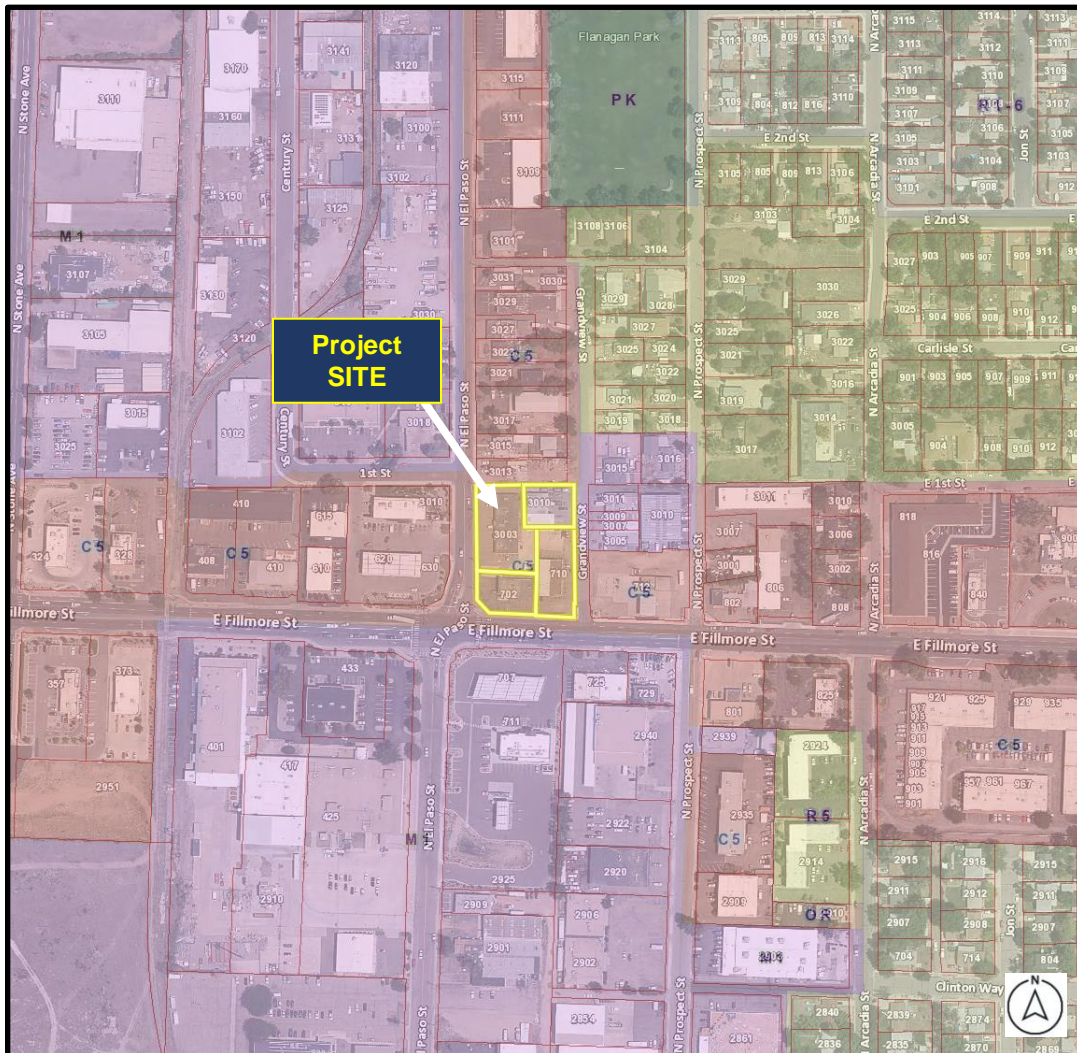


**CITY PLANNING COMMISSION AGENDA  
October 12, 2022**

**STAFF: TAMARA BAXTER**

**FILE NO(S):**  
**ZONE-22-0007 – QUASI-JUDICIAL**  
**DEPN-22-0074 – QUASI-JUDICIAL**

**PROJECT: BURGERWORKS EAST FILLMORE STREET**  
**OWNER: CENTERPOINTE REAL ESTATE GROUP, LLC**  
**DEVELOPER: BURGERWORKS, LLC**  
**CONSULTANT: NES, INC.**



### **PROJECT SUMMARY:**

1. Project Description: The project includes concurrent applications for a zone change and development plan to allow for a future fast-food restaurant located at the northeast corner of North El Paso Street and East Fillmore Street. The project is zoned C-5/M-1 (Intermediate Business/Light Industrial) and consists of 1.273-acres. The rezone will be from C-5/M-1 (Intermediate Business/Light Industrial) to C-5 (Intermediate Business) (see **“Zone Change Exhibit” attachments**). The development plan illustrates a fast-food restaurant with ancillary site improvements (see **“Development Plan” attachment**).

A concurrent final subdivision plat application is being administratively reviewed.

2. Applicant’s Project Statement: (see **“Project Statement” attachment**)
3. Planning and Development Team’s Recommendation: Staff recommends approval of the applications.

### **BACKGROUND:**

1. Site Address: The property addresses include 3003 North El Paso Street, 702 East Fillmore Street, 710 East Fillmore Street and 3010 Grandview Street.
2. Existing Zoning/Land Use: The properties are zoned C5 (Intermediate Business) and M-1 (Light Industrial) and are improved with various commercial buildings.
3. Surrounding Zoning/Land Use:
  - North: C-5 (Intermediate Business) and is developed as a commercial business.
  - South: East Fillmore Street and M-1 (Light Industrial) and is development as a convenience food sales (gas station).
  - East: C-5 (Intermediate Business) and is development as a convenience food sales (gas station).
  - West: C-5 and M-1 (Intermediate Business and Light Industrial) and developed as a convenience food sales (gas station) and commercial business.
4. PlanCOS Vision: According to the PlanCOS Vision Map (see **“PlanCOS Vision Map” attachment**), the project site is identified as a ‘Changing Neighborhood’.
5. Annexation: The properties were annexed into the City under the following annexations: Korklin Addition (June 1, 1970; ordinance unknown); Anton Nelson’s Addition (January 1, 1964; ordinance unknown); and No. Colorado Springs Addition #2 (January 27, 1970; Ord. 3967).
6. Master Plan/Designated Master Plan Land Use: The properties are not part of a master planned area.
7. Subdivision: The properties were originally platted as Block K, The Colorado Springs Companys Subdivision (June 29, 1919). A waiver of replat was approved by the City in 2007 (City File No. CPC WR 07-273) for three of the four properties.
8. Zoning Enforcement Action: None.
9. Physical Characteristics: The properties are improved with older commercial buildings. The properties are flat with no vegetation.

### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public notification process consisted of providing notice to the surrounding property owners within 1,000 feet of the site, which included mailing postcards to 147 property owners on two occasions; during the initial review and prior to the Planning Commission hearing. The site was also posted during the two occasions noted above.

City Planning staff received five (5) written comments, one (1) in favor and four (4) in opposition expressing general concerns of too many fast-food restaurants in the area; traffic flow and congestion along East Fillmore Street; busy and dangerous intersection at North El Paso Street and East Fillmore Street; and safety of residents (children and elderly) north of the project site from 'cut through' the neighborhood (**see "Public Comment" attachment**). The applicant provided a written response to the received public comments (**see "Public Comment Response" attachment**). No follow-up correspondences from the public were received.

Staff input is outlined in the following sections of this report. Staff sent copies of the plan set and supporting documentation to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, and City Stormwater Enterprise. Prior to a public hearing by City Council, technical modifications are necessary to address City Traffic, City Engineering, Landscape Reviewer and Planning minor comments (discussion of this will be provided later in this report).

- Traffic Engineering – City Traffic Engineering Department agreed with the Traffic Impact Study findings and recommendations for a future fast-food restaurant at this location. Traffic does request that the following general note be included on the plan to address any future operational problems and safety concerns that may occur at the intersection of East Fillmore Street and Grandview Street.  
*"The City maintains the rights to modify or restrict the intersection of Fillmore Street/Grandview Street due to safety concerns or operational problems."*
- City's Stormwater Enterprise Division (SWENT) – SWENT indicated that the Final Drainage Report has not been finalized and should be approved prior to this project being considered at a public hearing by City Council. In addition, any plan related changes required per the Final Drainage Report shall be addressed and approved by SWENT prior to City Council consideration.

#### **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

##### 1. Review Criteria / Design & Development Issues:

###### a. Application Summaries

###### i. Zone Change

The request will rezone 1.273-acres from C-5/M-1 (Intermediate Business/Light Industrial) to C-5 (Intermediate Business), specifically to consistently zone all the parcels associated with the project. Three of the parcels were rezoned from M-1 (Light Industrial) to C-5 (Intermediate Business) in 2008 (Ordinance No. 08-24). The fourth parcel remained zoned M-1 (Light Industrial). Since this project encompasses all four existing parcels, the rezone of the 1.273-acres will combine all of the parcels to be encompassed by the C-5 (Intermediate Business) zone district. (**see "Zone Change Exhibit" attachment**)

The request to rezone the property to C-5 (Intermediate Business) will allow for the development of a future fast-food restaurant, which is a permitted commercial use in the C-5 (Intermediate Business) zone district (City Code Section 7.3.203). The zone change is consistent with the established parameters of the C-5 (Intermediate Business) zone district which provides for moderate commercial intensity established near residential zoning. The adjacent uses along East Fillmore Street include commercial and industrial uses with nearby residential neighborhoods.

The overall area impacts of the project were analyzed through staff's review of the zone change request in accordance with the review criteria for changing a zone district, as set forth in City Code Section 7.5.603(B) and found to be consistent.

ii. Development Plan

An accompanying Development Plan was reviewed in conjunction with the zone change request for the establishment of a future fast-food restaurant. **(see “Development Plan” attachment)** The proposed project complies with the development standards established for the C-5 (Intermediate Business) zone district (City Code Section 7.3.204). No relief from these standards have been requested. The development plan for the project have been reviewed using the criteria established in City Code Section 7.5.502(E). In addition, the project meets site development standards such as off-street parking and required landscape standards for commercial development. The project has provided parking spaces per City Code Section 7.4.203 (Parking Space Requirements). The project has requested and qualifies for parking reduction of one space as the property is located four hundred feet (400') by direct pedestrian of a public transit stop along East Fillmore Street allowing a 5 percent parking reduction per City Code. Parking has been provided per City Code parking standards.

The existing driveway off East Fillmore Street will be removed and two access points are proposed off Grandview Street for this project. The northerly access drive provides a through connection between North El Paso Street and Grandview Street. The City's Traffic Engineering Division reviewed the Traffic Impact Study that was submitted and agreed with the findings and recommendations of the memorandum.

a. Drainage

The Final Drainage Report is still being reviewed and under consideration by the City's Stormwater Enterprises Division and has not received final approval. Prior to this project being scheduled for a public hearing to City Council, the Final Drainage Report and all related plan changes will need to be approved by Stormwater Enterprise. The applicant team is aware that final approval of the drainage report may result in site changes.

City Planning staff finds that the proposed project addresses most of the applicable review criteria set forth in City Code for the development plan. The following condition of approval and technical modifications will need to be addressed prior to this project being schedule for a City Council hearing:

1. The Final Drainage Report and related plan changes must be accepted and approved by City's Stormwater Enterprise.
2. The following technical modifications shall be completed:
  - a. Change the proposed Bakeri Blue Spruce to Austrian or Ponderosa Pines and provide landscape treatment in the area. Revise the drip layout based on the vegetation change.
  - b. The proposed building height measurements provided on the elevation sheets should be reflected on the cover sheet.
  - c. Add the following note to the General Notes information block on the plans cover page: *“The City maintains the rights to modify or restrict the intersection of Fillmore Street/Grandview Street due to safety concerns or operational problems.”*
  - d. Call out whether curb on the inside of existing sidewalk along North El Paso Street and East Fillmore Street will be removed or remain in place.
  - e. Call out the width (must be 24'-36') of the middle access point along Grandview Street.
  - f. Along the northeastern access point, show sidewalk wrapping around back of apron (similar to the west access).
  - g. Consider direct sidewalk connection to avoid multiple turns of sidewalk along Grandview Street.

b. Conformance with the City Comprehensive Plan:

Staff has evaluated the proposed project for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. According to the PlanCOS Vision Map (see "**PlanCOS Vision Map**" attachment), the project site is identified as a Changing Neighborhood. Changing Neighborhoods "*primarily include existing neighborhoods that have the potential or need for City attention, reinvestment, and land use changes.*"

This project is consistent with core values of PlanCOS, which reinforces the important of encouraging the infill development proposals. The following "Big Ideas" from PlanCOS which provided the basis of the goals/vision themes of the PlanCOS pertain to the proposed project. These include the following:

- Chapter 2 entitled "Embrace Creative Infill, Adaptation, and Land Use Change" which has Goal UP-2, which states "*Embrace thoughtful, targeted, and forward-thinking changes in land use, infill, reinvestment, and redevelopment to respond to shifts in demographics, technology, and the market.*"
  - Policy UP-2.A in Chapter 2: "*Support infill and land use investment throughout the mature and developed areas of the city.*"
- Chapter 4 entitled "Expand our Base", has Goal TE-2, which states:
  - "*Diversify the local economy by fostering a range of business types and sizes.*"
- Chapter 4 entitled "Embrace Sustainability", which has Goal TE-4 that states:
  - "*Focus on productively developing and redeveloping areas already in, nearby, or surrounded by the city in order to preserve open spaces, maximize investments in existing infrastructure, limit future maintenance costs, and reduce the impacts of disinvestment in blighted areas.*"
  - A policy [Policy TE-4.A] for this goal further reinforces that development should "*Prioritize development within the existing City boundaries and built environment (not in the periphery).*"

c. Conformance with the Area's Master Plan:

There is no master plan for this area of the proposed site. Nonetheless, City Planning staff finds the Burgerworks East Fillmore Street project to be complimentary and supportive of the long-range vision for the North Nevada/Studio neighborhood. (see "**Context Map**" attachment) The overall area impacts of the project were analyzed based on the applicable review criteria in City Code for a zone change and development plan.

**STAFF RECOMMENDATION:**

**ZONE-22-0007 – Zone Change**

Recommend approval to City Council the zone change for 1.273-acres from M1/C5 (Light Industrial and Intermediate Business) to C5 (Intermediate Business), based upon the findings that the zone change meets the review criteria as set forth in City Code Section 7.5.603(B), with the following condition of approval:

1. Prior to City Council public hearing the Final Drainage Report must be accepted and approved by the City's Stormwater Enterprise.

**DEPN-22-0074 – Development Plan**

Recommend approval to City Council the development plan for the Burgerworks East Filmore Street project, based upon the findings that the request meets the review criteria for a development plan, as set forth in City Code Section 7.5.502(E) with the following conditions of approval and technical modifications:

1. Prior to the City Council public hearing the Final Drainage Report and related plan changes must be accepted and approved by the City's Stormwater Enterprise.
2. The following technical modifications shall be completed prior to the City Council public hearing:
  - a. Change the proposed Bakeri Blue Spruce to Austrian or Ponderosa Pines and provide landscape treatment in the area. Revise the drip layout based on the vegetation change.
  - b. The proposed building height measurements provided on the elevation sheets should be reflected on the cover sheet.
  - c. Add the following note to the General Notes information block on the plans cover page:  
*"The City maintains the rights to modify or restrict the intersection of Fillmore Street/Grandview Street due to safety concerns or operational problems."*
  - d. Call out whether curb on the inside of existing sidewalk along North El Paso Street and East Fillmore Street will be removed or remain in place.
  - e. Call out the width (must be 24'-36') of the middle access point along Grandview Street.
  - f. Along the northeastern access point, show sidewalk wrapping around back of apron (similar to the west access).
  - g. Consider direct sidewalk connection to avoid multiple turns of sidewalk along Grandview Street.