



## Legislation Details (With Text)

**File #:** 15-00581      **Version:** 2      **Name:**

**Type:** Ordinance      **Status:** Mayor's Office

**File created:** 9/8/2015      **In control:** City Council

**On agenda:** 10/13/2015      **Final action:** 10/13/2015

**Title:** Ordinance No. 15-74 amending the zoning map of the City of Colorado Springs relating to a 9,250 square foot property located at 702 W. Colorado Avenue from C-5 to C-5/P.

Quasi-Judicial

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Zoning-702W\_ColoradoORD-2015-09-10, 2. Exhibit A, 3. Signed Ordinance\_15-74

Date	Ver.	Action By	Action	Result
10/13/2015	2	City Council	finally passed	
9/22/2015	1	City Council	approved on first reading	Pass

Ordinance No. 15-74 amending the zoning map of the City of Colorado Springs relating to a 9,250 square foot property located at 702 W. Colorado Avenue from C-5 to C-5/P.

Quasi-Judicial

**From:**

Peter Wysocki, Planning and Development Director, Planning and Development Department

**Summary:**

Applicant: Echo Architecture on behalf of Cerberus Brewing Company

Owner: Jerry Morris

Location: 702 W. Colorado Avenue

There are four applications associated with this project:

1. Zone change (CPC ZC 15-00075) of 9,250 square-feet from C-5 (Intermediate Business) to C-5/P (Intermediate Business/Planned Provisional overlay);
2. Development plan (AR DP 15-00291) for the purpose of converting the former Colorado Avenue Veterinary Clinic to a brew pub and restaurant, the Cerberus Brewing Company;
3. Non-use variance (AR NV 15-00292) for on an premises liquor establishment within 200 feet from any residentially-used or -zoned property; and
4. Vacation of public right-of-way (AR V 15-00293), an alley that bisects the subject property

between McKinley Place and S 7th Street.

**Previous Council Action:**

None

**Background:**

This is a request to rezone a 9,250 square-foot property located at 702 W. Colorado Ave. from C-5 (Intermediate Business) to C-5/P (Intermediate Business/Planned Provisional overlay). As noted above, the rezone request is associated with a submitted Development Plan, non-use variance and right-of-way vacation applications for the proposed “Cerberus Brewing Company,” a brew pub and restaurant that intends to repurpose the vacant and former 3,538 square foot Colorado Avenue Veterinary Hospital at the corner of S. 7th St. and W. Colorado Ave. The subject property is located in a mixed use area that has an established business corridor along W. Colorado Avenue that changes abruptly to primarily residential uses to the north. The Planning Commission recommended approve CPC ZC 15-000751 from C-5 (Intermediate Business) to C-5/P (Intermediate Business with Planned Provisional Overlay) and that it complies with the review criteria listed in Section 7.5.603 of the City Code

To approve the development plan for the purpose of converting the former Colorado Avenue Veterinary Clinic to a brew pub and restaurant and that it complies with the review criteria listed in Section 7.5.502.E of the City Code subject to the following technical modifications:

1. The addition of a 20’ setback from the west property line for use of an outdoor patio seating area;
2. The addition of an 8’ solid masonry wall within the 20’ setback area with the determination between the neighbor and applicant and extend from the West Colorado property line to the beginning of the parking area.
  - a. Amendment to motion that landscaping shall be identified and approved by staff within the setback area.

To approve the nonuse variance for an on-premise liquor establishment within 200’ from any residentially zoned or used property and that it complies with the review criteria listed in Section 7.5.802.E of the City Code subject to the following technical modifications:

1. The use of outside speakers, sound systems or live music are prohibited at all times;
2. Any exterior listing must meet all Code requirements. Transient lighting onto adjacent and neighboring properties is prohibited; and,
3. The hours of operation of the patio shall end no later than 10:00 p.m. seven days a week.

To deny vacation of right of way for an alley that bisects the subject between McKinley Place and South 7th Street and that it does not meet the criteria listed in Section 7.7.402.C of the City Code. Commissioners McDonald, Henninger and Gibson excused for the entirety of this part of the meeting

**Development Plan:**

The development plan proposes design features that would help to mitigate or minimize off-site impacts. For example, the on-site parking area would provide some measure of buffer between the indoor component of the brew pub and restaurant and the multi-family residential use at 712 W. Colorado (just to the west). In addition, the existing chain link fencing would have slats installed to provide visual mitigation, and the landscaping plan indicates that Rocky Mountain Juniper and Green

Giant Arborvitae would provide for natural screening, especially at maturity.

Non-use Variance from Minimum Separation Requirements (200 feet) for Liquor Establishments from Residentially-zoned or -used Properties:

Per City Code, liquor sales establishments are allowed in the C-5 zone district. However, on premises liquor establishments must be located no closer than 200 feet from any residentially-used or -zoned property. The intent of this requirement is to provide for a case-by-case review of liquor establishment proposed in the vicinity of residential sites to determine if the liquor establishment would generate inordinate off-site impacts from noise, for example. Please see attached Planning commission staff report for a more detailed analysis.

Vacation of Right-of-Way:

The fourth application associated with the project regards vacating the public right-of-way/alley that bisects the subject property between McKinley Place and S 7th Street.

The vacation request pertains to the alley that separates Lots 2 and 3 at the south and triangular Lot 4 at the north. The right-of-way is not needed for public transportation purposes or utilities access. deny vacation of right of way for an alley that bisects the subject between McKinley Place and South 7th Street and that it does not meet the criteria listed in Section 7.4.402.C of the City Code.

**Financial Implications:**

Not applicable

**Board/Commission Recommendation:**

At their meeting on August 20, 2015 the Planning Commission approved the zone change, development plan and non-use variance by a vote of 6-0 subject to technical modifications to the development plan as indicated in the Draft Record-of-Decision. However, the Planning Commission, in a vote of 5-1 (Commissioner Smith voted no) denied the request to vacate the alley.

**Stakeholder Process:**

The standard City notification and posting process was implemented; 103 property owners within 500 feet of the property were notified, as well as one stakeholder organization - the Organization of Westside Neighbors. To date, Staff has received six (6) responses in opposition to the development plan and associated applications, with respondents expressing concerns about parking and the potential for noise and visual disruptions. In addition, 15 signatories signed a petition in opposition that was submitted to the Department on June 29, 2015.

On May 26, 2015 Planning staff facilitated a neighborhood meeting with 17 attendees (including the applicant and applicant's consultant) at the Penrose Library to discuss the development plan and associated applications. Several attendees expressed concerns about parking availability and the potential for other off-site impacts, particularly noise. In addition, the site was posted prior to the City Planning Commission hearing and postcards were mailed notifying property owners of the hearing.

**Alternatives:**

1. Approve the zone change, development plan (with technical modifications) and non-use variance applications and deny the right-of-way vacation request as recommended by the Planning Commission;
2. Approve the applications with technical modifications;
3. Deny the applications; or
4. Refer the applications back to Planning Commission for further consideration.

**Proposed Motion:**

CPC ZC 15-00075 - Zone Change

Approve the zone change from C-5 (intermediate business) to C-5/P (intermediate business/Planned Provisional based on the finding the request complies with the review criteria in City Code Section 7.5.603.B (Establishment or Change of Zone District Boundaries).

An ordinance amending the Zoning Map of the City of Colorado Springs relating to 9,250 square-feet located at 702 W. Colorado Avenue from C-5 (Intermediate Business) to C-5/P (Intermediate Business/Planned Provisional overlay).