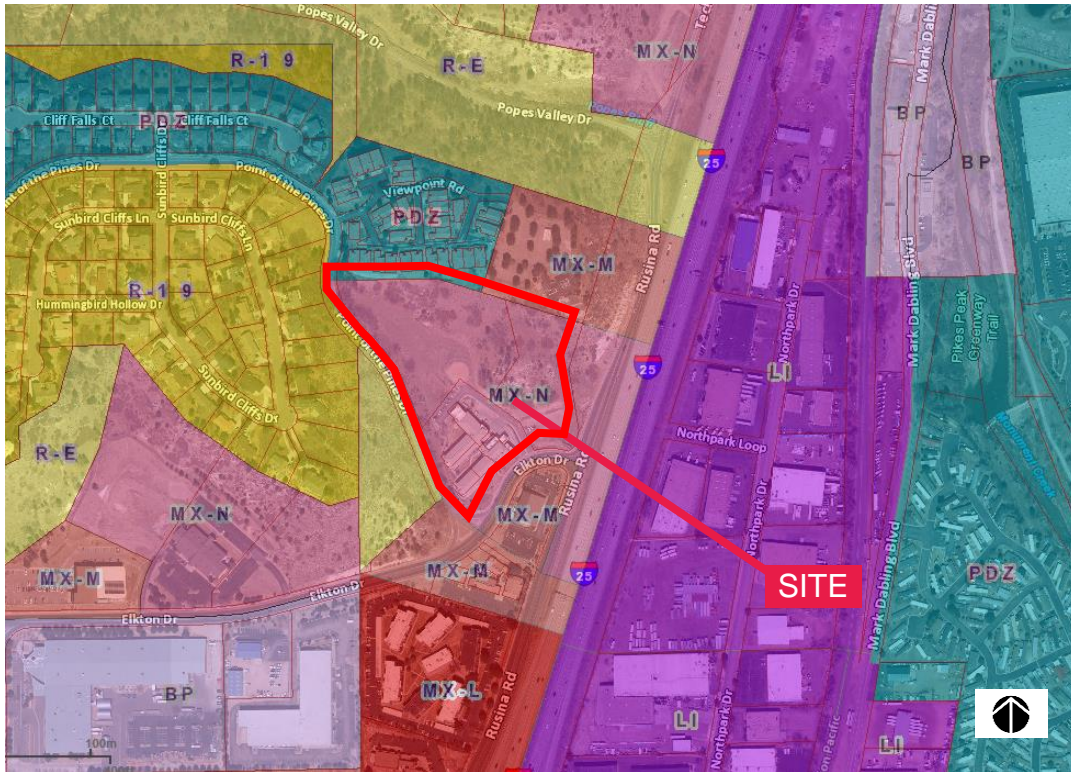




**POINT OF THE PINES VILLAS**  
 Planning Commission November 17, 2023  
 Staff Report by Case Planner: Tamara Baxter



**Quick Facts**

- Applicant**  
Terra Nova Engineering, Inc.
- Property Owner**  
MIMACO LLC c/o Mike Jansen
- Developer**  
MIMACO LLC
- Address / Location**  
330, 360, 390 and Elkton Drive
- TSN(s)**  
6319310009; 6319310007;  
6319310011; 6319310010;  
6319310012; 6319310013;  
6319310014
- Zoning and Overlays**  
Current: MX-N/HS-O-/WUI-O  
Proposed: MX-N/HS-O-/WUI-O
- Site Area**  
9.62 acres
- Proposed Land Use**  
Human Services Establishment,  
Large and Medical Office
- Applicable Code**  
UDC Section 7.5.704

**Project Summary**

This application is for a zone change from MX-N/HS-O-/WUI-O (Mixed-Use Neighborhood Scale with Hillside and Wildland Urban Interface Overlays) to MX-M/HS-O-/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlay (see "Project Statement" attachment)).

File Number	Application Type	Decision Type
ZONE-23-0023	Zone Map Amendment	Quasi-Judicial

## Background

### Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Pope's Bluff Addition	11/01/1965
Subdivision	Point of the Pines Gardens Subdivision	10/24/2011
Master Plan	Indian Hills (Privately Initiated; Operative)	3/24/81
Prior Enforcement Action	N/A	

### Site History

- The subject property is part of the Indian Hills Master Plan. This master plan was approved in 1972. Amendments to this master plan were approved by the city in 1977 and 1981. This master plan was privately initiated and is operative.
- City Council approved a rezoning for the property in 1987 (Ord No. 87-41) with conditions of record. Those conditions dealt with the dedication of right-of-way and easements. Those conditions are not an issue with this application.
- The Concept Plan was approved by the city on December 4, 2008. This concept plan identified proposed uses as 'office, nursing homes and/or commercial type uses'. An amendment to the concept plan was approved by the city on September 22, 2011. The amendment was to rearrange lot lines for the three lots and relocation of the assisted living from one lot to another.
- A Development Plan was approved on September 22, 2015, on Lot 2 for an assisted living facility consisting of 100-beds.

### Applicable Code

The subject application was submitted after the implementation date (06/05/2023) of the ReTool project. The subject application was reviewed under the Unified Development Code. All subsequent references within this report that are made to "the Code" and related sections are references to the Unified Development Code.

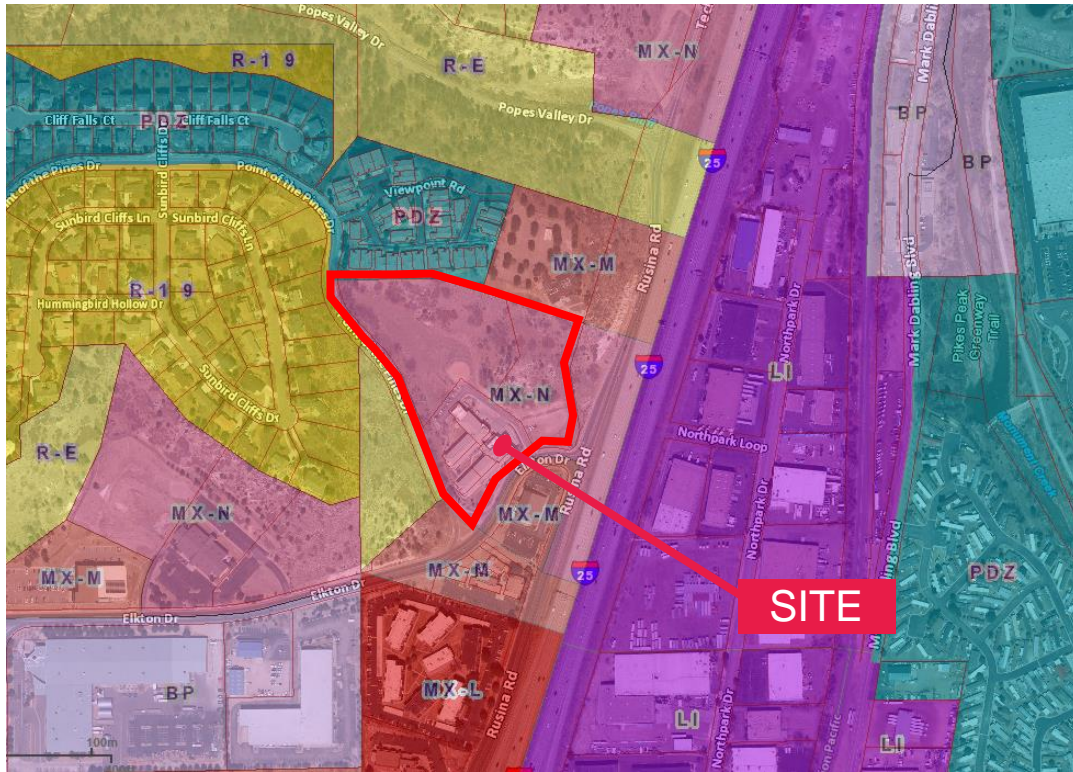
## Surrounding Zoning and Land Use

### Adjacent Property Existing Conditions

	<i>Zoning</i>	<i>Existing Use</i>	<i>Special Conditions</i>
North	PDZ/HS-O/WUI-O & MX-M/HS-O/WUI-O	Multi-Family; Commercial	Mission Ridge Townhomes Former Sunbird Restaurant
West	R1-9/HS & R/HS	Single-Family; Vacant	Sunbird Cliffs Subdivision
South	MX-M/HS	Personal Improvement Services with Retail; Office Park	Underwater Connection (diving training); Sunbird Office Park

### Zoning Map

The project application is for a zone change from MX-N/HS-O/WUI-O (Mixed-Use Neighborhood Scale with Hillside and Wildland Urban Interface Overlays) to MX-M/HS-O/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlays) (see “Zone Change Exhibit” attachment).



Stakeholder

### Involvement

#### Public Notice



Public Notice Occurrences (Poster / Postcards)	Internal Review / Prior to Planning Commission Hearing; affidavit of posting provided to staff
Postcard Mailing Radius	1000'
Number of Postcards Mailed	One Hundred Twenty-eight (128)
Number of Comments Received	2 comments received

#### Public Engagement

- No neighborhood meeting was held for this entitlement request.
- One public comment in support of the zone change and one public comment in opposition. Concerns related to erosion, crowdedness, fire hazard, and timing of larger construction projects in the area.
- Applicant provided a written response to the received public comments (see “Public Comment Response” attachment). No follow-up correspondence from the public was received.

## Timeline of Review

Initial Submittal Date	9/7/2023
Number of Review Cycles	Two
Item(s) Ready for Agenda	October 16, 2023

## Agency Review

### Traffic Impact Study

Traffic Engineering had no comment on the zone change request. Traffic analysis is normally not required with a zone change request.

### SWENT

Stormwater Enterprise had no comment on the zone change request.

### Colorado Springs Utilities

CSU had no comment on the zone change request.

### FIRE

Fire Department had no comment on the zone change request.

## Zone Map Amendment

### Summary of Application

In accordance with UDC Section 7.5.704.A, the purpose of a zoning map amendment is to establish standards and provide a mechanism for the City to review and decide on an application to rezone property within the City's jurisdiction, where the City has determined that rezoning of those areas is appropriate. An application to establish or change the boundaries of any zone district is required to include a Land Use Plan unless waived or a development plan is submitted in conjunction with the zone map amendment request. The applicant requested a Land Use Plan waiver by submitting a Land Use Statement demonstrating the application complies with the criteria for a waiver outlined in UDC Section 7.5.5.14.B.3.a.(1)-(6) (see "Project Statement\_Land Use Statement" attachment).

- (1) The land area under review is less than ten (10) acres and is planned to be developed in a single phase;  
Staff Analysis: The area consisting of three lots, is slightly less than ten (10) acres, however, it has not been developed in a single phase. The concept plan has been approved for these three lots. A 100-bed assisted living facility has been constructed on Lot 3. Lot 2 is proposed for a future 30-bed human service establishment, and Lot 1 is undeveloped, however, a private unimproved parking area has been installed for overflow parking from Lot 3.
- (2) The land is contained in and subject to a previously approved Master or Concept Plan;  
Staff Analysis: The lots are part of a concept plan approved in 2007 and amended in 2021. The proposed use of Lot 3 is proposed to be a human services establishment instead of an office building. Lot 1 is still intended to be developed as a future medical office.
- (3) The land is included in a Development Plan application;  
Staff Analysis: A development plan has been approved in 2011 for the existing assisted living facility on Lot 2. A development plan application has been submitted for Lot 1 which is currently under review by city planning (City

File #DEPN-23-0208) for a human service establishment-large. This development plan was submitted under separate review cycles.

- (4) The land area is part of an established surrounding development pattern;

Staff Analysis: The surrounding land use pattern consists of commercial to the north and south, and residential to the west. Lot 3 consists of an existing assisted living facility (human service establishment).

- (5) The proposed zoning pattern for the land aligns with adjacent existing zoning or development; and/or

Staff Analysis: The proposed rezone to MX-M (Mixed-Use Medium Scale) aligns with the adjacent existing zoning along Rusina Road and a portion of Elkton Drive. The residential development to the northwest (multi-family townhomes) and west (single-family) is located above this property. Lot 3 is improved with a 100-bed assisted living facility which is considered a nonconforming use with the citywide initiated rezoning.

- (6) Major infrastructure or urban services for the land including but not limited to access points and roadway systems, have already been established and are not proposed to be changed.

Staff Analysis: The three lots take access off Elkton Drive by means of a private drive through an established easement. There are no proposed changes to major infrastructure or urban services.

Staff finds that the request to waive the requirements for a Land Use Plan has been met in accordance with UDC Section 7.5.514.B.3.

## Application Review Criteria

### UDC Section 7.5.704.D: Zone Map Amendment

An application for an amendment to the zoning map shall be subject to the following criteria for approval:

1. The proposed rezoning is consistent with the goals and policies of the Colorado Springs Comprehensive Plan, with other plans and policies adopted by the City Council; and with the purpose statement of the proposed zone district(s).

Staff Analysis: The proposed zone map amendment application has been evaluated for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. The proposed zone change and land use statement are substantially in compliance with the goals, policies and strategies within PlanCOS as addressed below. The MX-M (Mixed-Use Medium Scale) zone district accommodates "a mix of, for example, commercial, retail, office, multi-family residential, and civic uses". This zone district promotes reuse or redevelopment of vacant or underused properties and may be horizontally or vertically mixed based on their density and intensity and have minimized impacts on established residential neighborhoods.

2. The rezoning will not be detrimental to the public interest, health, safety, convenience, or general welfare.

Staff Analysis: This criterion is subjective in nature, nonetheless, the request to rezone the three lots from one mixed-use zone district to another in this location is not expected to be detrimental to the public interest, health, safety, convenience, or general welfare. The proposed zoning is consistent with the adjacent MX-M (Mixed-Use Medium Scale) zoning and uses along Rusina Road and Elkton Drive. The residential uses to the northwest and west are located above this area. Access to the three lots is existing off Elkton Drive. The request to rezone will allow for use types that are either not permitted or conditional in the MX-N (Mixed-Use Neighborhood Scale) zone district.

3. The location of the lands in the zoning map area being amended are appropriate for the purposes of the proposed zone district(s).

Staff Analysis: As noted, the zone change to MX-M (Mixed-Use Medium Scale) is an appropriate zoning along Rusina Road as this zone district is consistent with the zoning of the adjacent commercial uses along Rusina Road. The MX-M (Mixed-Use Medium Scale) zone district allows for a mix of commercial, retail office, multi-family and civic uses.

4. If the application proposes to rezone a small area of land, the application demonstrates that the size, scale, height density, and multimodal traffic impacts of the proposed rezoning are compatible with surrounding development or can be made compatible with surrounding development through approval conditions.

Staff Analysis: The property was rezoned in 1987 from R/HS (Residential with Hillside Overlay) to OC/HS (Office Commercial with Hillside Overlay) to allow for an assisted living facility and office/medical office uses. Effective June 5, 2023, the city-wide zoning initiative in association with the UDC (Unified Development Code) combined previous zone districts into 'mixed-use' zone districts. This created non-conformities in use and eliminated previously 'permitted' use types and made them either conditional uses or non-permitted uses. The request to rezone the property will allow the property owner to utilize the subject lots as intended and remove any non-conformities with the UDC. The current zoning does not allow for human services establishment-large which is proposed for Lot 3. Future development of the vacant lots will require a development plan. Based on the location of these lots, limitations, such as 'preservation area easements' will naturally pull future development away from the existing residential development above this site.

5. If the application proposes to rezone a relatively small area of land, the application demonstrates that the change in zoning will not create significant dislocations of tenants or occupants of the property, or that any impacts are outweighed by other public benefits or progress toward other Colorado Springs Comprehensive Plan goals that would be achieved by approval of the application.

Staff Analysis: The three lots consist of approximately 9 acres. The proposed rezone does not create a dislocation of tenants or occupants, as two of the three lots are currently vacant. The existing use on Lot 3, is a 100-bed assisted living facility. Under the current UDC, this existing use type on Lot 3 is considered a non-conforming use, as this use type, per the UDC definitions, has been bundled under the definitions of 'Human Services Establishment-Large' (HSE-Large). An HSE-Large in the MX-N (Mixed-Use Neighborhood Scale) zone district is not permitted nor a conditional use. The requested rezone is not in conflict with PlanCOS goals. The rezone would allow for future expansion of HSE-Large on Lot 2 which is a public benefit housing for individuals that have challenges living on their own.

6. If a Land Use Plan or amendment to a Land Use Plan accompanies the application, the Land Use Plan or amendment complies with the applicable criteria in Subsection 7.5.514C.3 (Land Use Plan Criteria).

Staff Analysis: This criterion is not applicable as the applicant has submitted an accompanying Land Use Statement.

7. The application is consistent with any approved Concept Plans in the area for which the map is being amended or includes or is accompanied by a provision that approved Concept Plans that have been classified as implemented do not have to be amended in order to be considered consistent with an amended zoning map.

Staff Analysis: A concept plan was approved in 2011. Under Chapter 7, Concept Plans were not implemented. Concept Plans remained valid or expired after six years from the approval date "if no development plan for any portion of the concept plan area has been approved." Instead of amending the Concept Plan or submitting a new Land Use Plan which would have superseded the approved Concept Plan, the applicant submitted a request to waive a Land Use Plan. Staff finds that the request to waive the requirements for a Land Use Plan has been met in accordance with UDC Section 7.5.514.B.3.

8. If the application is for creation of an ADS-O district, the approval criteria applicable to the creation of the text of the ADS-O district in Section 7.2.607D.47.5.702 (Decision) shall also apply to consideration of the zoning map amendment required to create or amend the boundaries of the ADS-O district.

Staff Analysis: The zone map amendment is not for an ADS-O district creation.

9. If rezoning to a PDZ district, the proposed PDZ district provides significant community amenities or other benefits, as determined by the Manager, that promote the achievement of Colorado Springs Comprehensive Plan goals and would not otherwise be required of the applicant under this UDC or other City or governmental regulations.

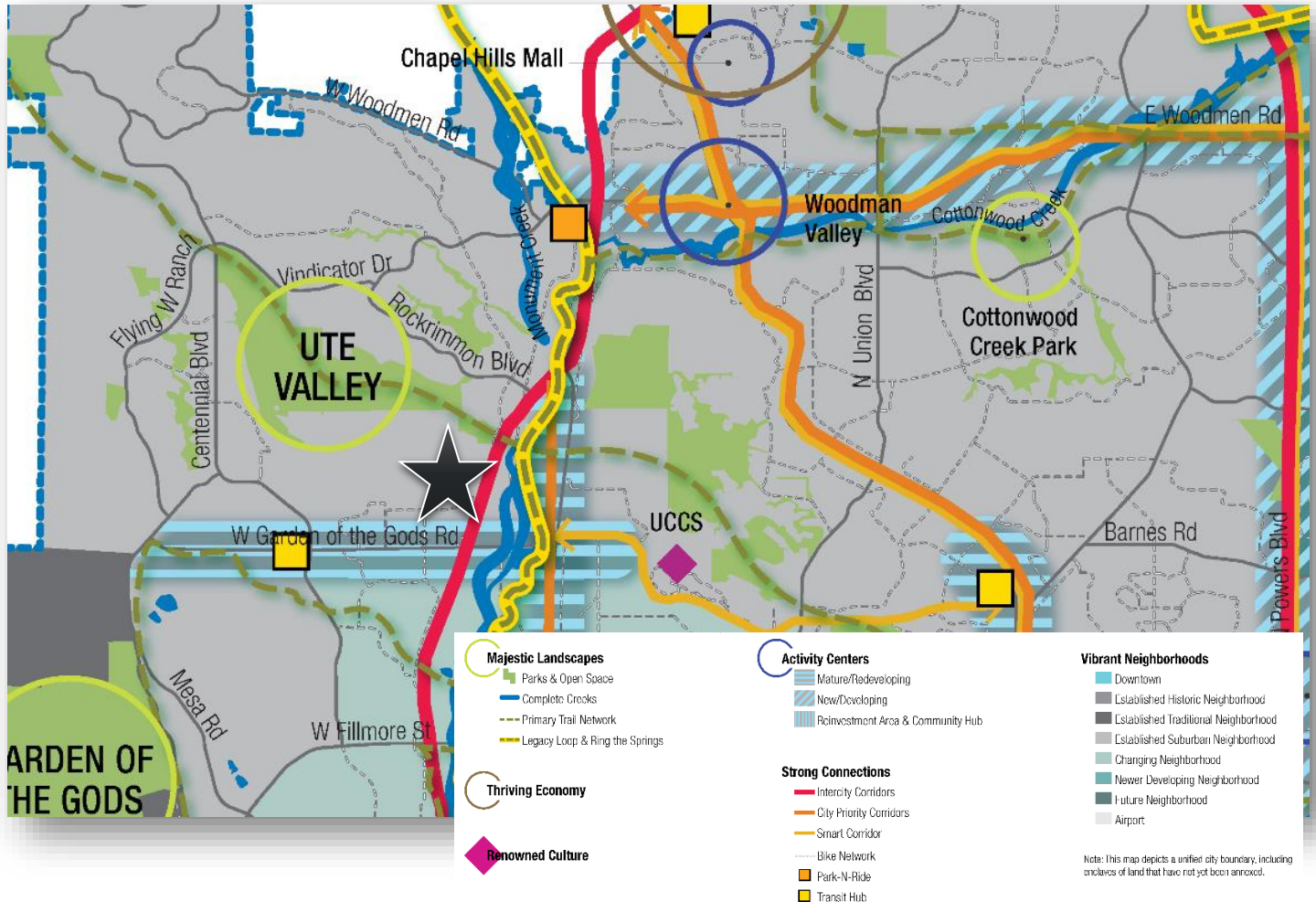
Staff Analysis: The zone map amendment is not to a PDZ district.

10. Complies with the additional standards of the base zone district where the property is located (see Article 7.2 (Zone Districts)) or in an overlay district that applies to the property (see Part 7.2.6 (Overlay Districts))

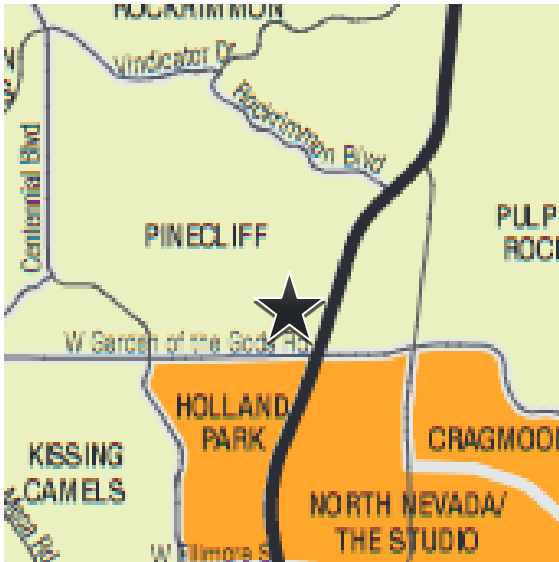
Staff Analysis: The subject property is within the hillside overlay (HS-O) and wildland-urban interface overlay (WUI-O) districts. Future development shall comply with additional dimensional and development standards in these overlays.

## Compliance with PlanCOS

### PlanCOS Vision



The proposed zone map amendment application has 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 "Established Suburban Neighborhood" and located adjacent to a "Mature/Redeveloping" activity center along W Garden of the Gods Road. The goal of this neighborhood typology is to "recognize, support, and enhance the existing character of these neighborhoods, while supporting their ongoing investment and improved adaptation New development and/or redevelopment should incorporate elements of the existing neighborhoods". Established Neighborhoods are predominately built-out but should expect some degree of infill and redevelopment.



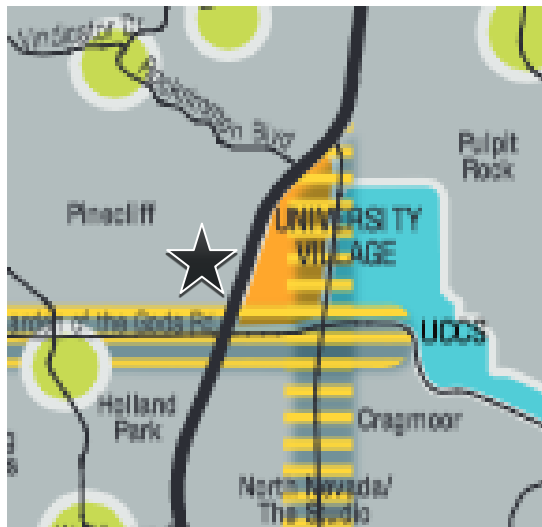
**Predominant Typology**

- Downtown
- Newer Developing Neighborhood
- Changing Neighborhood
- Established Historic Neighborhood
- Established Traditional Neighborhood
- Established Suburban Neighborhood
- Airport
- Future Neighborhood

**Vibrant Neighborhoods**

In the Vibrant Neighborhood chapter, PlanCOS recognizes that integration of mixed-use development in neighborhoods support the creation of vibrant neighborhoods.

- Goal VN-2: Strive for a diversity of housing types, styles, and price points distributed throughout our city through a combination of supportive development standards, community partnerships, and appropriate zoning and density that is adaptable to market demands and housing needs.
- Strategy VN-2.A-3: Support land use decisions and projects that provide a variety of housing types and sizes, serving a range of demographic sectors, and meeting the needs of residents and families through various life stages and income levels.



**Predominant Typology**

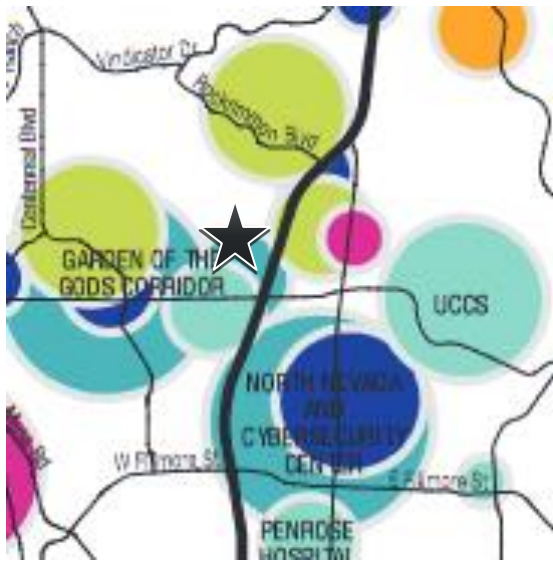
- Neighborhood Centers
- Community Activity Centers
- Entertainment and Commercial Centers
- Regional Employment and Activity Centers
- Downtown
- Mature/Redeveloping Corridors
- New/Developing Corridors
- Reinvestment Area and Community Hub
- City Boundary
- Interstate 25
- Major Roads

**Unique Places Framework**

The property is within the ‘Neighborhood Centers’ typology which provides a focal point of community life and services at a neighborhood scale.

- Policy UP-2.A: Support infill and land use investment throughout the mature and developed areas of the city.
- Strategy UP-2.A-3: Continue to implement infill supportive Code changes including provisions tailored for older developed areas.
- Strategy UP-2.A-4: Actively support ongoing and potential infill projects, employ problem-solving approaches and continue to implement process improvements in support of infill and redevelopment.





**Predominant Typology**

- |   |  |               |
|---|--|---------------|
| <span style="color: lightblue;">●</span> Cornerstone Institutions | <span style="color: orange;">●</span> Life and Style     | City Boundary |
| <span style="color: yellowgreen;">●</span> Spinoffs and Startups  | <span style="color: teal;">●</span> Industry Icons       | Interstate 25 |
| <span style="color: pink;">●</span> The Experience Economy        | <span style="color: darkblue;">●</span> Critical Support | Major Roads   |

**Thriving Economy Framework**

The property is within the overlapping typologies of “Industry Icons” and “Cornerstone Institutions”. The goal of “Cornerstone institutions” is to “support, reinforce, and expand these cornerstone institutions and to connect and integrate them within the larger community”. The goal of the “Industry Icon” is to “maintain and grow a diversified primary employment and manufacturing economy that attracts investment and provides a variety of jobs and opportunities for the local workforce”

- Policy TE-1.C: Leverage the city’s livability as a workforce and economic driver.
- Strategy TE-1.D-4: Work with institutions to adjust zoning and land use regulations that allow them to densify and expand while also managing impacts on surrounding neighborhoods.
- Goal TE-2: Diversify the local economy by fostering a range of business types and sizes.
- Policy TE-4.A: Prioritize development within the existing City boundaries and built environment (not in the periphery).

## Statement of Compliance

### **ZONE-23-0023**

After evaluation of the zone map amendment for Point of the Pines Gardens Assisted Living consisting of 9.62-acres located in the northwest corner of Elkton Drive and Rusian Road, the application meets the review criteria set forth in City Code Section 7.5.704.

Should the Planning Commission wish to approve the zone map amendment, the following motion is suggested:

Recommend approval to City Council the establishment of 9.62 acres as a MX-M/HS-O/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlay zone) district based upon the findings that the request complies with the criteria for a Zoning Map Amendment as set forth in City Code Section 7.5.704.

Should the Planning Commission wish to deny the zone map amendment, the following motion is suggested:

Recommend denial to City Council the establishment of 9.62 acres as a MX-M/HS-O/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlay zone) district based upon the findings that the request does not comply with the criteria for a Zoning Map Amendment as set forth in City Code Section 7.5.704.