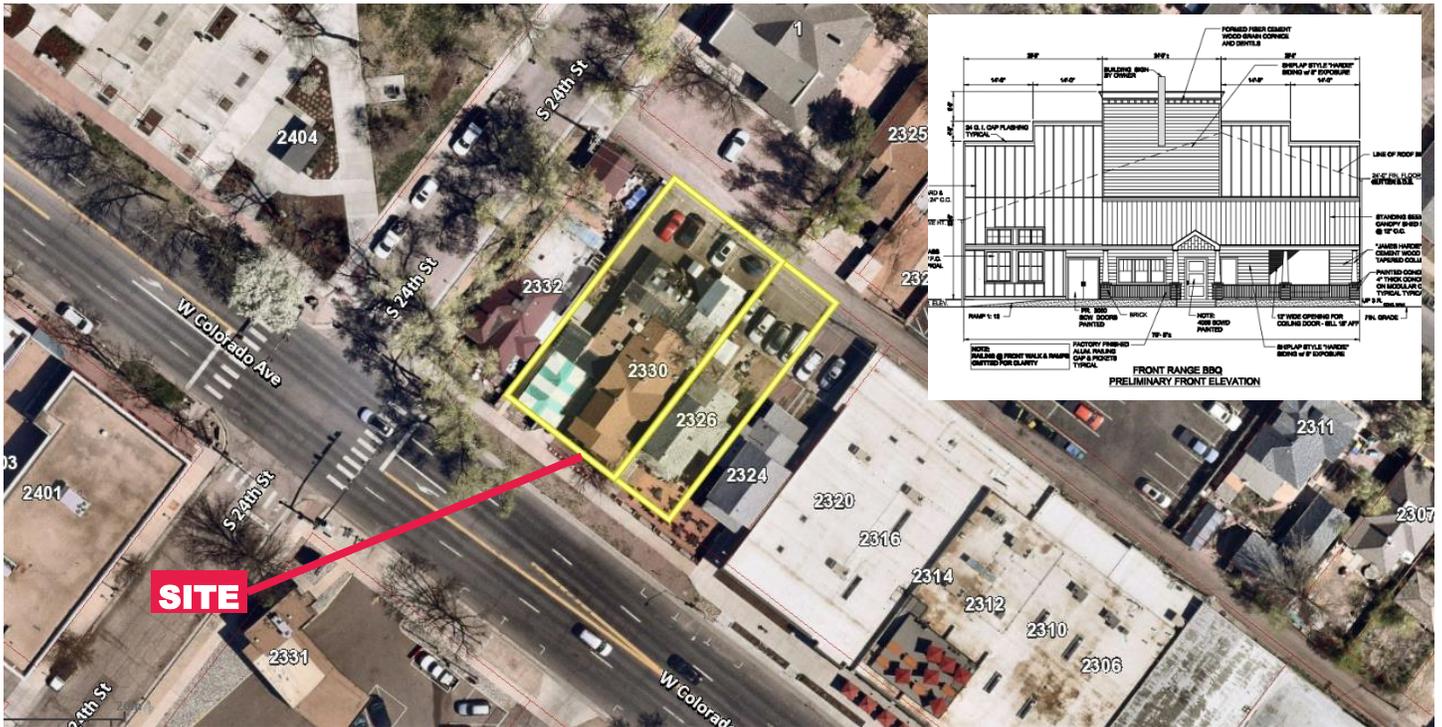




# FRONT RANGE BARBEQUE NON-USE VARIANCES

Planning Commission October 9, 2024

Staff Report by Case Planner: Ryan Tefertiller, AICP



## Quick Facts

### Applicant

Bill Guman

### Property Owner

Brian Fortinberry

### Developer

Brian Fortinberry

### Address / Location

2326 & 2330 W Colorado Ave.

### TSN

7411301011 & 7411301018

### Zoning and Overlays

MX-M (Mixed Use Medium)

### Site Area

10,740 sq. ft.

### Proposed Land Use

Commercial / Restaurant

### Applicable Code

UDC

## Project Summary

Two (2) Non-Use Variance requests to support a development plan (DEPN-23-0205) for a significant addition and redevelopment of the existing Front Range Barbeque restaurant at 2330 W. Colorado Ave. The first Non-Use Variance request is to allow four (4) off-street parking stalls where 26 stalls are required. The second Non-Use Variance request is to allow an eight foot (8') front setback where twenty feet (20') are required. In addition to the administratively reviewed development plan (Attachment 1 – Front Range Barbeque Development Plan Set), two additional applications are being reviewed administratively: an Administrative Adjustment application for a side setback (0 feet where 20 feet are required); and a subdivision plat to combine the existing lots into one new lot.

File Number	Application Type	Decision Type
NVAR-23-0053	Non-Use Variance	Quasi-Judicial
NVAR-23-0054	Non-Use Variance	Quasi-Judicial

## Background

### Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Colorado City and Vicinity	1917
Subdivision	Colorado City	1873
Master Plan	Westside Master Plan	1980
Prior Enforcement Action	N/A	N/A

### Site History

The subject property is addressed as 2326 and 2330 W. Colorado Ave. and consists of the existing Front Range Barbeque restaurant and a vacant structure to the east. The restaurant structure was originally constructed in 1928 and may have originally been used as a residence but has been used as a restaurant for over 20 years. The vacant structure was originally constructed in 1898 as a residence but has been used as an office use in recent years. During the Covid pandemic in 2020 and 2021 new fencing and additional outdoor restaurant seating was added in front of 2326 W. Colorado.

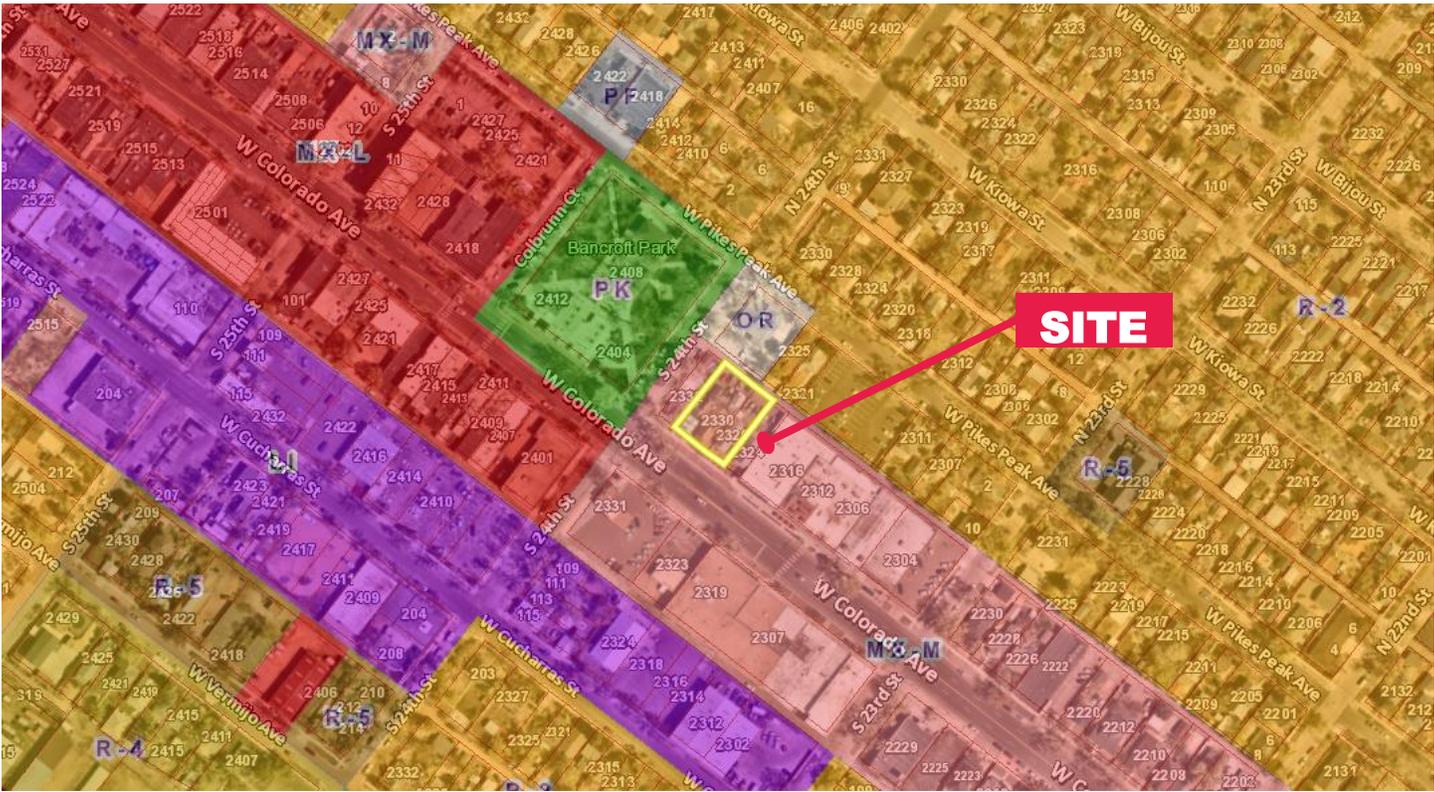
### Applicable Code

The subject application(s) were submitted after the implementation date (06/05/2023) of the ReTool project, and as such, are 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	OR	Civic	Old Colorado City History Center
West	MX-M, PK	Restaurant, Park	Bancroft Park less than 100' to the west
South	MX-M	Commercial, Office	Bank, Laundromat, Goodwill
East	MX-M, R-2	Commercial, Office, Residential, and Parking	OCC Brewing and other commercial uses as well as residential uses along Pikes Peak Ave.



Zoning Map

**Stakeholder Involvement**

**Public Notice**

Public Notice Occurrences (Poster / Postcards)	Internal Review / Planning Commission Public Hearing
Postcard Mailing Radius	1,000'
Number of Postcards Mailed	361
Number of Comments Received	0

**Public Engagement**

Planning Staff did not receive any communication from stakeholders as a result of standard public notice procedures. Additional public notice via postcards and a poster will be completed prior to the Planning Commission’s public hearing.

## Timeline of Review

Initial Submittal Date	September 21, 2023
Number of Review Cycles	4
Item(s) Ready for Agenda	September 3, 2024

## Agency Review

### Traffic Impact Study

No comments on the requested variances or the associated development plan.

### Fire

No comments on the requested variances or the associated development plan.

### School District

No comments received.

### Parks

No comments received.

### SWENT

No comments on the requested variances. SWENT did have a number of comments on the associated development plan, mostly related to the details of the required final drainage report. Staff is confident that all SWENT comments can be resolved with no impact to the proposed variances and only minor changes (if any) to the associated development plan.

### Colorado Springs Utilities

No issues with the variance requests. CSU did have a number of comments on the associated development plan but all utility comments have been resolved with the applicant's most recent resubmittal.

## Nonuse Variance – Parking – NVAR-23-0053

### Summary of Application

The applicant is requesting approval of a nonuse variance to City Code section 7.4.1003.A of the UDC to allow four (4) off-street parking stalls where 26 stalls are required for the 7,895 square foot restaurant structure. The applicant's project statement (Attachment 2 – Front Range Barbeque Project Statement) provides a number of considerations for this request.

The first consideration is that while the proposed structure is large (nearly 8,000 square feet), a significant portion of the structure is utilized for food preparation, live music performance, and other areas that don't significantly increase parking need. Additionally, the existing 1,469 square foot restaurant (plus significant outdoor seating) has operated for decades without any known parking conflicts. The project also includes the demolition of the adjacent 1,402 square foot office building.

In addition to the 4 provided off-street parking stalls (one of which is accessible) the applicant is providing a bike rack that can accommodate 11 bicycles. The site is within half a block from a designated bike route (W. Pikes Peak). There is considerable on-street parking immediately adjacent to, and in close proximity to, the site including along W. Colorado Ave., S. 24<sup>th</sup> St., and W. Pikes Peak Ave. There are also publicly available off-street parking lots within close proximity, and a number of private businesses in the area have offered use of their parking lots for Front Range employee and/or patron parking. Lastly, it is noteworthy that the site is located roughly 30 feet east of the eastern edge of the Old Colorado City Parking Exempt Area which extends only to S. 24<sup>th</sup>

Street. In other words, similar business essentially across the street from this site are not required to provide any private off-street parking at all.

## 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);*  
None of the use specific standards for restaurants found in Part 7.3.3. are applicable to this application.
2. *The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zone district;*  
The subject property has been utilized as a restaurant for decades with little to no off-street parking and with no known conflict with surrounding uses. The property is located roughly 30 feet from the eastern boundary of the Old Colorado City Parking Exempt Area, an exceptional circumstance that exists for few other commercial properties in the area.
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 existing restaurant has had success over the last few decades but is in need of numerous improvements to continue its success. The restaurant business is extremely competitive and many have failed during or since the 2020 COVID pandemic. The proposed significant expansion of the restaurant will allow the business to continue to succeed and remain competitive in a difficult industry.
4. *That the granting of the Non-Use Variance will not have an adverse impact upon surrounding properties;*  
The subject property is only 30 feet east of the eastern edge of the Old Colorado City Parking Exempt Area, meaning most businesses in the area are not required to provide any dedicated off-street parking and to rely entirely on publicly available on-street and off-street parking resources. Employees and customers of those businesses utilize public parking, transit routes, and micro-mobility options to make their way to the area. There are residences in the area, particularly to the north along W. Pikes Peak Ave. and S. 24<sup>th</sup> Street, however, no residents have contacted Planning Staff to relay concerns with existing or expected parking demand in the area.

After evaluation of the Nonuse Variance for 4 parking stalls where 27 are required, Staff has determined that the application meets the review criteria.

## Nonuse Variance – Front Yard Setback – NVAR-23-0054

### Summary of Application

The applicant is requesting approval of a nonuse variance to City Code section 7.4.201.C. of the UDC to allow an eight (8) foot front setback where twenty feet (20') are required in the MX-M (Mixed Use Medium Scale) zone. The existing structure on the subject property has a front setback of approximately four (4') feet. The requested front setback reflects the desire to create a pedestrian friendly, walkable, area on the eastern edge of Old Colorado City. The immediately adjacent buildings to the east and west of the subject property have front setbacks of approximately twelve (12') and eight (8') feet respectively. The newly adopted UDC allows administrative adjustments to be granted in lieu of a non-use variance in certain situations, but only to the extent of legal non-conforming status and only consistent with block face averages. These provisions required the submittal of a non-use variance for the proposed front 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);*  
None of the use specific standards for restaurants found in Part 7.3.3. are applicable to this application.
2. *The property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zone district;*  
The block face on which the subject property is located has a mix of front setbacks. The restaurant immediately west of the site has a front setback of approximately eight (8') feet. The structure immediately to the east has a front setback of approximately twelve (12') feet. Further to the east, the OCC Brewing structure has a zero foot front setback (in fact the

building appears to encroach slightly into the public right-of-way). The properties on W. Colorado Ave. between 23<sup>rd</sup> and 24<sup>th</sup> Streets are fairly unique in that they are zoned MX-M and have a 20' front setback requirement whereas west of 24<sup>th</sup> Street the area along W. Colorado Ave. is zoned MX-L and has a zero foot front setback. This block has a historic building locations that are aligned with the properties to the west, but are zoned differently.

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 existing structures on the subject property are legal non-conforming in that both were legally constructed given setbacks at the time but neither of which meet today's 20' front setback requirement. The property owner could continue to the use the buildings as they exist today but face significant challenges given their business needs and the state of the structures. Conversely, the existing buildings could be demolished and new structures could be built with a 20' front setback. However, that would be out of character with surrounding properties and would result in limited development potential due to modest lot depths (120').

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

The proposed eight (8') foot front setback will be consistent with other building setbacks in the area and will help create a pedestrian friendly, walkable area. No adverse impacts on surrounding properties are expected from the granting of this relief.

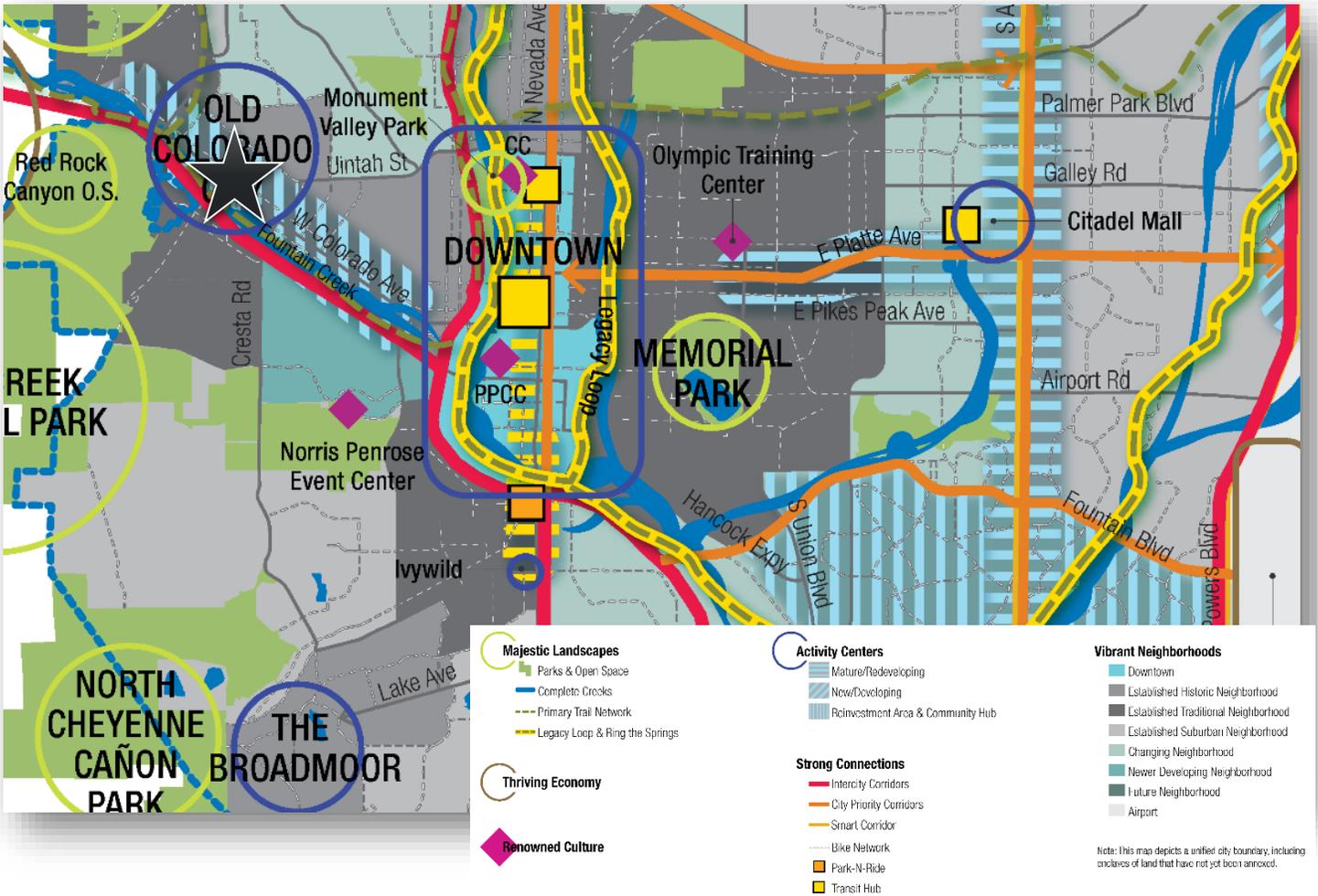
After evaluation of the Nonuse Variance for an eight (8') foot front yard setback where twenty (20') feet are required, Staff finds that the review criteria are met.

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

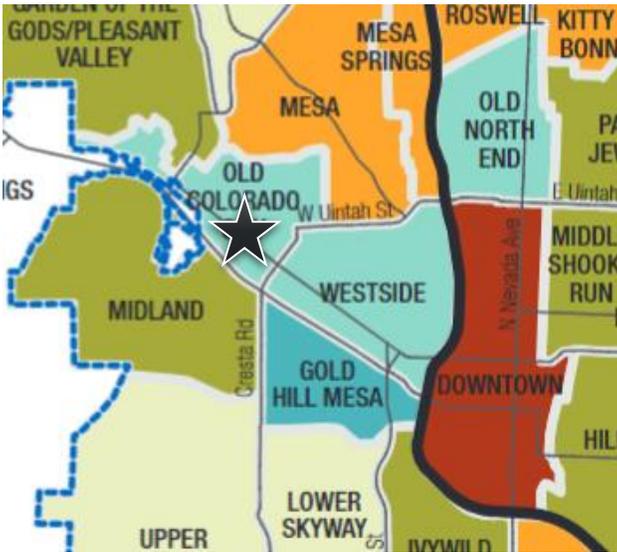
This property falls within the Westside Master Plan area which was adopted by City Council in 1980. The Westside Plan defines this site as a "commercial – office – residential" area on its Generalized Land Use map. This designation is given to nearly all properties along W. Colorado Ave. from approximately 8<sup>th</sup> St. to 31<sup>st</sup> St. The Plan also identifies this site as being within the "Old Colorado City" sub-area which includes all the W. Colorado Ave. fronting properties between 23<sup>rd</sup> St. and 27<sup>th</sup> St. One objective for the Old Colorado City subarea is to "continue to provide economic incentives and encourage those commercial uses which will add stability and long-term strength to Old Colorado City without destroying the historic character." It should be noted that City Staff began the process to develop a new planning document for this area, referred to as the Greater Westside Community Plan, in the Spring of 2022. However, progress on this plan has slowed to allow completion of other planning efforts in the City. Progress is expected to restart in 2025.

# Compliance with PlanCOS

## 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 the PlanCOS Vision Map, this project site is within the Old Colorado City Activity Center as well as the W. Colorado Ave. Reinvestment Area & Community Hub.

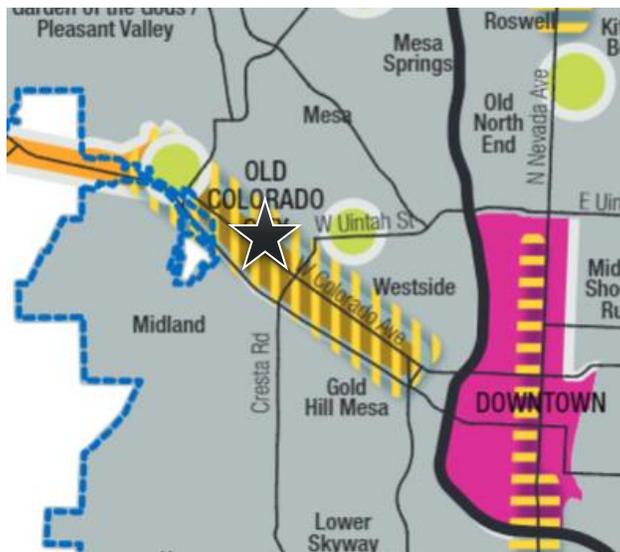


**Predominant Typology**



**Vibrant Neighborhoods**

- Policy VN-3.C: Promote neighborhood-level shopping and service options to include a variety of healthy food markets, coffee houses, restaurants, and other supportive businesses that increase local access and walkability.
- Policy VN-3.D: Create strong neighborhood identity through the inclusion and integration of arts and culture.

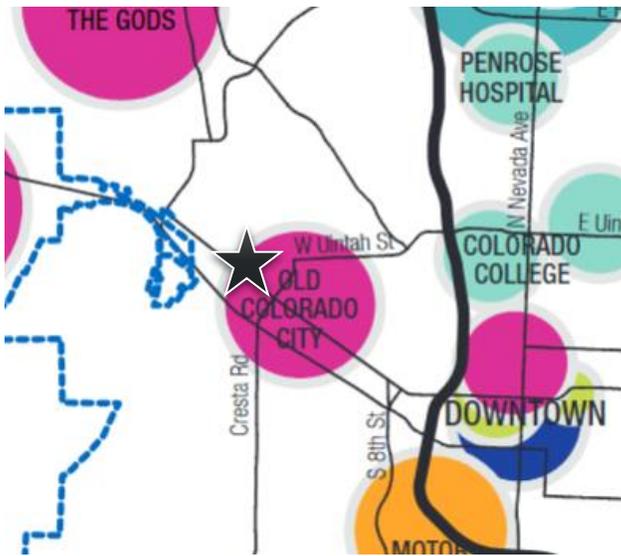


**Predominant Typology**



**Unique Places**

- Goal UP-1: Enrich the texture and livability of the city as a tapestry of unique, vibrant, and walkable places.
- Policy UP-1.A: Emphasize placemaking throughout the city with design and programming that supports a distinctive identity and experience.
- Strategy UP-1.A-2: Evaluate new and redeveloping land use related to enhancement and support of existing, transitioning, and new activity centers.
- Policy UP-2.A: Support infill and land use investment throughout the mature and developed areas of the city.
- 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.
- Policy UP-4.A: Actively plan and encourage a development pattern consisting of unique centers located along new and redeveloped corridors and at other designated areas throughout the city.

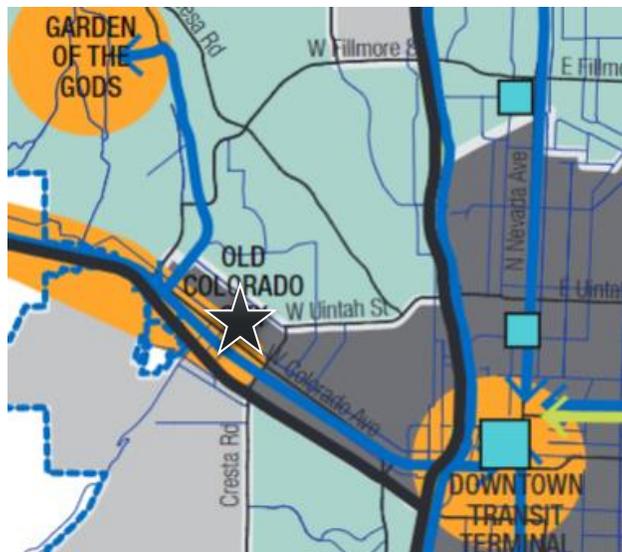


**Predominant Typology**

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

**Thriving Economy**

- Strategy TE-1.C-5: Provide for convenient access to quality goods and services that support major employment areas, through a combination of proactive and responsive planning, zoning, and development approval actions.
- Strategy TE-1.D-3: Provide a mix of uses that are both neighborhood and institutional campus-serving to help integrate them into the community.
- Strategy TE-1.D-6: Ensure that these employment and activity nodes are pedestrian-oriented and easily accessible by existing or future alternative modes of transportation.
- Strategy TE-2.C-1: Prioritize redevelopment and activation in Downtown and other urban activity centers in order to establish or enhance economic development.



**Predominant Typology**

- Urban Core Streets
- Smart Corridors
- Established Suburban Streets
- Multimodal Corridors
- Developing Suburban Streets
- Bike Master Plan Network
- Future Streets
- Major Destination Areas
- Transportation Hubs
- Park-N-Rides

**Strong Connections**

- Goal SC-1: Multimodally connect people and land uses throughout the City and region.
- Policy SC-2.A: Systematically support and encourage the density and design needed to support this network beginning with Downtown, key corridors, activity centers, and trip generators.

## Statement of Compliance

### **NVAR-23-0053**

After evaluation of the Non-Use Variance application to allow four (4) off-street parking stalls where 26 are required, the application meets the review criteria.

### **NVAR-23-0054**

After evaluation of the Non-Use Variance application for an eight (8') foot front yard setback where twenty (20') feet are required, the application meets the review criteria.