and residential access and proposed building aesthetics and design. At this meeting the applicant's surveyor, and drainage and geotechnical engineers fielded questions regarding the concerns noted above related to the plat and the drainage and geotechnical reports, and mitigation to be considered to control potential runoff and ensure structural integrity.

Furthermore, the applicant met with neighbors as well as representatives from the Council of Neighbors and Organizations (CONO) and the Organization of Westside Neighbors (OWN) on January 21, 2017 to discuss the previously noted concerns about land slippage, drainage and the potential negative safety impacts of additional residences at the site.

Note that the submitted applications from 2016 generated 13 letters from neighboring residents and a letter conveying similar concerns from OWN (**FIGURE 3**). The latest applications generated five letters from neighboring residents (**FIGURE 4**) who conveyed concerns noted previously in this memorandum and those discussed during the two staff-sponsored neighborhood meetings. Concerns noted throughout also include proposed design, aesthetic and general fit or appropriateness of the proposed duplex units with the surrounding neighborhood.

A neighborhood meeting was held on May 15th in order to inform the neighbors of changes to the plans made since first review of the submittal. Staff and the applicant were in attendance. Approximately eight neighbors were in attendance at the meeting. The topics of discussion included how the alley is going to accommodate the drainage, how fire access will be accommodated on the south and north entrance to the alley, the effect the nonuse variance for lot width has on the project, the liability of future issues surrounding the geologic hazard concerns, and the architectural design of the houses proposed. Staff has continued to keep the neighborhood updated on new submittals from the applicant.

The applicant resubmitted updated plans on June 2nd. The intent of the resubmittal was to address the outstanding items as outlined in this report for the May 18th hearing. Staff's opinion at that time was that the resubmittal did not address all of the comments and another submittal was required prior to a full hearing with a recommendation from staff. Furthermore, the City Fire Department had commented that the plans do not include enough detail in order to review the fire access design. City Engineering and Utilities have not yet supplied comments.

The applicant has most recently provided staff with updated documents dated 6/25/17. Those documents were sent to the neighbors and staff will meet with the neighborhood prior to the July 20th City Planning Commission Hearing to discuss the final plans and upgrades. The updated plan reflects utilities, drainage and alley reconfiguration and construction. The following sections of the report outline a detailed analysis of the most recent documents that have been provided as FIGURES 1A and 1B.

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

1. <u>Review Criteria/Design & Development Issues:</u> Background The following points intend to serve clarity regarding the history of the requests:

- A similar preliminary/final plat application and subdivision waiver were submitted for this property on April 20, 2016.
- As part of that public process, a neighborhood meeting was held on June 4, 2016 and was attended by 17 neighbors. Primary concerns regarded drainage, landslide potential, adequate emergency services and residential access and aesthetic and design considerations.
- After internal staff review, the subdivision waiver only was heard and approved at the City Planning Commission hearing on August 18, 2016.
- An appeal application was submitted to the City Clerk on August 29; the Appellant's statement (FIGURE 5) documented concerns regarding the safety of permitting alleyway access for additional residential development given the various concerns noted above, as well as procedural complaints regarding the apparent inability of City Planning Commission to formally consider public testimony regarding the submitted plat applications (FIGURE 6) (preliminary and final plat applications are subject to administrative review only).
- At the appeal hearing October 25, 2016, City Council rendered a 4-4 vote, thus denying the appeal (and reaffirming City Planning Commission's approval).
- A reconsideration hearing by City Council on November 22, 2016 resulted in formal withdrawal of the applications from the record so as to allow City Council to direct the applicant to submit new applications so that staff and City Planning Commission may formally consider the applications collectively. Consequently, the appellants withdrew the appeal.
- The applicant resubmitted the subdivision waiver and plat applications in December 2016.
- The applicant submitted a non-use variance application in March of 2017 to allow for reduced 50feet minimum lot widths for the proposed six lot plat configuration.
- Due to outstanding questions and the need for additional documentation, the project was postponed from the May 18th hearing to the June 15th hearing in order for the applicant to provide additional information related to utilities and alley design.
- Staff recommended another postponement to the July 20th hearing in order to afford the applicant additional time to work with his consultants.

Subdivision Waiver

The need for a subdivision waiver application is triggered by Code provisions that classify and intend alleyways as secondary means of access due largely to their less stringent design and construction standards compared with public streets. Per 7.7.1301 and 7.7.1302, a subdivision waiver is defined as authorization to deviate from either the procedural requirements or the design standards of the City's Subdivision Regulations and shall be requested concurrently with any subdivision request.

The subject property has been identified as being landslide susceptible, not unlike several other neighboring and developed properties. However, the subject property has comparatively abrupt slope that is more dramatic than other properties in the general vicinity, and therefore is regarded as having an exceptional condition compared to immediate properties.

In addition, if the strict application of the requirements when applied to the property with its exceptional condition(s) prohibits the use of the property (or its reasonable physical development) when compared to the opportunity to use and develop similar properties in the general vicinity, then a subdivision waiver may be granted. To this point, by virtue of the subject property's location there are limited access options, as the properties adjacent and south along West Boulder Street are developed and not under the applicant's ownership. In addition, the subject property does not hold street frontage at North Chestnut Street to the west, as right-of-way was vacated here almost 30

years ago, per Ordinance 78-93. Even if access were able to be reasonably provided here, the steep slope at the western portion of the subject property and the recorded preservation easement presents significant constraints. Thus, the alley at the east side of the subject property is seemingly the only reasonable access option.

In order to support the subdivision waiver to allow primary access from an alley, staff required alley reconstruction and repair plans to be reviewed as part of the preliminary/final plat. This was required to ensure that any proposed mitigation is feasible before recommending approval of the project. This initial design work would illustrate that the alley could handle the traffic and potential need for emergency service vehicle access and is the basis for the recommendation of the waiver. This documentation has been added as part of the preliminary/final plat. Reconstruction of the alley and the mitigation proposed as described will be verified at the building permit phase. Notes have been added that construction be completed prior to the issuance of the final Certificate of Occupancy.

Preliminary/Final Plat

Associated with the waiver request is the preliminary/final plat application. The plat application proposes six lots that would be oriented perpendicularly to the comparatively short and narrow alleyway in order to facilitate alleyway access per the subdivision waiver. The preliminary and final plats (FIGURE 1A & 1B) – like the other associated applications – would serve to ultimately construct three duplexes, a residential use permitted in the R-2 zoning district. *While there will be three duplex structures, each individual unit will be situated on an individual lot; thus platting the common wall of the duplex structure as the individual ownership of each unit. When platting individual duplex units, each lot must contain 3,500 square feet in the R-2 zone district.*

A preservation area is depicted on the westerly portion of all lots. This preservation area dictates a no-build area and cannot be disturbed or graded per the requirements as outlined in City Code Section 7.7.108

<u>Drainage</u>

The Final Drainage Report has been accepted and signed by the City. According to the Report, the developed runoff will be routed around the proposed houses to the improved alley, which will consist of installing new curb, gutter and asphalt. The improved alley will convey the runoff south to Boulder Street, east to Spruce Street then into an existing inlet at Platte Avenue. The Final Drainage Report also indicates the developed runoff will be slightly higher than the existing condition by 0.3 cfs (cubic feet per second) and 0.6 cfs and this increase will not adversely affect the surrounding development.

Geologic Hazards

As noted above a major development challenge is the steep slope at the property's western third. Although this area includes a preservation easement (an area in which the applicant indicated no development would occur), the Colorado Geological Survey (CGS) concurs with the submitted geological hazard report regarding the impact potential geologic hazards such as expansive soils and overall stability could have on development. Like a number of areas on the Westside the subject property lies within a landslide susceptibility area, with similar geology and topography constraints that have apparently incurred landslide activity, and therefore demanding a measure of caution as an area susceptible to future landslide activity. With these concerns in mind the applicant intends to build per the recommendations of the geological hazard report and echoed by the recommendations of CGS including that "...all geotechnical recommendations concerning slope stability, expansive soils, site drainage, grading cuts, erosion control, and irrigation are incorporated into the development plans

and that the plat clearly states the potential for unstable slopes that occurs here." (FIGURE 7) To this point staff recommends specific notes on the final plat speaking to geologic hazard considerations that would help ensure that future development acknowledges the challenges presented by the terrain, soils and landslide potential, including a disclosure statement for future property owners on the final plat that regards geologic hazard potential and likely resulting development constraints.

Several geologic hazard mitigation methods would include:

- Installing two rows of approximately 44 caissons at 15-feet depths (*Caissons* are underground cylindrical structural members that serve to transmit loads to a stratum capable of support without danger of breaking the foundation soil or generating excessive settlement) (FIGURE 8).
- Excavation and replacement of unstable soils with compacted soils and aggregates and with a base material intended to bridge potentially unstable material. (See notes listed as technical modifications for the preliminary and final plat).

Furthermore, the notes added to the Preliminary/Final Plat related to Geohazards requirements include:

- 1. A note that provides adequate disclosure regarding the potential geologic hazards and development constraints (i.e.; "The property lies within an identified Landslide Susceptibility Area, per the Colorado Geological Survey.")
- 2. A note that all structures will adhere to the various recommendations as described in Entech's Geologic Hazard Report as they regard slope stability, creep and expansive soils.
- 3. A note that two rows of drilled 24-inch diameter pier caissons to a minimum depth of 35 feet shall be installed below ground surface on the slope above the building area to provide stabilization to building locations
- 4. A note that structures shall be placed on spread footing foundations with structural floors on overexcavated fill soils, and final foundation design recommendations shall be determined on a sitespecific basis with further subsurface investigation. Subsurface foundation drainage shall be included for the structures to reduce expansive soils and help preserve slope stability.
- 5. The following note: "The property is subject to the findings summary and conclusions of a Geologic Hazard Report prepared by Entech Engineering dated May 29, 2016 which identified the following specific geologic hazards on the property: slope stability; creeping soils and expansive soils. A copy of said report has been placed within subdivision file CPC PFP 16-00156 of the City of Colorado Springs Planning and Development Team. Contact the Planning and Development Team, 30 South Nevada Avenue, Suite 105, Colorado Springs, CO, if you would like to review said report."

The recently adopted Geologic Hazard Ordinance will require an ILC (Improvement Location Certificate) prior to Certificate of Occupancy for all building permits, and that CGS would review the final plat prior to plat recordation.

The Final geologic hazards study has been approved and signed by City Engineering and City Planning. All of the mitigation notes have been added to the preliminary plat and will be carried forward to the final plat and to future phases of construction.

Fire Access

The City's Fire Department has conveyed concern regarding the difficulty in safely and efficiently accessing the property with large, modern firefighting apparatus. Due to the narrowness of access points at the north via West St. Vrain Street and at the south via West Boulder Street, response times would likely be compromised given current "Robbin Place" is a comparatively short (approximately 600-feet in length) and narrow (approximately 12-feet wide) unimproved public alleyway that serves

several residential properties in the immediate vicinity. Fire personnel performed a site visit in spring 2016 to determine accessibility and maneuverability and the degree of mitigation. It was determined that the current 12-feet wide alleyway would be acceptable if:

- The proposed dwellings are provided with approved fire sprinkler systems.
- All potholes and other deteriorated sections in the alley are repaired.
- The retaining wall at the east side of the alleyway near to West St. Vrain Street is repaired/reinforced to prevent bowing if and when apparatus makes turning movements onto the alleyway.
- The crown of the road, and/or the apron/curb pan at West Boulder Street at the south be modified to allow fire apparatus adequate and reasonable access.

The updated preliminary plat document submitted to the City for review on 6/25/17 has been reviewed by the fire department. The project documents do specify that the alley will be reconstructed from the site south to East Boulder Street. There is a preliminary construction plan that shows the reconstruction. The northern section of the alley will be repaired with potholes filled. A letter was submitted from a professional engineer stating that the wall to the north of the site east along the alley will not be compromised by heavy vehicles or equipment in the event of an emergency. The new units will also be fitted with approved fire sprinkler systems. City Fire and Engineering also reviewed the design plan for the alley pan at Robbin Place and East Boulder Street. The existing crown of West Boulder Street at the intersection with Robbin Place was causing access issues for large fire apparatus. That design review needs to be finalized prior to the final approval of the plat. This has been added as a technical modification to the preliminary/final plat as the fire department is still verifying the dimensions of the apparatus used in the schematic design. The design is schematic and construction drawings will be required to be reviewed and the preliminary plat illustrates the triggers for when the reconstruction should take place.

Non-Use Variance

The applicant submitted a non-use variance application in March 2017 to allow for reduced minimum lot widths for the proposed lot configuration. The minimum lot width for a lot with a duplex (2 units) is 50-feet. The rationale submitted with the application by the applicant's surveyor is attached as **FIGURE 9**. Staff is supportive of the request as the variance from the minimum standard is comparatively minimal and the technical rationale provided is adequate and reasonable, including the suggestion that there is inherent difficulty in achieving absolute precision given the nature of infill development. *It is important to note that City Code Section 7.3.104(A) includes lot area, setbacks, coverage and lot width for a "duplex on an individual lot". There is an included footnote that the lot width and setbacks "apply to the periphery of the development project and does not apply when platting around individual unit(s) or platting along a common wall. When interpreting this standard, the non-use variance is based on the combined lots that are associated with each duplex structure. Minimum lot sizes, setbacks and lot coverage are not impacted by the lot width variance. At the time of construction, all other zoning requirements will be required to be met for each individual lot.*

2. Conformance with the City Comprehensive Plan:

City Code indicates that the requested subdivision waiver shall be consistent with the intent and purpose of the Comprehensive Plan ("Plan"). The Plan's 2020 Land Use Map designates this area of the Westside as *General Residential*. Broadly speaking the residential project as proposed would conform to a number of objectives and policies of the Plan, including:

a. Objective N 3: Vary Neighborhood Patterns

This regards integrating a variety of housing types and densities with amenities, services, and retail uses in order to generate opportunities and choices for households. The subject property is within an area largely zoned Two Family Residential, but with primarily single-family residential development in the immediate area. However, the project would comply with this Objective by enhancing housing diversity in the neighborhood.

i. Policy LU 201: Promote a Focused, Consolidated Land Use Pattern

This Policy emphasizes locating new growth and development in well-defined contiguous areas in order to avoid "leapfrog development" or scattered land use patterns, as well as the desire for more efficient and focused development. The residential project represents a comparatively small, albeit viable urban infill project. Per the Infill Comprehensive Plan Supplement, "Infill projects seeking approval or consideration of zoning changes should generally be supported if they advance the overall infill and redevelopment principles, goals and outcomes..."

The development of vacant properties such as this -- particularly when largely surrounded by pre-1980 development and located within a largely developed, well-defined, older neighborhood that provides for adequate services and infrastructure -- is supported by this Policy.

ii. <u>Policy CIS 103: New Development Will Pay its Fair Share of the Cost of Additional Infrastructure and</u> <u>Services</u>

This Policy speaks to the importance of having new development pay its share of costs of new infrastructure and services required to service the development. The applicant intends to provide a degree of on- and off-site improvements in order to provide not only adequate services, but also to enhance emergency services accessibility which will also benefit the immediate neighborhood.

Given the above review of Plan compliance, it is the finding of the City's Planning and Community Development Department that the requested subdivision waiver and the associated and concurrent preliminary and final plat and non-use variance applications generally conform to the Comprehensive Plan 2020 Land Use Map and the Plan's Goals and Objectives.

3. Conformance with the Area's Master Plan:

The site lies within the bounds of the implemented Westside Master Plan ("Plan") and, more specifically, within the North Bluff subarea. Generally, the Plan recognizes the need for "relative adaptability" given, in part, that much of the area is built-out, and thus would result in comparatively more urban infill development. Given the already developed character of the City's Westside, per the Plan, land use recommendations are largely based on designs that promote compatibility between existing and future development.

As noted, the area is largely developed with residential uses in particular. The Plan provides land use recommendations that allow for a certain measure of design and land use flexibility in order to complement "the unique circumstances of inner city development." Furthermore, the Plan speaks to encouraging higher residential densities, and emphasizes the need to maintain residential vitality. The project as proposed would honor this objective, as it would provide additional and more diverse housing opportunities. However, the Plan also indicates that the subject area is within a "Residential Low Density" area (0-10 dwelling units per acre). Given the "low density" moniker and the range of dwelling units considered appropriate, the project would not be entirely compatible and harmonious. It is worth noting that subject property is located just outside of an identified and relevant Plan objective

that considers "the potential for higher density residential development on vacant land south and west of Manitou Boulevard."

OUTSTANDING ISSUES RELATED TO STAFF RECOMMENDATION

Staff had previously noted several outstanding issues as the reasoning for the recommended postponements including: mitigation of the alley apron, utility comments and preliminary facility plan and neighborhood process.

As has been discussed above, those items have been addressed.

1. Mitigation to the alley apron: While there are notes on the preliminary and final plat that state mitigation should be completed prior to Certificate of Occupancy of future structures, staff is requesting that the specific mitigation design be included prior to this approval. Staff would like to ensure that the mitigation is feasible before recommending approval of the project. Without feasible mitigation, the subdivision waiver cannot be supported. Postponement gives ample time for the applicant to submit a design for review by City Fire and Engineering.

The preliminary plan now illustrates alley improvements very specifically and the notes include triggers for improvements to be completed. Those reconstruction drawings have been reviewed and are acceptable to city fire and engineering. Final construction drawings will need to be submitted with or prior to future building permits. A letter from an engineer verifies that the wall to the east of the alley, north of the site will not be negatively impacted by emergency vehicles. The mitigation for the alley pan is still under review as the schematic needs to be updated to utilize specific fire apparatus dimensions. A technical modification has been added to the preliminary/final plat that the schematic be approved by City Fire prior to final approval. All other mitigation is verified and documented through the preliminary/final plat.

- 2. Utility Comments and Preliminary Facility Plan: Staff has not received final comments from Colorado Springs Utilities. Per the second review letter dated March 15, 2017, Utilities has requested Items A-D below. This information should be provided to Utilities prior to approval. There have been a number of utility questions that cannot be answered without this additional information:
 - A. Contact CSU to discuss proposed improvements and utility improvements necessary to serve the proposed development.
 - B. Show and label all existing improvements (including utilities) on the "As Platted" view on Sheet 2. We recommend that a Preliminary Utility and Public Facility Plan sheet be submitted for the proposed development.
 - C. Complete and submit the HGL Request form to CSU. Provide a copy of the HGL Response with resubmittal.
 - D. Complete and submit the Wastewater Master Facility Form to CSU.

The applicant has updated the preliminary utility plan and all relevant information has been reviewed. However, the HGL request and the wastewater master facilities form will need to be provided prior to final approval. This requirement has been added as a technical modification to the preliminary/final plat.

3. Neighborhood process: While there were several meetings in spring of 2016 related to the prior applications, the neighborhood has not had had a chance to review the final plans as was agreed

upon when they voluntarily withdrew the appeal in 2016. Staff is requesting additional time with this postponement to discuss the plans, drainage, geologic hazards study and fire apparatus mitigation with neighbors in order to bring a strong recommendation to the City Planning Commission.

The neighborhood process has been clarified with an additional meeting held on May 15th and follow-up emails to the concerned neighbors with the revised plans. Staff has taken great care to ensure that all documentation submitted has been passed on and explained to those concerned neighbors. Another meeting was held with neighbors on July 10th in order to give the neighborhood a final opportunity to review the plans with staff and the applicant.

STAFF RECOMMENDATION:

CPC SWP 16-00155 - SUBDIVISION WAIVER

Approve the subdivision waiver of design standards for the property located at 543 Robbin Place, based on the finding the subdivision waiver complies with the review criteria in City Code Section 7.7.1302.

CPC PFP 16-00156 – PRELIMINARY/FINAL PLAT

Approve the preliminary/final plat for 543 Robbin Place 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 and 7.7.303, subject to compliance with the following technical and/or informational plan modifications:

Technical Modifications:

Final Plat:

1. Copy the notes on the preliminary plat onto the final plat Notes 1-15.

Preliminary Plat:

- 1. Revise the note numbering on page 1, there are two note ones.
- 2. Correct Mat to May for the date in note number 5.
- 3. Change the words "preservation easement" to "preservation area" on the preliminary/final plat.
- 4. On sheet 3 update the label for the cross-pan at Boulder St from "MATCH EXISTING CONCRETE PAN." to "REMOVE AND REPLACE CROSS-PAN"
- 5. Clean up plan notes for water/wastewater service lines. Other notations are overwritten on top of them.
- 6. Ensure water and wastewater services are located 15' from any property line where gas/electric service lines will be installed. The wet utility services are in conflict with the gas and electric services.
- 7. Complete and submit the HGL Request form to CSU. Provide a copy of the HGL Response with resubmittal. Revise the Preliminary Utility sheet per the comments received.
- 8. Remove the existing contours on the Preliminary Utility and Public Facility Plan sheet.
- 9. Update the final alley pan design schematic utilizing appropriate fire apparatus dimensions and verify approval by City Fire.

CPC NV 17-00141 - NON-USE VARIANCE

Approve the non-use variance to allow a lot width of less than 50 feet as required per City Code Section 7.3.104.A, based upon the finding that the nonuse variance complies with the review criteria in City Code Section 7.5.802.B.