



# City of Colorado Springs

City Hall  
107 N. Nevada Avenue  
Colorado Springs, CO  
80903

## Meeting Minutes City Council

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Tuesday, January 24, 2023

10:00 AM

Council Chambers

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Estimated agenda item times are provided for planning purposes and do not constitute notice of a specific time for any item. Items may take more or less time than estimated. City Council may amend the order of items.

### 1. Call to Order and Roll Call

**Present:** 9 - Councilmember Yolanda Avila, Councilmember Dave Donelson, Councilmember Stephannie Fortune, President Pro Tem Randy Helms, Councilmember Nancy Henjum, Councilmember Bill Murray, Councilmember Mike O'Malley, President Tom Strand, and Councilmember Wayne Williams

Councilmember Fortune attended the meeting virtually.

### 2. Invocation and Pledge of Allegiance

The Invocation was made by Chaplain Victoria Heim from the Crossroads Ministries.

President Strand led the Pledge of Allegiance.

### 3. Changes to Agenda/Postponements

Carl Schueler, Planning Manager, Comprehensive Planning, Planning and Development Department, stated the applicant has requested item 4B.B.

be postponed to the February 14, 2023 City Council meeting due to wanting to have communication with one more contract purchaser.

#### **4. Consent Calendar**

**These items will be acted upon as a whole, unless a specific item is called for discussion by a Councilmember or a citizen wishing to address the City Council. (Any items called up for separate consideration shall be acted upon following the Mayor's Business.)**

##### **4A. Second Presentation:**

- 4A.A. [22-764](#) Ordinance No. 23-01 repealing and reordaining Article 29 (Vehicular Public Nuisances) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, pertaining to civil abatement of vehicular public nuisances and providing penalties for the violations thereof.

Presenter:

Adrian Vasquez, Chief of Police

David Edmondson, Deputy Chief - Patrol Operations

**Attachments:** [VPNO-ORD-2022-12-5](#)

[VPNO Council Presentation - 2022 Version\\_Final](#)

[Signed Ordinance No. 23-01.pdf](#)

**This Ordinance was finally passed on the Consent Calendar.**

##### **4B. First Presentation:**

- 4B.A. [23-040](#) City Council Regular Meeting Minutes January 10, 2023

Presenter:

Sarah B. Johnson, City Clerk

**Attachments:** [1-10-2023 City Council Meeting Minutes Final](#)

**The Minutes were approved on the Consent Calendar.**

- 4B.C. [22-790](#) A resolution of the City Council of the City of Colorado Springs, Colorado approving the issuance of a Chapel Heights Metropolitan District Limited Tax General Obligation Advancing improvement Loan in an amount not to exceed \$6,500,000 and related loan documents for a district located northeast of Fountain Boulevard and Academy Boulevard.

Presenter:

Carl Schueler, Comprehensive Planning Manager

Peter Wysocki, Planning and Community Development Director

**Attachments:** [Resolution](#)  
[Draft Loan Agreement-Chapel Heights MD](#)  
[Staff PowerPoint](#)  
[DRAFT General Counsel Opinion - Chapel Heights MD](#)  
[DRAFT Bond Counsel Opinion - Chapel Heights MD](#)  
[DRAFT Authorizing Resolution - Chapel Heights MD](#)  
[Chapel Heights Cost Estimate 6.11.19](#)  
[Bond Issuance Cover Letter - Chapel Heights MD](#)  
[2022-11-22 Chapel Heights MD - Financing Model](#)

**This Resolution was adopted on the Consent Calendar.**

- 4B.D. [23-003](#)** A resolution Approving an Intergovernmental Agreement between the City of Colorado Springs and El Paso County, Colorado, for the Purpose of Snow Removal and Snow and Ice Control on Roadway Segments

..Presenter:  
Corey Farkas, Operations & Maintenance Division Manager  
Travis Easton, P.E., Director of Public Works

**Attachments:** [IGA for Snow and Ice Control](#)  
[PW-2023 City CountySnowRemovalRES-2023-01-09](#)  
[Signed Resolution No. 05-23.pdf](#)

**This Resolution was adopted on the Consent Calendar.**

- 4B.E. [23-023](#)** A resolution approving an Economic Development Agreement between the City of Colorado Springs and Entegris, Inc.

Presenter:  
Bob Cope, Economic Development Officer

**Attachments:** [Entegris EDA Resolution DA 12 29 22](#)  
[Entegris Economic Dev Agreement CC Worksession 1-3-23](#)  
[Project Garnet CC Work Session](#)

**This Resolution was adopted on the Consent Calendar.**

- 4B.F. [23-024](#)** A resolution approving an Economic Development Agreement between the City of Colorado Springs and Zivaro, Inc.

Presenter:  
Shawna Lippert, Senior Economic Development Specialist, Economic Development  
Bob Cope, Economic Development Officer, Economic Development

**Attachments:** [EconDev-ZivaroRES DA 12 29 22](#)  
[Zivaro Economic Development Agreement 12 30 22](#)  
[Zivaro EDA Presentation for City Council - WORK](#)

**This Resolution was adopted on the Consent Calendar.**

- 4B.G.** [23-025](#) A resolution approving an Economic Development Agreement between the City of Colorado Springs and Project Octo.

Presenter:  
Bob Cope, Economic Development Officer

**Attachments:** [Project Octo EDA Resolution DA 12 29 22](#)  
[Project Octo EDA CC 1-3-23](#)  
[EDA City Council Work Session undisclosed1-9-23](#)

**This Resolution was adopted on the Consent Calendar.**

## Approval of the Consent Agenda

**Motion by Councilmember Williams, seconded by Councilmember Henjum, that all matters on the Consent Calendar be passed, adopted, and approved by unanimous consent of the members present. The motion passed by a vote of 9-0-0-0**

**Aye:** 9 - Avila, Donelson, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

## **5. Recognitions**

- 5.A.** [23-043](#) A Resolution recognizing February 2023 as Black History Month

Presenter:  
Wayne Williams, Councilmember At Large

**Attachments:** [Black History Month](#)

Councilmember Williams read the Resolution recognizing February 2023 as Black History Month.

Citizen Pastor Paul Nelson of Living Word Bible Church expressed appreciation for the Resolution.

Councilmember Avila, President Strand, Councilmember Williams, and Councilmember Fortune honored June Waller who has been an icon of the community and provided an overview of the accomplishments and achievements of Ms. Waller.

President Pro Tem Helms honored Richard C. Hall who served with him in the United States Air Force and who touched the lives of many individuals across the nation.

**Motion by President Pro Tem Helms, seconded by Councilmember Henjum, that the Resolution recognizing February 2023 as Black History Month be adopted. The motion passed by a vote of 9-0-0**

**Aye:** 9 - Avila, Donelson, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

## **6. Mayor's Business**

There was no Mayor's Business.

## **7. Citizen Discussion For Items Not On Today's Agenda**

Citizen Robert Sutton spoke about his experiences with the Colorado Springs Police Department and the judicial system.

Citizens Margie Sullivant and Sharon Clements, Local 19 Union Colorado Springs, spoke about the need for restroom facilities for bus drivers.

Citizen Dallas Gardner spoke about the issues of homelessness and food resources in the community.

Citizen Lawrence Martinez spoke against the reduction of the distribution of food stamp benefits.

Citizen Jaymen Johnson expressed appreciation for the citizens who came to speak about the issues they are experiencing, the Resolution recognizing Black History Month, and Councilmember Fortune's service to the community.

Citizen Quintin Jermaine Edward spoke about the displacement of the people experiencing homelessness and the trash and needles spread over the parks.

Citizen Victoria Heim and spoke about her experiences as a bus rider and believes the City will find a solution for the issues with the restrooms for both riders and drivers.

Citizen Paul Nelson requested additional information regarding the City's reuse of wastewater.

## **8. Items Called Off Consent Calendar**

- 4B.B.** [22-789](#) A Resolution of the City of Colorado Springs approving an Amended and Restated Service Plan for the Vistas at West Mesa Metropolitan District serving an area northeast of the intersection of Fillmore Road and Centennial Boulevard.

Presenter:

Carl Schueler, Planning Manager- Comprehensive Planning, Planning & Development Department

Peter Wysocki, Planning and Community Development Director

**Attachments:** [Resolution](#)

[Exhibit 1- Vistas at West Mesa Metropolitan District Service Plan - Final Draft](#)

[Vistas at West Mesa Metropolitan District Service Plan - Redline- 11-30-22](#)

[VWMMD City Service Plan Notable Changes](#)

[VWMMD City Service Plan Amendment Cover Letter 11-30-22](#)

[Staff PowerPoint\\_VistasAtWestMesa](#)

[Applicant Budget Committee Presentation- 12.13.22](#)

[Signed Resolution No. 12-23.pdf](#)

This item was postponed to the February 14, 2023 City Council meeting.

**Motion by Councilmember Williams, seconded by President Pro Tem Helms, that the Resolution of the City of Colorado Springs approving an Amended and Restated Service Plan for the Vistas at West Mesa Metropolitan District serving an area northeast of the intersection of Fillmore Road and Centennial Boulevard be postponed to the February 14, 2023 City Council meeting. The motion passed by a vote of 9-0-0**

**Aye:** 9 - Avila, Donelson, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

## **9. Utilities Business**

There was no Utilities Business.

## **10. Unfinished Business**

- 10.A.** [22-688](#) Ordinance No. 23-02 Creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, As Amended, Pertaining to the Extension of Water Service.

Presenter:

Abigail Ortega, General Manager of Infrastructure and Resource Planning, Colorado Springs Utilities

Travas Deal, Acting Chief Executive Officer, Colorado Springs Utilities

**Attachments:** [ORD. 23 - 02 clean .docx](#)  
[WaterSystem RMD ModelingSensitivity FactSheet 2022](#)  
[Signed Ordinance No. 23-02.pdf](#)

Bethany Burgess, Utilities Division Chief, City Attorney's Office, introduced the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of City Code pertaining to the extension of water service and identified the proposed revisions.

Councilmember Williams asked what percentage of water supply Colorado Springs Utilities (CSU) recommends. Travas Deal, Acting Chief Executive Officer, CSU, stated they recommend an available water supply of 130 percent of existing water usage.

Councilmember Henjum recommended the formation of a Pikes Peak Regional Water Commission be put in place at the March 12, 2023 City Council meeting in order to study and provide authoritative information to the various governmental entities who oversee water strategies.

Councilmember Murray and Councilmember Avila stated this is a regional issue and believes City Council needs to postpone this item until it is resolved.

Councilmember Donelson stated this decision needs to be for the best interest of the citizens of Colorado Springs, they need to consider the impacts of this Ordinance, and supports the postponement of this item.

President Pro Tem stated he understands the need for this Ordinance as it stands today at the recommendation of CSU.

Councilmember Williams stated the region has wrestled with these issues for decades and believes the City needs to adopt a more realistic and defined Ordinance versus enough water for a foreseeable future which is an unmeasurable and nonlegal standard.

Councilmember Murray stated any development which has been approved within the City has been reviewed by CSU regarding available water supply first and there are more things which need to be considered before approving this Ordinance.

Councilmember O'Malley stated this Ordinance supports the sustainable and responsible growth of District 6 with overwhelming support of his constituents so he will be supporting the Ordinance as written.

**Motion by Councilmember Donelson, seconded by Councilmember Murray, to close the debate. The motion failed by a vote of 4-5-0-0**

**Aye:** 4 - Avila, Donelson, Murray, and Strand

**No:** 5 - Fortune, Helms, Henjum, O'Malley, and Williams

Councilmember Henjum read a paragraph from a letter written by Jennie Bishop, CSU, Water Education Colorado, in 2020.

Councilmember Henjum requested additional information regarding what conversations have been occurring or need to occur regarding regional water supply. Abigail Ortega, General Manager of Water Resource and Demand Management, CSU, provided an overview of the regional discussions through the Pikes Peak Regional Water Authority and the studies which are taking place.

Councilmember Henjum asked how the process could be made more robust. Ms. Ortega stated she will provide that information and the passage of the proposed Ordinance would be a catalyst in that process.

Councilmember Henjum asked if regional collaboration was heading in the right direction. Ms. Ortega confirmed it was and the El Paso County Water Plan will assist with the sustainable water supply for the community.

Councilmember Henjum requested what the impact of a postponement would be. Ms. Ortega stated their concern is with the several petitions for annexation which are in the queue for review without a definition of surplus and the unknowns surrounding the conditions of the Colorado River.

Councilmember Henjum asked if El Paso County has been involved in this discussion. Mr. Deal confirmed they had, and this proposed Ordinance would be a starting point for continued discussion.

Lisa Barbato, Officer, System Planning and Projects Group, CSU, stated this Ordinance provides definition for what surplus water means and puts boundaries around the water needs in the community in regard to annexation, the Colorado River hydrology is at seventeen percent of where



it should be, and collaboration with region partners is very important to them.

Councilmember Williams asked if El Paso County has addressed the two policy recommendations from CSU regarding the El Paso County Water Plan. Ms. Ortega stated she will provide that information.

Councilmember Murray stated he does not understand how the 130 percent water supply surplus requirement for annexations will work if the rest of the rest of the region does not agree to it and if it is not applied to the rest of the City.

Councilmember Avila requested additional information regarding the county's three-hundred-year water rule. Ms. Ortega stated it is based on the amount of water that underlies the ground which is finite, and she will provide additional information regarding it.

Councilmember Donelson stated this Ordinance is based on the potential annexation of a property and the approval of it does not have to be the starting point, just the discussion of it can be the starting point.

Mayor Suthers stated that City Council has a fiduciary responsibility to the citizens of Colorado Springs to ensure they have enough water and CSU needs this Ordinance passed in order to deal with this critical situation. He stated he will support the creation of a regional water commission, but this Ordinance needs to be passed first.

Councilmember Murray asked if Mayor Suthers will support a regional water commission if this item is postponed. Mayor Suthers stated he would not oppose it.

Councilmember Henjum asked who Mayor Suther recommends being on this board. Mayor Suthers stated CSU Board members/City Councilmembers, and a few El Paso County Commissioners.

Councilmember Donelson asked what is behind the urgency of the passage of this Ordinance. Mayor Suthers stated he had originally been told the City had enough water for 800,000 people, but when Amara applied for annexation, CSU stated they have water supply for 670,000 people which was a wake-up call for him.

President Strand asked if there has been a poll regarding growth based on water supply. Mayor Suthers stated there has been several, but it would not have the nuance or sophistication which City Council can provide.

Citizens Doug Quimby, La Plata Communities, Craig Dossey, Vertex Consulting Services, representing Norris Ranch, Tim Hoiles, Maverick Observer, Marty Rickett, Dana Duggan, Walter Lawson, and Genevieve Gustafson spoke in opposition of the proposed Ordinance and in support of a postponement.

Councilmember Williams asked if El Paso County adopted Ordinances regarding water use in new developments in their water plan. Mr. Dossey stated there were a number of policies proposed but he is not sure where they are regarding those regulations.

Councilmember Donelson asked if there is still a large amount of developable land available within the City. Mr. Quimby stated the map presented previously was from data prior to 2019 and does not represent the Preble's meadow jumping mouse habitat or the amount of available land.

Councilmember Fortune stated she does not support the postponement.

**Motion by Councilmember Henjum, seconded by Councilmember Murray, that the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as Amended, pertaining to the extension of water service be postponed to the September 12, 2023. The motion failed by a vote of 4-5-0-0**

**Aye:** 4 - Avila, Donelson, Murray, and Strand

**No:** 5 - Fortune, Helms, Henjum, O'Malley, and Williams

Councilmember Donelson stated they need to consider other factors such as a monopoly and housing and requested the water supply percentage be changed to 128 percent.

Kevin Walker, Housing and Building Association (HBA), stated their organization believes this is a fair compromise.

Councilmember Avila stated she feels conflicted because she knows there is a water crisis but believes a water plan should have been further

explored first.

Councilmember Henjum stated she supports the comprise of 128 percent.

**Motion by Councilmember Donelson, seconded by Councilmember Murray, to amend the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as Amended, pertaining to the extension of water service changing the percentage of surplus water supply from 130 percent to 128 person. The motion passed by a vote of 5-4-0-0**

**Aye:** 5 - Avila, Donelson, Henjum, Murray, and Strand

**No:** 4 - Fortune, Helms, O'Malley, and Williams

Councilmember Henjum asked if the main motion could be amended to include the Regional Water Task Force be stood up on March 14, 2023. President Pro Tem Helms and Councilmember O'Malley, makers of the main motion to appeal, declined Councilmember Henjum's request.

Mr. Deal stated the Pikes Peak Water Authority will have some oversight to the proposed task force.

**Motion by President Pro Tem Helms, seconded by Councilmember O'Malley, that the Ordinance creating Section 305 (Service; Extension Limitation) of Part 3 (Water Service) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as Amended, Pertaining to the Extension of Water Service as amended to 128 percent surplus water supply and as further amended to include language calling for the creation of a regional water commission be approved on first reading. The motion passed by a vote of 6-3-0-0**

**Aye:** 6 - Avila, Fortune, Helms, Henjum, Strand, and Williams

**No:** 3 - Donelson, Murray, and O'Malley

- 10.B.** [CODE-22-00](#) Ordinance No. 23-03 repealing Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, and adopting the Unified Development Code of the City of Colorado Springs, incorporating various building codes, other primary and secondary codes, as included, and providing for the penalties and remedies for violation thereof

Presenter:

Morgan Hester, Planning Supervisor

Mike Tassi, Assistant Director of Planning and Community Development

Peter Wysocki, Director of Planning and Community Development

Don Elliott, Clarion Associates

**Attachments:** [RetoolCOS - 2-14-23](#)  
[COS UDC Final Draft CLEAN](#)  
[ATTACHMENT 1 CC Recommendations](#)  
[ATTACHMENT 2 - Neighborhoods](#)  
[ATTACHMENT 3 - Appeals](#)  
[ATTACHMENT 4 - TODs](#)  
[ReToolCOS-AdoptingORD-2023-2-6](#)  
[Pages A-BB PENALTY PROVISIONS UNDER UDC - 2022-12-05](#)  
[Signed Ordinance No. 23-03.pdf](#)

Peter Wysocki, Director of Planning and Community Development, introduced the Ordinance repealing City Code Chapter 7 (Planning, Development and Building) and adopting the Unified Development Code (UDC) also known as RetoolCOS, incorporating various building codes, other primary and secondary codes, as included, and providing for the penalties and remedies for violation thereof. He identified the comments/modifications to the UDC final draft.

Councilmember Williams suggested that President Strand poll City Council regarding their preferences to the suggested modifications. President Strand agreed to that suggestion.

Councilmember Donelson requested the Electric Vehicle Charging Station requirement for Subsection 7.4.1008.H be removed. President Pro Tem Helms seconded that request and the majority of City Council agreed.

Mr. Wysocki stated that the UDC is reflective of the consent of many different stakeholders and any changes made today from the dais could be disappointing to the participants.

Mike Tassi, Assistant Director of Planning and Community Development, went over the issues, staff's perspective, and options. He then polled City Council and the results were as follows to amend the proposed Ordinance to include:

Issue #1 Purpose Statement - Option B. - Add Subsection 7.1.103I (page Enhance the quality, diversity, and safety of neighborhoods by encouraging pride and investment.”

Issue #2 Lot Coverages - Option 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% to 45% to 40% to 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%

Issue #3 OR and OC to MXN - Option A - Keep OR Office Residential zone district as is in current Chapter 7 and retain OR Office Residential zoned properties as is, as a regular zone, nonlegacy.

Issue #4 Appeals - Amended Option 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 3 miles of the project site.

Issue #8 Transit Oriented Development (TOD) - Option B - Add 2g to 7.4.202.B to state, " Properties with a Historic Preservation Overlay and/or on the Historic Registry are not eligible for TOD incentive."

Councilmember Henjum stated there was a profound amount of public engagement with occurred during the RetoolCOS process.

**Motion by Councilmember Murray, seconded by Councilmember Williams, that this Ordinance repealing and replacing Chapter 7 (Planning, Development and Building) of City Code in its entirety with the Unified Development Code (UDC) which will serve as the zoning code and Chapter 7 of the City Code of the City of Colorado Springs 2001, as amended, with the proposed amendments provided in Exhibit 2 (CPC Recommendation Memo) as amended to include the seventeen amendments presented by Planning Staff except for number 2 (EV charging), to include an effective date of May 1, 2023, and to include the City Council approved Options listed in the meeting minutes be approved on first reading. The motion passed by a vote of 8-1-0-0**

**Aye:** 8 - Avila, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

**No:** 1 - Donelson

## **11. New Business**

There was no New Business.

## **12. Public Hearing**

- 12.A. [APPL-22-0003](#) An appeal of the Planning Commission decision to deny an appeal of the administrative approval of the development plan amendment for 1756 Silversmith Apartments, located at 1756 Silversmith Road.

Presenter:

Katelynn Wintz, Planning Supervisor, Planning and Community Development

Peter Wysocki, Planning Director, Planning and Community Development

**Attachments:** [Planning Appeal - Flying Horse No. 22 Plan - Michael Ford](#)

[Staff presentation\\_1756 Silversmith](#)

[Applicant Appeal Response Letter](#)

[Staff Report\\_1756SilversmithAppeal](#)

[Silversmith Appeal Statement](#)

[PlanCOS Vision Map](#)

[2019 Approval - Fairways at Flying Horse](#)

[Public Comment](#)

[Flying Horse - Appeal Response Letter with exhibits\(24973721.1\)](#)

[Letter of Support for Flying Horse Development](#)

[Approval Letter](#)

[2022 Amendment Approved Plan Set](#)

[CPC\\_Minutes\\_SilversmithApartments\\_draft](#)

[7.5.906 \(B\) Appeal of Commission-Board](#)

[7.5.906 \(A\)\(4\) Administrative Appeal](#)

[7.5.502.E Development Plan Review](#)

Katelynn Wintz, Planning Supervisor, Planning and Community Development, presented the appeal of the Planning Commission decision to deny an appeal of the administrative approval of the development plan amendment for 1756 Silversmith Apartments, located at 1756 Silversmith Road. She provided an overview of the applications, vicinity map, background information, public notice, zone change, Development Plan approval, history, proposed Plan amendment, PlanCOS conformance, and staff recommendations.

President Strand asked if this project is designated for senior housing. Ms. Wintz stated the developer did originally intend this project be age restricted to age fifty-five years old plus, but that is not their intention today.

President Pro Tem Helms stated he has not received any emails in opposition to this project.

Councilmember Murray asked how close in proximity this project is to Powers Boulevard. Ms. Wintz stated it will be immediately adjacent to the future extension of Powers Boulevard.

Councilmember Williams stated this complex is within walking distance of several schools and requested the response from School District 20 regarding capacity. Ms. Wintz stated they indicated they have adequate capacity for this proposed development and there was no significant concern.

Michael Ford, representing the appellant, went over how this project violates the intent and purpose of the City's zoning code, the concerns regarding the new design versus the 2019 design, current site, proposed project with impacted homes, responses to City Planners, corner of new design/old design, Conditional use criteria, use variance review criteria, and how the 2019 plan was a better design.

Councilmember Williams asked how the change in design of the development would affect Mr. Ford's property. Mr. Ford provided an overview of the building design from 2019 versus what is being proposed now.

Councilmember Murray asked Mr. Ford if he would be in support of the project if it had remained a senior living center with the original orientation of the building. Mr. Ford confirmed he would.

Elizabeth Likovich, Senior Vice President, Aimco Development, representing the applicant, provided an overview of Aimco, the project site, and public outreach.

Councilmember O'Malley asked if the applicant would be willing to go back to the 2019 design. Ms. Likovich stated they are not.

David Carnicelli, Architect, Stantec Architecture, representing the applicant, provided an overview of the proposed design elements of the project, accommodations they made based on the public comments, character of the architecture/landscape, comparison with the 2019 approved development plan, massing - approved versus proposed, and building heights, and parking.

Councilmember Donelson asked if there will be windows on the second floor adjacent to Mr. Ford's house. Mr. Carnicelli confirmed there would be a window on the second floor, but not the third story.

Councilmember Williams asked if the two-story section is any higher than a two-story single-family home. Mr. Carnicelli stated it is not.

Councilmember Williams asked what the change in elevation is between the project and Mr. Ford's property. Mr. Carnicelli stated he believes the project is slightly higher.

President Pro Tem Helms asked what the distance is between the appellant's home and the complex. Mr. Carnicelli stated approximately ninety-five feet.

President Pro Tem Helms asked what the distance is between the appellant's home and the home on the North side and if there were any windows on that side. Mr. Ford stated approximately thirty feet with only a high window on that side.

Raleigh Wood, Civil Engineer, Kimley-Horn, provided an overview of the traffic study which resulted in no negative impact and no additional infrastructure would be required.

Nicole Ament, Land Use Counsel, Brownstein, Hyatt, Farber, Schreck, representing the applicant, stated the applicant has met the City's criteria of City Code.

**Motion by Councilmember Murray, seconded by Councilmember Henjum, to deny the appeal, upholding Planning Commission's denial of the appeal and approval of the 1756 Silversmith Apartments major development plan amendment, based upon the finding that the application complies with the review criteria in City Code Section 7.5.502.E, and that the appeal criteria found in City Code Section 7.5.906.B are not met. The motion passed by a vote of 9-0-0**

Aye: 9 - Avila, Donelson, Fortune, Helms, Henjum, Murray, O'Malley, Strand, and Williams

### **13. Added Item Agenda**

There were no items added to the Agenda.

### **14. Executive Session**

#### **14.A. [23-057](#)**

In accord with City Charter art. III, § 3-60(d) and its incorporated



Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(a), (b) and (e), the City Council, in Open Session, is to determine whether it will hold a Closed Executive Session. The issue to be discussed involves consultation with the City Attorney, developing strategy for negotiations, and instructing negotiators regarding an economic development matter involving a long-term lease.

The President of Council shall poll the City Councilmembers, and, upon consent of two-thirds of the members present, may conduct a Closed Executive Session. In the event any City Councilmember is participating electronically or telephonically in the Closed Executive Session, each City Councilmember participating in the Closed Executive Session shall affirmatively state for the record that no other member of the public not authorized to participate in the Closed Executive Session is present or able to hear the matters discussed as part of the Closed Executive Session. If consent to the Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

Presenter:

Wynetta Massey, City Attorney

**Attachments:** [2023-1-24 Closed Session Council Memo](#)

Councilmember Fortune recused herself from the Executive Session due to a conflict of interest.

Ben Bolinger, Assistant City Attorney stated that in accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b) and (e), the City Council, in Open Session, is to determine whether it will hold an electronic Closed Executive Session. The issue to be discussed involves consultation with the City Attorney, developing strategy for negotiations, and instructing negotiators regarding an economic development matter involving a long-term lease.

President Strand polled City Council regarding the desire to proceed with an electronic Closed Executive Session. At least two-thirds of City Council agreed to proceed in an electronic Closed Executive Session.

## **15. Adjourn**

Upon completion of the Closed Executive Session, there being no further business to come before City Council, Council adjourned.

Sarah B. Johnson, City Clerk