

# RetoolCOS

UNIFIED DEVELOPMENT CODE (UDC) PROJECT



## 1-10-23 CC Public Hearing Response

January 24, 2023



# General Comments

## UDC Final Draft is a Compromise Document

- Many voices, many comments...not all in agreement


## Significant Outreach

- Over 80 public meetings, 500 internal, each with multiple people
  - 700+ public participants
  - 88 Committee members – Advisory and Technical Committees, CSU working group
- We will correct some narratives

## 3-year project

- Not rushed, not jammed through... 3 years of work involving 4 different final drafts in 2022.

## Staff response

- Each group of slides describes the issue, staff's perspective, and options for Council. There will be a  next to the staff recommendation. There are 11 issues, not 8 as indicated by HNP.

# General Comments

## **Council comments via email after 1-10-23 public hearing**

- Williams offered compromise language regarding the purpose statement
- Multiple Councilmembers suggested keeping Office Residential zoning as-is (Chapter 7)
- Donelson wants to keep appeals as-is in current Code (Chapter 7)
- Donelson wants to keep lot coverages as-is in current Code (Chapter 7)
- Donelson may want to restrict TODs to specific areas only beyond what is currently in the UDC draft (4 Mixed Use districts)

# Issue #1 – Purpose Statement

- "Neighborhoods" identified in UDC Purpose Statement
- UDC Purpose Statement Section 7.1.103.
  - Concern: References to the importance of neighborhoods and the need to protect/preserve them has been removed from the purpose statement
  - HNP Recommendation: Reinsert wording related to neighborhoods in purpose statement. Suggestion: "Preserve neighborhood character".

# #1 – Staff Response (Purpose Statement)


**There is NOT a shift in "value towards neighborhoods".**

- PlanCOS provides a vision and framework for **enhancing the quality, diversity, and safety** of our neighborhoods.
  - Not JUST preservation of residential neighborhoods.
  - Each neighborhood typology in PlanCOS provides greater detail.

***"Great neighborhoods are more than simply places we live – they bring us together at schools, workplaces, parks, coffee shops, and on sidewalks."***

- The draft purpose statement includes "Implement the Colorado Springs Comprehensive Plan" which encompasses "neighborhoods".

# #1 – Council Options (Purpose Statement)

- A. Keep as written in proposed UDC Amended Final draft.
- B. Add Subsection 7.1.103I (page 1): “Enhance the quality, diversity and safety of neighborhoods by encouraging pride and investment.” 
  - This is a direct excerpt from PlanCOS (page 24).
- C. Amend 7.1.103G (Page 1): “Promote **neighborhoods and** opportunities for affordable and attainable housing throughout the City.”

# Issue #2 – Lot Coverages

- Maximum lot coverage ratios in Section 7.2.202 - 7.2.207 and Table 7.4.2-A.
- **Concern:** Maximum lot coverage ratios have been increased in existing residential zoning districts (R-E, R-1 9, R-1 6, R-2, R-4, and R-5).
- **HNP Recommendation:** Retain the maximum lot coverage ratio as provided for in the existing zoning code.

# #2 – Staff Response (Lot Coverage)

- Lot coverages were initially removed by Staff but added back in per Planning Commission's direction with a 10% increase
  - Ex –  $35\% + 10 = 45\%$
- Purpose of the 10% increase is to **reduce need for homeowners to seek variances to expand their existing homes.** (financial burden)
  - Prevalent in older residential areas including the SE.
  - HP Overlay protects several lots in ONEN which has an additional layer of review through the HP Board.
    - NOTE –
      - Administrative review = 15% deviation,
      - Planning Commission hearing = 15%+ deviation



# #2 – Council Options (Lot Coverage)

## A. **Keep 10% increase** for existing residential districts as proposed by Planning Commission.

R-E: Single-Family Estate – 20% to 30%

R-1 9000: Single-Family Large – 25% to 35%

R-1 6000: Single-Family Medium – Range of 30%-45% to 40%-55%

R-2: Two-Family – Range of 30% to 45% to 55%

R-4: Multi-Family Low – 35% to 45%

R-5: Multi-Family High – 40% to 50%

## B. **Keep as-is (Chapter 7)** for existing residential districts.

R-E: Single-Family Estate – 20%

R-1 9000: Single-Family Large – 25%

R-1 6000: Single-Family Medium – Range of 30% to 45%

R-2: Two-Family – Range of 30% to 45%

R-4: Multi-Family Low – 35%

R-5: Multi-Family High – 40%

# #3 – OR and OC to MX-N

## 7.3.2-A Base and NNA-O District Use Table

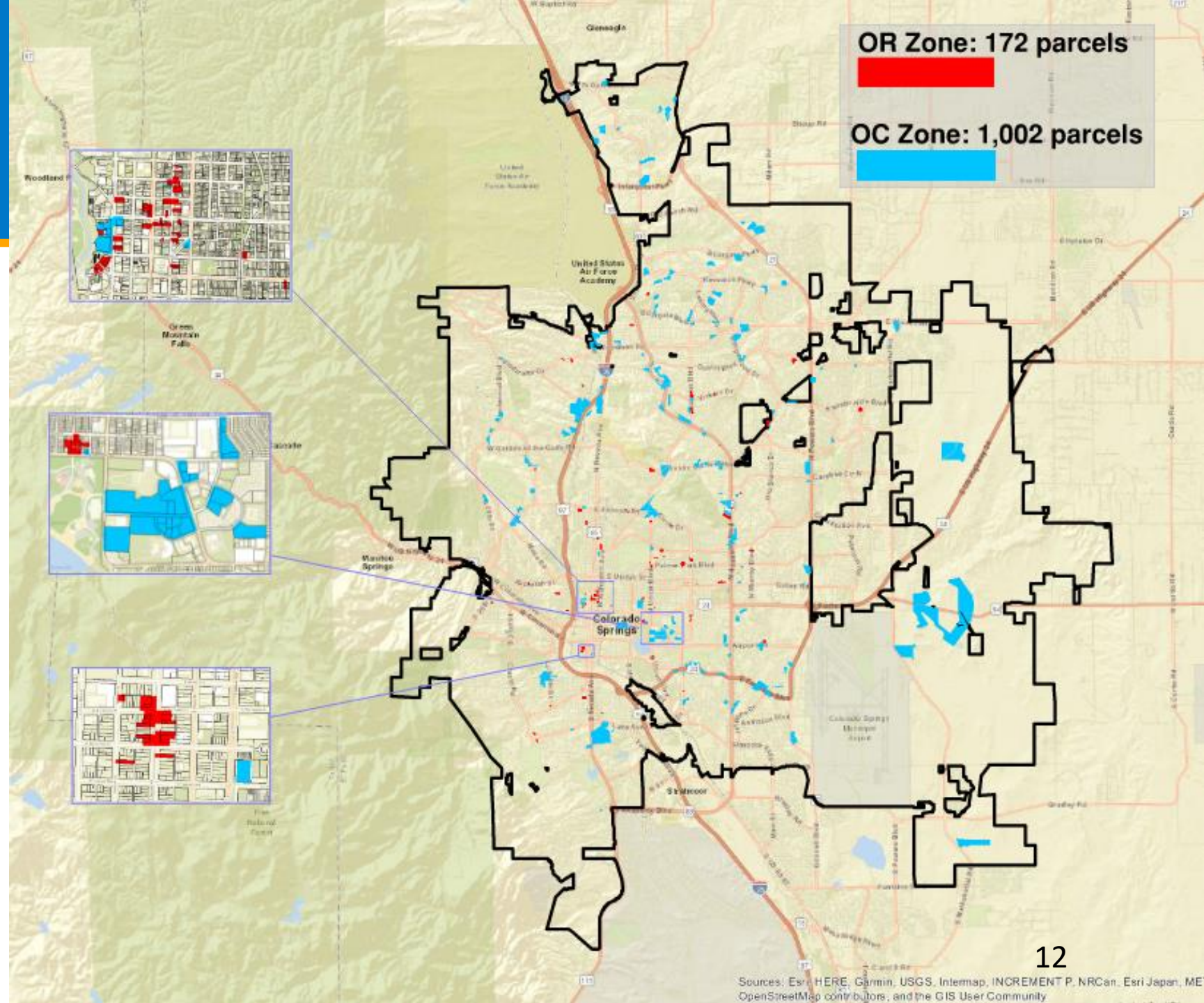
- Merging OR, Office Complex (OC), and Mixed Used-Neighborhood Center (MU-NC) into MX-N **causes use-to-use conflicts** (such as bars, restaurants, drive-ins, retail, and automotive sales/rentals adjacent to residences).
- **OR zoning:** Current code Article 3 Land Use Zoning Districts, section 7.3.202:  
*This transitional zone district accommodates a variety of residential unit types and offices. The zone is directed to smaller office sites which need a careful evaluation of use-to-use compatibility such that the stability and value of the surrounding neighborhood is best protected.*
- Additional uses added to MX-N to accommodate OR zoning will create more administrative work for the City and Neighborhoods. E.g., each conditional use requires an application, public notice, and Planning Commission public hearing.

# #3 – Staff Response (OR and OC to MX-N)


- Goal of RetoolCOS project was to **reduce the number of zoning districts**
  - Chapter 7 – 26 base zone districts, 8 overlay districts
  - Current UDC draft – 22 base zone districts, 10 overlay districts
- Compromise at Planning Commission focused on **uses in MX-N requiring Conditional Use approval (public hearing)**
- **Table in back-up with a comparison of all potential uses**

# #3 – Staff Response

- **OR Zone – 172 Parcels**
- **OC Zone – 1,002 Parcels**
  
- Higher concentrations of OR and OC zoned properties in ONEN, Central COS, and SE
- OR/OC map included in agenda packet



# #3 – Council Options (OR and OC to MX-N)

- A. **Keep OR Office Residential zone district as-is in current Chapter 7** and retain OR Office Residential zoned properties as-is.
- B. **Keep revisions as recommended by Planning Commission.** 
- C. Keep revisions as recommended by Planning Commission but **further restrict permitted uses.**
  - Example – Conditional Use requests, which are heard by the Planning Commission, for specific uses or completely remove the objectionable use (standalone bar for example)

# #4 – Appeals

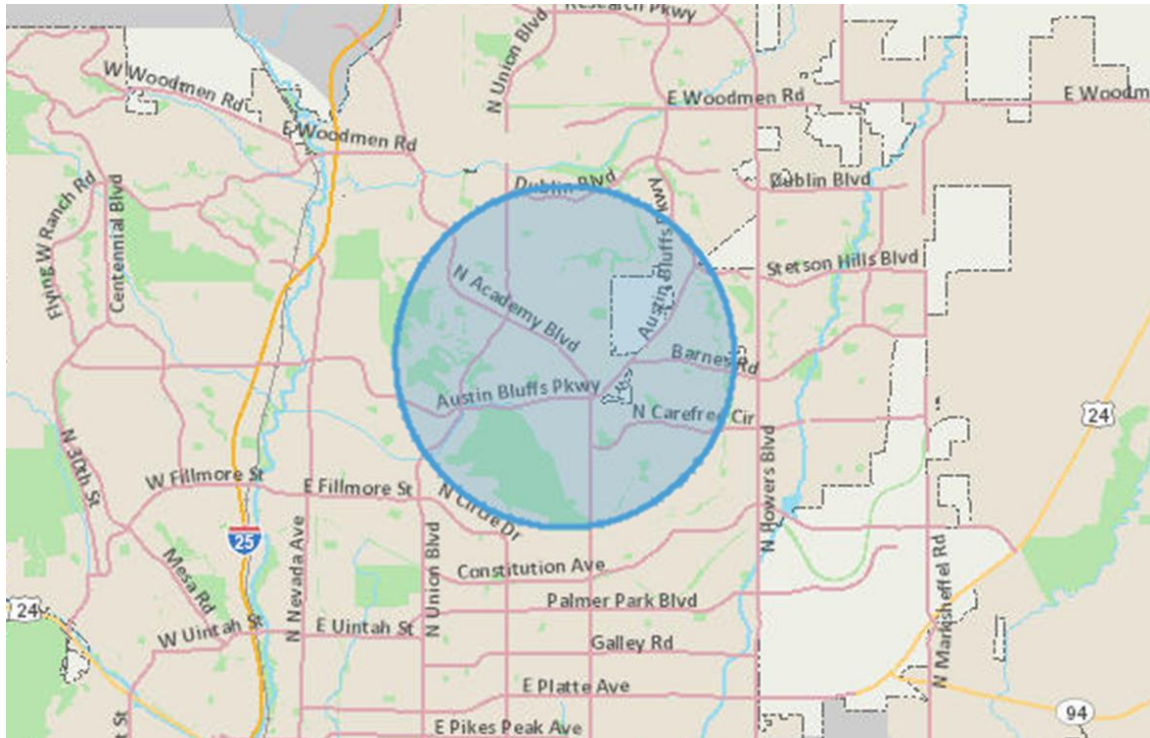
- Appeals Section 7.5.416 – Comments made by multiple commenters
- HNP suggested the idea of preserved standing is too limiting
- HNP and others suggested the 2-mile radius was limiting



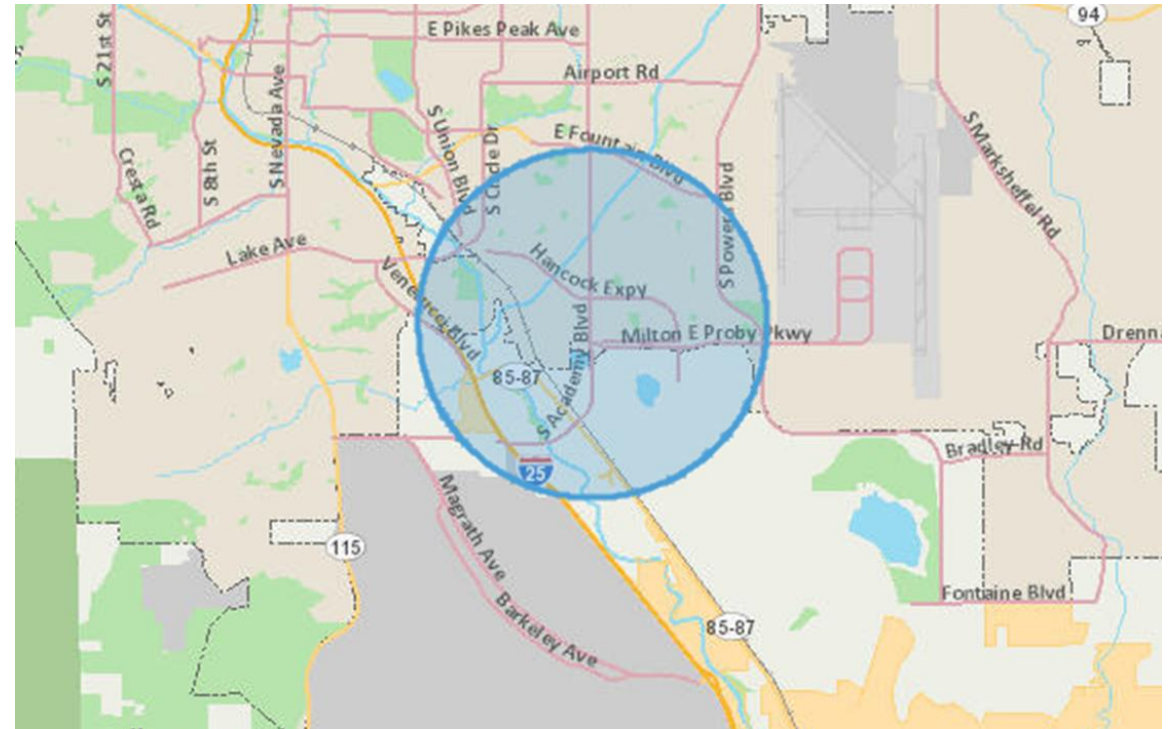
# #4 – Staff Response (Appeals)

- **Fundamental question: Should any person anywhere have the right to appeal a project anywhere in the City?**
- This proposed language has not changed since discussions for vetting purposes with City Council during work sessions in early 2022.
- The idea of preserving standing is not unique and is a common approach in multiple jurisdictions across the country.
- A few of the commenters suggested that most residents are not aware of land use applications until after Planning Commission, which is simply not true

# #4 – Staff Response (Appeals)



Fire Station 10 – 2-mile buffer



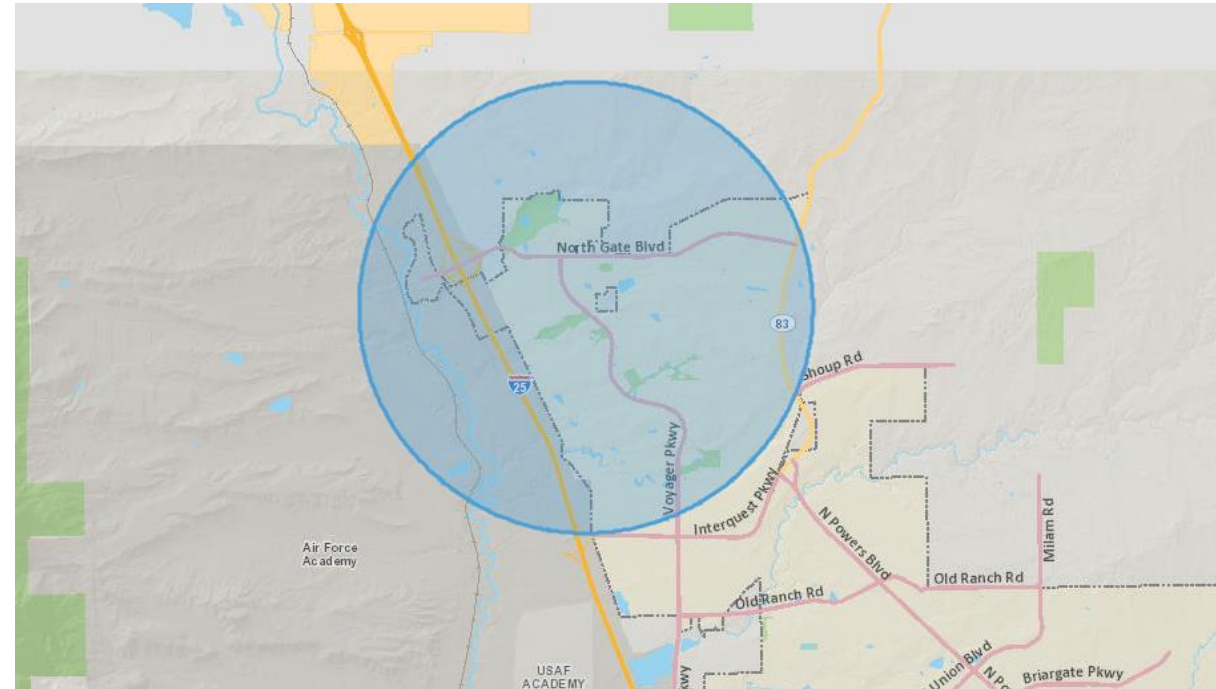
Fire Station 11 – 2-mile buffer



# #4 – Staff Response (Appeals)



Fire Station 18 – 2-mile buffer




Fire Station 22 – 2-mile buffer

# # 4– Council Options (Appeals)

A. **Keep as-is in Chapter 7** – anyone can appeal.

B. **Keep as proposed in the UDC Amended Final draft**

- Property owners within 1,000' buffer of project site automatic standing; and
- Preserved standing when outside of the 1,000' buffer and within 2-miles of the project site. 

C. **Require preserved standing regardless of location.**

- No distance requirement.

D. **Increase the 2-mile radius.**

Note: Depending on the option selected, Staff will add language that yielding time during public comments to another speaker will qualify as “preserving standing”.

# #5 – Development Plan (DP) Review

- Retain the requirement of a finding of compatibility as a condition of approval of development plan.
- Retain "Use" in the review criteria.

# #5 – Staff Response (DP Review)

- **"Harmonious and Compatible" remains in the proposed UDC** and applies to the details of the proposed development.
  - The term “use” was removed from this approval criteria for clarity.
  - Zoning determines the use separately from the Development Plan review.
- **The Development Plan review process is intended for determining compliance with technical design standards and criteria.**
- **Land use compatibility is determined with zoning. Some uses are listed as “permitted” which means they have already been deemed to be compatible; while land uses that need that determination are required to have a Planning Commission public hearing vis-à-vis the conditional use process.**

# #5 – Council Options (DP Review)

- A. **Leave as-is proposed in the UDC Amended Final Draft.** ★
- B. **Add the term “use” back into the approval criteria.**

# #6 – ADS-O: Area Design Standards Overlay

- State the purpose of the overlay is to preserve neighborhood character. The name should be Area Character Overlay.
- Remove the requirement for an approved plan from Eligibility. State the requirements for an overlay in the application.
- Remove the requirement for a Stakeholder Engagement Plan. Let the neighborhood organize to satisfy the requirements for the application as it deems best.
- Add use to the Permitted Development Standards.
- Include lot size and maximum lot coverage to the Permitted Development Standards, as per the City Planning Memo to Council, 14 Dec 2022

# #6 – Staff Response (ADS-O)

- The name “Area Design Standard Overlay” reflects the purpose of the proposed Overlay.
  - Could be applied to any property, not just residential.
- As we have repeatedly informed the HNP, the **requirement for an approved Neighborhood Plan as the sole eligibility has been removed.**
- The **Stakeholder Engagement Plan** ensures that all property owners within a proposed ADS-O have an opportunity to participate in the process given the potential impacts to their current rights.
  - **A privately-initiated Overlay should be held to the same level of public engagement standard as is expected of the City, should it not?**
  - At Planning Commission, this was included as a second option for establishment if a Neighborhood Plan has not been completed
- As we have repeatedly informed the HNP, **restricting uses in the Overlay is not appropriate.** Permitted, Conditional, or prohibited uses are a function of underlying zoning.
- As we have also informed the HNP and discussed in public hearings with the Planning Commission, lot coverage and lot size have been added per Staff Memo (#4c).

# #6 – Council Options (ADS-O)

- A. **Keep as-is in UDC Amended Final draft** and include proposed changes in Staff Memo (#4). ★
- B. **Reject the changes proposed by Planning Commission** as stated in the Staff memo.
- C. **Amend to not require a Stakeholder Engagement Plan** and only a City Council-approved Neighborhood Plan.




# #7 – Parking

- 7.4.10 Parking and Loading, 7.4.1002B. Exemptions, 3. Older and Historic Property Exemption
- Certain older and historic properties **do not need to provide off-street parking** for the existing building or for expansion of such building.
- **Concerns:** would allow additional dwelling units to be added in HP-Os without the additional required parking. Parking in these neighborhoods is already at a deficit.
- **Recommendation:** Add 7.4.1002B, 3(d). **Exemptions in parking requirements shall not apply to properties within a Historic Overlay.**

# #7 – Staff Response (Parking)

- The proposed exemption **applies to EXISTING buildings and any expansion of up to 200 SF.**
  - 200 SF does not equal an additional dwelling unit
- Unintended consequence is potentially more suburban level development where a 200 SF addition may result in additional surface parking in HP neighborhoods.
- The concern expressed seems to be addressed by the proposed language.

# #7 – Council Options (Parking)

- A. Keep language as proposed in the UDC Amended Final Draft. 
- B. Amend as proposed by HNP.
  - Add 3(d) to 7.4.1002B - Exemptions in parking requirements shall not apply to properties within a Historic Overlay.


# #8 – Transit Oriented Development (TOD)

- TOD incentives should be restricted to pre-designated Overlay zones, such as the Downtown area and the North Nevada Renewal Area.
- Do not allow TOD incentives through Historic Neighborhoods along the North Nevada/Weber Corridor.

# #8 – Staff Response (TOD)

- This is a **new concern presented after Planning Commission recommendation** and was initially shared with Engineering through the ConnectCOS project.
- The proposed UDC Amended Final draft language is **incentive-based and is limited based on eligibility requirements** -
  - Limitations on zone districts (MX-T, MX-M, MX-L, or MX-I, no existing residential districts);
  - Within 660 feet of certain roadways; and
  - Transit service with a peak service frequency of 20 minutes or less.
- There are **other protections in place, such as a limitation on the height incentive if within 75 feet of residential.**
- Initial UDC drafts included a TOD-specific zone district but **based on comments from the neighborhoods and shared concerns, the proposal of a standalone district was removed.**

# #8 – Council Options (TOD)

- A. Keep language as-is in proposed Amended Final Draft. 
- B. Add 2g to 7.4.202.B to state, “ Properties with a Historic Preservation Overlay are not eligible for TOD incentive.”

# #9 – Historic Preservation (HP)


- Add Interim Control back into the draft
- Remove the requirement for public hearings in 7.5.528.C2 and Table 7.5.1-A

# #9 – Staff Response (HP)

- Interim Control is a heavy-handed approach that is often viewed as quasi-moratorium or quasi-takings
- As Staff have explained to the HNP, the Minor Works Subcommittee has not been used and is an ineffective tool. All minor and major works go to the HP Board per the advice of counsel.
- Staff will engage in a holistic overall review of the HP overlay zoning and procedures in a future, dedicated project.



# #9 – Council Options (HP)

- A. Maintain language currently proposed in the UDC Amended Final draft. 
- B. Add "interim control" as it is written in current Chapter 7 as a new (8) to 7.5.704.c2d.**


# # 10 – Indoor Event Centers

- Comment regarding “unregulated event centers” and their negative impact on adjacent and nearby residential

# #10 – Staff Response

- "Event center" is **not a defined use** in current Chapter 7 or in the UDC draft.
- The "event center" in current Chapter 7 could possibly be "Indoor Entertainment and Recreation", which is a permitted use in the C-5 and C-6 zone districts (Includes districts along Platte near existing residential.)
- In UDC draft, the phrase, "event center," is contained in the definition of "Stadium or Auditorium" and is intended for larger scale facilities.
- The transition of C-5 and C-6 zone districts to MX-M and MX-L zone districts intends to **retain the same rights for properties** within the C-5 and C-6 zone districts. Uses that would have included a night-club, dance hall, a stadium, an auditorium, or any other "event center" are currently permitted and are proposed to remain permitted.
- "Bar" is currently a permitted use in C-5 and C-6 zone districts and has been carried forward in the UDC draft in the MX-M and MX-L zone districts.

# #10 – Council Options (Indoor Event Centers)

- A. Maintain language currently proposed in the Amended Final Draft 
- B. Require Bars, and/or Indoor Recreation to seek Conditional Use approval.

# #11 – ADA Compliance

- “ReTool does not address ADA”
  - Staff note: There has been no context for this comment. No section or provisions were referenced.


# #11 – Staff Response (ADA)

- ADA (Americans with Disabilities Act) is a **Federal Law enforced primarily by the Department of Justice**. The City is subject to parts of the ADA – Titles I and II. Private businesses that are open to the public are subject to Title III.
- **City does not enforce any Federal ADA requirements; however, ADA requirements have been adopted or mirrored.**
  - Examples -
    - Zoning enforced – accessible parking requirements in current Chapter 7 and carried forward in the UDC draft.
    - **These requirements have been vetted with multiple stakeholders including the City's Office of Accessibility and the City's ADA Title II legal advisor in the City Attorney's Office.**
- NOTE – ADA compliance is not housed solely with Planning or a zoning matter. Accessibility requirements and standards are also enforced by Public Works and Pikes Peak Regional Building Department depending on context and applicability.
- Accessibility and handicap accommodations in buildings are adopted and enforced by the PPRBD as part of the ICC Building Codes

# #11 – Staff Response (ADA)

- Approximately 5 years ago, City staff worked extensively with the Independence Center, local design professional, El Paso County staff, the Pikes Peak Regional Building Department, and other interested parties to vet the enforcement responsibilities of ADA and other accessibility codes/standards.
- As part of that process, the following note is required on Development Plans:  
  
***"The parties responsible for this plan have familiarized themselves with all current accessibility criteria and specifications and the proposed plan reflects all site elements required by the applicable ADA design standards and guidelines as published by the United States Department of Justice. Approval of this plan by the City of Colorado Springs does not assure compliance with the ADA or any other Federal or State accessibility laws or any regulations or guidelines enacted or promulgated under or with respect to such laws. Sole responsibility for compliance with Federal and State accessibility laws lies with the property owner."***
- Additional review comments regarding surface slopes, striping, and signage.

# #11 – Council Options (ADA)

- A. Maintain language currently proposed in the UDC Amended Final Draft. 
- B. Not sure there is another option.



# Questions

## Discussion

## Priorities

