



BY ORDER OF THE HEARING OFFICER

IN THE MATTER OF HO NV 97-00121, a request by Lightle and Fennell Architecture on behalf of Joseph E. Coleman for approval of a variance to Section 14.1-3-203:A (Table 3.2.1-Nos. 18 and 22) of the City Code to allow the provision of twenty-seven (27) off-street parking spaces where sixty-five (65) off-street parking spaces are required to convert an existing warehouse building into a restaurant and micro-brewery in a C-5 (Intermediate Business) zone consisting of 0.81 acres located northeast of Tejon Street and Ramona Avenue at 1645 South Tejon Street (The Blue Star Restaurant-Bristol Brewing Company).

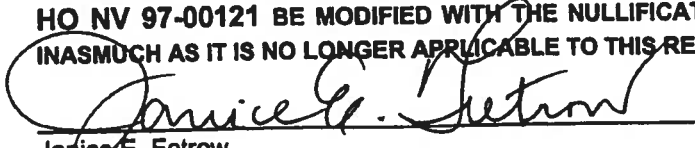
A public hearing was held on Wednesday, June 18, 1997, 9 a.m., in Council Chambers, 30 South Nevada Avenue. One (1) of the condition(s) of approval set forth in the Record-of-Decision (Exhibit B) concerned the recording of a parking agreement between the owner of the Blue Star Restaurant, Joseph Coleman, and the All Star Rental, Inc./U-Haul business at 1644 South Tejon Street. Said parking agreement authorized the use of twenty (20) off-site parking spaces at the U-Haul property for valet parking services and/or employees of The Blue Star Restaurant-Bristol Brewing Company only on an as-needed basis. Said parking agreement was limited to a period of one (1) year at which time it would be reviewed and modified if necessary (Exhibit C).

Several weeks subsequent to the final agency action date of this decision the Hearing Officer was notified by Virginia Dorr that this condition (number (7) (a)-Record-of-Decision) was invalid since Chris Smith, the lessee of the U-Haul property at 1644 South Tejon Street, was not authorized to enter into a parking agreement with Joseph Coleman (Exhibit D). A copy of a facsimile transmission from the President of U-Haul Company of Colorado was attached to the letter from Virginia Dorr (Exhibit E).

INASMUCH as the parking variance for The Blue Star-Restaurant-Bristol Brewing Company was predicated entirely upon the total number of off-street parking spaces available at the business location at 1645 South Tejon Street, the information contained in the letter from Virginia Dorr and the President of U-Haul Company of Colorado is of no consequence to the decision of the Hearing Officer. The agreement to secure off-site parking spaces at the All Star Rental, Inc./U-Haul business at 1644 South Tejon Street was merely offered by Joseph Coleman as an alternative parking arrangement. These off-site spaces were neither included in the description of the request (blurb) nor were they included in the calculations for total number of parking spaces provided.

Consequently, while the parking agreement was accepted as evidence of a good faith effort by Joseph Coleman to explore the feasibility of providing additional parking, its existence had no bearing on the decision of the Hearing Officer. The parking variance was granted because the Hearing Officer found the three (3) criteria set forth in Section 14.1-4-902:B of the Code of the City of Colorado Springs 1980, as amended, were met.

THEREFORE IT IS HEREBY ORDERED THAT THE RECORD-OF-DECISION FOR HEARING OFFICER FILE NUMBER HO NV 97-00121 BE MODIFIED WITH THE NULLIFICATION AND DELETION OF CONDITION NUMBER (7) (a) INASMUCH AS IT IS NO LONGER APPLICABLE TO THIS REQUEST.


Janice E. Fetrow
Municipal Court Hearing Officer


Date

c: File: HO NV 97-00121

(page 1 of 1)

EXHIBIT A

**CITY OF COLORADO SPRINGS
RECORD-OF-DECISION FOR A NON-USE VARIANCE**

FILE: HO NV 97-00121

HEARING DATE: JUNE 18, 1997

INFORMATION

Name of Applicant: Lightle and Fennell Architecture on behalf of Joseph E. Coleman

Address of Premises Involved: 1645 South Tejon Street

Zone District: C-5

Tax Schedule Number: 64302-01-022

Request: Approval of a variance to Section 14.1-3-203:A (Table 3.2.1--Nos.18 and 22) of the City Code to allow the provision of twenty-seven (27) off-street parking spaces where sixty-five (65) off-street parking spaces are required to convert an existing warehouse building into a restaurant and micro brewery (The Blue Star--Bristol Brewing Company).

STAFF ANALYSIS

CRITERIA TO GRANT A NON-USE VARIANCE

		CRITERIA MET	CRITERIA NOT MET
1. 14.1-4-902:B.1.	Exceptional or Extraordinary Conditions		X
2. 14.1-4-902:B.2.	No Reasonable Use of Property		X
3. 14.1-4-902:B.3.	No Adverse Impact to Surrounding Property		X

Staff Recommendation: Denial as Submitted (Matz)

PUBLIC HEARING

Applicant Present: Jim Fennell, 619 North Cascade Avenue, Colorado Springs, CO 80903
Joseph Coleman, 2802 West Colorado Avenue, Colorado Springs, CO 80904

Property Posted: Yes

Present in Support: Lisa Teopp, 4290 Broadmoor Bluffs Drive, Colorado Springs, CO 80906

Present in Opposition: Gary Schnakenberg, 34 East Ramona Avenue, Colorado Springs, CO 80906
Virginia Dorr, 35 East Ramona Avenue, Colorado Springs, CO 80906
Ray Dorr, 35 East Ramona Avenue, Colorado Springs, CO 80906
David Clark, Pastor, 1620 South Tejon Street, Colorado Springs, CO 80906

DECISION OF HEARING OFFICER

CRITERIA TO GRANT A NON-USE VARIANCE

		CRITERIA MET	CRITERIA NOT MET
1. 14.1-4-902:B.1.	Exceptional or Extraordinary Conditions	X	
2. 14.1-4-902:B.2.	No Reasonable Use of Property	X	
3. 14.1-4-902:B.3.	No Adverse Impact to Surrounding Property	X	

The Hearing Officer cites the following findings of fact: Based upon the evidence and testimony presented, the Hearing Officer finds the three (3) criteria are met; therefore, the request is approved with the following condition(s):

- (1) parking variance is granted to Joseph E. Coleman only for the proposed operation of the Blue Star Restaurant--Bristol Brewing Company at 1645 South Tejon Street. In the event that either business ceases to exist at this location, the parking variance shall be null and void,
- (2) transfer of ownership or sale of the property at 1645 South Tejon Street shall terminate the right to said parking variance and invalidate the approved site plan. Future use of the property shall be in accordance with all applicable provisions and regulations of the zone district in which such property is classified at the time of termination,

EXHIBIT B

(Page 1 of 2)

FIGURE 9

(3) square footage allotments for each business shall remain as follows:

- restaurant seating = 800 square feet;
- restaurant rotunda = 800 square feet;
- restaurant kitchen = 2000 square feet
- restaurant (other) = 2400 square feet (not to be converted to customer seating)
- micro brewery = 10711 square feet

(4) the applicant is advised that a revocable permit shall be required to use the parking spaces located within the Tejon Street right-of-way. Said permit shall be obtained in accordance with the applicable provisions in the Code of the City of Colorado Springs 1980, as amended,

(5) the applicant shall submit two (2) copies of the floor plan showing the floor area calculations in condition number 3 (listed above),

(6) the applicant shall submit six (6) copies of the site plan revised as follows: (a) include conditions 1-3 (listed above) as Notes, (b) revise the Legend (item f.) to show 27 existing off-street parking spaces (not 46 as stated) and 31 proposed off-street parking spaces. (Number of required off-street parking spaces and the ratio used shall remain as shown), and (c) add the following statement to the site plan: Approval of the parking variance and site plan for hearing officer case file HO NV 97-00121 does not constitute authorization to use the fourteen (14) on-street parking spaces located within the adjacent Tejon Street right-of-way. Approval to use said spaces shall be secured with a revocable permit obtained in accordance with the applicable provisions in the Code of the City of Colorado Springs 1980, as amended, and

(7) a check made payable to the El Paso County Clerk and Recorder in the amount of \$41.00 shall be submitted for the recording of the following documents: (a) parking agreement to use twenty (20) off-site parking spaces at the All Star Rental, Inc./U-Haul business, 1644 South Tejon Street, for valet parking services and/or employee parking, (b) one (1) 11" X 17" copy of the site plan, (c) one (1) 11" X 17" copy of the floor plan, and (d) the Record-of-Decision.

It is the responsibility of the applicant to offer proof of compliance with the condition(s) of approval. Additional information and/or revised site plans shall be submitted to the Development Services Division by June 27, 1997. Failure to comply with the condition(s) of approval by the specified date shall constitute grounds for termination of this decision by the Hearing Officer. A copy of this Record-of-Decision shall be released to the applicant on June 30, 1997, provided the condition(s) of approval have been met. This variance shall be void if all required permits are not obtained within six (6) months of the final agency action date.



June 18, 1997 Janice E. Peterson June 30, 1997

DATE OF DECISION HEARING OFFICER FINAL AGENCY ACTION DATE

APPLICANTS: THE DECISION OF THE HEARING OFFICER PERTAINS ONLY TO THE APPLICATION YOU SUBMITTED. YOU MUST COMPLY WITH ALL OTHER APPLICABLE REQUIREMENTS OF THE CITY OF COLORADO SPRINGS AND THE REGIONAL BUILDING DEPARTMENT. A COPY OF THE RECORD-OF-DECISION AND APPROVED SITE PLAN SHALL BE SUBMITTED IN CONJUNCTION WITH A BUILDING PERMIT APPLICATION. THIS VARIANCE DOES NOT SUPERSEDE OR NULLIFY PRIVATE COVENANTS THAT MAY LAWFULLY IMPOSE OTHER RESTRICTIONS ON THE USE OF YOUR PROPERTY.

EXHIBIT B
(page 2 of 2)

BY ORDER OF THE HEARING OFFICER

IN THE MATTER OF HO NV 97-00121 as requested by

Lightle and Fennell Architecture on behalf of Joseph E. Coleman

for property located at 1645 South Tejon Street,

the following action has been taken:

- _____ Postponed from _____ to _____ at the request of the applicant or applicant's representative.
- _____ Postponed from _____ to _____ at the request of City staff.
- X Reason(s): _____
Postponed from May 21, 1997 to June 18, 1997 upon instruction of the Hearing Officer. Reason(s): To allow the applicant to explore the feasibility of providing alternative parking arrangements, such as securing a parking easement from an adjacent property owner, redesigning the existing parking lot, and/or securing a valet service to provide off-site parking. Additional information and/or revised site plans shall be submitted no later than Friday, June 13, 1997.
- _____ Postponed from _____ to _____ as the request was not properly posted in accordance with Section 14.1-4-1002:B of the Code of the City of Colorado Springs 1980, as amended.
- _____ Postponed from _____ to _____ as the applicant or applicant's representative failed to attend the scheduled public hearing on _____.
- _____ Postponed to a date and time not certain. Reason(s): _____.
- _____ Withdrawn at the request of the applicant or applicant's representative.

(Applicant or Representative) (Date)

- _____ Withdrawn in accordance with Section VIII (POSTING) of the Rules of Procedure for the Hearing Officer. Request was not properly posted as required by Section 14.1-4-1002:B of the Code of the City of Colorado Springs 1980, as amended, for two (2) scheduled public hearings on _____ and _____.
- _____ Withdrawn in accordance with Section IX (REPRESENTATION) of the Rules of Procedure for the Hearing Officer. Applicant or applicant's representative failed to enter an appearance of record at two (2) public hearings on _____ and _____.
- _____ Withdrawn in accordance with last date-to-comply issued for satisfactory completion of conditions of approval as set forth in applicable Record-of-Decision. Last date-to-comply issued was _____.
- _____ Referred to the City Planning Commission by the Hearing Officer. Reason(s) are listed in the attached BY ORDER.
- _____ Other: _____

Jamie G. Peterson June 2, 1997
HEARING OFFICER DATE
FOR THE CITY OF COLORADO SPRINGS

X File: HO NV 97-00121