



## Legislation Text

---

**File #:** ID# 22-204, **Version:** 1

---

Agenda Date: 9/27/2022

Subject:  
Aspen Grove Review

From:	Reid B. Betzing, City Attorney
-------	--------------------------------

**PURPOSE:**

To consider an appeal of Planning Commission's approval of a Master Development Plan (Conceptual) for the property located at 7301 S. Santa Fe Drive to terminate the existing PL-O and utilize the underlying Corridor Mixed (CM) zoning district.

**PRESENTATIONS:**

**Staff Presenter:** Reid Betzing, City Attorney

**Additional Presenters:** Brandon Dittman, Attorney, Kissinger & Fellman, P.C.  
Lynn Christensen and Linda Knufinke, Appellants

**SUMMARY:**

On July 25<sup>th</sup>, Planning Commission after a public hearing approved a Master Development Plan ("MDP") for the Aspen Grove property by a vote of 7-0. Following the approval, on August 16<sup>th</sup> Lynn Christensen along with approximately 100 citizens filed an appeal pursuant to the ULUC 10-9-3.7(A) which states: "Unless otherwise specified in this Code, a party aggrieved or adversely affected by the decision of a decision-making body or official, may seek review of the decision in accordance with the procedures in this Section."

ULUC 10-9-3.7(B) Appeal of Planning Commission Decision states: "[a]ny party aggrieved by or alleging an error in a final decision of the Commission may appeal to the Council within 30 calendar days of the Commission's decision."

Whereas appeals of City Council and Board of Appeals (BOA) state that they were appealable to the district court, and Historic Preservation Board (HPB) decisions were subject to public hearings, Planning Commission's process was silent. As such we take this as the plain meaning of the words as a "review" of Planning Commission's decision as it is Planning Commission's decision which is being challenged and not Aspen Grove's application. As such, the evidence subject to review is the entirety of what was presented at the hearing in front of Planning Commission on July 25<sup>th</sup>, including all documents, presentations, written and oral public testimony, and deliberations by Planning Commission to determine if any errors alleged by the appellants occurred.

The appellant provided the attached document that formally describes the grievance and reason for the appeal of the planning commission's decision. A representative for Planning Commission has filed a brief in response to that appeal.

## **PRIOR ACTIONS OR DISCUSSIONS:**

- In March of 2022, Aspen Grove sought to avail itself of the City's new zoning through a process called the Master Development Plan process, which allows for those in existing Planned Developments now known as PL-O's to use the underlying zoning district Commercial Mixed, provided they can show how their plan would meet those zoning standards.
- At their regularly scheduled meeting on July 25, 2022, Planning Commission approved PC Resolution 02-2022 by a vote of 7-0 approving the application for a conceptual Master Development Plan (MDP) unanimously with the following conditions:
  1. At site plan application, that the applicant shall provide clear, safe and complete vehicular, pedestrian, and bicycle circulation from Area A to the existing transportation system in and around the existing Aspen Grove development as required in the Master Development Plan and said connection shall be provided with the first phase of development; and
  2. Note 3 shall be removed from Sheet 1: Cover Sheet and Notes; and
  3. Visual renderings as shown in the presentation shall be added to the packet materials; and
  4. Material and design shall be consistent with those details as further detailed in the Unified Land Use Code (aka ULUC).

Draft minutes from the July 25, 2022 Littleton Planning Commission meeting are attached for review and a full recording of the proceedings can be found at

<https://littleton.ompnetwork.org/embed/sessions/250638/planning-commission-regular-meeting-07-25-> with the public hearing beginning at timestamp 53:08.

## **REFERENCES :**

Corridor Mixed-Use Building and Site Design

<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx#secid-3676>

<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx>

Master Development Plan Procedures

<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx#secid-3301>

<https://online.encodeplus.com/regs/littleton-co-cc/doc-viewer.aspx>

Application and Supporting Documents (Development Activity List)

<https://data.littletongov.org/pal.php?project=MDP22-0001>

## **PROCEDURE:**

As this is a review of Planning Commission's decision from the hearing on July 25, 2022, no new evidence will be allowed. As no new evidence is allowed, no public comment can occur as public comment is considered testimony and thereby evidence. Additionally, no new arguments or grounds for appeal will be allowed outside what was stated in the complaint. Council will by motion prior to the opening of the Review adopt the proposed process including the time limits afforded to each side:

- The appellants will be afforded time as set by City Council to present their appeal for City Council.
- A representative from the City will be afforded time as set by City Council to present their response to the appeal.
- A representative from the property owner (Aspen Grove) has a due process right to also present their

response to the appeal as it affects their property interests.

- The appellants will have time afforded as set by City Council to rebut anything presented by the City representative or property owner.
- The City Council will then be afforded time to ask questions of either party should they have any and then begin deliberations.

The suggestion is that a Council person propose a motion adopting this process as well as the proposed amount of time available for each side.

I MOVE TO APPROVE A MOTION ADOPTING THE PROCESS AS SET FORTH AND AFFORDING EACH SIDE \_\_\_\_ MINUTES FOR PRESENTATION AND THE APPELLANT \_\_\_\_ MINUTES FOR REBUTTAL.

The question before City Council will be whether Planning Commission committed error as set forth in the complaint or whether there was enough evidence presented at Planning Commission's hearing on July 25<sup>th</sup> for Planning Commission to have ruled in favor of approving the application, not whether a Councilperson themselves would have found otherwise.

**PROPOSED MOTION:**

I move to deny the appellant's appeal of Planning Commission's July 25, 2022 decision which approved a Master Development Plan for Aspen Grove, finding that Planning Commission did act appropriately based on information provided, testimony heard, and criterion considered.

OR

I move to approve/uphold the appellant's appeal which nullifies Planning Commission's July 25, 2022 decision which approved a Master Development Plan for Aspen Grove.