

- 4.D. [ZONE-23-00](#) [23](#) First reading of an ordinance amending the zoning map of the City of Colorado Springs relating to 9.62 acres located in the northwest corner of Elkton Drive and Rusina Road from MX-N/HS-O/WUI-O (Mixed Use Neighborhood Scale with Hillside and Wildland Urban Interface Overlays) to MX-M/WUI-O (Mixed-Use Medium Scale with Hillside and Wildland Urban Interface Overlays) for the purpose of setting a public hearing date for January 9, 2024, and providing notice of the ordinance.

Presenter:

Tamara Baxter, Senior Planner, Planning and Community Development Department

Peter Wysocki, Planning Director, Planning and Community Development Department

Attachments: [ORD_ZC_Point of the Pines Garden Assisted Living](#)

[Staff Rpt_Point of Pines Villas](#)

[Project Statement_Land Use Statement](#)

[Project Statement_Zone Change](#)

[CONTEXT MAP](#)

[Zone Change Exhibit](#)

[Public Comment](#)

[Public Comment Response](#)

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

Tamara Baxter, Senior Planner, presented the scope of the project. After evaluation of the zone map amendment, it has been determined that the application meets the review criteria.

A representative for the applicant, Luanne Ducett with Terra Nova Engineering, also gave a presentation. With the recent approval of the new code, the existing assisted living facility is no longer in compliance. The zone change is being requested to correct that. The current use has low impact on traffic, since residents of the assisted living facility do not own vehicles. This use is consistent with neighboring lots with the same zoning.

Public Comment:

Dorothy Macnak, a resident of Pinecliff, spoke in opposition of the project. She recalled the evacuation during the Waldo Canyon Fire and the difficulty of being able to leave the neighborhood. She said that traffic is now much worse. With Pinecliff being such a uniquely evacuation-challenged area, nothing should be done to increase density along the egress route. She suggested making the property a park. She also had concern with how the project was posted.

Julia Owens, a citizen, spoke in opposition of the project. She requested the Commission look into the evacuation of this area, as there are minimal roads to enter and leave the neighborhood. She was concerned that rezoning this property would allow for a large development. She also expressed concern with how the project was posted.

Mike Jansen, the applicant, said they are requesting a zone change to basically fix the nonconforming use of the existing facility and to potentially permit a small development next to it. Furthermore, he added the HOA board supports the rezoning request. The new development only uses about 5% of the land and keeps all of the existing landscaping. He said the poster was put up on the street at the entry to the development and was visible from the street.

Questions from Commissioners:

Commissioner Almy asked if existing projects were grandfathered in the transition from Chapter 7 to UDC. Mike Tassi, Assistant Planning Director, confirmed the existing use was considered a nonconforming use so, yes, they are protected under UDC.

Vice Chair McMurray asked if this would have been a permitted use prior to the adoption to the UDC. Tamara confirmed that is correct and also before the rezoning.

Commissioner Slattery said she drives past this property almost daily and hardly ever sees any traffic in or out. Approving this rezoning would be appropriate to bring the property into conformance with current code.

Commissioner Rickett acknowledged the concerns of the neighbors in such a unique area. Looking at the code, he said the MX-M and MX-N have very few differences. This request is not for new zoning.

Vice Chair McMurray added given the zoning prior to changing from Chapter 7 to UDC, it would have been a permitted use under the old code, so he would be in support of this project.

Motion by Commissioner Rickett, seconded by Commissioner Almy, to recommend approval to City Council the zone change of 9.62 acres 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) based on the findings that the request complies with the criteria for a Zoning Map Amendment as set forth in City Code Section 7.5.704. The motion passed by a vote of 5-0.

Aye: 5 - Commissioner Almy, Commissioner Hensler, Vice Chair McMurray, Commissioner Rickett and Commissioner Slattery

Absent: 4 - Commissioner Briggs, Commissioner Foes, Chair Hente and Commissioner Cecil