



## Legislation Details (With Text)

**File #:** CPC CU 20-00060    **Version:** 2    **Name:** Sundance at Rock Creek

**Type:** Planning Case    **Status:** Withdrawn

**File created:** 7/23/2020    **In control:** City Council

**On agenda:** 11/10/2020    **Final action:** 11/10/2020

**Title:** An appeal of the Planning Commission’s decision to approve the Sundance at Rock Creek Conditional Use Development plan for a 240 unit apartment complex located southwest of the intersection of Pine Oaks Road and Highway 115.

(Quasi-Judicial)

**Presenter:**  
Lonna Thelen, Principal Planner, Planning and Community Development  
Peter Wysocki, Director, Planning and Community Development

**Sponsors:**

**Indexes:** Appeals

**Code sections:**

**Attachments:** 1. Applicant Appeal Statement, 2. Staff - Sundance at Rock Creek- LJT, 3. Vicinity Map, 4. Aerial Vicinity Map, 5. CPC Staff Report\_ Sundance at Rock Creek, 6. Conditional Use Development Plan, 7. Project Statement, 8. Public Comments, 9. Context Map, 10. Access Road Applicant Comments, 11. PlanCOS Vibrant Neighborhoods Framework Map, 12. 7.5.704 Conditional Use Review, 13. 7.5.502.E Development Plan Review

Date	Ver.	Action By	Action	Result
11/10/2020	2	City Council	withdrawn	Pass
10/27/2020	2	City Council	postpone to a date certain	Pass
9/17/2020	1	Planning Commission	referred	Pass

An appeal of the Planning Commission’s decision to approve the Sundance at Rock Creek Conditional Use Development plan for a 240 unit apartment complex located southwest of the intersection of Pine Oaks Road and Highway 115.

(Quasi-Judicial)

Related Files: CPC CU 20-00060

**Presenter:**

Lonna Thelen, Principal Planner, Planning and Community Development  
Peter Wysocki, Director, Planning and Community Development

**Summary:**

Applicant: Matrix Design Group  
Owner: Sundance at Rock Creek LLC

Location: South of the intersection of Pine Oaks Road and Highway 115

This is an appeal of the City Planning Commission's decision to approve a conditional use for a 240 unit apartment complex in the Planned Business Center (PBC) zone district.

**Background:**

In 1987, the property was zoned PBC and master planned for commercial. On April 28, 2020, City Council approved the master plan amendment to multi-family for this site. Within the PBC zone district a variety of uses are allowed. The uses are primarily commercial; however, multi-family is a conditional use. Conditional uses require staff to review the project and determine if the use is compatible with the surrounding uses. The City Planning Commission is the final approving authority for all conditional uses.

The multi-family use is compatible with the surrounding uses including the State park property to the north and east, the existing residential property to the south and the existing residential homes on Fort Carson to the east. This development could also provide supplemental housing for Fort Carson.

The conditional use development plan illustrates the location of the 240 apartment units within the seven apartment buildings, a clubhouse and pool area, garage parking, maintenance facility and enclosed dog park area. The apartment units are a variety of one, two and three bedroom units. The site has one access point into the facility from Pine Oaks Drive. The southern portion of the site contains varying degrees of grade and has been designed to be an open space area and a dog park. In addition, open space areas for use by the residents have been provided throughout the site. The dog park and the western boundary of the site have been fenced to separate this property from the State Park, which does not allow dogs.

The project design includes a location for a proposed 5,100 square foot sanitary sewer lift station as required per Colorado Springs Utilities to provide sanitary sewer conveyance for both the proposed Sundance at Rock Creek project and adjacent residential communities south of the Sundance at Rock Creek development. In conjunction with this lift station, utility extensions of approximately one mile in length have been designed to run through Cheyenne Mountain State Park bringing municipal water and wastewater connections to this area of the city and unincorporated El Paso County. The Sundance at Rock Creek development will enable the extension of CSU water infrastructure that will provide much needed fire-fighting defense through the extension of fire hydrants to the area of the development, the adjacent State Park Archery Range as well as other residential developments within the immediate area where these resources are currently inadequate or unavailable. As such, there is a large network of utilities that must cross under Pine Oaks Road from the proposed property which required extensive coordination efforts with Colorado Springs Utilities narrowing the window of opportunity for the entryway into the site.

A portion of the former Canon City Highway right-of-way was discovered on the west and south sides of this site. As part of the review process, the vacation of Former Canon City Highway right-of-way was reviewed by El Paso County because El Paso County retained ownership of this right-of-way. The finalization of the vacation is in process and will be required to be completed prior to final staff approval of the project.

The appellant has submitted an appeal statement that is attached (**see Applicant Appeal Statement**). The two major items of concern noted in the appeal statement include receiving approval of the Colorado State Highway Access Permit Application for the proposed site access to

Pine Oaks Road and a State Highway Access Code Design Waiver and the interpretation of the submitted and approved traffic study. Throughout the review of this application, the neighbors, including the appellant, have raised concerns about the increase in traffic due to the new apartment complex. The majority of the discussion at City Planning Commission was related to traffic concerns. These concerns included the traffic study as well as the Colorado Department of Transportation (CDOT) permits.

CDOT is required to review this item due to the property being adjacent to CDOT right-of-way. During the review of this application, it was identified that the property needed access to Highway 115 over a portion of Pine Oaks Road owned by CDOT. Staff made comments in a review letter requiring the applicant to provide proof of a State Highway Access permit. The applicant has submitted to CDOT for a State Highway Access Permit Application and a State Highway Access Code Design Waiver due to the access point on Pine Oaks Road being too close to Highway 115. Prior to the City Planning Commission Hearing, CDOT was in the process of reviewing the requests but had not provided formal approval. These applications are in the process of being reviewed by CDOT.

At the City Planning Commission (CPC) Hearing held on September 17, staff requested postponement of this item because CDOT had not formally approved the access permit and associated design waiver and no indication was received from CDOT stating that they were in support of the access point. CPC allowed the applicant and staff to discuss the request for postponement. The applicant explained that they have a limited window of construction from October to the end of February for a one mile length of water line that needs to be installed prior to the development moving forward. The limited timeframe is due to the water line going through Cheyenne Mountain State Park and the State Park only allowing construction to take place between October and the end of February. The applicant also stated that the State Park had provided approval of the water plans to go through Cheyenne Mountain State Park. The applicant does not want to begin the water main construction project until the conditional use development plan approval was granted. In addition, the applicant believes there is no other access into the site and has shown the only point of access on the conditional use development plan. If for some CDOT did not grant the access shown, then the applicant understood their plans would not be approved. The CPC determined that they felt comfortable hearing the item and after the discussion on the project was heard they agreed to add the condition of approval listed below to ensure the access permits were approved by CDOT prior to final approval of the plans by staff:

1. Provide proof of CDOT approval for the Colorado State Highway Access Permit and the Colorado State Highway Access Code Design Waiver.

A Traffic Impact Analysis (TIA) was submitted with the review of this application. Neighborhood comments were received concerning the additional traffic that was proposed from the multi-family use. City Traffic Engineering reviewed the TIA and agreed with the TIA findings and recommendations. The TIA notes that all approaches at the intersection of SH 115/Pine Oaks/Titus are projected to operate at LOS C or better through the 2040 horizon year during the morning and evening peak hours.

The City Fire Department completed a review of the project and recommended approval. Initially a second access point was requested, but the topography on the south side of the site did not allow the access point. To offset the second access requirement, the apartment building and club house are required to be sprinklered. The site turning radii, fire lanes, and access around the building were all

reviewed and found acceptable. The site is within the Wildland Urban Interface (WUI) area and will need to meet the provisions of Fire Appendix K.

Staff has evaluated the proposed application for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"). According to PlanCOS, the project site is identified on the Vision Map as an Established Neighborhood. Per the Vibrant Neighborhoods Framework Map (**see "PlanCOS Vibrant Neighborhoods Framework Map" attachment**), this site is part of the Established Suburban Neighborhood map. The property is surrounded by Cheyenne Mountain State Park, Fort Carson and El Paso County property in a unique location. If developed as multi-family the site's location would allow future resident's access to Cheyenne Mountain State Park as a recreational amenity. Multi-family at this location would also provide supportive housing for Fort Carson as the property is directly located outside of Fort Carson's Gate 5 and just minutes from Gate 1. This use would provide an alternative the single-family housing for Fort Carson soldiers directly next to Gate 5.

Specific policies of PlanCOS that are supported are listed below:

Goal VN-1: Increase neighborhood identity, inclusion, and participation throughout the city for residents, employees, and visitors.

[Policy VN-2.A: Promote neighborhoods that incorporate common desired neighborhood elements.](https://coloradosprings.gov/plancos/book/vibrant-neighborhoods-goals-and-policies?mlid=42966)  
<<https://coloradosprings.gov/plancos/book/vibrant-neighborhoods-goals-and-policies?mlid=42966>>

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.

Policy TE-3.B: Coordinate and partner with regional military installations.

Strategy TE-3.B-3: Provide attainable, diverse, attractive and convenient off-base housing options for active military, contractors, and military retirees.

City Planning staff finds the Sundance at Rock Creek Conditional Use Development Plan to be in substantially conformance with PlanCOS and its guidance.

As a supplement to this memo, please see the details of the proposed development, staff's analysis of the review criteria, and breakdown of the comprehensive plan in the City Planning Commission Staff Report.

**Previous Council Action:**

On April 28, 2020, City Council approved the master plan amendment to multi-family for this site.

**Financial Implications:**

N/A

**City Council Appointed Board/Commission/Committee Recommendation:**

At their meeting on September 17, 2020, the Planning Commission voted 7-1 to approve the conditional use (Aye: Raughton, McMurray, Wilson, Graham, Slattery, Almy, Eubanks Against: Hente). Commissioners Hente explained that he is concerned about this project from a wildfire

perspective. Campfires are allowed in Cheyenne Mountain State Park and there is the possibility of a forest fire. He is also concerned because there is only one access point into the site, if there were a forest fire there isn't an emergency egress from the site. Commissioner Almy stated that he believes that the traffic light at Pine Oaks Road and Highway 115 is very close to this site and can accommodate the Fort Carson traffic and the new residents of the proposed apartment complex. Commission Raughton stated he is concerned about not having a second access into the site, but it would be good to have a second access that was just for emergency access. He also hopes that CDOT will consider the access for the site and noted there may be additional development costs for intersection improvements to create an appropriate access and fire protection for the site. Commissioner Graham stated that he also would like to see an emergency access for the site and shares the fire evacuation concerns. He hopes that CDOT will improve the intersection when the access point is approved so that the flow of traffic is improved.

Please reference the minutes from the hearing for a detailed record.

### **Stakeholder Process:**

Upon submittal, public notice was provided to 7 property owners within a 1000-foot buffer of the site identifying the submittals the City received. The site was also posted with these notifications. Additional posting and public notice will be sent to neighbors prior to public hearings. The concerns noted by the neighbors were additional traffic, the negative effect on the wildlife, and utility extension 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 Stormwater Engineering, City Traffic, City Landscape, City Fire Department, Fountain Fort Carson School District, Fort Carson, Floodplain and Enumerations, Police, E-911, NORAD, El Paso County. El Paso County provided comments stating they had no concerns with the project. Neither Norad nor Fort Carson provided comments. Fees for schools and parks will be required at time of building permit for the multi-family development.

CDOT's commented that an access permit would be required from the site to Highway 115 are the only comments remaining. Per the condition of approval placed on this item by CPC, the access permit must be provided prior to final staff approval of the conditional use development plan.

### **Alternatives:**

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

### **Proposed Motion:**

#### **CPC CU 20-00060**

Deny the appeal and uphold the City Planning Commission's approval the conditional use development plan for 240 apartment units, based upon the findings that the appeal did not meet the requirements of City Code Section 7.5.906(A)(4) or Section 7.5.906(B) and that the request complies with the conditional use review criteria set forth in City Code Section 7.5.704 and the development plan review criteria set forth in City Code Section 7.5.502(E), subject to the following technical modification:

2. Provide a reception number for the vacation of the Former Canon City Highway right-of-way on the development plan drawing.
3. Provide proof of CDOT approval for the Colorado State Highway Access Permit and the Colorado State Highway Access Code Design Waiver.

N/A