



City of Colorado Springs

Regional Development
Center (Hearing Room)
2880 International Circle

Meeting Minutes - Draft Planning Commission

Wednesday, January 8, 2025

9:00 AM

2880 International Cir., 2nd Floor, Hearing Room

1. Call to Order and Roll Call

Meeting went into Recess

Meeting Reconvened

Present: 7 - Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Casey and Commissioner Gigiano

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

2. Changes to Agenda/Postponements

Chair Slattery announced that due to technical issues, the Planning Commission Meeting would be postponed until 11:00am.

3. Communications

Andrea Slattery - Planning Commission Chair

Kevin Walker - Planning Director

4. Approval of the Minutes

[CPC 2361](#) Minutes for the December 11, 2024, Planning Commission Meeting

Attachments: [CPC_Minutes_12.11.24 Draft](#)

Motion by Commissioner Rickett, seconded by Commissioner Casey, to approve the minutes for the December 11, 2024, Planning Commission Meeting The motion passed by a vote of 6-0-2-1.

Aye: 6 - Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Casey and Commissioner Gigiano

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

Recused: 1 - Vice Chair Foos

5. Consent Calendar

Motion by Commissioner Rickett, seconded by Commissioner Casey, to approve the Consent Calendar The motion passed by a vote of 7-0-2.

Aye: 7 - Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Casey and Commissioner Gigiano

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

MVS Development LLC - Amendment to the Certificate of Designation Boundary

- 5.A. [DEPN-23-00](#)
[19](#) A Certificate of Designation Amendment for the purpose of removing the confirmed trash-free areas from what is identified as a ‘facility’ in relation to the already approved Certificate of Designation consisting of 22.72 acres located southwest of the Van Buren Street and Centennial Boulevard intersection.
(Quasi-Judicial)

Presenter:
Gabe Sevigny, Planning Supervisor, Planning Department

- Attachments:** [Staff Report_CertfDesignationAmendment_RGS](#)
[Attachment 1 - Project Statement](#)
[Attachment 2 - VCUP Application](#)
[Attachment 3 - City Clerk Affidavit](#)
[Attachment 4 - CDPHE - MVS Conditional Approval Letter](#)
[Attachment 5 - Exhibit A](#)

Take 5 Austin Bluffs Parkway

- 5.B. [CUDP-24-00](#)
[23](#) A Conditional Use to allow an Automobile and Light Vehicle Repair, Minor use in the MX-M/CU/AP-O (Mixed-Use Medium Scale with a Conditional Use and Airport Overlay) zone district consisting of 0.36 acres located at the southeast corner of Austin Bluffs Pkwy and Barnes Rd (Quasi-Judicial).

Presenter:
Molly O’Brien, Planner II, Planning Department

- Attachments:** [Staff Report CUDP-24-0023 MEO](#)
[Attachment 1 - Land Use Statement](#)
[Attachment 2 - Project Statement](#)
[Attachment 3 - Concept Plan](#)
[Attachment 4 - Public Comment](#)
[Attachment 5 - Public Comment Response](#)
[7.5.601 CONDITIONAL USE](#)

6. Items Called Off Consent Calendar

7. Unfinished Business

8. New Business

Uintah Townhomes

- 8.A. [ZONE-24-00](#) An Ordinance to amend the zoning map of the City of Colorado Springs pertaining to 2.22 acres located at 520 North Twentieth Street from R-2 (Two-Family Residential) to R-Flex-Med/CR (R-Flex Medium Scale with Conditions of Record). Conditions of Record - five (5) or more attached units or apartments are not permitted.

(Quasi-Judicial) (1st Reading only to set the public hearing for February 11, 2025)

Presenter:

Gabe Sevigny, Planning Supervisor, City Planning Department

Attachments: [Staff Report Uintah Townhomes RGS](#)

[Attachment 1 - Project Statement](#)

[Attachment 2 - Neighborhood Correspondence](#)

[Attachment 3 - Traffic Impact Study](#)

[Attachment 4 - Geological Hazard Report](#)

[Attachment 5 - Exhibit A and B - Legal Description and Zoning Map Depiction](#)

[Attachment 6 - Development Plan](#)

[Attachment 7 - Context Map](#)

[Attachment 8 - Westside Generalized Land Use Map](#)

[7.5.704 ZONING MAP AMENDMENT \(REZONING\)](#)

[Ordinance Uintah Townhomes](#)

[Exhibit A and B - Legal Description and Zoning Map Depiction](#)

Gabe Sevigny, Planning Supervisor presented the application for Sun Mountain Townhomes. The application is for a zone change and a development plan located north of Uintah Street between 20th Street and 21st Street. The site is 2.52 acres, and the proposed development will consist of 26 units in six 4-plexes and one duplex with a maximum building height of 33 feet from average finished grade. Mr. Sevigny said any major modifications to development plan would require us to go back to the City Council. Standard notice was done, and comments were received with concerns regarding density, building locations, height, traffic, evacuation, geological hazards, adjacent uses and site improvements. Staff has found adjacent use in the primary use of the site is multi-family, therefore, certain boundaries and buffers were not required for multi-family to multi-family, and alleyways can be used as

a primary access if it meets the engineering development review criteria and the fire criteria. Mr. Sevigny said the alley is expected to be expanded from 16 feet to 26 feet to meet the requirements of our fire apparatus. The project does comply with PlanCOS. Agency review was done, and comments were received from Traffic, SWENT and D11. Staff finds the application meets the review criteria.

Applicant Presentation

Andrea Barlow, NES provided an overview of their application. Ms. Barlow said they are not changing the existing and if the public ally, they are expanding it. Examples of the townhomes were provided showing varying elevations. Ms. Barlow said there was a neighborhood meeting on May 29, 2024, prior to the first submittal of entitlements. Topics that were raised include compliance with the Westside Plan, traffic, access, geological hazards, landscaping and special treatment rezoning. Ms. Barlow said the site was platted in the 1880's for 30 lots. The section of Henderson Avenue was vacated in 1977 eliminating the potential for direct lot access to the northern 20 platted R2 lots and the northern portion has been developed. Ms. Barlow showed a comparisons from the previous proposal from 2022 to the current proposal. Ms. Barlow said questions were raised from the neighbors on why they want to rezone the area, and she said they are entitled to rezone per the code and provided examples of the proposal. Ms. Barlow provided a summary of the criteria for approval which included plan compliance, compatibility and technical requirements. She provided examples of the Westside plan and how it is outdated and no longer relevant, however she said as it may be relied upon, as it meets density and flexibility and housing types. Ms. Barlow highlighted items on PlanCOS where the site is within the established historic neighborhoods and vibrant neighborhoods framework. She also showed the surrounding zoning areas to show the similarities in density and building heights.

Ms. Barlow said the use is compatible for townhomes adjacent to single family, density is consistent and provides a transition and the height that this current proposal is compatible with the surrounding development. She said there are four access points and only two units would have direct access, and the traffic study showed the project would generate 187 daily trips. Ms. Barlow said the alley will remain a public alley and will not create a double frontage conditions. There are seven bus stops within a quarter of a mile of the site and multiple bike routes. Ms. Barlow said a slope report with Colorado Geological Survey and recommendations were in the revised report approved by City Engineering. She said they are meeting all drainage, detention, alley, amenity space, parking and landscaping requirements.

Commissioner Questions

Commissioner Gigiano asked if the density and traffic studies included the Launch Pad. Ms. Barlow said all traffic studies project forward 20 years and they look at overall growth in the area and will apply a growth factor. The Launch Pad is a very low traffic generating use and the primary vehicle flow is for staff and the growth factor is 2% over a 20-year period. Commissioner Gigiano asked about the density. Ms. Barlow said the density said it is 50 units per acre, located east and north of the site and was not looked at as comparable density as it is separated from the immediate surrounding site.

Commissioner Rickett asked if the 1887 plat is the current with the 25-foot lots. Mr. Sevigny said he cannot confirm the date of 1887, but the lot configuration is correct. Commissioner Rickett said if it is subdivided as an R2, the lots reduce by three and said it sits within what has been historically in place for over 100 years. Mr. Sevigny said they would not require them to re-plat the lots in order to develop on. As a legal lot of record you can develop under the R2 zoning, for what is permitted and go straight to building permit.

Commissioner Cecil asked how the standards for R2 that requires 7,000 Square feet for duplexes and the new potential regulations for accessory dwelling units be applied to potential single-family developments on the currently planted lots. Mr. Sevigny said the ADU ordinance will only be for single-family detached units and will not be for attached, single family.

Chair Slattery asked if that means ADU's will not be allowed, or are they currently allowed. Mr. Sevigny said Mr. Sevigny said he would verify with Daniel Sexton, Planning Manager, however with the way it is established, the ADU is only for single family detached. Trevor Gloss, City Attorney said he confirmed with Mr. Sevigny that the current draft of the ADU ordinance is only for single family detached and a duplex would not be able to get an ADU.

Commissioner Cecil asked if the concept of the single-family unit which was discussed last month where an additional dwelling unit is added as part of the main structure would not be permissible. Mr. Gloss said that is correct. Mr. Sevigny said a duplex would not be the only unit allowed in this zone district, a single-family detached could also be allowed with an ADU on each lot. Commissioner Cecil said the single-family detached would require a 5,000 square-foot lot and the lot is currently platted at 3,000 square feet and they would not be required to be re-platted to meet 5,000 square foot standard. Mr. Sevigny said yes as a legal lot of record, they will not have to meet the 5,000 square foot standard. Commissioner Cecil said they would be able to build a single-family dwelling unit. Mr. Sevigny said yes and there are additional standards for setbacks as they could allow a shorter setback based on the distance, up to two feet within that reduction automatically. Commissioner Cecil said each single-family unit could then potentially decide to apply for an ADU.

Mr. Sevigny said yes. Commissioner Cecil said it could bring the density of these 30 substandard lots by the current zoning code to 60 dwelling units. Mr. Sevigny said potentially.

Chair Slattery said it will still be 30 dwelling units as the ADU's do not affect the dwelling units per acre.

Commissioner Robbins said the item that bothers him is the duplex that bleeds onto Uintah and traffic is horrible out there and asked if the developer could turn that around where the driveway goes into the alley versus into Uintah. Chair Slattery said the applicant can answer that in the rebuttal.

Public Comment

Susan Krenak, Javier Villarreal, Bailey Telford and Jeff Langer ceded time to Kelly Hiller, homeowner to the property directly abuts the proposed development, spoke in opposition to the project. Ms. Hiller said the applicant held a neighborhood meeting and admitted over and over and over that he does not need a zone change in order to develop his parcels and said it was for financial reasons only and that is not a part of the criteria. Ms. Hiller said there are some inaccuracies and misrepresentations in the presentation and believes that their request for a zone change does not meet the criteria and the development plan does not comply with the UDC. Ms. Hiller provided a packet highlighting the applicable criteria for a zone change and said maintaining the current zone is consistent with the comprehensive plan. She said no new progress toward the City's goals and policies would be achieved by approval of this application. Ms. Hiller gave examples of infill development and said the current R2 zone is not preventing the developer from being fully utilized. Ms. Hiller said the codified Westside Plan has specific recommendations for the site and those recommendations do not support the applicant's proposal. Ms. Hiller said if the zone change is granted, the setback would be reduced to 10 feet and the development plan shows a building would be erected 10 feet from her home and three neighboring homes. She said it would block out natural light and cut off air circulation which is not in their interests or welfare. Ms. Hiller said there are four units on the plan that pose a geological threat to the adjacent properties where the Geological Hazard study shows the proposed digging doubles the buildings' risk for experiencing float failure or a landslide. Ms. Hiller said there would be negative multi-modal impacts to traffic, and it would change function of a multi-modal alley into the function of a car centric street. She said the alley as intended by the UDC is for pedestrians and bicyclists and facilitates the safe and efficient movement of multi-modal traffic. Ms. Hiller said approving the zone change remove the R2 protections that the neighbors have and there is nothing binding the applicant to the development plans as they can be amended. She said the applicant would have use by right for other things such as group living residences, human services establishments or multifamily dwellings like

apartments. Ms. Hiller said the applicant tried to build tall apartment buildings as parcels in 2022 and Planning staff said quote at this time does not support the application as proposed, the applicant may move forward with this application with the recommendation of denial to the Planning Commission. Ms. Hiller said the zone change request does not comply with the additional standards of the R-Flex Medium Base zone district. The development plan depicts lots that does not meet the minimum lot area standards, lots oriented inappropriately and 12 proposed driveways that are not compliant with city code. Ms. Hiller referenced criteria in the UDC under Article 7.4 along with what the applicant is proposing with lots, alleys and landscape buffers. She said the entirety of the public right of way must belong to the city so that it can be a true public right of way and the strip that the applicant wants to maintain is private which is not workable nor compliant. Ms. Hiller said the use to use on the northern boundary is multi-family to single family and the development plan is required to provide a 15-foot landscape buffer which the applicant has not done. She said the development plan proposes to use the bottom of the detention basin as active green space and it is not permitted as the detention basin on the plan was not set aside for recreational purposes. Ms. Hiller said the bottom of a drainage basin cannot be counted as active due to the usage conflicts that result from the periodic inundation of water and adding a pond sign is not sufficient. Ms. Hiller said significant off-site impacts reasonably anticipated as a result of the project should be mitigated and there are 4 units on the development plan that pose a direct threat to her unit and the four lots of my neighbors. She said the applicant has been told this from the beginning and have not mitigated the danger and if the applicant would just move the four units, the danger would likely be mitigated. Ms. Hiller said the applicant has not shown that their plan is compliant with the applicable standards in the UDC. She asked the Commission to deny the application for the zone change and reject the development plan or send it back to the planning department so that they can get to a place where it complies with the UDC.

Scott Hiller, property owner abutting the property site spoke in opposition to the project. Mr. Hiller said the issue that is more significant is the use-to-use on the landscaping buffer issue. He said the City considers them as multi-family and the code states that landscape buffer requires an analysis of proposed use to the existing or designated use. The City is allowed to make certain interpretations per code 7.5.407 and has to follow the clear and plain meaning of any provisions wording and definitions established in 7.6.301. Mr. Hiller said according to the code, his single lot owned by a single owner with a single family attached home on it, is a single-family attached dwelling. He showed the plat of lot 14 which he owns and said a 15-foot landscaping buffer is required. Mr. Hiller said there are seven northern boundaries and not one. He said lot sizes should not count as the easement being used and that lots 5, 6 and 7 will be non-conforming once they are re-platted and will not be 1,500 square feet.

Mr. Hiller said the geologic hazards report has been accepted pending further investigation.

Dana Duggan, Westside Watch, spoke in opposition. Ms. Duggan said she has deep concerns about the proposed development project as it poses a serious risk for public safety. She said studies show evacuation times in that area are up to 8.5 hours and referenced the current fire conditions in Los Angeles, California. Ms. Duggan said housing single family housing inventory is far above the market demand. She said overbuilding hurts the most vulnerable people in the city.

Applicant Rebuttal

Ms. Barlow said she would focus her rebuttal on Mr. and Ms. Hiller's comments. She said they are entitled to re-zone the area and they can develop that level of density under the current R2 zoning. Ms. Barlow said the neighborhood meeting discussed not being able to develop what is being proposed at the same density and would have to provide public improvements. She said they are providing a development that goes above what is required by providing open space at the multi-family and development rate percentages, which is much higher than full single-family attached, and would be considered a compact lot. Ms. Barlow said they are also providing parking and bike parking. She said staff has reviewed and approved of every aspect of the development as being compliant with code and the R-Flex Medium standards. She said that if they wanted to make any major amendment to the plan it would have to come back to the Planning Commission. Ms. Barlow said there are no driveway length requirements in the city if it is not used as parking. She said they are not relying on them to count towards parking standards. Ms. Barlow said the portion of the additional alley will be dedicated toward the city which will be used for stormwater and fire access. Ms. Barlow addressed the comments about using the bottom of the detention pond, she said the pond does count towards active space and was approved by stormwater and planning staff. She said this has been done with other developments. Ms. Barlow said they are utilizing the curb cut on Uintah for access and the other properties have direct access. They are proposing to limit it to a right and right out only. Ms. Barlow said there is a retaining wall from the City and is not possible to get access to those lots from that section of Uintah which is why the units are oriented internally. She said they are not taking away the ability to use the alley for pedestrian access and the traffic will be minimal and four of the units will have separate access that is not in the alley. Ms. Barlow said her client demolished the existing homes because they were in poor condition, and they were attracting homeless population who were occupying the properties and setting fires and complaints from the neighbors. Ms. Barlow said the development plan has gone through the review process three times and meets all the criteria, and they are not required to provide a buffer to multi-family.

Commissioner Rickett said the development plan can be changed after the zone change and if the applicant decides not to build this and the property is sold, the new owner can create a new development plan that fits within the zone district. Commissioner Rickett asked if they can put a conditional use on the zone district where the allowed uses follow R2. Ms. Barlow said effectively limiting the uses. Commissioner Rickett said yes, it allows your setbacks for the development and protects the neighbors from having additional uses that may not necessarily fit that neighborhood. Ms. Barlow said their intent is to build townhomes and does not think her client would have an issue if that would limit it to R2. Commissioner Rickett said it helps limit the uses for the neighborhood that are more appropriate.

Commissioner Cecil asked which R2 standards townhomes would fall under for uses. Ms. Barlow said single-family attached but would like to defer to Mr. Sevigny. Commissioner Cecil asked if it all remains one lot it is multi-family, but if it is re-platted it is single-family attached. Ms. Barlow said yes.

Chair Slattery asked to hear from Geohazard.

Austin Nossokoff, Senior Engineer, Entech Engineering, wrote the geological hazard investigation for the site. Mr. Nossokoff said they worked on the project for three years and CGS agrees with the slopes ability analysis and the geological hazard report. He said they are asking for additional analysis which is required to get a building permit for retaining walls over 4 feet tall or any construction of a building which is being planned as the project moves forward. Mr. Nossokoff said they utilize conservative strength values on the soil, clay, clay stone and the overburden soils there for any structural fill. He said the existing houses are on drilled piers about 20 feet deep and the adjacent cut next to the existing house is less than 20 feet. The bottom of the foundation of the existing houses on the top slope and bottom of the cut is higher than the bottom of the foundation for the existing houses.

Commissioner Robbins asked if they are addressing the issues with the soil, water and landslides. Mr. Nossokoff asked what the date of the report Mr. Robbins was asking about. Commissioner Robbins said August 9th and September 4th regarding the adjacent properties. Mr. Nossokoff read the response letter dated October 21st stating Entech has addressed the previous comments, and they are covering the issues. Commissioner Robbins asked at what point are they going to decide if they will be using piers or an over dig. Mr. Nossokoff said it is up to the developer about what is more cost-effective.

Commissioner Cecil asked for clarity around the standard for what distinguishes an alley from a street. Mr. Sevigny said Traffic Engineering was

not online, but planning staff said as long as they are meeting the engineer and fire review criteria, they are permitted to utilize it as a primary access.

Chair Slattery said there were comments from the Hiller's that their property would be designated as a single-family attached unit and asked how the buffer in the proposed development comply with that condition versus a multi-family condition. Mr. Sevigny said when looking at the definition of single-family attached, it does not specify the amount of attached townhomes before it triggers a multi-family development plan. He said staff has to determine when three or more attached units meet the qualifications of a multi-family development. He said they look at the overall development and the existing uses within the area. Mr. Sevigny said the area was developed as one lot and considered multi-family at the time and Chapter 7 allowed for platting around individual units. There has been issues within the UDC that has prevented that, and it causes non-conforming uses within those existing ones that did plat around. Planning staff is working on a UDC scrub, but it is not ready at this time. The interpretations from staff have to be what constitutes a multi-family development. It is one development with three or more attached dwelling units on the overall development and is considered multi-family just as this property is. Mr. Sevigny said if the property came with a final plat at the same time establishing those individual lots, that could be addressed as a single-family attached. He said the difference that staff strongly associated with a multi-family development was the outdoor open space and parking requirements and the additional amenities that are required for a multi-family development.

Chair Slattery asked what the difference would be for buffers or setbacks that would affect the adjacent properties to the north. Mr. Sevigny said if it is considered a single-family attached to multi-family or a single-family detached, it would be a 15-foot buffer.

He said it is the same buffer that is associated between the duplex and a single family, detached homes on the south of the property and an additional 5 foot and landscape buffer.

Commissioner Cecil asked if that is from the property line or from the next building. Mr. Sevigny said the property line.

Chair Slattery asked about the conformance with the development plan of the existing property with the 15-foot buffer and it was met and how it affects things moving forward. Mr. Sevigny said the research on the property is looking to see the different uses and the compatibility and it was determined as a multi-family, that a 15-foot landscape buffer that was required from the property line to the adjacent building. However, the development plan showed certain decks that were within portions of the buffer and staff was unable to find any non-variances

showing the encroachment. Chair Slattery said the property to the north was built as multi-family. Mr. Sevigny said correct.

Commissioner Rickett said it was noted that there was supposed to be a 25-foot setback along the south property line of the north property for the four townhomes that are adjacent to this development. Mr. Sevigny said he would need to check on that, however the 15-foot setback was on the PDZ. Commissioner Rickett said at a minimum it was 15 feet and today it is 10 feet. Mr. Sevigny said the development plan shows the deck that goes to the second floor is on the property.

Commissioner Cecil asked if staff could give an update on the Greater West Side Community Plan as it seems out of date. Kevin Walker, City Planning Director said it is in their works scope to restart that process in 2025 and hope to finish it by the end of the year.

Chair Slattery said there is a position open for a comprehensive planning manager who would lead that position. Mr. Walker said yes.

Commissioner Cecil asked Traffic Engineering what the difference is between street and an alley way. Zaker Alazzeah, Engineering Program Manager, Public Works said typically alleyways are smaller and they do not need to have curb and gutter sidewalks and the minimum that can be allowed is 20 feet. Commissioner Cecil said the additional highlighted version of development map Ms. Hiller presented shows a 16-foot public ally would have over 20 feet and seems that it would become public right of way and asked if this would make it more street than alley. Ms. Barlow said the existing alley is 16 feet wide, and they are proposing to add to it creating a 24-foot-wide alley. They are adding an 8-foot track that will be dedicated to the City to create the 24 feet. The area of additional pavement is it to take into account the utility easement and part of the driveway for the town homes.

Commissioner Cecil asked if there are different standards for the paving and weight bearing engineering of an alleyway versus a street. Mr. Alazzeah said there are two different criteria one is for residential and the other is industrial. Commissioner Cecil said she wants to ensure what is being put in here as it will probably be the primary access point for deliveries, trash pickup and in any heavy vehicles that might service these residences, and it can handle the weight load of garbage trucks. Ms. Barlow said yes, it has to meet current city engineering and fire department requirements and needs to be H2O loading to accommodate a fire truck.

Commissioner Casey asked if there will be a sidewalk to protect the walkers and bikers to go through area. Ms. Barlow said no sidewalk is being proposed

through the alley, but there is a sidewalk along Uintah, and it has never intended to have a sidewalk. There will be curb and gutter to help with drainage. Commissioner Casey said there was not one previously because there was no vehicle traffic, and now they are adding vehicle traffic, and asked how they are mitigating safety for walkers and bike riders that will be mixed with cars at night. Ms. Barlow said it is an existing alley, and it functions for vehicular access as it was always intended to do and provide a vehicle access to the to the rear of the property as it was originally platted. She said there was no existing traffic there and they could implement the existing plats where it would take access off the alley. She said they are not introducing traffic that was never envisioned onto the alley, an alley is always envisioned to have traffic from the adjacent platted lots that were proposed with access onto a public street and rear access onto an alley. Ms. Barlow said they are proposing new access but not access that was never envisioned, and the alley is not a pedestrian thoroughfare, it is vehicular thoroughfare. Commissioner Casey asked to see page 31 of the applicant presentation and asked what the orientation was and how access was gained in the two previous existing homes. Ms. Barlow said the property on the north side was accessed off north 21st Street and the single-family home to the south had access off Uintah and they cut through the alley as a second point of access. Commissioner Casey asked if there was access off 20th street. Ms. Barlow said the alley went through and the properties on Uintah street to the southeast access the alley. Commissioner Casey asked would the northeast corner have access. Ms. Barlow said it looks like there is access, but it is unclear on how much was utilized and it does look like there is an existing curb cut, however, they are not proposing a new access in the location and are relying on the alley for access onto 20th street.

Chair Slattery asked what the fire access was for the northernmost lots 5 through 12. Ms. Barlow said fire access can be made from the side of the building and will be from the new widen alley. The north side will have the driveway that will provide access.

Commissioner Rickett said he intends on providing a motion with the condition that the allowed use would be R2 and asked if that was acceptable by staff. Ms. Barlow said she would like staff or the attorney's office to determine because the concern is to not automatically making it as non-compliant. Commissioner Rickett said he would be amenable to allowing R2 plus multi-family. Ms. Barlow said the multi-family includes this development of town homes and they would want to make sure that it was incorporated. Commissioner Rickett said he would prefer not to go that way because that would open it up again for apartments or rentals and could go back to where it started three years ago.

Mr. Sevigny said there are two different items that are before the commission today one is a zone change, and one is a development plan. He said any major

modifications would go back to the Planning Commission and Council, however, conditions of record tied to a development plan are harder to break versus a major modification and meeting that criteria. Mr. Sevigny said he would need to confer with the City Attorney's office.

Commissioner Rickett said he would like to tie it to the zone to have allowed uses in the zone and not the development plan.

Chair Slattery asked if the other Commissioners agree and are willing to second the motion.

Commissioner Casey said one of the criteria for re-zoning is not to be detrimental to public interest, for health, safety, convenience and general welfare and does not feel that it is met.

Commissioner Cecil said she differs on that point because the public interest is legally the general interest of the entire public, not the private ownership interest of an individual property owner.

Commissioner Rickett asked if by tying it to an R2 use it will meet that criteria. Commissioner Casey said he could support that.

Trevor Gloss, City Attorney, said to clarify he believes the idea is to recommend approval to City Council of the transition from R2 to R-Flex Medium, however, to limit the uses in the R-Flex medium to what would normally be allowed in R2 zone. Chair Slattery said yes. Mr. Gloss said

City Council has the authority to do that through an ordinance if Planning Commission would like to recommend it and it could be a part of the motion to amend it.

Katie Carleo, Land Use Manager said they need to make sure the conditions are correct and make sure they understand how it will affect the development plan.

Chair Slattery asked Mr. Sevigny what was found during the break. Mr. Sevigny said one of the concerns of limiting the R2 use is while those uses are identified as single-family detached or single-family detached, the definition of code does not limit those single-family attached portions. However, the purpose of an R2 is to limit it as single-family detached or duplexes and staff finds that it can have issues down the line as it is a 4-plex type development. Mr. Sevigny said they could offer a condition of record on the zone change as five or more attached units or apartments are not permitted within the zone district which limits it to four or less if the applicant is favorable of that. Ms. Barlow said yes.

Motion by Commissioner Rickett, seconded by Vice Chair Foos, to recommend approval to City Council the zone change of 2.22 acres from R2 (Two Family Residential) to R-Flex-Med (R-Flex Medium Scale) 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. With a condition of record that five or more attached units or apartments are not permitted. The motion passed by a vote of 7-0-2.

Aye: 7 - Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Casey and Commissioner Gigiano

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

- 8.B. [DEPN-24-01](#) The Sun Mountain Townhomes Development Plan establishing multi-family within six (6) 4-plexes and one (1) duplex consisting of 2.52 acres located at 520 North Twentieth Street. (Quasi-Judicial)

[11](#)

Presenter:

Gabe Sevigny, Planning Supervisor, Planning Department

Attachments: [7.5.515 DEVELOPMENT PLAN](#)

Motion by Commissioner Rickett, seconded by Commissioner Robbins, to recommend approval to City Council the Sun Mountain Townhomes Development Plan based upon the findings that the proposal complies with the review criteria for a Development Plan as set forth in City Code Section 7.5.515. The motion passed by a vote of 6-1-2.

Aye: 6 - Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins and Commissioner Gigiano

No: 1 - Commissioner Casey

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

Retail Marijuana Ordinance

- 8.C. [25-028](#) An Ordinance amending Chapter 7 (Unified Development Code) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Retail Marijuana. (Quasi-Judicial).

Presenter:

Kevin Walker, Planning Director, Planning Department

Preliminary outline:

This ordinance is in drafting stage. This will be an amendment to the UDC for zoning implementation. There are also licensing and taxation ordinances in drafting as well. Draft for CPC review and recommendation will be presented prior to the formal meeting.

Attachments: [UDC-RegulatedMarijuana-ORD 2025-01-02-V3](#)

Kevin Walker, City Planning Director presented the proposed ordinance for

Retail Marijuana. Mr. Walker said the he will be discussing the modifications to the Unified Development Code Chapter 7 of the City Code, which will address and add retail marijuana and other items. Mr. Walker gave a brief history of the State of Colorado allowing the sale and decriminalization of recreational marijuana. The initiated statute that was adopted allowed the restriction of sales and products in any city that wanted to ban them. Colorado Springs did that, and it was held until 2024 when initiated ordinance was submitted for signatures and reviewed by the city clerk in August. In September City Council adopted an ordinance that limited any potential marijuana sales centers to a one-mile buffer from some specific land uses. Mr. Walker said in November, Ballot question 300 passed allowing retail sale of marijuana in the City of Colorado Springs. Mr. Walker said the ordinance today is asking the Commission to review the land use regulations for retail marijuana facilities integrated with medical marijuana. Mr. Walker said they have some code clean up matters that will implement changing hazardous to non-hazardous distinction to medical and retail marijuana manufacturing. He said they have added medical and retail marijuana testing centers to be consistent with state licensing. The retail marijuana facilities that are being added to this will codify retail marijuana facilities as legal land uses. Including regulating time and place and manner of those uses and which zone districts they can go in, specific use standards, parking requirements and new definitions that correlate with the November vote. Mr. Walker said the biggest difference is related to childcare facilities and the separation that was adopted in Ballot 300. Mr. Walker showed the use zones and where it would be allowed and use-specific standards. He said the action today will be to approve location and parking requirements.

Public Comments

Peter Babeu, citizen of Colorado Springs since 1984 spoke in opposition. Mr. Babeu said he is perplexed by what the City is doing related to the access to marijuana. He said he was a social worker and worked in treatment facilities and understands some of the concerns the City has related to vulnerable populations. Mr. Babeu said he is disappointed with how City Council initiated the ordinance shortly before the ballot question that was proposed. He said it seemed like the intent is to not allow for recreational sales in the City. Mr. Babeu said his request today is to ask the Planning Commission to make a recommendation to align the distance with the ballot initiative and what the citizens are requesting.

Aaron Bluse, associated with Altitude Organic Medicine since 2010 spoke in opposition. Mr. Bluse said he was in support of Ballot question 300. He said voters overwhelmingly supported the initiative and almost 55% of voters at November's election said yes to this detailed thoroughly analyzed measure. He said as city officials, it is their job to give effect to the will of the voters. He said the proposed ordinance does not give effect to the voter's desire to have

recreational marijuana industry here or so that the city can get the benefit of the tax dollars that will be generated for public safety in veterans care. Mr. Bluse said the right of this initiative is a fundamental constitutional right. He said he commends the Commission for the recommendation in 2024 and echoed the comments from Commissioner Rickett.

Karlee Van Arman, associated with Pure Medical since 2009 spoke in opposition. Ms. Van Arman said she was also a supporter of initiative 300 and also oppose the zoning ordinance in consideration today. Ballot question 300 was specific and clearly stated that recreational marijuana licensing has to be a function of the standards in effect as of January 1st, 2024, in the rules and regulations of local licensing authority that applied to the licensing and operation of medical marijuana businesses. Ms. Van Arman said the rules were specific to the distance requirements for licensed stores. The standard these rules set states that the affected facilities have to be more than 1000 feet from any K-12 schools, alcohol and drug treatment facilities or residential childcare facilities. She said it means the one-mile ordinance that City Council imposed and adopted in September 2024 cannot be applied to recreational marijuana and any create a distant standards in 2025, in this ordinance cannot apply either. Ms. Van Arman asked how the City can justify taking a clear limit that the voters wanted and approved of and ignore it because they decided after the fact they prefer something different. Ms. Van Arman said she urges the Planning Commission to not go beyond the limits of Ballot question 300 which the voters passed and not to recommend this ordinance to do otherwise would be breaching the faith and the trust that our voters have in the City.

Renze Waddington, associated with Epic Remedy, LLC, spoke in opposition to. Mr. Waddington said he was a supporter of Ballot question 300 and it was clear that all current medical marijuana facilities qualify for recreational licenses. He said the ballot stated presently existing licenses will be licensed to sell medical and recreational marijuana and applications that were filed with the required fees consistent with requirements of approval. If the local licensing authority finds medical marijuana business is currently licensed, the City of Colorado Springs, the localized authority shall approve the application in issuing of a license so that the regulated marijuana business can lawfully conduct recreational marijuana activity. Mr. Waddington said it was drafted this way for a reason and voters need to know the City Council will not change the qualifications for licensure once 300 was passed. He said Council should not be at liberty to tighten the rules on recreational marijuana and the ordinance should reflect the language and these goals.

Tom Scudder, resident, business owner and President of the Colorado Springs Cannabis Association spoke in opposition. Mr. Scudder said the association represents 2,250 employees and 90 unique businesses that own a number of

operations in the community. Mr. Scudder said he is in opposition of the ordinance as written and does not reflect the intent of the voters with Ballot question 300. He said in two different sections both City Council ordinances and City licensing authorities' rules must facilitate the measures implementation. Mr. Scudder said the rules must further rather than impair, limit or destroy the voters approved authority to make recreational marijuana available by recreational marijuana businesses. The one-mile ordinance passed in September 2024 was an attempt to preempt Ballot question 300 with new requirements that are facially and inconsistent with what 300 promised. Mr. Scudder said they have the right to exercise the right of initiative and to have an equal voice about what ordinances should say and voters want to see the actions to facilitate recreational marijuana.

Caller 859-433-4311, resident of Colorado Springs spoke in opposition to the RMJ ordinance. The audio is not transcribable.

Commissioner Comments

Commissioner Casey asked if there is going to be a Ballot initiative in the spring 2025 election to reconsider the issues regarding recreational marijuana. Trevor Gloss, City Attorney said they do not have confirmation whether that will occur.

Commissioner Rickett said they need to align the ordinance with what the voters approved, and the 1,000-foot distance was almost unanimous at Planning Commission as the distance factor that should be used. Commissioner Rickett said the Ballot question showed public and private daycare, and this was not adjusted in 5A of the ordinance and the definitions need to align. Commissioner Rickett said his recommendation would be to eliminate 6 and adjust 5A and 5B to ensure the ordinance to make sure the equal uses of recreational and medical marijuana match.

Commissioner Casey said they could combine 5A and 5B with 1,000 feet and would be in support of that.

Chair Slattery said public versus private daycare a designation may not be needed for in home and asked what the code implications are for land uses in residential areas.

Mr. Walker said the residential areas still have an impact on commercial areas where these uses are allowed within 1,000 feet and there are residences within 1,000 feet. He asked Mr. Gloss to speak on the differences between the initiated and proposed ordinance.

Chair Slattery asked what the definition of public, private or in-home daycare center is. Mr. Gloss said the one-mile buffer says residential childcare facility,

which is a defined term in the code. He said the initiated ordinance uses the term public or private day care, which is broader than a residential childcare facility. He said by creating the language in section 5B, where public or private day care facility, including not limited to childcare, child daycare centers, childcare facilities in-home childcare and daycares, the public or private daycare mention in the initiated ordinance is broader than what was already in the code. He said the added terms is to help interpret the standard daycare definition since there is not a current daycare definition.

Commissioner Rickett said he went to the definition section of Chapter 7 in the code and picked up every daycare definition in the code.

Commissioner Cecil said she wants to ensure the Commissioners, and the public are clear on the decision being made due to the confusing information in the media about what was approved. Commissioner Cecil asked for an explanation on how the ordinance either aligns or does not with the City and the voters. Mr. Gloss said the largest part of the initiated ordinance was bringing the retail marijuana in line with medical code and this ordinance does that. He said the only outstanding issue where there could be conflict is the buffer. Mr. Gloss said this is a case of first impression in the State of Colorado meaning the court has not seen something like this and there is not a good case law to rely on. This code could be argued either way and it will likely end up in a lawsuit if the language remains as it is.

Mr. Walker said they are not advocating one way or the other for this and they are presenting the options that City Council will also have to decide on.

Commissioner Rickett said they need to be clear on the definitions between retail marijuana facility and medical marijuana. Mr. Gloss said the per the language as drafted, the restriction only applies to retail marijuana and will not affect medical marijuana.

Commissioner Cecil asked for an explanation on the source from the broad stroke of the mile buffer rather than 1,000-foot buffer. Mr. Walker said the mile option is adopted today and by the code and the code has not been modified and it is appropriate to bring the Commission the option.

Chair Slattery said item 5A and 5B seem contradictory and asked if this body recommend 1,000 feet, 5A be struck without detriment to the legislation change. Mr. Gloss said there is not a conflict between the two items. He said 5B applies to all retail facilities and 5A applies to stores and the restrictions in 5B can also apply to 5A. Mr. Gloss said the Planning Commission wanted to recommend striking section 5A and replacing it with section 5B so that the 1,000-foot buffer is applicable to retail marijuana facilities.

Commissioner Casey said removing section 6 seems redundant, and if there is an ordinance after would it be automatically appealed. Mr. Gloss said no if a question is referred to in the future the repeal would not be automatic and it would come back through the Planning Commission for approval for another ordinance, whereas this automatic repeal states if people change their mind vote against it than the ordinance is repealed, and they do not need to come back and redo the process.

Commissioner Rickett said it is only for the election in spring of 2025. Mr. Gloss said yes at that point licenses will have been issued, assuming this is approved, and they will have to consider how to address those licenses that are existing if voters decide to repeal and change law in the future.

Motion by Commissioner Rickett, seconded by Vice Chair Foos, to recommend approval of an Ordinance amending Chapter 7 (Unified Development Code) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Retail Marijuana with the following changes to the ordinance:

Remove section 6 and remove section 7.3.303.F.5(A) from the Ordinance.

The motion passed by a vote of 7-0-2.

Aye: 7 - Vice Chair Foos, Commissioner Cecil, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Casey and Commissioner Gigiano

Absent: 2 - Commissioner Hensler and Commissioner Sipilovic

9. Presentations

10. Adjourn