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## ZBA-23-03

**To:** City of Pueblo Zoning Board of Appeals  
**From:** Bart Mikitowicz, Senior Planner  
**Through:** Scott Hobson, Land Use Administrative Official  
**Date:** 2/28/2023  
**Request:** **A Special Use Permit to allow a Mobile food vendor in a Historic Business (H-B) Zone District**  
**Site Location:** 318 S Union Ave, Pueblo, CO 81003  
**Legal Description:** LOTS 4-5-6-7 BLK 58 SOUTH PUEBLO FORMERLY 05-364-08-001  
**Year Built:** N/A  
**Applicant:** McKenzie Marquez  
**Property Owner:** South Union LTD  
**Zone District:** Historic Business (H-B) Zone District

### BACKGROUND AND ANALYSIS

The applicant, Ms. Marquez, would like to establish a mobile food unit in a Historic Business (H-B) Zone District. A Mobile food unit means retail food establishment that is not intended to be permanent and is a motorized wheeled vehicle, or a trailer that is licensed for use on public roadways, designed and equipped to serve food and beverages, operating in either a static or transitory location and serving the public. The sale and distribution of frozen milk, frozen dairy or ice confection products, candy gum or other confection products shall be permitted for mobile food units. This use is a Use-by-Review in a H-B zone district, and a Special Use permit is required to obtain a business license. The subject property 318 S. Union Ave. has been converted from a vacant parking lot to a shaded outdoor event area by the owners. The Special Use Permit in question is not for a single mobile food unit, rather for the parcel, therefore any licensed mobile food unit would be allowed to use that space with the permission of the owner.

318 S Union Ave is a ten thousand four hundred seventy-seven square foot (10,477 Sqft) vacant lot, that was previously used as surface parking. The parcel is located in downtown Pueblo in the South Pueblo subdivision. The applicant has converted the parking lot into what could be described as a mobile food court. The proposed mobile food court is a pedestrian centric space with four mobile food units, outdoor picnic tables, and shade structures. A Special Use Permit is required to operate a mobile food unit in the H-B zone district. The proposed use is intended to and will add pedestrian space and vitality to otherwise vacant parcel of land.

### ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Historic Business (H-B) Zone District	Commercial Shop and Residential Uses
East	Industrial (I-3) Zone District	Industrial Shop
South	Historic Business (H-B) Zone District	Commercial Shop
West	Historic Business (H-B) Zone District	Commercial Shop

### PUBLIC NOTICE

211 E D Street | Pueblo, Colorado 81003 | Tel: (719) 553-2259 | Fax: (719) 553-2611 | www.pueblo.us

The property was publicly noticed in accordance with Title 17 Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

**OTHER AGENCIES**

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	No comment
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	No comment
Pueblo Board of Water Works	No comment
City Wastewater Department	No comment
City Parks and Recreation Department	No comment

**CONDITIONS REQUIRED FOR LIMITED USE PERMIT**

1. Ingress and egress to property and proposed structures thereon with reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

**Comments: Neutral finding. There is a large front gate entrance for pedestrians. There is a 20-foot entrance in the back by the alley that will allow fire department access. However, by design, there is no indication of automotive traffic flow, circulation, or parking on site plans.**

2. Off-street parking and loading areas where required, with particular attention to the economic noise, glare or odor effects of the use by review on adjoining properties and properties generally in the district.

**Comments: Neutral finding. There is public parking on Union Ave, to the north in the City owned parking lot, and approximately seven spaces in the alley. There is also an additional parking lot next to 326 S. Union, Tsunami. However, none of these sites provide off street parking on the subject parcel.**

3. Refuse and service areas, with reference to the items above.

**Comments: Affirmative finding. All refuse is collected and maintained on-site; the current trash collection service is adequate for this use. Refuse areas will require screening.**

4. Utilities, with reference to the location's availability and compatibility.

**Comments: Affirmative finding; utilities are established.**

5. Screening and buffering with reference to type, dimensions, and character.

**Comments: Affirmative finding. While screening of the site was originally proposed for the development, the Historic Planning Commission (HPC) decided it would not be appropriate (HPC-22-21) for the site and denied the proposed fabric screen installation.**

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect and compatibility and harmony with properties in the district.

**Comments: Affirmative finding; any proposed signs must be approved by the HPC and conform with the Pueblo Historic Business District Guidelines.**

7. Required yards and other open space.

**Comments: Affirmative finding. The subject parcel is designed as a pedestrian space; required yards and open spaces will not be affected.**

8. General compatibility with adjacent properties and other properties in the district.

**Comments: Neutral findings. The proposed use is intended and will add pedestrian space and vitality to otherwise vacant parcel of land. A potential for noise externalities does exist as the site will be an outdoor gathering place for eating and drinking. There is at least one residential unit located north of the adjacent City owned surface parking lot, no residential units are located directly adjacent to the proposed mobile food unit court.**

#### **PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

If the Board chooses to approve this Special Use Permit staff recommends Standard Permit Conditions 1 through 13 and the following staff conditions.

1. Outdoor storage, trash collection, shall be screened according to section 17-4-5, (5), (c),;due to their visual and noise impacts onto adjacent properties and visitors to the site, shall be screened recessed or enclosed.
2. Hours of Operation limited from 8:00 AM to 11:00 PM

#### **SEC. 17-4-51, (e) (27) a., c., d., f.**

3. Shall comply with all requirements of local, state and federal law including without limitation City business license and permit requirements, state and local requirements related to retail food establishments, state and local prohibitions on the sale or service of marijuana or alcohol, noise restrictions, signage restrictions, traffic and parking requirements and all requirements and limitations herein set forth.
4. Shall keep the sidewalks, roadways, and other spaces adjacent to the mobile food unit clean and free of paper, peelings and other refuse of any kind generated from the operation of the mobile food unit. All trash or debris accumulating within twenty-five (25) feet of any mobile food unit shall be collected by the operator of the mobile food unit and deposited in a trash container maintained by the operator in good condition and constructed of non-corrodible and watertight material, sufficient to hold the refuse generated by the business. Such container shall be removed by the operator whenever the mobile food unit moves to another location or at the close of business.
5. Only pedestrian service shall be allowed, and no vehicle or drive-thru service shall be permitted.
6. Mobile food units may operate on private property within the districts in which the use is approved provided they comply with the following requirements and limitations:
  - a. The operator of the mobile food unit shall obtain prior written permission from the owner of the private property and shall have said written permission available for inspection at all times; and
  - b. The mobile food unit shall be parked on a paved or suitable maintained surface outside any designated fire lane and outside the sight distance triangle as that term is defined in Title XVII of this Code.

**ATTACHMENTS**

- A. Standard Permit Conditions
- B. Site Map
- C. Aerial Map
- D. Zoning Map
- E. Comprehensive Plan Map
- F. Public Notice Photo
- G. Site Photographs
- H. Application
- I. Supporting documentation.

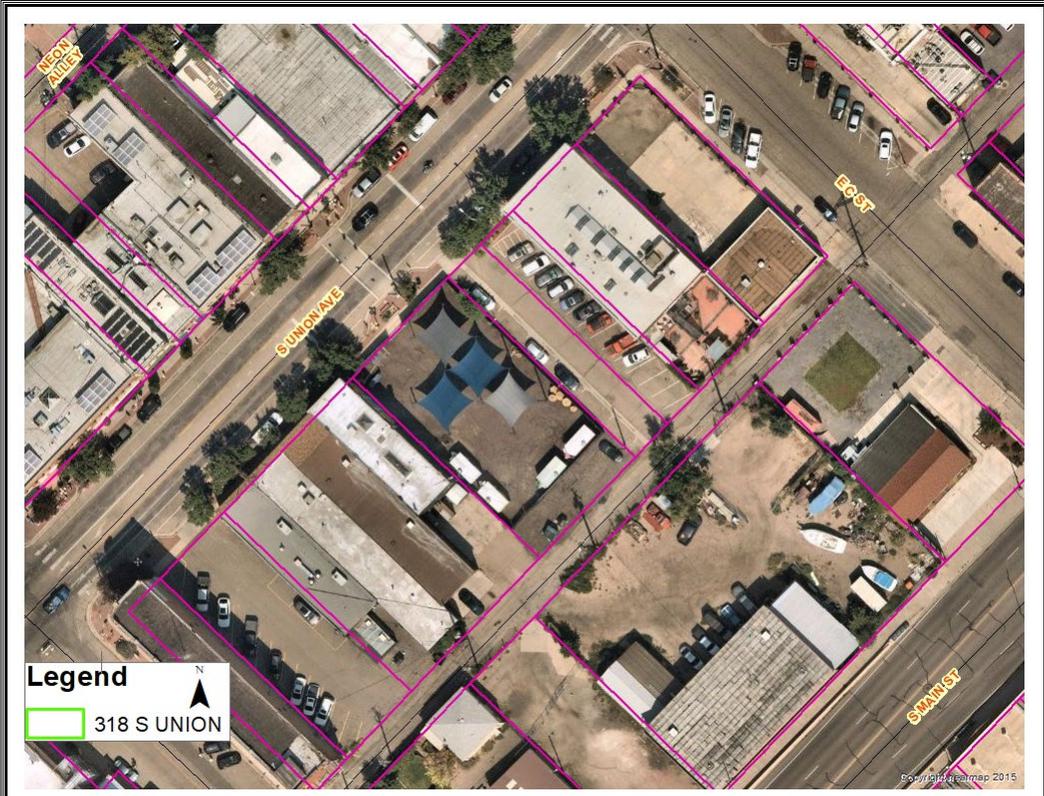
**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>2/28/2023</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>2/28/2024</b>
2.	<b>Required Revisions</b> Any revisions or additions to plans required as a result of approval must be submitted and stamped “approved” prior to the sign-off of the building permit routing slip or business license.
3.	<b>Changes</b> The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
4.	<b>Property Inspection</b> By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
5.	<b>Certificate of Occupancy</b> A certificate of occupancy must be issued by Regional Building <u>PRIOR</u> to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
6.	<b>Completion and Maintenance of Improvements and Landscaping</b> Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased, or dies shall be replaced by similar species and size no later than the first available planting season.
7.	<b>Building Permit; Other Permits</b> Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	<b>Off-Site Drainage</b> Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
9.	<b>Appeals</b> of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done <u>SOLELY</u> at the risk of the Permit holder.
10.	<b>Errors</b> Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
11.	<b>Transfer of Ownership</b> In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
12.	<b>Violations/Penalties</b> A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
13.	<b>Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals.</b> This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.

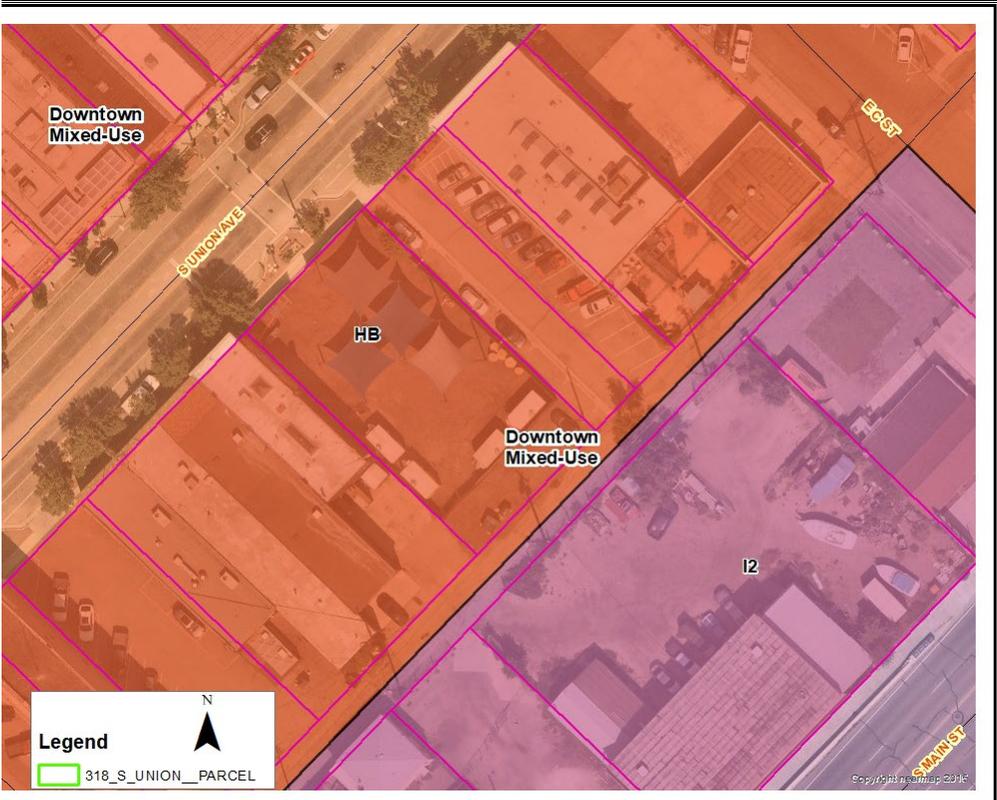
Exhibit B. Site Map



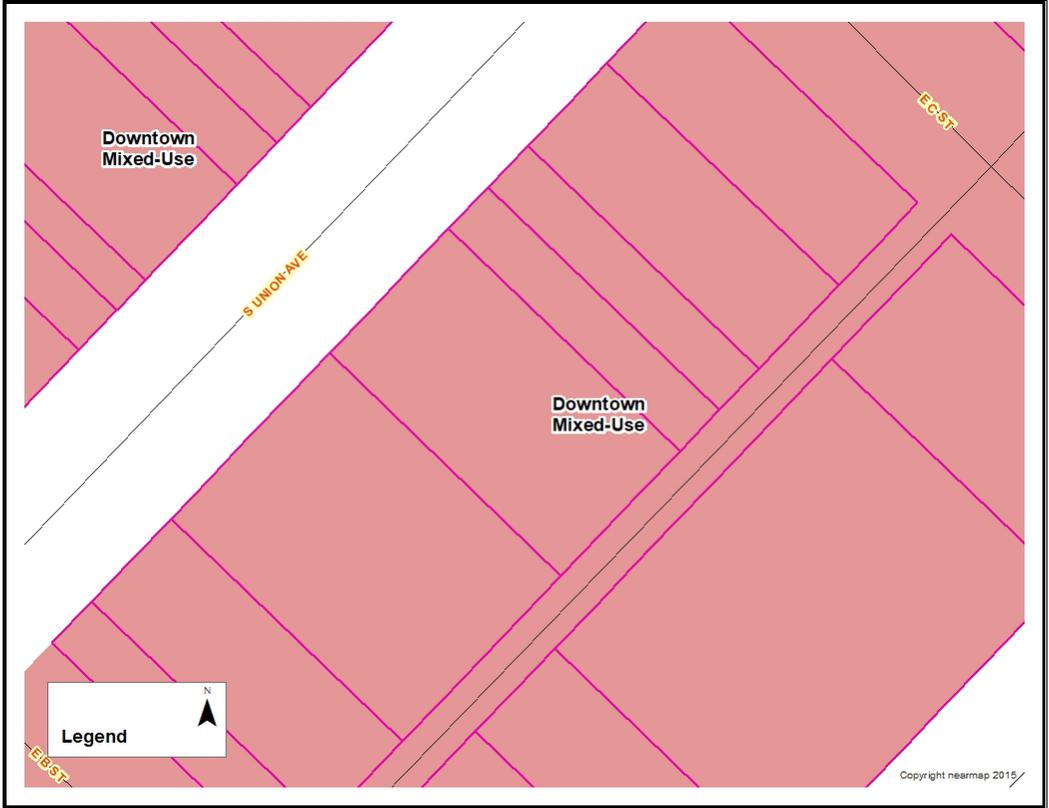
Exhibit C. Aerial Map



**Exhibit D. Zoning Map (Zoning Map Amendments Recommended)**



**Exhibit E. Comprehensive Plan Map**



**Exhibit F. Public Notice**



**Exhibit G. Site Photos**



### H. Application



01/17/2023

#### 23-11

Zoning Board of Appeals - Special Use Permit & Variances

**Status:** Active

**Date Created:** Jan 15, 2023

**Applicant**

McKenzie Marquez  
mckenzie\_marquez@msn.com  
1022 Fortino blvd #9061  
Pueblo, Colorado 81008  
7192480663

**Primary Location**

318 S UNION AVE  
PUEBLO, CO 81003

**Owner:**

BORUNDA HENRY  
1 ROCKBRIDGE LN PUEBLO , CO 81001-1306

**Internal**

**ZBA Case Number**  
ZBA-23-03

**Planner Assigned**  
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**ZBA**

**Hearing Date**  
02/28/2023

**Hearing Results**  
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**Board Conditions**  
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**Appeal Term End Date**  
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**Permit Completion Date**  
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**Specially Requested Hearing**

**Public Notice**

**Number of Posters**  
--

**Number of Postcards Sent**  
--

**Cost of Newspaper Notice**  
--

**Public Notice Costs**  
0

**Other Fees:**  
--

**Public Notice costs must be paid by:**  
--

**Public notice zoning poster must be displayed BY:**  
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**Public Notice zoning poster must be displayed UNTIL:**  
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**Is a 1-year inspection required?**  
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Exhibit I. Supporting Documents

