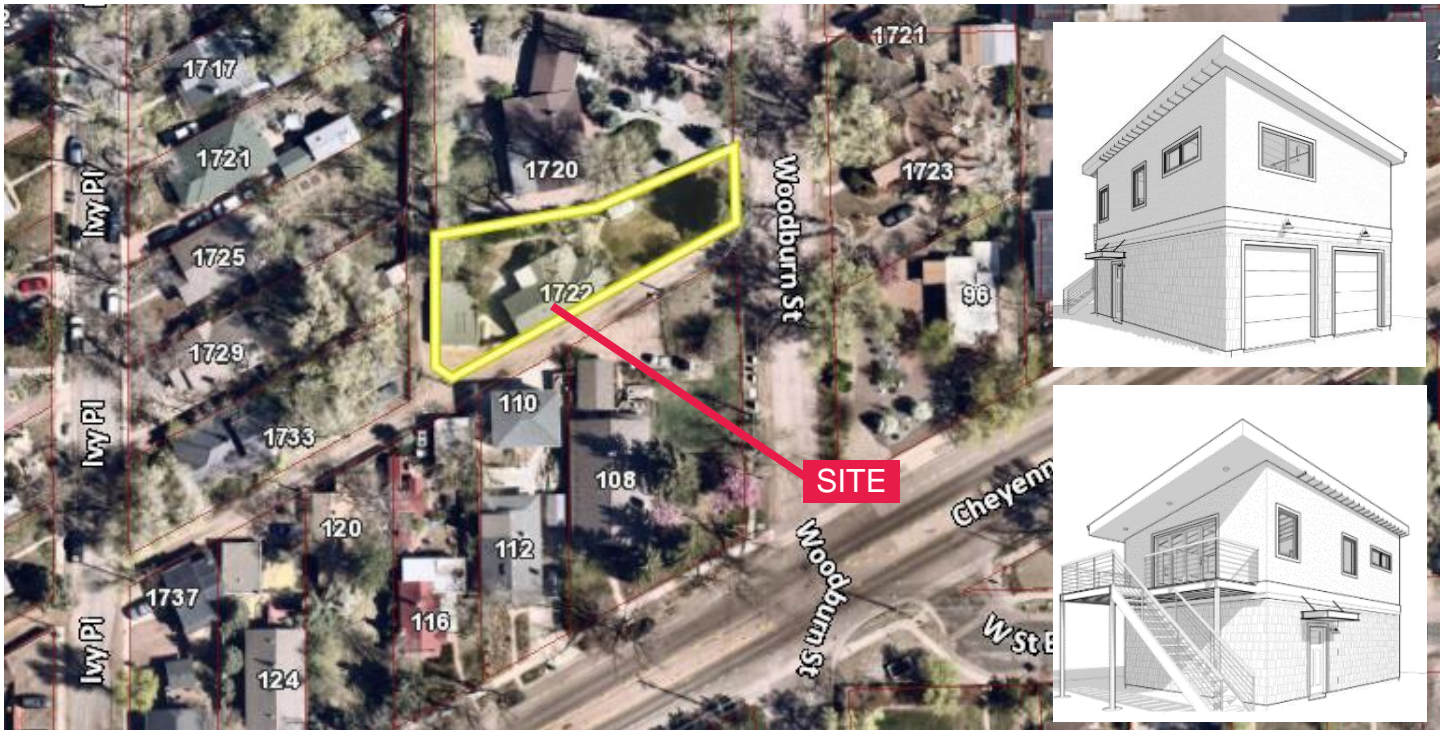


# 1722 WOODBURN ST GARAGE/ADU – NON-USE VARIANCES

Planning Commission September 11, 2024

Staff Report by Case Planner: Johnny Malpica, AICP



## Quick Facts

**Applicant**

Lawrence Bol

**Property Owner**

Lawrence Bol

**Developer**

Lawrence Bol

**Address / Location**

1722 Woodburn St

**TSN**

6430206022

**Zoning and Overlays**

R-2 (Two-Family Residential)

**Site Area**

8,466 sq. ft.

**Proposed Land Use**

Single-Family Residential with ADU

**Applicable Code**

UDC

## Project Summary

Two (2) Non-Use Variance requests to allow the demolition and reconstruction of a detached garage which will include an accessory dwelling unit above. The first Non-Use Variance request is to allow a one foot (1') rear yard setback where five feet (5') is required. The second Non-Use Variance request is to allow a six foot and four inch (6'-4") setback where ten feet (10') is required when a dwelling unit is located above the garage and the overhead door faces an alley.

File Number	Application Type	Decision Type
NVAR-24-0006	Non-Use Variance	Quasi-Judicial
NVAR-24-0010	Non-Use Variance	Quasi-Judicial

## Background

### Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Reannexation of Southwest Annex. Area	1980
Subdivision	Bungalow Addition Refiling	1979
Master Plan	Ivywild Neighborhood Master Plan	1993
Prior Enforcement Action	N/A	N/A

### Site History

The property addressed as 1722 Woodburn St. consists of a single-family residential home that was constructed in 1922 and a 600 sq. ft. detached garage with doors facing the alley to the south. This property was part of the Bungalow Addition Refiling subdivision in 1979. In July of 2024 the property was replated establishing 1722 Woodburn St. as a legal lot of record. Staff has reasonably concluded that the rear garage is a legal nonconforming structure.

### Applicable Code

The subject application(s) were submitted after the implementation date (06/05/2023) of the ReTool project, and as such, the applicant is permitted to elect which Code they prefer their application(s) be reviewed under. The subject application(s) were chosen to be reviewed under the Unified Development Code per the applicant's instructions. 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	R-2	Single-Family Residential	NA
West	R-2	Single-Family Residential	NA
South	R-2	Single-Family Residential Single-Family Residential w. ADU Two-Family	NA
East	R-5	Single-Family Residential	NA



**Zoning Map**

**Stakeholder Involvement**

**Public Notice**

Public Notice Occurrences (Poster / Postcards)	Internal Review / Planning Commission Public Hearing
Postcard Mailing Radius	1000'
Number of Postcards Mailed	292
Number of Comments Received	2

**Public Engagement**

Two comments were received as phone calls requesting clarification regarding the proposal, as well as parking related concerns. The applicant will provide adequate off-street parking in accord with UDC requirements.

**Timeline of Review**

Initial Submittal Date	June 18, 2024
Number of Review Cycles	2
Item(s) Ready for Agenda	September 11, 2024

## Agency Review

### Traffic Impact Study

No comments received.

### Fire

The proposed ADU is beyond the 150-ft hose reach from Woodburn Street. The alley is not considered a fire lane as it is not wide enough and not maintained. However, an exception in the fire code allows the 150-ft hose reach to be increased when not more than 2 Group R-3 or Group U occupancies exist. Since there are two buildings (main house and ADU) this exception applies. Therefore, the proposed ADU is acceptable as the hose reach is closer to 185-ft.

### School District

No comments received.

### Parks

No comments received.

### SWENT

SWENT Requirements do not apply to single-family residential projects.

### Colorado Springs Utilities

No issues with the variance requests, so long as new construction maintains the existing garage footprint.

## Nonuse Variance – Rear Yard Setback – NVAR-24-0006

### Summary of Application

The applicant is requesting approval of a nonuse variance to City Code section 7.3.304.E.2.(c) of the UDC to allow a one foot (1') rear yard setback where five feet (5') is required for construction of an ADU above a garage within the R-2 zone district. The reduction of the rear yard setback would accommodate a partial demolition of the existing garage and reconstruction of the garage with an ADU above in its existing footprint (see Attachment 1 & 2). The garage's existing location sits one foot (1') off of the rear alley, which is unused. The existing garage has a 600 sq. ft. footprint and was likely constructed when the home was built in 1922.

### Application Review Criteria

#### UDC 7.5.526.E

1. The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards); ***Use specific standards prescribed in City Code section 7.3.304.E.2. of the UDC for detached ADUs require that the conversion of existing detached garages meet the minimum setbacks for accessory dwelling units as required in this section of code. Here, it should be noted that the existing detached garage sits one foot (1') off of the rear yard property line, which abuts an unused alley, and this application proposes no change to the existing footprint of the structure. Based on a UDC Written Interpretation dated for 02-08-2024 the nonuse variance may be utilized as a relief option to dimensional and numerical standards found in section 7.3.3 (See Attachment 4). With exception to this nonuse variance, all other standards in Part 7.3.3. are being met.***

2. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zone district;  
***This application proposes the partial demolition of an existing garage and the replacement of it with an ADU above in its existing location with no change to the footprint. The existing primary structure is located approximately twelve feet (12') away from the existing garage, setback seventy-five feet (75') from the front property line, with pre-existing landscaping, and an egress concrete pad with a wall serving the primary structure that is nine feet and five inches (9'-5") away from the existing garage. Vegetation and mature trees exist between the primary structure and existing garage as well. As such, the complete demolition of the garage and relocation to comply with setbacks will result in significant loss of the rear yard area, the need for the removal of mature trees, and a complete redesign of the landscape. Furthermore, the foundation would need to be rebuilt and the paved rear yard surfaces would need to be removed. In doing so, there would be significant loss of the usable rear yard area, need for removal of landscaping and mature trees, as well as the loss of reasonable privacy.***
  
3. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief;  
***The Unified Development Code permits a detached ADU within the zone district provided that the lot meets the minimum lot size of 5,000 sq. ft., where this lot is 8,466 sq. ft. As such, it is reasonable to permit the construction of an ADU on this lot. Considering the location of the existing primary structure, which was constructed in 1922 and setback seventy-five (75') from the front property line, there is limited area to allow for a detached ADU to be constructed. Given existing conditions of the lot, the most suitable location for construction of a detached ADU is above the existing garage. As such, the relief request will allow for reasonable use of the property within the R-2 zone district when considering the extraordinary and exceptional conditions described above.***
  
4. That the granting of the Non-Use Variance will not have an adverse impact upon surrounding properties;  
***This proposal requests to allow the partial demolition of an existing garage and the reconstruction of a garage with an ADU above with no change to the existing footprint. The proposed one foot (1') rear yard setback represents an existing condition and as such the addition of the ADU with no change to the footprint presents no adverse impact to surrounding properties.***

After evaluation of the Nonuse Variance for the rear yard setback the application meets the review criteria. Staff finds that a reduction of the yard setback is necessary to allow for the reasonable use of this R-2 zoned lot.

## Nonuse Variance – Side Yard Setback along Alley – NVAR-24-0010

### Summary of Application

The applicant is requesting approval of a nonuse variance to City Code section 7.3.304.E.2.(c.) of the UDC to allow a six foot and four inch (6'-4") setback where ten feet (10') is required when a dwelling unit is located above the garage and the overhead door faces the alley. The reduction of this setback would accommodate the partial demolition of the existing garage and reconstruction of it with an accessory dwelling unit above in its existing footprint (see Attachment 1 & 3). It should be noted that the UDC permits a detached garage to be five feet (5') off of the setback when access is gained from an alley, however, requires that it be ten feet (10') if a dwelling unit is located above. Furthermore, it should be noted that a detached ADU without a garage with access gained from an alley is required to meet a five foot (5') setback.

### Application Review Criteria

#### UDC 7.5.526.E

1. The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards);  
***Use specific standards prescribed in City Code section 7.3.304.E.2. of the UDC for detached ADUs require that the conversion of existing detached garages meet the minimum setbacks for accessory dwelling units as required in this section of code. In other sections of the UDC where setbacks are prescribed for ADUs, garages, and accessory structures, the proposed six foot and four inch (6'-4") setback meets the required five foot (5') rear/side yard setback where access is gained from the alley. Only in section 7.3.304.E.2 does code require that if a dwelling unit is located above a garage where doors face the alley***

**is the setback required to be ten (10'), representing conflicting sections in City Code. Based on a UDC Written Interpretation dated for 02-08-2024 the nonuse variance may be utilized as a relief option to dimensional and numerical standards found in section 7.3.3 (See Attachment 4). This application complies with all other standards, notwithstanding the rear yard setback, that are prescribed in part 7.3.3 of the UDC.**

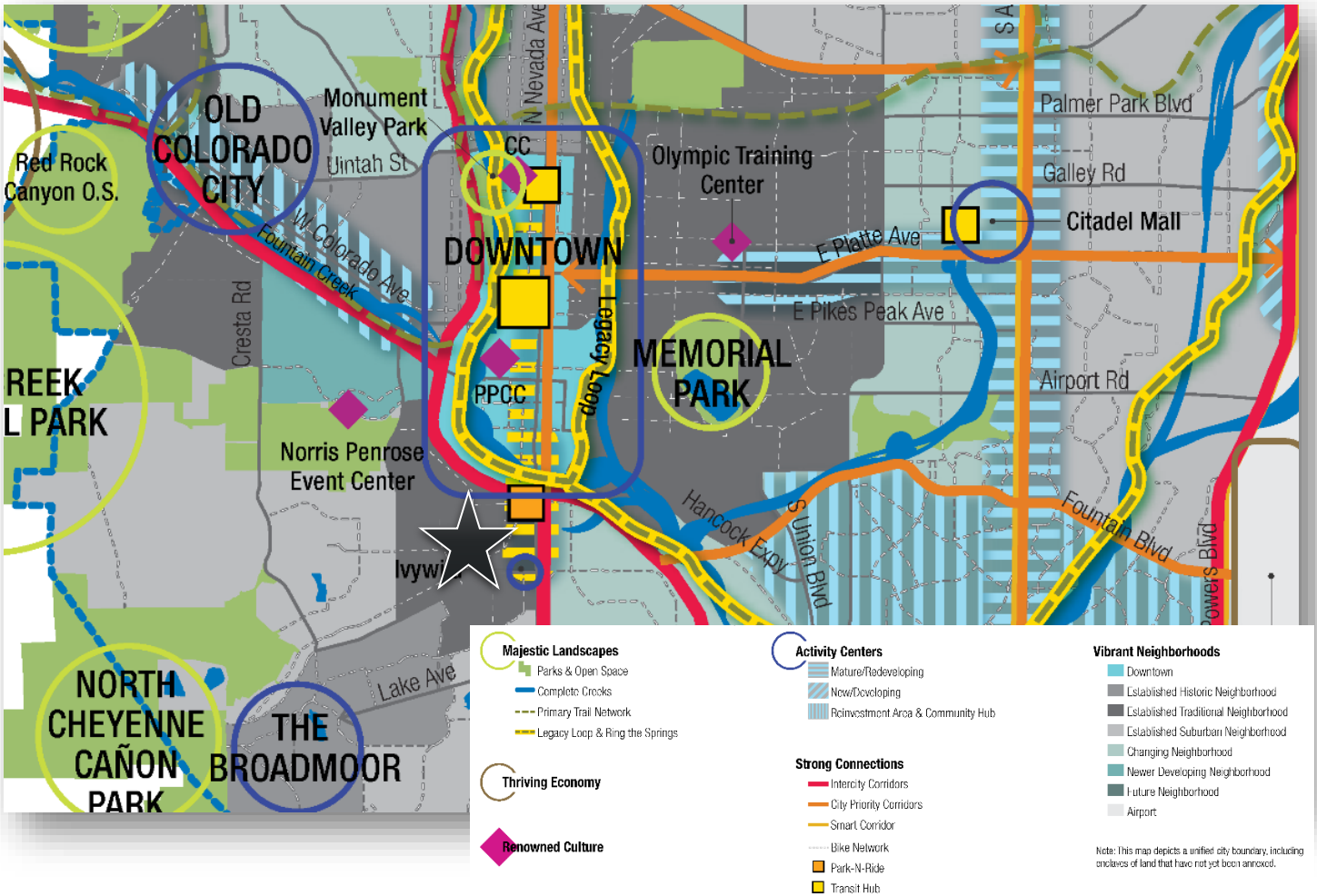
2. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zone district;  
***The existing primary structure, which was constructed in 1922 is setback seventy-five feet (75') from the front property line, leaving limited space that would allow for a garage with an ADU above in the rear of the property. As has been stated above, the proposal is to allow for the existing garage to be partially deconstructed and rebuilt in its existing location. Requiring that the structure meet setbacks would result in significant loss to vegetation including mature trees, other landscaping elements, unnecessarily increase the cost of construction, remove reasonable use of the available rear yard area between the primary and the garage with ADU, and finally significantly reduce reasonable separation between the primary structure and the ADU resulting in a loss of privacy.***
3. That the extraordinary or exceptional physical condition of the property will not allow a reasonable use of the property in its current zone in the absence of relief;  
***Provided that the primary is setback seventy-five feet (75') from the front property line, suitable locations for a garage with an ADU are significantly limited on this property. As such, this relief request will allow for the partial removal of an existing garage and rebuilding of it with an ADU above in the most appropriate location based on the existing conditions of the property. Without the relief request, the applicant would not be able to reasonably construct an ADU above the garage in a way that would allow for reasonable use of primary structure, ADU, and the property as a whole.***
4. That the granting of the Non-Use Variance will not have an adverse impact upon surrounding properties;  
***This proposal requests to allow the partial demolition of an existing garage and the reconstruction of a garage with an ADU above with no change to the existing footprint. The proposed six foot and four inch (6'-4") setback where access is gained from the alley represents an existing condition and as such the addition of the ADU with no change to the footprint presents no adverse impact to surrounding properties.***

After evaluation of the Nonuse Variance for the side yard setback where garage door access is gained from the alley the application meets the review criteria. Staff finds that a decrease in the side yard setback is rational and allows for reasonable use of this R-2 zoned property.

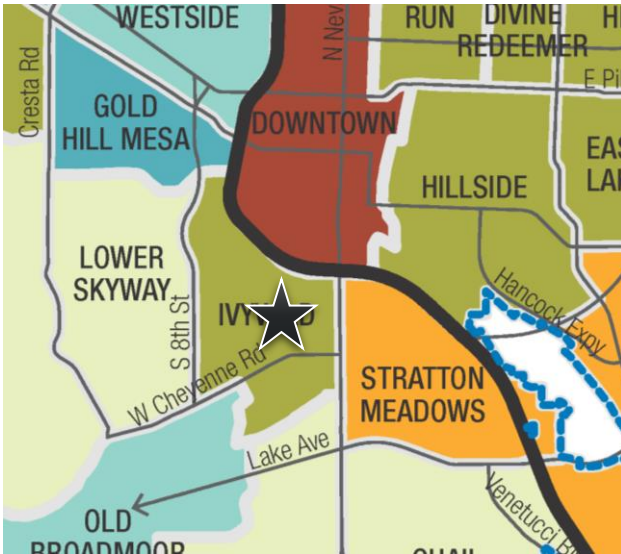
#### **Compliance with Relevant Guiding Plans and Overlays**

This property falls within the Ivywild Neighborhood Master Plan area. The Ivywild Neighborhood Master Plan area defines this area as a R-2 (Two-Family Residential) zone district, and east of a R-5 (Multi-Family High) zone district. The Plan also describes the land use patterns within this zone district consisting of mostly single-family residential homes. One of the Land Use and Zoning goals prescribed in the master plan encourages "density standards that will generate residential infill that is compatible with the neighborhood context". Of the goals pertaining to housing, the master plan states that practices should "encourage and support individual property owners' improvements and maintenance" as well as helping "low-and-moderate-income families achieve home ownership". Provided that this project proposes the adaptive reuse and reconstruction of an existing garage with an ADU above, on an R-2 lot, staff finds the proposal to conform with the Ivywild Neighborhood Master Plan.

## PlanCOS Vision



The proposed nonuse variance applications have been reviewed for compliance with the City’s current comprehensive plan (herein referred to as “PlanCOS”), adopted in January 2019. According to PlanCOS, this project site is within an “Established Traditional Neighborhood.” 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. More specifically, PlanCOS states that new development and/or redevelopment should incorporate elements of the existing neighborhood. Additionally, these neighborhoods should expect some degree of infill development.

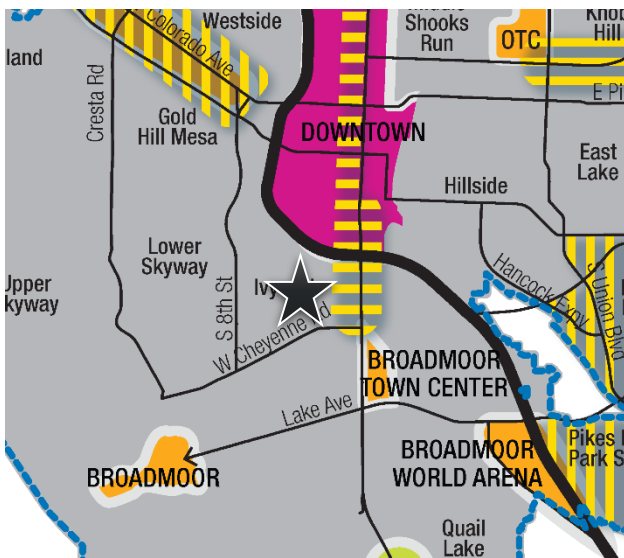


**Predominant Typology**

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

**Vibrant Neighborhoods**

- 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
- Strategy VN-2.A-4: Allow for zoning residential bonuses that result in the provision of additional attainable housing, such as increased heights or densities.
- Strategy VN-2.A-6: Update the City’s zoning code, processes, and standards to support the construction of additional accessory dwelling units and micro homes.
- Strategy VN-3.E-3: Though a combination of Zoning Code changes and development review decisions, encourage and support flexible site and building designs and residential densities that are adaptable to the specific site.



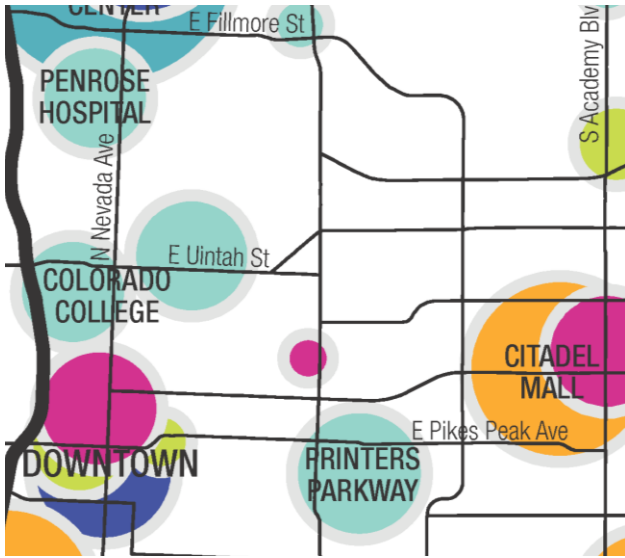
**Predominant Typology**

- 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

**Unique Places**

- 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.
- Strategy UP-2.A-5: Revise zoning and building regulations to be more streamlined and flexible regarding infill, redevelopment, and mixed-use development, especially in older, underutilized commercial areas.





**Predominant Typology**

- Cornerstone Institutions
- Spinoffs and Startups
- The Experience Economy
- Life and Style
- Industry Icons
- Critical Support
- City Boundary
- Interstate 25
- Major Roads

**Thriving Economy**

- Strategy TE-1.C-3: Ensure an adequate supply of attainable housing for the workforce across all industries, and that it is conveniently located near hubs of employment and/or public transportation.

## Statement of Compliance

### **NVAR-24-0006**

After evaluation of the Non-Use Variance application for a rear yard setback the application meets the review criteria.

### **NVAR-24-0010**

After evaluation of the Non-Use Variance application for a side yard setback along the alley the application meets the review criteria.