



## Legislation Text

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**File #:** APPL-24-0002, **Version:** 1

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An appeal of the City Planning Commission denial of a conditional use development plan for a multi-family residential development consisting of 1.62 acres located at 4113 Centennial Boulevard.

Quasi-Judicial

**Presenter:**

Tamara Baxter, Senior Planner, Planning + Neighborhood Services  
Peter Wysocki, Director, Planning + Neighborhood Services

**Summary:**

Owner: Centennial Townhomes, LLC  
Developer: Gavin Light  
Location: 4113 Centennial Boulevard

City Planning Commission, at a regularly scheduled public hearing on February 14, 2024, unanimously denied a conditional use development plan request for Centennial Blvd Townhomes at 4113 Centennial Boulevard to allow for a multi-family residential development (townhomes) consisting of 20 units within two buildings.

On February 21, 2024, the Appellant filed an appeal of the City Planning Commission's decision to denial of the above-referenced project within the 10-day appeal window (see "Attachment 1 - Appeal of CPC Decision").

**Background:**

Please see the attached City Planning Commission Staff Report and support documents for a complete analysis of the proposed application.

**Review Criteria:**

The application for the project was filed prior to the effective date of the UDC; therefore, it was reviewed under previous City Code Chapter 7 for multi-family residential development in the prior PBC (Planned Business Park) zone district which identified multi-family as a conditional use with compliance with the dimensional and development standards outlined in the R-5 (Multi-Family Residential) zone district.

The review criteria for granting a conditional use as set forth in City Code (Chapter 7) Section 7.5.704 are noted below.

1. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.
2. Intent Of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.

3. Comprehensive Plan <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=1007>>: That the conditional use is consistent with the Comprehensive Plan of the City <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=292>>.

The review criteria for granting a development plan as set forth in City Code (Chapter 7) Section 7.5.502 are noted below.

1. The details of the use, site design, building location, orientation and exterior building materials are compatible and harmonious with the surrounding neighborhood, buildings and uses, including not-yet-developed uses identified in approved development plans.
2. The development plan substantially complies with any city-adopted plans that are applicable to the site, such as master plans, neighborhood plans, corridor plans, facilities plans, urban renewal plans, or design manuals.
3. The project meets dimensional standards, such as but not limited to, building setbacks <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=332>>, building height and building area set forth in this chapter, or any applicable FBZ or PUD requirement.
4. The project grading <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=332>>, drainage, flood protection <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=1167>> quality and stormwater mitigation comply with the City's Drainage Criteria Manual and the drainage report prepared for the project on file with the City Engineering Department.
5. The project provides off-street parking <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=371>> as required by this chapter, or a combination of off-street or on-street parking as permitted by this chapter.
6. All parking stalls, drive aisles, loading/unloading areas, and waste removal areas meet the location and dimension standards set forth by this chapter.
7. The project provides landscaped areas, landscape buffers <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=617>> materials as set forth in this chapter and the Landscape Design Manual.
8. The project preserves, protects, integrates, or mitigates impacts to any identified sensitive or hazardous natural features associated with the site.
9. The building location and site design provide for safe, convenient, and ADA-accessible pedestrian, vehicular, bicycle, and applicable transit facilities and circulation.
10. The number, location, dimension, and design of driveways to the site substantially comply with the City's Traffic Criteria Manual. To the extent practicable, the project shares driveways and connects to drive aisles of adjoining developments.
11. The project connects to or extends adequate public utilities to the site. As required by

Colorado Springs Utilities, the project will extend the utilities to connect to surrounding properties.

12. If necessary to address increased impacts on existing roadways and intersections, the project includes roadway and intersection improvements <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=424>> to provide for safe and efficient movement of multi-modal traffic, pedestrians and emergency vehicles <<https://online.encodeplus.com/regs/coloradosprings-co/doc-view.aspx?pn=0&ajax=0&secid=424>> in accordance with the City's Traffic Criteria Manual, public safety needs for ingress and egress and a City accepted traffic impact study, if required, prepared for the project.
13. Significant off-site impacts reasonably anticipated as a result of the project are mitigated or offset to the extent proportional and practicable. Impacts may include, but are not limited to light, odor, and noise.

The City Planning Commission found the Appellant was not prepared to address questions related to the project. Due to changes in the Appellant consultant team, planning staff suggested a postponement to allow more time for preparation prior to the public hearing. The Appellant requested that this project continue as scheduled for City Planning Commission consideration. Since the Appellant was unprepared to articulate details of the project and address questions by the Commissioners and public, Commissioner Hente during the public hearing offered a postponement of the project to allow the Appellant time to organize and prepare for discussion of the project (see "Attachment 2 - Draft Planning Commission minutes"). The Appellant requested that the Commissioners render a decision at the meeting as the project complied with city code standards presented in staff's report.

Planning Commission's questions centered around parking, circulation, stormwater, landscaping and overall project connectivity/fit with surrounding properties.

Per City Code Section (UDC) 7.5.415.A, an affected party aggrieved by a decision on an application may appeal this decision. The review criteria for a decision on an appeal is set forth in City Code Section (UDC) 7.5.415.A.2, as follows (following directly pulled from UDC):

2. Notice of Appeal
  - a. The notice of appeal shall state:
    - (1) The specific provision(s) of this UDC that is the basis of the appeal; and
    - (2) Which of the following criteria for reversal or modification of the decision is applicable to the appeal:
      - (a) The decision is contrary to the express language of this UDC; or
      - (b) The decision is erroneous; or
      - (c) The decision is clearly contrary to law; and
    - (3) Describe how the criteria for the relevant application have or have not been met.
  - b. A recommendation to City Council to approve an application shall not be the basis for an appeal.
  - c. As a preliminary matter, the body hearing the appeal may choose to vote on the sufficiency of the appeal to determine if the appeal has met the requirements of this Subsection. Upon a finding of insufficiency by a majority of the body hearing the appeal,

the appeal shall be rejected, and no hearing held.

The Appellant indicated that all three of the criteria were applicable and cited that “100% of the UDC criteria were met, yet Planning Commission denied the project anyway.” The review of this project was based on the standards of City Code Chapter 7 and not the UDC. Staff emailed the Appellant on February 22, 2024, to inquire if additional information would be provided to support the appeal application. Staff also requested that the Appellant provide any presentation before the City Council meeting. As of the agenda packet preparation, no additional information has been provided by the Appellant.

Should this Appeal be denied by City Council, per City Code Section (UDC) 7.5.413: Limitation on Similar Application, “no same or similar application on all or part of the same land be submitted within twelve (12) months after the date of the denial.”

An option available to the hearing body for the appeal (in this case, the City Council) is to reject the appeal if it is found that the appellant has not sufficiently met the requirements of the UDC section 7.5.415.A2. Based on the lack of information provided by the appellant in addition to the lack of response to questions and concerns at the City Planning Commission public hearing, the option to reject the appeal is available. More details related to this option to reject are provided under the Proposed Motions section of this memo.

**Previous Council Action:**

City Council approved a zone change (Ordinance 83-121) and accompanying concept plan for this property on March 7, 1983.

**Financial Implications:**

NA

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

At the City Planning Commission on February 14, 2024, the project application was under New Business portion of the agenda. Formal presentation of the project was provided by City Planning staff. There was one public comment against this project. The Appellant provided brief project details and struggled to address public comments and commissioners’ questions. City Planning Commission voted 0:8:0 (Almy, Briggs, Foos, Hensler, Hente, McMurray, Cecil, and Slattery) to deny the conditional use development plan that the request did not comply with the criteria. The City Planning Commission found the Appellant was not prepared to address questions related to the project. A postponement of the project to have more time for preparation was offered by staff before the public hearing and by Commissioner Hente during the public hearing (see “Attachment 2 - Draft Planning Commission minutes”). The Appellant requested that the Commissioners render a decision at the meeting as the project complied with city code standards presented in the staff’s report.

**Proposed Motions:**

1. Affirm the decision of the Planning Commission and deny the appeal; or
2. Reverse the decision of the Planning Commission and approve the appeal; or
3. Modify the decision of the Planning Commission and approve the appeal; or
4. Remand the matter back to the Planning Commission for further consideration; or

5. Reject the appeal due to insufficiency.

Should the City Council wish to affirm the Planning Commission decision for the conditional use development plan application, the following motion is suggested:

Deny the appeal and uphold the Planning Commission's denial of the Centennial Blvd Townhomes Conditional Use Development Plan, based on the findings that the review criteria for decision on a conditional use and development plan as set forth in City Code (Chapter 7) Section 7.5.704 and City Code (Chapter 7) Section 7.5.502.E are not met as decided by Planning Commission.

Should the City Council wish to reverse the Planning Commission decision for the conditional use development plan application, the following motion is suggested.

Approve the appeal and approve the Centennial Blvd Townhomes Conditional Use Development Plan, based upon the finding that the appeal criteria found in City Code Section 7.5.415.A.2 have been met, and the application meets the review criteria for granting a Conditional Use Development Plan as set forth in City Code (Chapter 7) Section 7.5.704 and City Code (Chapter 7) Section 7.5.502.E.

Should the City Council wish to modify the Planning Commission decision for the conditional use development plan application, the following motion is suggested.

Approve the appeal and approve the Centennial Blvd Townhome Conditional Use Development Plan, based on the findings that the application complies with the review criteria set forth in City Code (Chapter 7) Section 7.5.704 and City Code (Chapter 7) Section 7.5.502.E, with revisions to the conditional use development plan [as determined by City Council].

Should the City Council wish to remand the matter back to the City Planning Commission for further consideration, the following motion is suggested.

Refer the matter back to the City Planning Commission for further consideration of the Centennial Blvd Townhome Conditional Use Development Plan to the applicable review criteria for deciding on a conditional use and development plan set forth in City Code (Chapter 7) Section 7.5.704 and City Code (Chapter 7) Section 7.5.502.E.

Should the City Council wish to reject the appeal, the following motion is suggested.

Reject the appeal and uphold the Planning Commission decision on the Centennial Blvd Townhomes Conditional Use Development Plan, based on the insufficiency of the request to meet the requirements of City Code Section (UDC) 7.5.415.A.2.a&b and City Code Section (UDC) 7.5.415.A.2.c