



## Legislation Text

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**File #:** CPC NV 20-00070, **Version:** 2

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A Nonuse Variance from City Code Section 7.3.104(A), to allow the reduction of the rear setback to 13 feet where the required setback is 25 feet for an 8-unit residential project located at 4430 Forrest Hill Road.

(Quasi-Judicial)

Related Files: CPC ZC 20-00008, CPC DP 20-00009, CPC NV 20-00069, and CPC NV 20-00070

### **Presenter:**

Daniel Sexton, Principal Planner, Planning & Community Development  
Peter Wysocki, Director, Planning & Community Development

### **Summary:**

Owner: 4430 Forrest Hill, LLC  
Developer: Mountain Property Builders  
Representative: RMG Engineers  
Location: 4430 Forrest Hill Road

The project includes concurrent applications for a zone change, development plan, and two nonuse variances. The zone change request proposes to change the project area from C5/P (Intermediate Business with Planned Provisional Overlay) to C5 (Intermediate Business), which will eliminate the list of prohibited uses in the zone and allow all currently permitted C5 uses. The development plan for the project illustrates an eight (8) unit residential project consisting of duplexes and ancillary public and private site improvements. The first nonuse variance request seeks to reduce the front setback to 16 feet where the required setback is 20 feet, per City Code Section 7.3.104(A). The second nonuse variance request consists of a reduction of the rear setback to 13 feet where the required setback is 25 feet, per City Code Section 7.3.104(A).

### **Background:**

The request will rezone the 0.73-acre project site from C5/P (Intermediate Business with Planned Provisional Overlay) to C5 (Intermediate Business). (see "Zone Change Exhibit" attachment) More specifically, the Applicant's request is seeking to eliminate the previously established conditions of record that limited development to certain land uses and established a restrictive landscape buffer requirement. (see "Ordinance 82-146" attachment) The proposed zone will allow all the permitted and conditionally permitted land uses allowed in the zone C5 (Intermediate Business) land uses, per City Code Section 7.3.203 Permitted, Conditional and Accessory Uses and dimensional controls are outlined under City Code Section 7.3.204 Office, Commercial, Industrial, and Special Purpose Zone District Development Standards..

City Planning staff reviewed the entitlement record associated with the 1982 zone change and it is

unclear why the use conditions were imposed. The C5 zone district typically allows a variety of commercial and residential uses and by removing the conditions will recognize this like any other C5 zone district. The proposed zone will allow the property to be developed with a land use that is complimentary and supportive of the current land use pattern, which consists of an established mix of residential and commercial uses. (see "Context Map" attachment) Furthermore, the proposed C5 zone district would allow future commercial opportunities if for some reason the residential was not built. Through staff's review of the zone change and development plan applications, and consideration of the review criteria for changing a zone district, as set forth in City Code Section 7.5.603, and the review criteria for establishing a development plan, as set forth in City Code Section 7.5.502(E), the overall area impacts of the project were analyzed.

The requested 4430 Forrest Hill Road project (see "Development Plan" attachment) consists of an eight (8) unit multi-family residential project containing duplexes styled buildings and ancillary public and private site improvements. In accordance with City Code Section 7.3.205 *Additional Standards for Specific Land Uses*, residential uses are allowed within certain commercial and industrial zone districts, included the C5 (Intermediate Business) zone district, but the R5 zone district dimensional standards, as set forth in City Code Section 7.3.104 *Agricultural, Residential, Special Use and Traditional Neighborhood Development Zone District Standards*, govern the site design and layout. The Applicant's proposal is in conformance with the established dimensional controls, with the exception of the front and rear setback standards. To resolve these deviations, the Applicant has concurrently requested two nonuse variances that seek to reduce the required setbacks as follows: the first variance request will reduce the front setback from 20 feet to 16 feet, and the second variance request will reduce the rear setback from 25 feet to 13 feet. (see "Development Plan" attachment) The requested reduction of the front building setback is needed, as the adjacent segment of Forrest Hill Road bends in front of the project site. To offset the setback reduction requests, the Applicant has proposed a robust landscape-planting regime and screen fence, which are discussed in greater detail below. City Planning staff applied the parking calculation for the "Attached 3-Bedroom Dwelling Unit" use, which has a set parking ratio two (2) parking spaces per dwelling unit, which amounts to 16 parking spaces required on site. As proposed, the Applicant has provided 16 parking spaces, which will be accommodated in a two-car garage attached to each dwelling unit.

From a site design and layout perspective, the Applicant will incorporate pedestrian and vehicular improvements within the project site and along the adjacent public roadway to afford greater connectivity between the project and surrounding area, which includes a nearby school, parkland and transit route. The pedestrian improvements will consist of a 5-foot wide sidewalk along Forrest Hill Road that connects to the proposed private access drive on site. The on-site vehicular improvements include reduced depth driveways and a 24-foot access drive, which is striped as a Fire Lane to afford fire apparatus adequate emergency access to all sides of the proposed buildings. The Applicant has affectively buffered this project from the adjacent commercial (east and north) and industrial (south) land uses by proposing to install a six-foot tall cedar fence along the east, west and south boundaries of the project and landscape plantings consisting of deciduous and conifer trees. The proposed site improvements should adequately mitigate any off-site impacts and transition the project well into the immediate area.

The development parameters outlined above reinforce why this project will be a good infill development. City Planning staff finds that the proposed plan, as stipulated, is in conformance with the purpose for establishing a development plan, as set forth in City Code Section 7.5.502(A), and

the purpose for granting the requested nonuse variances, as set forth in City Code Section 7.5.801.

While the project site and envisioned land use did not warrant the preparation of a traffic impact study, the City's Traffic Engineering Division of Public Works (herein referenced as "Traffic") has reviewed the proposed development plan. Traffic has determined that the site design and layout affords adequate sightlines and queuing for vehicles entering and exiting the site via the shared private drives adjacent to the development. As no roadway improvements are presently necessary, no remitting of funds trigger has been applied to the development plan. City Planning and Traffic will monitor the build-out of this project to determine if additional roadway or intersection improvements are necessary.

The City's Water Resources Engineering Division of Public Works (herein referenced as "SWENT") has reviewed the development plan and accompanying final drainage report, prepared by RMG Engineers. SWENT has accepted the analysis and recommendations set forth in the report. Stormwater from the proposed project will be captured and directed into the existing storm sewer line in Forrest Hills Road. As designed, all proposed stormwater improvements were found to comply with the City Drainage Control Manual.

The project applications have been evaluated for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. According to PlanCOS, the project site is identified as an Changing Neighborhood, but is also adjacent to a Mature/Redeveloping Activity Center. (see "PlanCOS Vision Map" attachment) The 4430 Forrest Hill Road project is consistent with one of the core values of PlanCOS, which reinforces the important of encouraging the infill development proposals. One of the "Big Ideas" in the Vibrant Neighborhood Chapter 2 of PlanCOS is entitled "Reclaim Neighborhood Space", which has goal VN-3 that states:

*"Through neighborhood plans, associations, and partnerships, empower neighborhoods to reinvest in order to create community, vibrancy, and to address their specific vision and needs."*

A "Big Idea" from Chapter 4, entitled "Embrace Sustainability", has Goal TE-4 that states:

*"Focus on productively developing and redeveloping areas already in, nearby, or surrounded by the city in order to preserve open spaces, maximize investments in existing infrastructure, limit future maintenance costs, and reduce the impacts of disinvestment in blighted areas."*

A policy for this goal further reinforces that development should "Prioritize development within the existing City boundaries and built environment (not in the periphery)."

Adaptive and responsive land use change is one of the core values of PlanCOS. On balance with this perspective, City Planning staff has determined that the project's land use, location and site design meets the overall intent of this idea. For the reasons provided in this overall staff report, City Planning staff finds that this infill development proposal and its associated applications to be in substantially conformance with PlanCOS and its guidance

The project supports the City's Strategic plan goals of building community and collaborative relationships and provides a platform for the building of neighborhoods and communities through the infill development of a vacant parcel with a complimentary residential project. The development of additional residential units in this area will support existing communities and commercial and

residential land uses in the area, and strengthen the Colorado Springs economy through the orderly growth of the Garden of the Gods corridor.

**Previous Council Action:**

City Council previously took action on this property in the 1982 when the property was zoned.

**Financial Implications:**

N/A.

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

At the City Planning Commission meeting held on September 17, 2020, the project applications were pulled for the Consent Calendar and discussed under the Items Pulled Off Consent portion of the agenda. Formal presentations were made by City Planning staff and the applicant to explain the project. The property owner that pulled the project for discussion raised concerns regarding property values, crime/vandalism, noise complaints, and the potential for hazardous impacts on residential uses. The Planning Commission ultimately voted 8-0-1 (with Commissioner Rickett absent) to approve the project applications.

**Stakeholder Process:**

The public notification process consisted of providing notice to surrounding homeowners associations and adjacent property owners within 1,000 feet of the site, which included the mailing of postcards to 122 property owners on three occasions: during the internal review and prior to the Planning Commission and City Council hearings. The site was also posted during the three occasions noted above. City Planning staff received one written correspondence objecting to the development of the property with a residential use. (see "Public Comment" attachment)

Staff input is outlined in the following sections of this report. Staff sent copies of the plan set and supporting documentation to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, City SWENT, City Parks, Council of Neighborhood Organizations (CONO), Police, and E-911. All comments received from the review agencies have been addressed. As an infill project within an established neighborhood, City Planning staff notes that the following review agency provided project specific comments:

- City Fire - City Fire staff requested the delineation of fire lane locations as fire apparatus must come on-site to meet the required access around the buildings. Fire lanes have been established.
- City Parks - The new residential use and units trigger the Park and School Land Dedication Ordinance. City Parks staff requested that fees be collected in lieu of land dedication.
- School District 11 - No comments were received from the School District 11. As such, City Planning staff will require the payment of fees in lieu of land dedication for the new residential units.

**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 NV 20-00070 - Nonuse Variance

Approve the nonuse variance from City Code Section 7.3.104(A) to allow a 13-foot rear setback where a 25-foot setback is required, based upon the findings that the request meets the review criteria for granting a nonuse variance, as set forth in City Code Section 7.5.802(B).

N/A