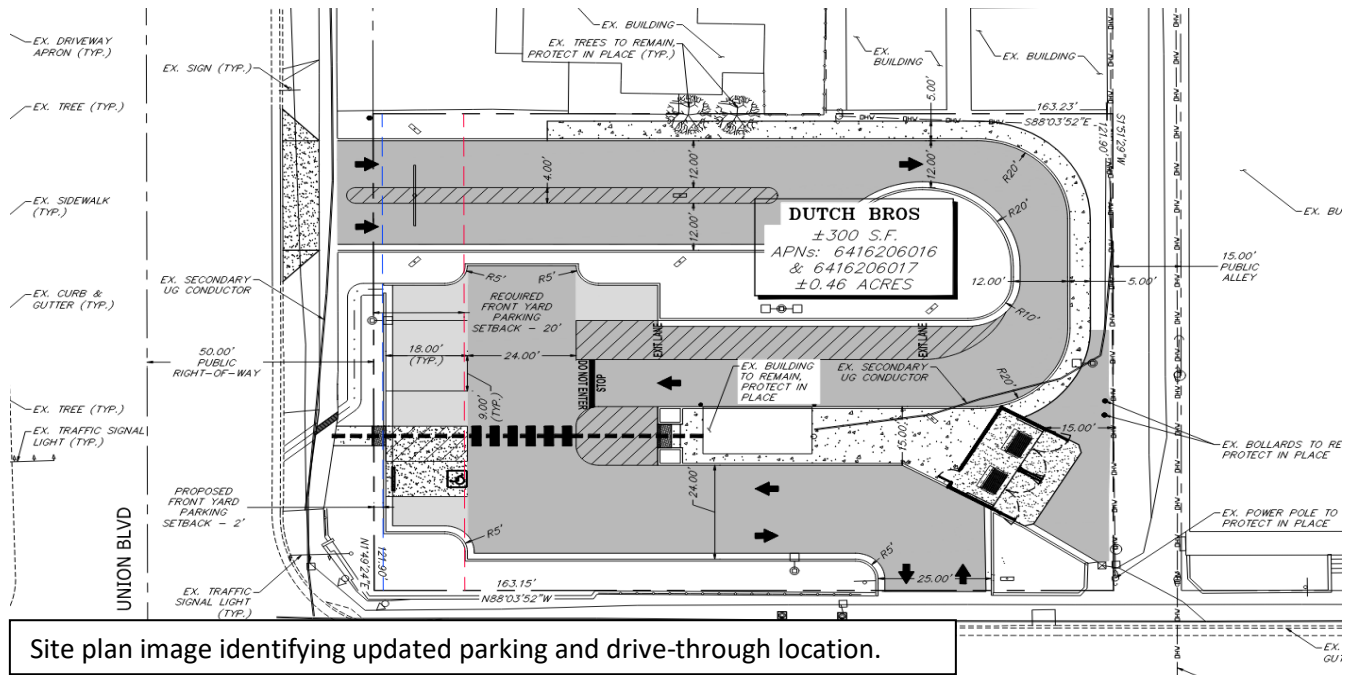


## DUTCH BROS COFFEE – NON-USE VARIANCE

## Planning Commission December 11, 2024

Staff Report by Case Planner: Chris Sullivan



## Quick Facts

## Applicant

Tectonics Design Group

## Property Owner

Boersma Bros LLC

## Developer

Boersma Bros LLC

### Address / Location

1802 E Platt Avenue

307 N Union Boulevard

## TSN(s)

6416206016

6416206017

## Zoning and Overlays

Current: MX-M (Mixed-use Medium Scale)

## Site Area

0.46-Acres

### Applicable Code

UDC

## Project Summary

A Non-Use Variance to City Code Section 7.4.201.C (Table 7.4.2-C) to allow a 2-foot front yard parking setback off the west property line where 20-feet is usually required located at 1802 E Platte Avenue and 307 N Union Boulevard. (See "Project Statement" Attachment).

File Number	Application Type	Decision Type
NVAR-24-0015	Non-Use Variance	Quasi-Judicial

## Background

### Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Knob Hill Addition #7	N/A
Subdivision	Knob Hill 1 <sup>st</sup> Addition	08/1984
Master Plan	Knob Hill Neighborhood Redevelopment Plan	N/A
Prior Enforcement Action	N/A	N/A

### Site History

The overall site is a combination of 2 properties totaling 0.46-acres. Dutch Bros Coffee was approved on the southern property in 2008 with administrative relief to allow shorter drive-through stacking lane at 76.5-feet where 90-feet was required. The northern site had an existing structure used for retail (Faith Works Thrift Store), which was demolished in 2016. This site has been vacant since and used for informal parking. The intent of the proposal is to combine the lots into one (1) lot and reconfigure the drive through lanes. A separate development plan application is under administrative review under file number DEPN-24-0100.

### Applicable Code

The subject application(s) were submitted after the implementation date (06/05/2023) of the ReTool project and are subject to review 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.

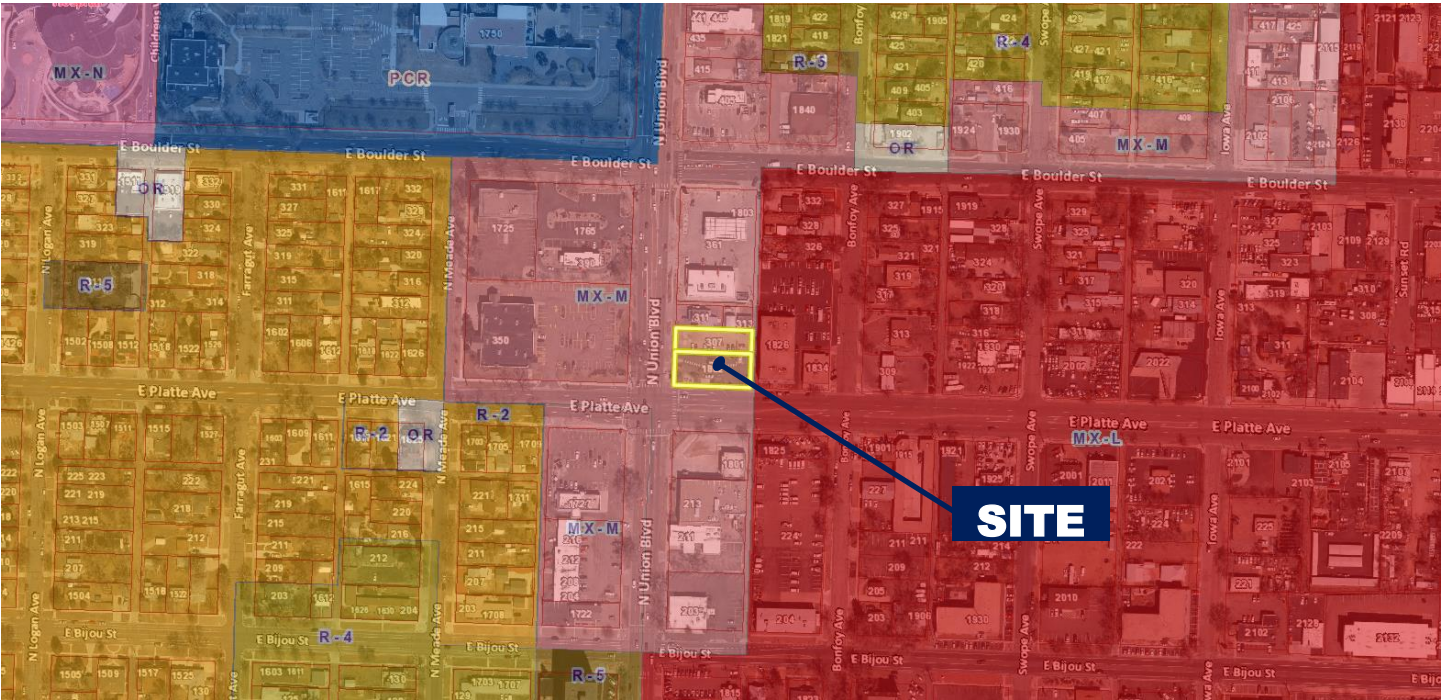
## Surrounding Zoning and Land Use

### Adjacent Property Existing Conditions

	<i>Zoning</i>	<i>Existing Use</i>	<i>Special Conditions</i>
North	MX-M	Vacant	N/A
West	MX-M	Retail	N/A
South	MX-M	Vacant Commercial	N/A
East	MX-L	Mixed Use Commercial	N/A

Zoning Map

Figure 1: Areal image identifying site zoning and surroundings.



Stakeholder Involvement

Public Notice

Public Notice Occurrences (Poster / Postcards)	2 Occurrences
Postcard Mailing Radius	1000'
Number of Postcards Mailed	190
Number of Comments Received	0

Public Engagement

No concerns were provided.

Timeline of Review

Initial Submittal Date	September 2024
Number of Review Cycles	3
Item(s) Ready for Agenda	November 2024

## Agency Review

### Traffic Impact Study

The provided drive- thru queue (stacking) meets the 85th-percentile queue length based on national study for queue calculations. Comments have been provided and addressed.

### Landscape

Will need an alternative compliance through the development plan process.

### Engineering Development Review

Comments have been provided and addressed.

### Colorado Springs Utilities

Comments have been provided and addressed.

## Non-Use Variance

### Summary of Application

The applicant is requesting approval of a non-use variance to allow a 2-foot setback from the west property line (off Union Boulevard) where 20-foot front yard parking setback is required by City Code Section 7.4.201.C (Table 7.4.2-C). The applicant has identified that these variances are essential to address the unique physical constraints of the sites limited access due to its proximity to a major intersection. The proposed adjustments will allow for more efficient vehicle circulation and on-site queuing, thereby reducing traffic congestion on Union Boulevard and enhancing public safety. This request is the result of submitting a modification to their original development plan which illustrated parking drive aisle reconfiguration. (See "Land Use Statement" Attachment).

### Application Review Criteria

#### UDC Code Section 7.526.F

A Non-Use Variance may be approved if the Planning Commission determines that:

1. The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards);  
Section 7.3.303.B identifies use specific standards related to restaurant uses as follows: (a) In all zones districts, the Bar Area of a restaurant may not exceed thirty-five percent of the restaurant gross floor area. (b) In the MX-N zone district the gross floor area of the use shall not exceed 5000 square-feet and the outdoor seating area shall not be located within ten feet of the property line of a lot containing a primary residential use or zone district.

The use is established on site and these use-specific standards do not apply.

2. The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zone district;

The applicant has identified that the site is uniquely constrained by its adjacency to Platte Avenue and Union Boulevard which has access constraints identified by City Staff. City Traffic Engineering has requested that access from Union Boulevard be limited to ingress only and that the drive-through lane be substantially lengthened to allow for more vehicle stacking. These physical conditions are exceptional compared to nearby properties within the same zone district, where access points are not similarly restricted by intersection proximity. The extraordinary limitation

on ingress directly affects the layout and design of the site, requiring relief from the standard setback to ensure functional access and circulation. In addition to the access restrictions, the existing site layout can only accommodate roughly 7 cars in the drive-thru lane, which is inadequate for the expected customer demand at this Dutch Bros location. To address this, the proposed site plan will increase the drive-thru capacity to accommodate up to 18 cars, ensuring smoother on-site circulation and reducing the risk of cars queuing onto Union Boulevard.

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;

Per the applicant, the key hardship for this property is the determination of Union Boulevard as the "front" of the property, despite it being restricted to ingress-only access. This designation imposes additional constraints on site design and use, as the front setback requirements significantly limit the available buildable area. Given that Union Boulevard serves only as an ingress, this determination does not align with the functional use of the property. The existing building on the site will not be relocated, and it is important to emphasize that moving the building would not resolve the hardship. The real constraint lies in the fact that the site is not permitted to have egress onto Union Boulevard, as dictated by the City's Traffic Engineering Department. This ingress-only restriction creates a severe limitation on the site's functionality, independent of where the building is located. Even if the building were to be moved, the hardship would persist due to the restricted access and circulation challenges created by the intersection's proximity and the City's access control requirements. The extraordinary physical condition, specifically, how the "front" of the property is defined along a street that cannot provide full access—prevents reasonable use without relief. This situation is a direct result of the property's configuration and access limitations, which cannot be resolved by relocating the building. We have worked extensively with the City's Engineering Department, exploring several different site layouts. After careful review and coordination with the city, the current layout was approved by the City's Traffic Engineer and meets both the traffic flow requirements set by the city and the operational needs of Dutch Bros. The proposed variance is necessary to provide sufficient on-site queueing, which will relieve stress on the public right-of-way and ensure the property can be utilized effectively for its intended commercial purpose.

4. That the granting of the Non-Use Variance will not have an adverse impact upon surrounding properties

Per the applicant, granting the non-use variance will not have an adverse impact on surrounding properties; in fact, it will provide a significant benefit. The current site configuration, constrained by the physical condition of the property, has led to cars queuing on Union Boulevard due to the insufficient on-site queuing space. This situation places undue stress on the public right-of-way (ROW) and has the potential to disrupt traffic flow and safety. By allowing the setback variance, the site will be able to accommodate more vehicles on-site, reducing the likelihood of cars queuing on the main road. This improvement will not only enhance the operational efficiency but will also alleviate the current stress on the public ROW, benefiting the surrounding properties and the broader community. Furthermore, if the property line along Union Boulevard were longer, the front of the property would naturally align with Platte Avenue, and the proposed project would comply with all zoning requirements without needing a variance. Therefore, the requested relief is a necessary adjustment that ensures the project's success while safeguarding the interests of neighboring properties.

After evaluation of the Dutch Bros Coffee Non-Use Variance, the application meets the review criteria.

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

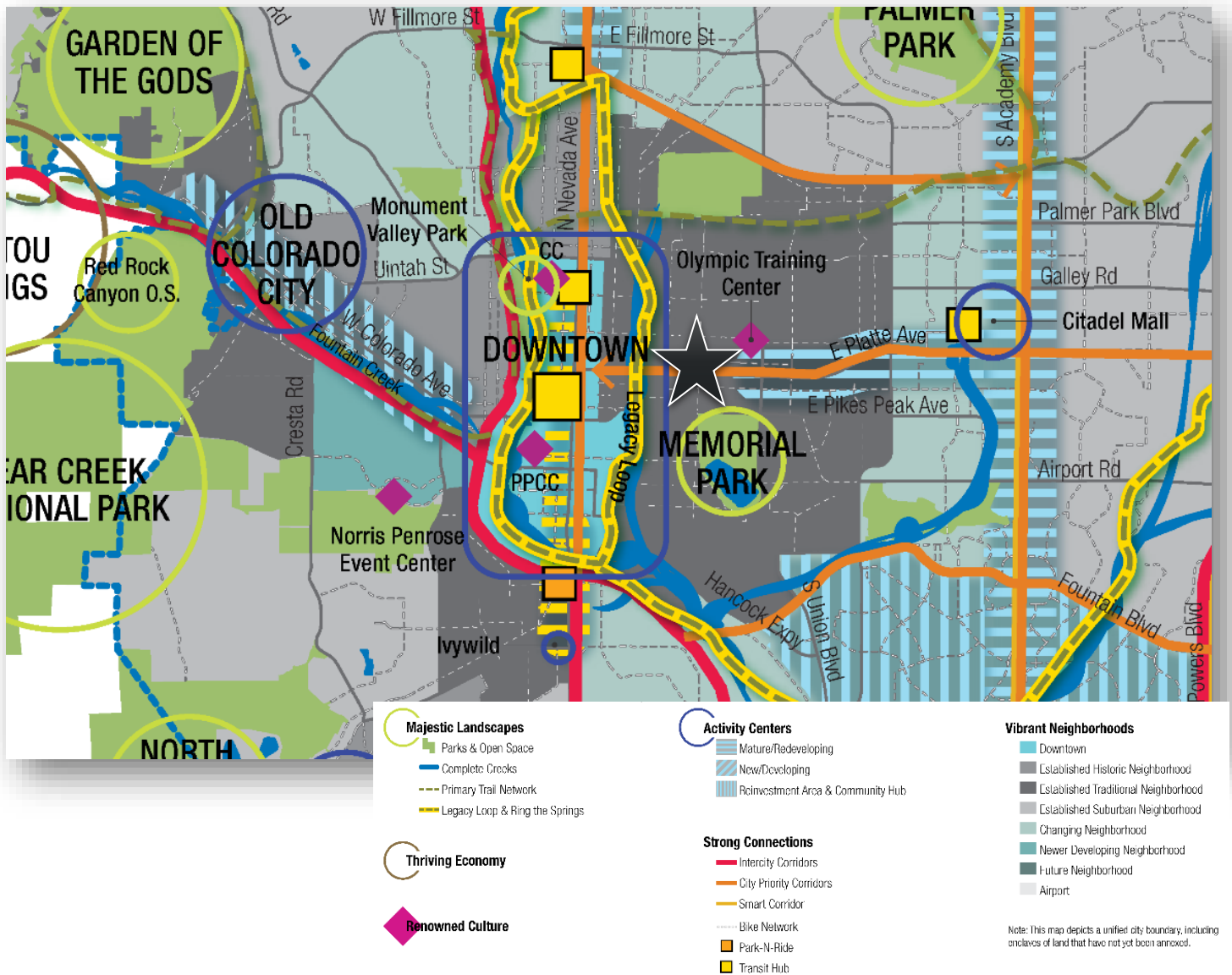
There are no relevant guiding documents or overlays that affect this property.



## Compliance with PlanCOS

### PlanCOS Vision

Figure 2 PlanCOS Vision Map depicting the site location.



This site is located predominately in the Established Traditional Neighborhood Typology and along a City Priority Corridor. Per PlanCOS, the goal of this neighborhood typology is to recognize, support, and enhance the existing character of these neighborhoods, while supporting their ongoing investment and improvement adaptation. New development and/or redevelopment should incorporate elements of the existing neighborhoods.

## Statement of Compliance

### NVAR-24-0015 – Dutch Bros Non-Use Variance

After evaluation of the Dutch Bros Non-Use Variance, the application meets the review criteria.