



## Legislation Text

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**File #:** CPC V 18-00098, **Version:** 4

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Ordinance No. 18-130 vacating portions of public rights-of way known as Mount Washington Avenue, Saint Elmo Court, and adjacent public alleys consisting of 2.145 acres  
(Legislative)

Related File: CPC ZC 18-00096

### **Presenter:**

Ryan Tefertiller, Urban Planning Manager, Planning and Development Department  
Peter Wysocki, Director Planning and Community Development

### **Summary:**

Applicant: Thomas and Thomas

Owner: Creekwalk, LLC

Location: West of S. Nevada Ave. and north of E. Cheyenne Rd.

### **Previous Council Action:**

City Council approved the creation of the South Nevada Urban Renewal Area and Plan in 2015 and approved the implementation of the South Nevada Urban Renewal Streetscape Design Standards in 2017. There have been no prior Council actions pertaining to the physical development applications on these properties.

On December 11, 2018, this item was passed on first reading with a vote of 7:0:2 (Councilors Pico and Murray were absent).

### **Background:**

This project includes five concurrent applications related to the proposed redevelopment of roughly ten acres of land north of E. Cheyenne Rd. and west of S. Nevada Ave. This project is the largest to date within the South Nevada Urban Renewal Area which was established in November, 2015. The applications include: 1) an amendment to the Ivywild Master Plan; 2) a zone change of roughly 2 acres from R5 and R5/SS to C5 and C5/SS; 3) a concept plan establishing uses, access, and approximate building size and location; 4) a right-of-way vacation request for multiple public streets and alleys within the concept plan area; and 5) a non-use variance for front setback relief.

The Creekwalk Redevelopment Project falls within the extreme southeastern corner of the Ivywild Master Plan. The Plan's Land Use Map identifies the project area as including "auto-oriented commercial," "neighborhood commercial," and "multi-family residential." The Plan also includes a Zoning Map which labels the project area with the R5 and C5 zones in their current configuration. A third map within the plan is titled "Site Analysis Map" which labels the Creekwalk area as "auto

related commercial,” cottage commercial” and “transition zone.” In addition to these maps the plan includes numerous charts and tables describing each area and providing data such as acreage, of the various zones.

In order for Planning Staff to make the finding that the proposed zone change and the Creekwalk Concept Plan conform to the Ivywild Master Plan, the plan must be amended. The proposed amendment updates the Plan’s land use map, the zoning map, the site analysis map, as well as the opportunities and issues map. Most of these changes occur within the western portion of the Creekwalk Area as the eastern portion of the project is already consistent with the Plan. Staff believes that the amendment to the Master Plan is relatively minor - more in line with an update - but because there is a section of the development that changes land use classifications of the Master Plan, a fiscal impact analysis was prepared.

The majority of the Creekwalk site is currently zoned C5 (Intermediate Business), the western portion (roughly 2 acres) is currently zoned R5 and R5/SS (Multi-Family Residential with and without the Streamside Overlay). Because the proposed concept plan illustrates primarily commercial uses, the C5 zone must be extended westward into the area that currently has R5 zoning. To ensure that the entire project is within a common zone district (as opposed to two adjacent C5 districts), the legal description that accompanies the proposed zone matches that of the Concept Plan.

The principal application within this project is the Creekwalk Concept Plan which illustrates the proposed mix of uses, building sizes and locations, access points, general parking provisions, and public improvements such as the creek trail, sidewalks, and other streetscape elements. (FIGURE 5) While much of the plan simply continues uses and building forms that are very similar to other projects along South Nevada Ave., the plan does include some significant changes to the existing roadway network. Specifically, the plan envisions the removal of much of Mt. Washington Ave. including the entirety of the roadway from E. Cheyenne Rd. to St. Elmo Ave. Although it may be counterintuitive to some, the removal of Mt. Washington is actually expected to improve traffic flow in the area, including along S. Nevada Ave. The intersection of S. Nevada, Mt. Washington, and E. Ramona creates challenges in the operation of the traffic signal and as an extension the flow of vehicles along S. Nevada Ave.

Another key component envisioned on the concept plan is the conversion of the vehicular bridge on St. Elmo Ave. over Cheyenne Creek to a pedestrian/bike bridge. While the St. Elmo right-of-way is not included in the proposed ROW vacation application due in part to privately owned parcels outside of the Creekwalk project boundary still needing guaranteed public access, the proposed changes to the Cheyenne Creek bridge are supported by Planning, Traffic and Public Works. The current volume of vehicles using St. Elmo is modest, but modifying the bridge over Cheyenne Creek to prevent vehicles from using St. Elmo to navigate from S. Nevada Ave. to S. Cascade or Cheyenne Blvd. to the west may be felt by surrounding property owners. Specifically, Staff has heard from numerous stakeholders that the intersection of S. Cascade Ave. and St. Elmo is a site of frequent accidents due in part to drivers using St. Elmo connect S. Nevada Ave. to Cheyenne Blvd.; the proposed changes to the St. Elmo bridge would mitigate this problem forcing drivers to use Ramona to the north or Cheyenne Rd. to the south for their east/west routes.

The Creekwalk Concept Plan has been evaluated using the required review criteria found in Section 7.5.501.E as well as the South Nevada Urban Renewal District Streetscape Design Standards which were adopted by City Council via Ordinance # 17-97 in October of 2017. While the Standards largely

focus on the required physical improvement of public streetscapes within the District, they also include a number of design objects that relate to site design, mobility, and consistent design elements throughout the district. Additionally, the Standards include a section titled “Building Design” which encourages projects to locate buildings “forward on the site adjacent to the streetscape setback” to improve pedestrian interest and walkability. This goal is clearly met on the Creekwalk concept plan in that the majority of the new buildings are located immediately adjacent to S. Nevada Ave. and Cheyenne Rd. establishing the internal portions of the site as the primary parking fields.

One challenge of the project is that there are numerous parcels in the area that are not planned for immediate redevelopment and are excluded from the boundaries of the Plan. Specifically, the McDonald’s on the northwestern corner of S. Nevada Ave. and Cheyenne Rd. and the Wells Fargo bank and the Diamond Shamrock gas station immediately to the north are intending to continue operating in their current form as the Creekwalk project develops to the west and north. This is particularly important as one of the primary access points into the heart of the project utilizes the existing alleyway between McDonalds and Wells Fargo. It is assumed that additional access easements or possibly real estate will need to be acquired from those owners to properly establish sufficient access in that location; this can be addressed as the development plan and subdivision plat stage.

The first step in implementing the Creekwalk concept plan is the vacation of numerous public rights-of-way that bisect the project. Right-of-way vacation is a legislative action that can only be finalized with the adoption of a City Council ordinance. The proposed vacation includes much, but not all, of Mt. Washington Ave between Ramona and Cheyenne Rd., St. Elmo Ct., and the east/west alleyway that extends from S. Nevada Ave. to Cheyenne Creek (between E. Cheyenne Rd. and St. Elmo Ave.). There are two primary issues that have been discussed at length regarding this application: adequate access to adjacent properties outside of the plan boundaries; and addressing/enumeration issues for properties both within and outside of the plan boundaries.

Given the proposed changes to the St. Elmo Ave. bridge (discussed above within the Concept Plan section) and the fact that multiple privately owned parcels in the area rely on St. Elmo and sections of Mt. Washington for access, care had to be taken to ensure that adequate access would remain after ROW vacation. As such, the extent of the proposed vacation was tailored to make sure that direct access via public ROW was available after the vacation is finalized. The applicant has also had considerable dialog with the Fire Department, E911, and Enumerations to understand which parcels and structures would have to change their street address should the vacation be approved. While FIGURE 8 of the Planning Commission packet illustrates proposed resolution of both these issues, additional work is needed to ensure access to existing parcels and structures prior to recordation of a new subdivision plat and commencing construction on the project.

One issue that is still outstanding relative to addressing and emergency response is that the segment of Mt. Washington Ave. that is not being vacated will no longer comply with the City’s naming protocols once the segment south of St. Elmo Ave. is vacated. More specifically, by vacating the segment of Mt. Washington between St. Elmo Ave and Cheyenne Rd. the City would be creating two disconnected sections of Mt. Washington Ave. - that segment south of Cheyenne Rd. and that segment north of St. Elmo Ave.; this is prohibited by Part 7, of the City’s Subdivision Code. As such, the newly disconnected segment of Mt. Washington Ave. must go through a street name change, and adjacent parcels must be re-addressed, concurrent to the proposed vacation to stay in compliance with City Code.

One key provision that should help alleviate any concern about access to properties or the protection of public infrastructure (e.g. utilities) within the existing ROWs is that the proposed vacation ordinance will include language preserving public utility and access easements. When the land is ready for replatting and adequate utility improvements are in place, those easements can be vacated administratively via the City's Real Estate Services Division.

While the provisions described above can help address many concerns, the proposed vacation application must still be evaluated using the formal criteria in Section 7.7.402.C. Though the proposed vacation of much (but not all) of the Mt. Washington ROW between E. Ramona and E. Cheyenne Rd. is significant, the roadway has fairly minimal traffic volumes and adequate access is still available via the adjacent public roads include Cheyenne Rd., St. Elmo Ave. and Ramona Ave. Much care was taken to be sure that the properties along Metzler St. and Metzler Place continue to have adequate public access after the Creekwalk project is approved and constructed.

As stated previously within this report, it is believed that the vacation of Mt. Washington at the Ramona and S. Nevada intersection will actually improve vehicle flow along S. Nevada Ave. It should also be noted that the Creekwalk concept plan illustrates the creation of a private frontage road that will help provide access and circulation to the S. Nevada-fronting businesses; this too will improve the operation of S. Nevada Ave.

Another notable item that continues to be discussed is the desire for the applicant and his recently created Business Improvement District (BID) to take over future maintenance of the public and private streets within and adjacent to the Creekwalk project. While the details of this agreement have not been finalized, there are numerous local examples of private BIDs taking on the maintenance responsibility of public infrastructure such as trails, parks, and even roadways.

The Creekwalk project includes a non-use variance request to allow future buildings to be located closer to the public right-of-way than would normally be permitted in the C5 zone. Specifically, relief is requested along E. Ramona as well as the along the south side of E. St. Elmo Ave. The standard front setback in the C5 zone is 20 feet; this is measured from the edge of the public right-of-way to the face of the adjacent building. Although the required setback is met for most of the structures illustrated on the Creekwalk concept plan; the two buildings that back up to the south side of St. Elmo and the building proposed for the southwest corner of S. Nevada and E. Ramona do not meet the 20 foot requirement.

To help illustrate the proposed requests, the applicant has provided an exhibit illustrating the likely cross sections at the site of the requested relief. The building at Ramona and Nevada is shown as being located 10 feet south of the Ramona right-of-way (where 20 feet are required). This is justified by the applicant by stating that the proposed building location would help to establish a strong urban edge and a desirable land use pattern within the URA district as well as respond to site conditions. The applicant's full justification for the requested relief can be found on pages 14-16 of their project statement, but essentially, the request is based on the desire to create quality urban design, the need to address site conditions such as the floodplain base elevation in the area, and the fact that the proposed relief will not create any adverse impacts on adjacent properties or other stakeholders.

### **Financial Implications:**

The City's Budget Office produced a Fiscal Impact Analysis of the proposed project due to the

proposed changes to the Ivywild Master Plan land use classifications. That analysis concluded that the project will result in a positive cumulative cashflow for the City during the 10-year review timeframe.

**Board/Commission Recommendation:**

On November 15, 2018 the City's Planning Commission voted unanimously to recommend that the City Council approve all five applications.

Three (3) stakeholders attended the City Planning Commission meeting to support the project, while one (1) spoke in opposition.

Please reference the minutes from the hearing for a detailed record.

**Stakeholder Process:**

The public process included posting the site and sending postcards to 287 property owners within a 1,000-foot buffer of the project as well as notifying the Ivywild Improvement Society (IIS) at the time of application submittal (early August, 2018). Due to the size, shape and numerous access points around the site, six posters were posted around the project perimeter to make sure all interested stakeholders were aware of the submittal. On September 10, 2018 a neighborhood meeting was held to discuss the project; roughly 60 people attended the meeting. Many attendees expressed concern about traffic increases as a result of the project but many stakeholders supported the proposed development. A smaller meeting between City Staff, the development team and the IIS Board was held on October 30, 2018. A third mailing will be sent to property owners within 1,000 feet of the site, as well as those stakeholders that attended the September neighborhood meeting, to announce the Planning Commission hearing on November 15, 2018.

Staff received input from a few individual stakeholders as well as the IIS Board during the internal review process. While there is a sense that redeveloping many of the blighted properties within the area is supported, there are concerns with the project's traffic, parking, architecture, and uses (FIGURE 2).

Staff sent the original plans as well as the revised plans to all standard internal and external review agencies for comments. A number of review agencies had significant technical comments upon first review. While most items were resolved with the revised resubmittal, there are still a number technical issues that need additional attention; all remaining items are described within the technical modifications section of Staff's recommendation at the conclusion of this report. Commenting agencies included City Engineering, Traffic Engineering, Colorado Springs Utilities, Water Resource Engineering, the City Surveyor, the Colorado Springs Fire Department, CDOT, and others.

**Alternatives:**

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

**Proposed Motions:**

Approve an ordinance vacating the public right-of-way based on the findings that the vacation meets the review criteria in City Code Section 7.7.402.C., subject to the following conditions of approval and

technical modifications:

Conditions of Approval:

1. Public Access and Public Utility easements are retained over all right-of-way vacated within this application.
2. Recordation of the vacation ordinance will be concurrent to the necessary street name and property address changes.

Technical modifications: Modify the vacation plat to address the following minor technical issues

- a. Correct the vicinity map to correctly label Metzler Ave.
- b. Complete the plat name within the dedication statement and City approval blocks.
- c. Add a note or labels to the plat documenting the retention of public access and utility easements as required by condition of approval number one.

An ordinance vacating portions of public rights-of way known as Mount Washington Avenue, Saint Elmo Court, and adjacent public alleys consisting of 2.145 acres