



Quick Facts

Applicant

Steve and Christine Uveges

Property Owner

Uveges Family Trust

Address / Location

1713 Hercules Dr

TSN(s)

7423404005

Zoning and Overlays

R1-9 WUI

Site Area

13350 sq ft

Land Use

Single-family residential

Applicable Code

UDC

Project Summary

The applicant is requesting approval of a nonuse variance to allow for a 13-foot front yard setback where 25 feet is required in the R1-9 zone district. This property is located at 1713 Hercules Dr and the land use is single-family residential. The applicant intends to add a 17' x 14' addition to the front of the existing home to enlarge the entryway.

File Number	Application Type	Decision Type
NVAR-23-0040	Nonuse Variance	Quasi-judicial



1713 HERCULES DR – NONUSE VARIANCE

Planning Commission November 17, 2023

Staff Report by Case Planner: Molly O'Brien

Background

Prior Land-Use History and Applicable Actions

Site History

The existing ranch-style residence was constructed in 1963, according to the El Paso County Assessor. It is located within the Skyway Park Estates subdivision, or “Lower Skyway.” A front yard carport permit was granted by planning staff for this property in July 2023. Staff did not find any record of other land use entitlements on file for the property.

Applicable Code

The subject application was submitted after the implementation date (06/05/2023) of the ReTool project, and consequently the application was 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	R1-9	Single-family residential	None
West	R1-9	Single-family residential	None
South	R1-9	Single-family residential	None
East	R1-9	Single-family residential	None

Zoning Map



Stakeholder Involvement

Public Notice

Public Notice Occurrences (Poster / Postcards)	Poster and Postcards
Postcard Mailing Radius	1000 feet
Number of Postcards Mailed	123
Number of Comments Received	1



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Public Engagement

Staff performed standard public notice for this application, including both a public notification poster and postcards, with a mailing radius of 1000 feet. Staff received the signed posting affidavit certifying that notice was posted on the property for the duration of the required notice period. One public comment was received during the public comment period. This comment from a nearby neighbor was in support of the variance request, referencing a desire for “diversity” in the neighborhood’s architecture.

In addition, the applicant independently submitted five letters of support from neighbors in their immediate vicinity, including both next-door neighbors and the three closest neighbors across the street from 1713 Hercules.

Timeline of Review

Initial Submittal Date August 15, 2023

Number of Review Cycles 3

Agency Review

City Engineering Development Review

Engineering Development staff reviewed the application and recommended approval with no comments.

Nonuse Variance

Summary of Application

The applicant is requesting approval of a nonuse variance to section 7.2.203 of the UDC to deviate from the 25-foot front yard setback requirement for the R1-9 zone district. Approval would allow for a front setback of 13 feet.

Compliance with Relevant Code Sections and Review Criteria

The application was reviewed for compliance with the approval criteria set forth in UDC Section 7.5.526.

Zone District

The lot is zoned R1-9. Per code, “This zone district accommodates medium-sized lots with a minimum size of nine thousand (9,000) square feet primarily for detached single-family residential uses,” (7.2.203).

Dimensional Criteria

The front yard setback required for the R1-9 zone district is 25 feet, per Section 7.2.203. The requested setback is 13 feet, representing a 48% encroachment.

Development Standard

Required

Proposed

Setbacks

25'

13'

Review Criteria – 7.5.526 (Nonuse Variance)

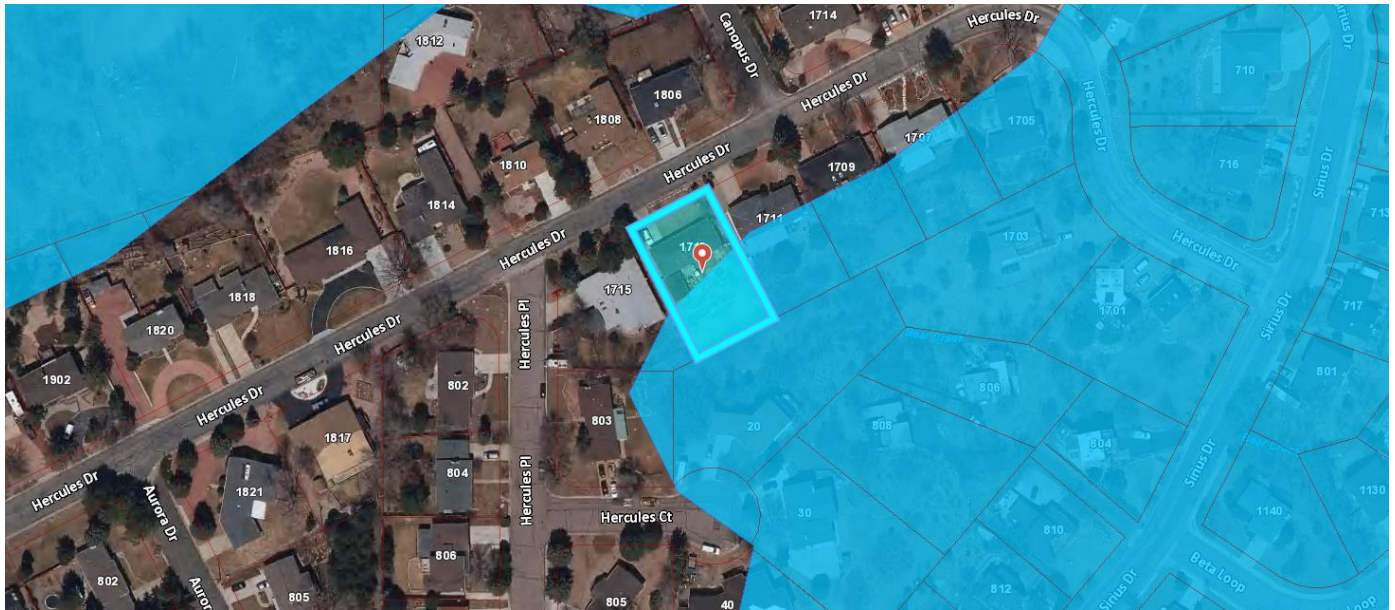
The applicable section of code in reviewing this proposal is 7.5.526: Nonuse Variance. All four criteria for approval must be met for City Planning Commission to grant the request for a nonuse variance.

1. *The application complies with any standards for the use in Part 7.3.3 (Use-Specific Standards):*

The proposal complies with all applicable use-specific standards laid out in 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:*

This lot exhibits moderate slope. The rear portion of the property is also within the CGS landslide susceptibility area, indicating that there is potential for unstable geological conditions and that additional caution must be exercised when performing excavation and construction. In the below image, the landslide susceptibility area is pictured in blue. While some nearby properties are within this landslide susceptibility zone, most properties are not, imposing an extraordinary physical condition.



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;*

Due to the landslide susceptibility area to the rear of the lot, building an addition to the rear of the lot may not be possible without significant mitigation measures. Expanding the home as proposed in the front of the property would likely be the only area that would reasonably permit construction. Per the applicant's project statement, "The Geo Hazard Study conducted on July 10, 2023 states that the recommended 20' setback from the crest of the potentially unstable slope (as indicated on figure 6 of the geohazard report) would not allow for enough area to have the addition located on the southern side of the house. (See Attached Fig. 6 of the Geohazard Report)."

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

Staff received letters of support from all five neighbors in the immediate area around the property. Potential adverse impacts on surrounding properties are minimal.

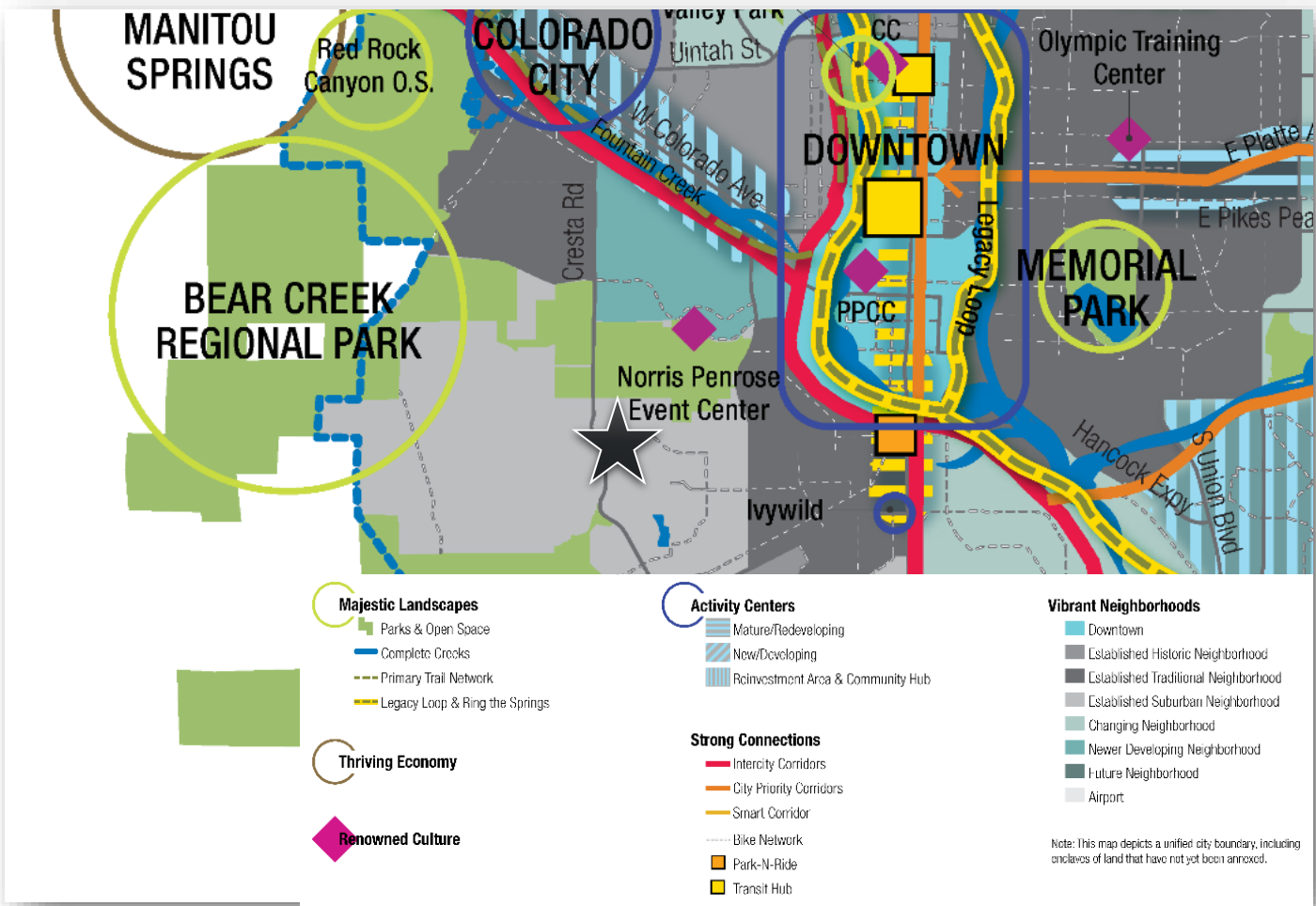
Consistency with Neighborhood Characteristics

The property is located in Lower Skyway, which is a neighborhood south of Bear Creek Regional Park and east of S 21st St or Cresta Rd. The Lower Skyway neighborhood is a single-family residential neighborhood characterized primarily by R1-9 zoning, with small areas of R1-6 and R Estate. The 25-foot front yard setback is consistent across most nearby structures, although they vary considerably in architectural style.

Two nonuse variances have been granted for encroachments into the front setback in the vicinity, one in 2008 and one in 2016. These approvals allowed a 16 foot and a 16.75-foot front yard setback, respectively, where 25 feet was the requirement, and both involved allowing attached garages to encroach into the front setback.

Compliance with PlanCOS

PlanCOS Vision



Lower Skyway is considered an “Established Suburban Neighborhood” per the PlanCOS Vision Map. Per PlanCOS, “Suburban Neighborhoods include those that developed with a suburban pattern, including curvilinear streets with cul-de-sacs. These neighborhoods have matured to the point where they are not actively being developed and no longer have actively managed privately initiated master plans, and ordinarily do not yet have publicly initiated masterplans. These neighborhoods have a high value in maintaining the privacy of homes and safe streets for families. New development should focus on safe connections into and within these neighborhoods,” (PlanCOS pg. 29). Due to the mature nature and history of the existing neighborhood, additions of non-conforming features such as encroachments into the front yard setback are unusual but not without precedent. The proposal is broadly compatible the goals of PlanCOS.



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Statement of Compliance

[NVAR-23-0040]

After evaluation of the nonuse variance proposal for 1713 Hercules Drive, the application meets the review criteria, per 7.5.526 of the UDC.