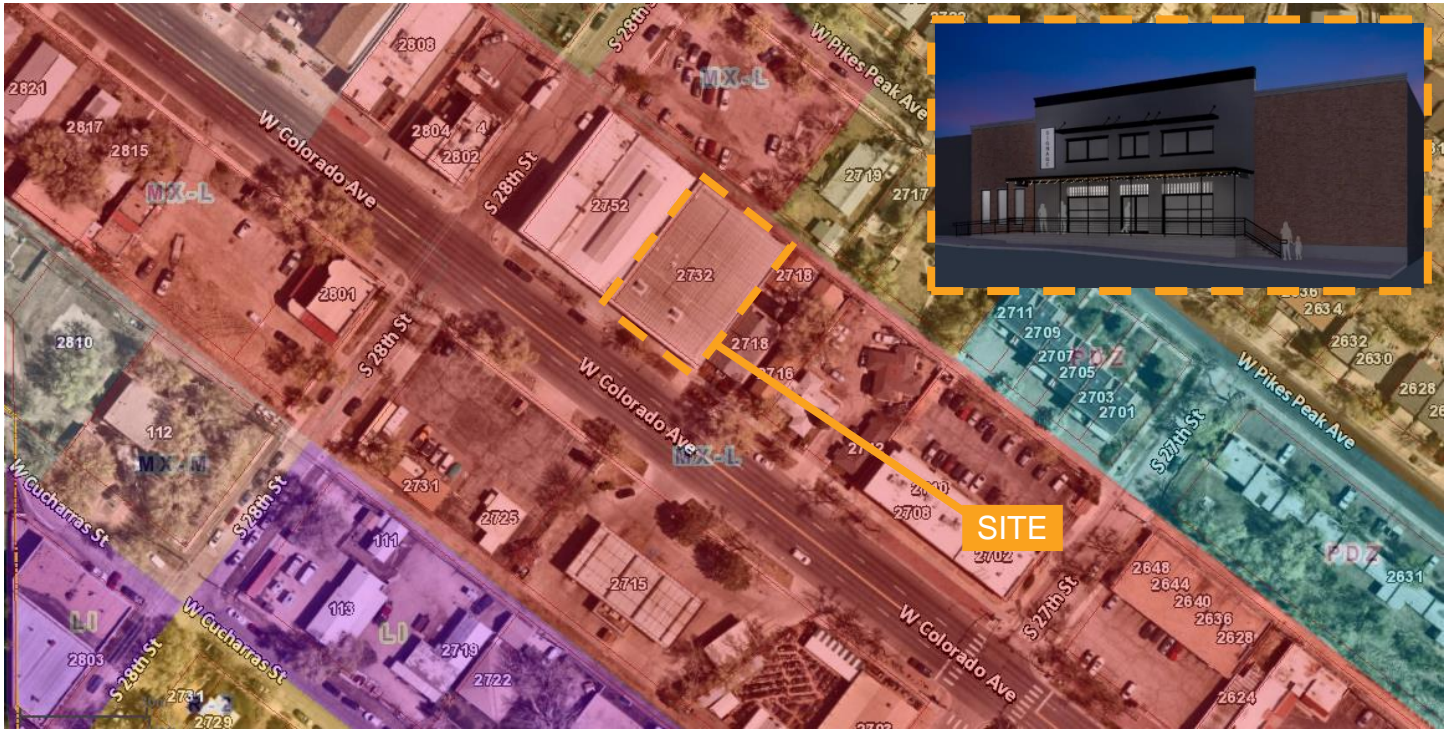


There



Quick Facts

Applicant

Echo Architecture

Property Owner

Donald Sipes – Blue Skies Ltd.

Developer

NA

Address / Location

2732 W. Colorado Ave.

TSN(s)

7411227024

Zoning and Overlays

Current: MX-L UV

Site Area

10,916 sq. ft.

Proposed Land Use

Light Industrial

Applicable Code

UDC

Project Summary

A Use Variance request to allow a light industrial land use within the MX-L UV (Mixed-Use Large Scale – with a Use Variance on file) zone district consisting of 10,916 square feet located at 2732 W. Colorado Ave.

File Number	Application Type	Decision Type
UVAR-24-0001	Use Variance	Quasi-Judicial

Background

Prior Land-Use History and Applicable Actions

<i>Action</i>	<i>Name</i>	<i>Date</i>
Annexation	Colorado City & Vicinity	June 1, 1917
Subdivision	Surplus City	June 26, 2007
Master Plan	Westside Master Plan	January 8, 1980
Prior Enforcement Action	N/A	N/A

Site History

This 10,916 square-foot site is zoned MX-L UV (Mixed Use – Large with a previously approved Use Variance on file), which includes a 10,106 sq. ft. building that was constructed in 2003. Currently the building is vacant, although it was previously used as a retail establishment. The Use Variance on file was approved in July of 1982, but it is no longer relevant to the existing site, and has no implications for the purpose of this review. The applicant purchased the property in April of 2022, when the property was zoned C-6 “General Business.” Under the previous city code, “Chapter 7,” light industrial uses were permitted in the C-6 zone district. The applicant submitted his building permit in September of 2023, subsequent to the adoption and applicability of the new UDC, which established the MX-L zone district that prohibits light industrial land uses. After holding a pre-application meeting with staff, the applicant submitted a Use Variance application (UVAR-24-0001) on June 18, 2024, which includes a building program containing the light industrial use in the rear of the building with retail and office space fronting the streetscape along W. Colorado Ave.

Applicable Code

The subject application was submitted after the implementation date (06/05/2023) of the ReTool project, and as such, must be 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 (UDC).

Surrounding Zoning and Land Use

Adjacent Property Existing Conditions

	<i>Zoning</i>	<i>Existing Use</i>	<i>Special Conditions</i>
North	MX-L CR & R-5	Parking Lot & Single-Family Residential	Parking lot ownership is shared by 2752 and 2732 W Colorado Ave.
West	MX-L UV	Mixed Use including Restaurant, Art Gallery, Office and other uses	None that are applicable.
South	MX-L HS	Office, Gas Station	N/A
East	MX-L	Multi-Family & Single-Family Residential	N/A



Zoning Map

Stakeholder Involvement

Public Notice

Public Notice Occurrences (Poster / Postcards)	2 Posters posted on the site (fronting W Colorado and along the alley) and postcards at time of application submittal and prior to City Planning Commission public hearing
Postcard Mailing Radius	1,000'
Number of Postcards Mailed	266
Number of Comments Received	2

Public Engagement

Planning staff utilized the standard public notice procedures for this application and no neighborhood meeting was held. Two public comments were received by email asking for clarification regarding parking, noise impact, and traffic impact. Responses were provided by city staff based on the application site plan and project statement and no further inquiries were received.

Timeline of Review

Initial Submittal Date	June 18, 2024
Number of Review Cycles	1
Item(s) Ready for Agenda	August 14, 2024

Agency Review

Traffic Impact Study

The proposed development does not meet the threshold of peak hour trip generation per the Traffic Engineering Criteria Manual. Therefore, Traffic Impact Study (TIS) is not required for this site.

School District

No comments received.

Parks

No comments received.

SWENT

No comments received.

Colorado Springs Utilities

No comments received.

Landscape Review

Per city forestry rules, the minimum opening for a tree in a 10' wide parkway is 10'x12'. Suggest increasing size of tree gate or opening for trees. Could crusher fines be used instead of concrete?

Fire

No issues with the nonuse variance. New occupancy will need to meet all applicable building and fire codes for the new use of the space.

USE VARIANCE APPLICATION

Summary of Application

Optical Engines Inc. is a laser and photonic technology company currently headquartered on the property addressed as 2829 W. Colorado Ave. In April of 2022, Optical Engines purchased a 10,771 sq. ft. building located at 2732 W. Colorado Ave to serve as a second location for both their office and light industrial operations. At the time of the purchase, the property was zoned C-6 "General Business" under the previous zoning code "Chapter 7," which permitted by right, a Light Industrial land use, referred to as "General Industry: Light" in Chapter 7. On June 5, 2023, the City of Colorado Springs began implementation of a new Unified Development Code, which included changes to the zoning districts and zoning map that affected this property, which now is within the MX-L "Mixed-Use Large Scale" zone district. The Light Industrial land use is prohibited within the MX-L Zone district. As such, when a commercial change of occupancy building permit was submitted in September of 2023, the permit was denied as it proposed a prohibited land use within the MX-L "Mixed-Use Large Scale" zone district. Following a pre-application meeting that took place in May of 2024, internal discussions were held among planning staff. During those discussions, the specific use was considered based on its intensity and potential impact to

surrounding properties. After careful consideration and a close review of the proposed use, which included a tour of the facility, staff determined that the applicant's most appropriate course forward would be to submit a Use Variance application requesting to allow for a Light Industrial land use within the MX-L Zone district. Additionally, staff recommended that the applicant consider reprogramming the street-facing side of the building to include the office use, and a future commercial tenant space, limiting the Light Industrial operations to the rear of the building, while simultaneously improving the building's appearance and relationship to the pedestrian realm. On June 18, 2024, Optical Engines submitted a Use Variance Development Plan with key street-facing façade enhancements that reflected the suggested building program that staff had recommended.

Application Review Criteria

Following the Use Variance application submission, planning staff carefully reviewed the site plan, project statement, review agency observations, and stakeholder input based upon the surrounding neighborhood context, zoning and land uses, planning history, as well as the review criteria. Conclusively, planning staff finds that the applicable review criteria, listed and described below are met. The analysis below provides justification for this finding.

UDC Code Section 7.5.527.E.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so that a denial of the Use Variance would result in undue property loss and not solely a mere inconvenience or financial disadvantage;*

While the property in isolation does not appear to have extraordinary circumstances or conditions, it is principal to consider the circumstantial nature of this request in order to reasonably deliberate this review criterion. In doing so, staff considered the purchase history of the site and the fact that Optical Engines was already legally operating on the property addressed as 2829 W. Colorado Ave, which is within close proximity to this property bearing the same zone district. Furthermore, and at the time of purchase, which was prior to the effective date of the new UDC, 2732 W. Colorado Ave permitted the proposed "Light Industrial" land use by right. While it should be noted that merely purchasing a property does not establish vesting rights, the applicant's existing location and intent to expand and operate within an urban context, being a member of the Urban Manufacturing Alliance (UMA), establishes the intent to use this property in the same way they were using 2829 W. Colorado Ave. With additional consideration given to the timeline of the real estate acquisition and construction process in relation to changes to City-wide zoning standards, a denial of this request would result in undue property loss and is not solely a mere inconvenience or financial disadvantage.

- 2. That the Use Variance is necessary for the preservation and enjoyment of a property right of the and if not approved, the property or structure cannot yield any beneficial use;*

Considering the facts above, the Use Variance will ensure that the applicant is able to preserve and enjoy their property rights. While if not approved, the property may still yield a beneficial use, it is important to consider that the reprogramming of the building, as depicted on the site plan and in the project statement (Attachment 1 & 2), from a single use serving the Optical Engines operations only, to a mixed-use structure with significant pedestrian-oriented façade enhancements, establishes this proposal as an improvement to the neighborhood. Furthermore, the addition of up to fifty well paid employees on site and within walking distance to the many surrounding Old Colorado City shops and restaurants will provide economic gains to the neighborhood.

- 3. That the Use Variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property;*

Upon careful review of the daily operations, staff considered the nature and intensity of the work being performed on site and concluded that the impact would be no more significant than other established land uses that are permitted by right in the zone district. To further elaborate, Optical Engines develop small fiber lasers, with the manufacturing

process occurring primarily at a desk, similar in nature to that of jewelry production, and producing no externally borne fumes, smells, hazards, or noises. Furthermore, the building's inclusion of a new "public facing" commercial tenant space and optical engines office along W. Colorado Ave provides a significant enhancement to the public realm in an urban environment.

4. *That the hardship is not the result of the applicant's own actions;*

Considering that the imposed hardship is a result of both timing and the changes to the new UDC, as they now apply to the property, the applicant's actions do not inculcate them, dismissing the actuality of a self-imposed hardship.

5. *That because of these conditions, the application of the UDC prohibition on the requested use on the subject property would effectively prohibit or unreasonably restrict the use of the property; and*

Without the approval of this Use Variance application, and in giving consideration to the facts laid out above, Optical Engines would not be able to utilize this property for their intended purpose, and as such would unreasonably restrict a successful business from expanding their operations.

6. *That the Use Variance is not being requested primarily to avoid the time or expense of complying with UDC standards generally applicable to similar properties and development.*

This Use Variance request, if approved will allow Optical Engines to expand their operations in a neighborhood that they have and continue to operate in. Without it, Optical Engines would be directed to expand their operations in either the Light Industrial or General Industry zone district.

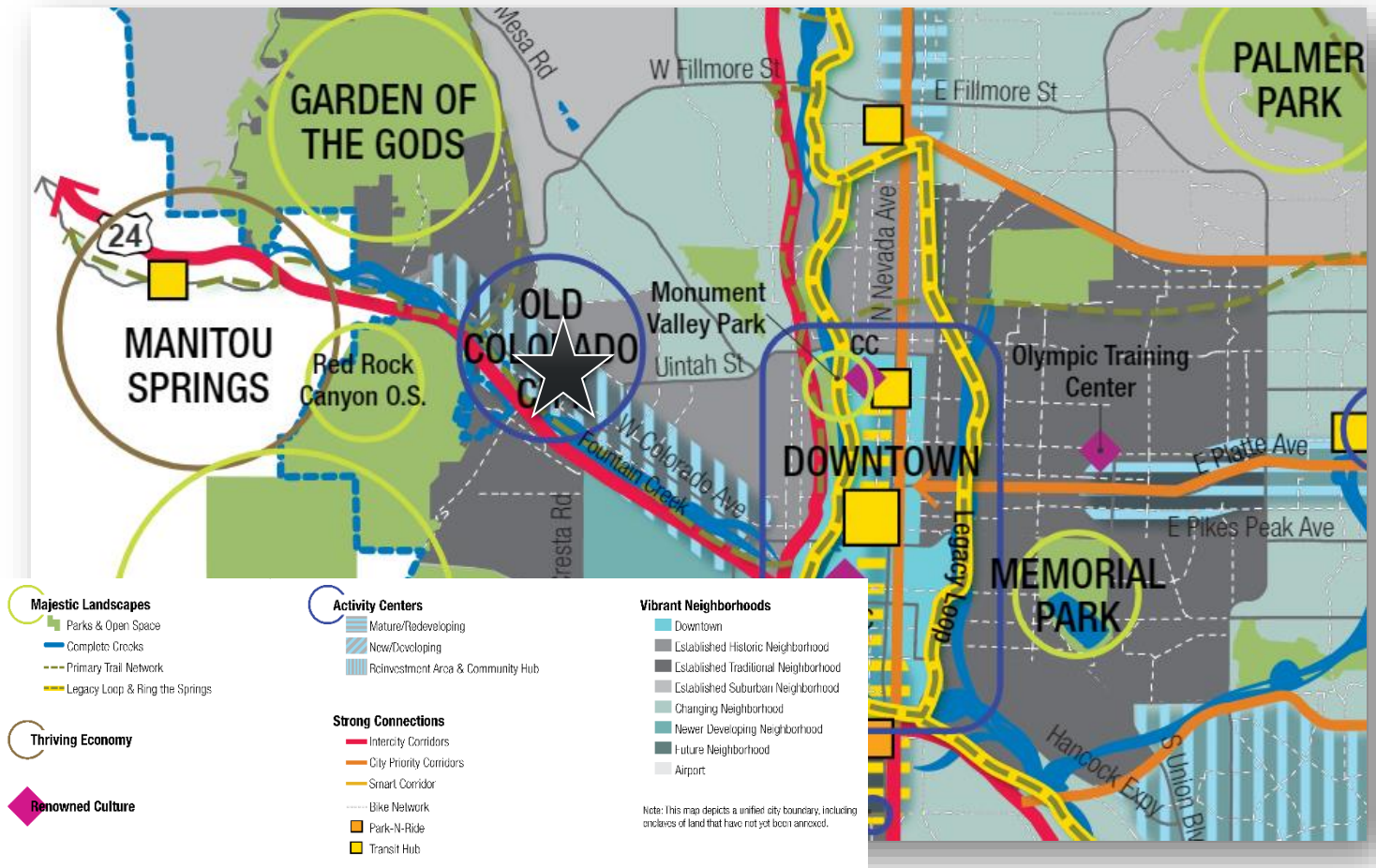
After careful evaluation of the Optical Engines Use Variance application, Planning Staff finds that the application meets the review criteria. It should be noted however that if approval is granted, the Use Variance shall apply exclusively to this use case only and will not grant all "Light Industrial" land uses on this property.

Compliance with Relevant Guiding Plans and Overlays

The subject property falls within the Colorado Avenue Far West subarea as identified by the 1980 Westside Plan Study Area map on page 4 of the Plan. Objectives for this subarea include ensuring the continuity of the existing commercial strip along W. Colorado Ave and utilizing successful economic methodology, established by Old Colorado City, to ensure harmonious integration with commercial activity in those areas along Colorado Ave. Additionally, overarching neighborhood objectives include encouraging infill development as well as encourage compatible land uses; the latter of which includes making "commercial and industrial uses, which presently contribute to the local employment base of the Westside" more visually compatible. On page 18 of the plan, this property is identified as being within the "Commercial – Office – Residential" land use category, which, according to the plan, requires careful consideration to ensure compatibility between surrounding uses. Considering the above, and directing attention to this proposal's mixed-use building program and pedestrian focused façade improvements, this proposal aligns with the goals and objectives of the 1980 Westside Plan Study Area.

Compliance with PlanCOS

PlanCOS Vision



The subject property falls within one of the City's Reinvestment Areas & Community Hubs as illustrated on the PlanCOS Vision map. It is within the old Colorado City Activity Center.

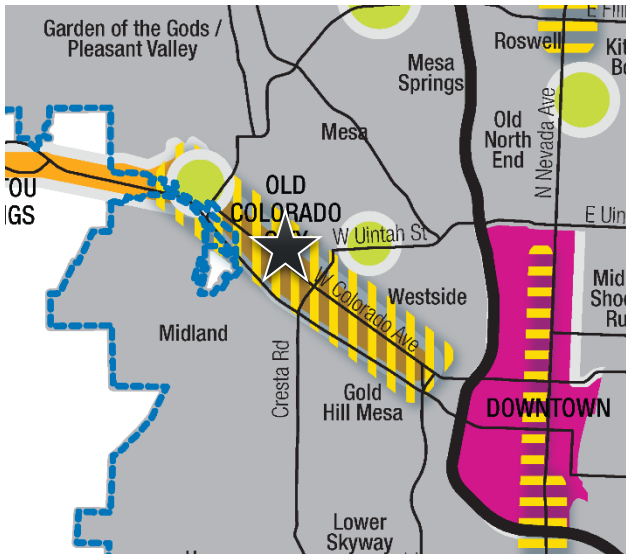


Predominant Typology

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

Vibrant Neighborhoods

The subject property falls within the Old Colorado City neighborhood, which is an Established Historic Neighborhood, as depicted by the PlanCOS Vibrant Neighborhoods Framework map. The goal of established neighborhoods is to “recognize, support, and enhance the existing character of these neighborhoods, while supporting their ongoing investment and improved adaptation.” Furthermore, this chapter provides policies and strategies specific to mixed-use areas. Some of which include, Policy VN-3.E: Encourage and Support the Integration of Mixed Use Development in Neighborhoods, and Strategy VN-3.E-1: Focus incentives for mixed-use development within parts of the City that have been identified as priority redevelopment areas or corridors that have the potential for enhanced multimodal access and walkability. Finally, Strategy VN-3.A-4: Modify City Code and create incentives to encourage redevelopment of underperforming buildings to include higher-density housing, mixed-use, civic services, gathering areas, and additional employment opportunities.

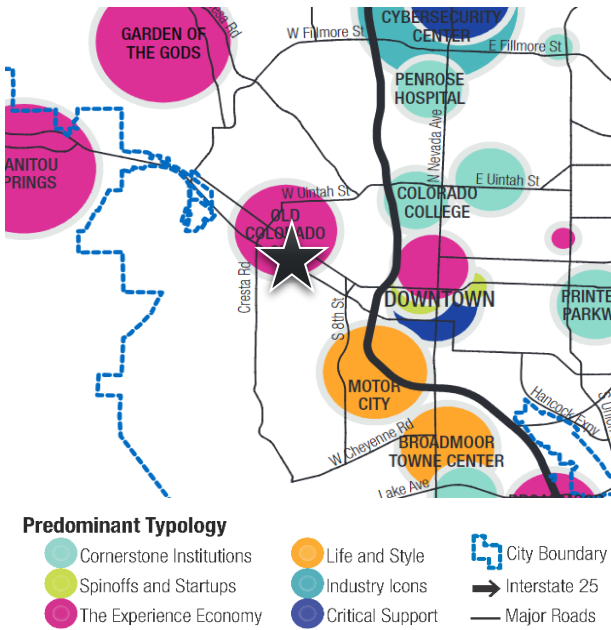


Predominant Typology

- 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

The subject property falls within the West Colorado Ave Reinvestment Area and Community Hub. Respective policies and strategies that relate include Policy UP-2.A: to Support infill and land use investment throughout the mature and developed areas of the city. In this regard, both strategies UP-2.A-1: Encourage the development or redevelopment of vacant properties in the core area of the city by using a combination of incentives, rezoning, and creative design solutions, and 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, apply. Finally, Strategy UP-4.B-1: Evaluate development applications in and around unique centers with particular attention to their contribution to the integration and mixing of uses, orientation to the public realm, and their support of connections with multimodal transportation.



Thriving Economy

The subject falls within the Experience Economy Typology. The goal of this typology is to support a variety of high quality existing and new attractions and related amenities for residents and visitors, appealing to a diverse mix of interests and incomes. Specifically applicable policies and strategies include: Policy TE-1.C: Leverage the city’s livability as a workforce and economic driver; Strategy TE-1.C-2: Support and leverage projects and initiatives with mixed uses, transit supported and walkable attributes to attract and retain a skilled workforce and business investment; and 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.

Statement of Compliance

UVAR-24-0001 Optical Engines Use Variance

After evaluation of the Optical Engines Use Variance application, Planning Staff finds that the application review criteria found in Section 7.5.527.E. to be met. This finding is specific to the low intensity, light industrial operation described in the project statement and does not allow any other light industrial uses.