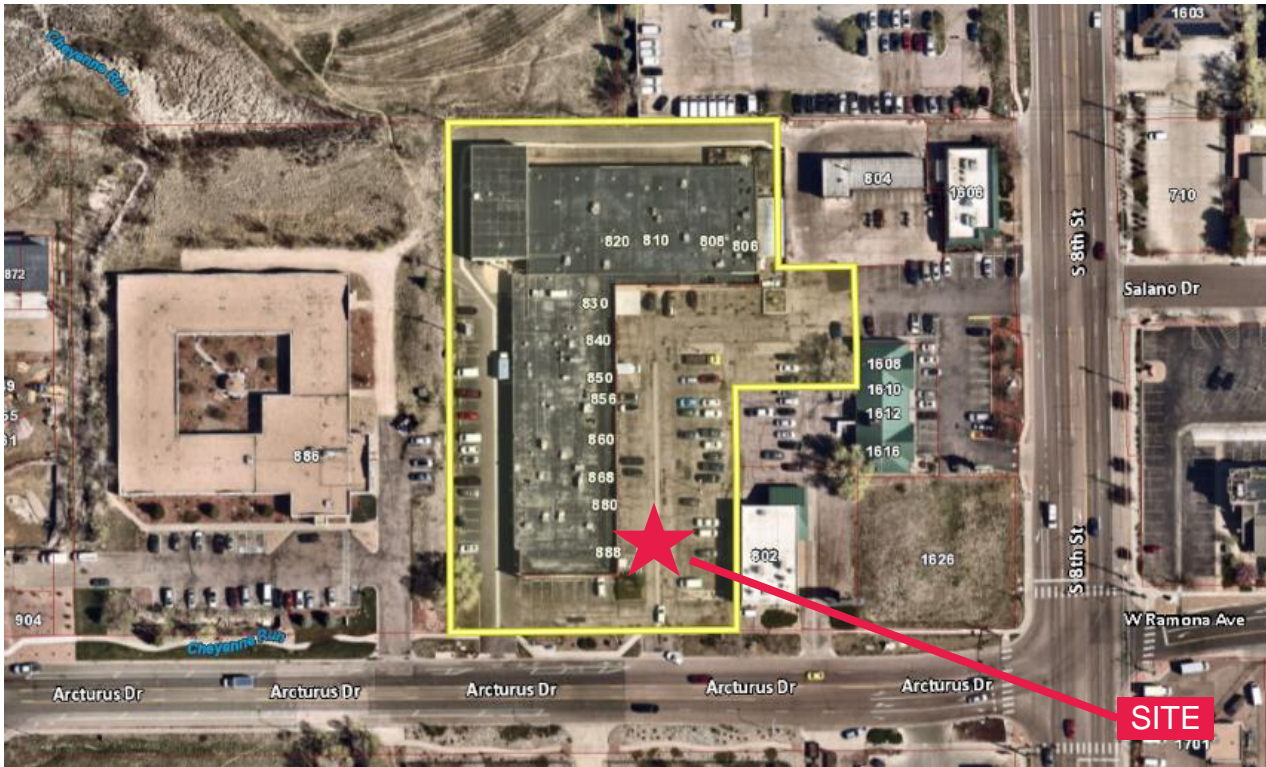




KING'S OHANA PET HOTEL AND SPA EXPANSION

Planning Commission October 9, 2024

Staff Report by Case Planner: Allison Stocker, AICP



Quick Facts

Applicant

Michelle King, Business Owner

Property Owner

KERIWEST USA LLC

Address / Location

808 Arcturus Street

TSN

7425203006

Zoning and Overlays

Current: MX-M

Site Area

2.6 Acres

Proposed Land Use

Animal Care Facility Expansion

Applicable Code

UDC

Project Summary

A Use Variance with a Land Use Statement to allow an existing Animal Care Facility to expand up to 10,000 square feet into adjacent vacant tenant spaces, no changes to the site are proposed. The over-all site consists of 2.6 acres, is in the MX-M (Mixed-Use Medium Scale) zone district, and located at 856 Arcturus Dr.

File Number

UVAR-24-0003

Application Type

Use-Variance with Land Use Statement

Decision Type

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	October 1980
Subdivision	Skyway Plaza Subdivision	December 1985
Master Plan	N/A	N/A
Prior Enforcement Action	N/A	N/A

Site History

This commercial center was established in 1966, prior to annexation into the City. Per the Applicant, the animal care facility was established over fifteen years ago, and more recently received a Conditional Use approval in 2016 (CPC CU 16-00120) to begin kennel services on site. Currently, the Applicant intends to expand their business into the vacant units adjacent to their business.

Due to the recent Unified Development Code adoption in February 2023, an Animal Care Facility use has become limited to Agricultural (A) zone district as a permitted use and Light Industrial (LI) and General Industrial (GI) zone districts as a conditional use. The current King's Ohana business is considered a legally non-conforming use in its current state, but the only way for the Applicant to expand their business legally is to pursue a use-variance application since the use is now prohibited in the Mixed-Use Medium Scale (MX-M) zone district.

Applicable Code

The subject application was submitted after the implementation date (06/05/2023) of the ReTool project, and as such, the application must be reviewed per the Unified Development Code guidelines. 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 / PDZ	Commercial	N/A
West	MX-M	Assisted Living Facility	N/A
South	MX-M	Self-Storage	N/A
East	MX-M	Misc. Commercial	N/A

Zoning Map:



Stakeholder Involvement

Public Notice

Public Notice Occurrences (Poster / Postcards)	Administrative Review / Prior to City Planning Commission
Postcard Mailing Radius	1000 feet
Number of Postcards Mailed	307 Postcards

Public Engagement

At the time of generating this staff report, Staff has not received any public comments on this proposal.

Timeline of Review

Initial Submittal Date	August 21st, 2024
Number of Review Cycles	1 Cycle
Item(s) Ready for Agenda	September 9th, 2024

Agency Review

This application was reviewed by a number of review agencies, including Colorado Springs Police Department, City Engineering, Colorado Springs Fire Review, Traffic Engineering, Colorado Springs Utilities, and other agencies as applicable. There were no concerns identified during the review period.

Use-Variance

Summary of Application

The proposed use variance would allow for an expansion of existing use, Animal Care Facility, to expand into adjacent vacant units within the commercial center. The current use of this tenant space has been on site for over fifteen (15) years. More recently in 2016, the Owner requested to expand their services to include overnight kenneling through a Conditional Use Permit (CPC CU 16-00120). Since the implementation of the UDC, the use would be considered a legally non-conforming use. However, with the implementation of the UDC, the animal care facility use is now a prohibited use in the MX-M (Mixed-Use Medium Scale) zone district. The only way the Applicant can legally expand their business is through either a use-variance application or through a zone change application.

At this time there are no proposed changes to the existing building’s exterior of the general site configuration. Only small interior remodeling will be required to accommodate the expansion into new tenant spaces. Since no changes are proposed to the exterior of the building and the site is an established commercial center, the Applicant was able to submit a land use statement in lieu of a land use plan per UDC Section 7.5.514.B3. No further Land Use Review applications are required as of this time.

Since this use-variance is being requested in order to support the expansion of an existing use, the application is not increasing the intensity within the site from what it was operating at previously.

Application Review Criteria

This application shall be reviewed based upon the review criteria set forth in Section 7.5.527. This Code Section states allowable situations for a use variance and the review criteria that must be met.

Section 7.5.527 Use Variance:

The subject application is required to meet all application review criteria as defined in Section 7.5.527. The project complies as described below:

Section 7.5.527.B states that a use variance is not applicable for the following situations:

1. Properties that have been subject to a rezoning request at any time in the past eighteen (18) months.
2. New construction or development on unimproved property.
3. A use of a higher intensity and less restriction than what is permitted in the established zone district of the subject property

This project does not meet any of the above exceptions as this is an existing building and use, and there have been no rezoning requests for this property.

Section 7.5.527.E defines that all use-variance applications must comply with the below review criteria:

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;

The proposed expansion of this use would otherwise be unavailable to the Applicant due to the recent changes to the Unified Development Code. These changes to the Code limit animal care facilities to only Light Industrial (LI) and General Industrial (GI) districts as conditional uses and in the Agricultural (A) as a permitted use. Per SpringsView zoning map, there are no properties within reasonable vicinity of the current location with those zoning districts. Under Chapter 7, this use would have been reviewed as a modification to the existing Conditional Use approval previously received for this site allowing animal care facilities.

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;

Due to the limitation of uses and the change in real estate market demands, it may be very challenging for this commercial center to maintain occupancy of its tenant units. The Applicant has indicated that the tenant space they hope to expand into has been vacant for a number of years. Allowing this existing business to expand into space that has been vacant would allow for full utilization of the building.

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;

A number of review agencies reviewed this project during the administrative review process. These agencies include Colorado Springs Police Department, the Colorado Springs Fire Department, and other agencies who ensure public welfare. No comments or concerns were acknowledged during this review. Additionally, this site has been used as an animal care facility for over 15 years, and in that time there were no complains raised.

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

The hardship faced by the Applicant is due to recent changes to the UDC. The UDC severely limits animal care facilities by only allowing them in zone districts that are inconvenient to their business model.

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

Denial of the subject use variance would restrict the use of the property by not allowing the expansion of an existing use. Alternative permitted locations for animal care facilities may be inconvenient and non-compatible with this use, which would impact the viability of these businesses.

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

The proposed use variance is the only available method to legally expand the animal care facility on site aside from pursuing a zone change application. A zone change to an industrial zone may not meet criteria within this already zoned area for residential and commercial uses. Otherwise, the animal care facility would have to seek out larger spaces in locations which may be inconvenient and detrimental to the business's ability to serve its current clientele.

Staff has determined that the subject application, the King's Ohana Pet Hotel and Spa Expansion Use Variance, meets the above review criteria.

Section 7.3.303 – Use-Specific Criteria:

In addition to the above application review criteria, animal care facilities are required to comply with Section 7.3.303 which defines use-specific standards for all animal care facilities. Of the three review criteria for animal care facilities, only one is relevant to this application's zone district (MX-M – Mixed-Use Medium Scale). This criteria states:

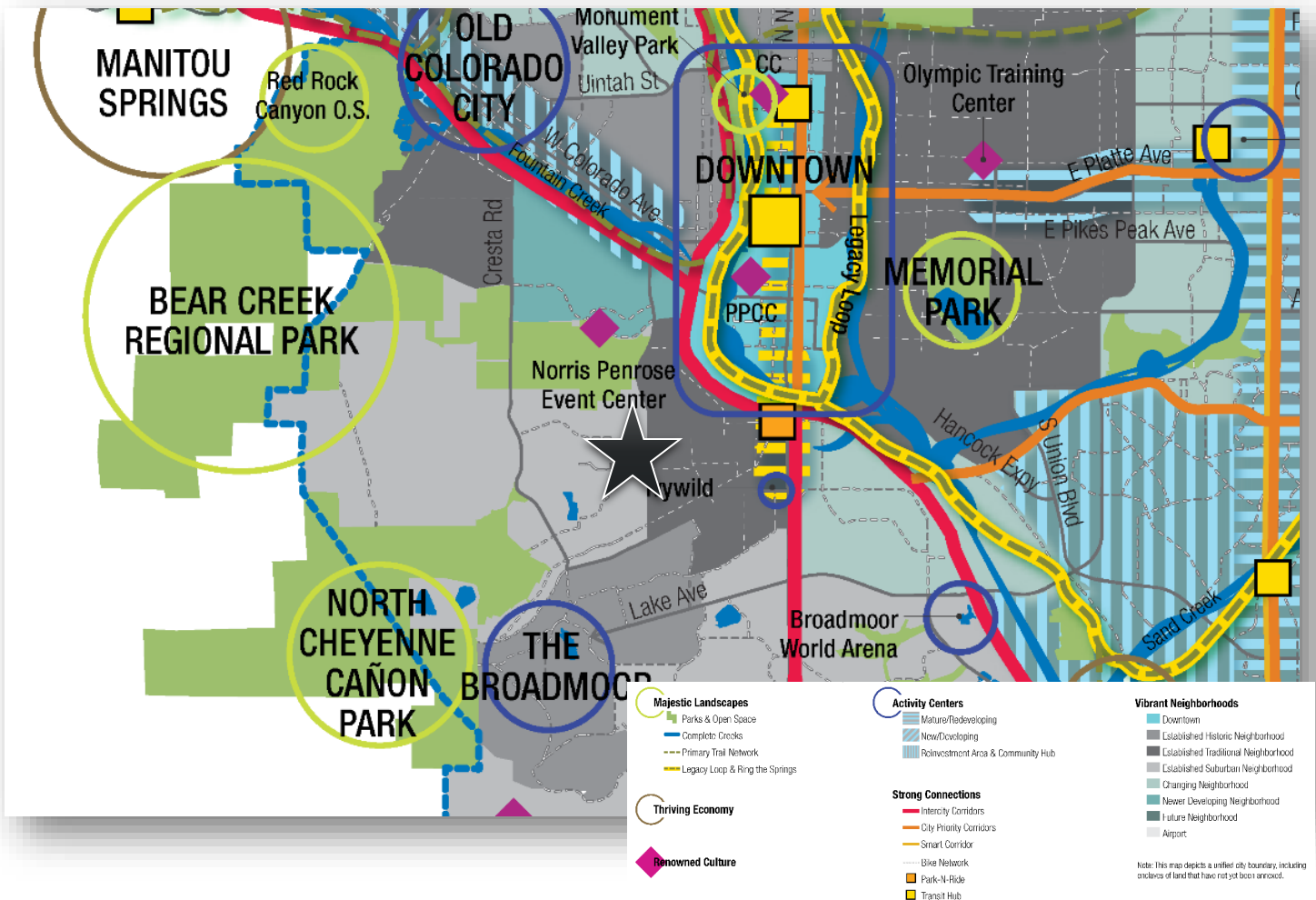
Each building and any associated animal run shall be constructed at least fifty-five (55) feet from any property line.

After review of the existing structure's building setbacks, it was determined that the animal care facility meets the required 55-foot setback to the east. The building setback to the southern property line is less than 55 feet, however because the Animal Care Facility intends to expand northward and the use is already established as a legally non-conforming use, the expansion of the Animal Care Facility will not further this non-compliance. This Animal Care Facility does not have any outdoor animal run areas. As such, the use meets all use-specific standards as outlined in the UDC.

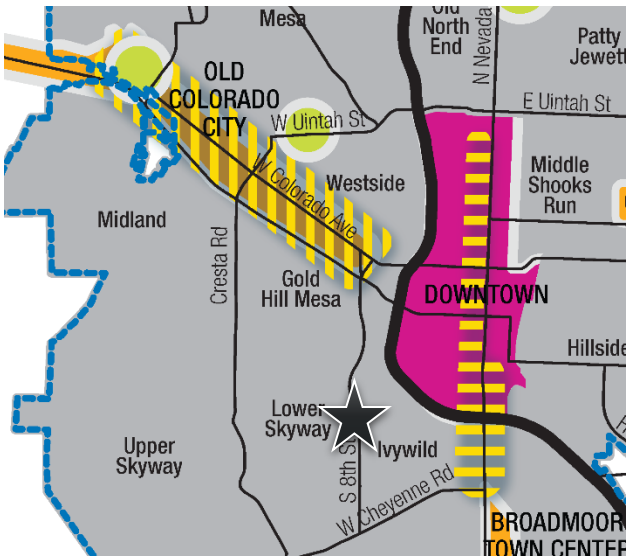
Compliance with Relevant Guiding Plans and Overlays

The subject property is not within any Master Planned areas or any overlay districts.

PlanCOS Vision



Within the PlanCOS Vision Map, this site is located within the Established Suburban Neighborhood typology. Neighborhoods within this typology are focused heavily on maintaining a suburban neighborhood character. The proposed expansion of an existing animal care facility fits within this typology as Animal Care Facilities are a service many residents want easy access to on a regular basis and have limited impact on its surroundings.



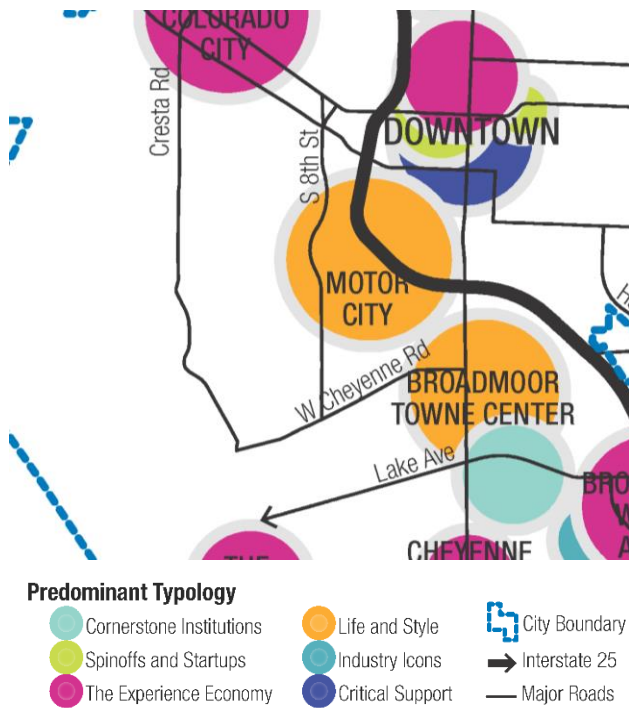
Predominant Typology

- | | |
|--|-------------------------------------|
| Neighborhood Centers | Mature/Redeveloping Corridors |
| Community Activity Centers | New/Developing Corridors |
| Entertainment and Commercial Centers | Reinvestment Area and Community Hub |
| Regional Employment and Activity Centers | |
| Downtown | |

Unique Places

This site is located with the Neighborhood Center typology. This typology is characterized by smaller scale development and business that provide amenities and services to residents. This project supports the below Policy by providing a useful service to the neighborhood in an existing neighborhood center.

Policy UP-2.A: Support infill and land use investment throughout the mature and developed areas of the city.



Thriving Economy

The project site is located on the edge of the Motor City “Life and Style” typology. This project is supporting the below Policy by utilizing existing tenant space that has historically had difficulty maintaining occupancy:

Policy TE-4.A: Prioritize development within the existing City boundaries and built environment (not in the periphery).

Statement of Compliance

UVAR-24-0003

After evaluation of the King's Ohana Pet Hotel and Spa Use Variance the application meets the review criteria.