



## Legislation Details (With Text)

**File #:** 15-00217      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Failed  
**File created:** 3/25/2015      **In control:** City Council  
**On agenda:**      **Final action:** 4/28/2015  
**Title:** An ordinance vacating a portion of First Street public right-of-way consisting of 4,356 square feet (.1 acres) located between Beech Avenue and Broadmoor Avenue.  
(Legislative Matter)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. First Street Right-of-way Vacation CC Presentation, 2. Vacation ROW - 1st Avenue 04.02.pdf, 3. Exhibit A, 4. Criteria-7.7.402.C-Vacation of ROW, 5. Figure 1\_Broadmoor\_Plat, 6. Figure 2\_Utility Locate, 7. Figure 3 Neighbor letters

Date	Ver.	Action By	Action	Result
4/28/2015	1	City Council	denied	Pass
4/14/2015	1	City Council	postpone to a date certain	Pass

An ordinance vacating a portion of First Street public right-of-way consisting of 4,356 square feet (.1 acres) located between Beech Avenue and Broadmoor Avenue.  
(Legislative Matter)

**From:**

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

**Summary:**

CPC V 14-00125

This is a request for a vacation of City right-of-way involving First Street between Beech Avenue and Broadmoor Avenue. The request is to vacate twenty (20) feet of right-of-way, which equals 0.1 acres or 4,356 sq. ft., along the entire frontage of the subject property located at 19 Beech Avenue. The proposed vacation ordinance retains a public utility easement over the entire portion of the proposed vacation preserving the City's rights to access existing and future infrastructure in the area (see Exhibit A attached to the ordinance).

**Previous Council Action:**

The City Council has previously granted numerous vacations of right-of-way within the Broadmoor neighborhood that include:

- 1982: Vacating a portion of Beech Avenue between Lake Circle and First Street;
- 2004: Vacating portions of Lake Circle, Pourtales Road and Mesa Avenue;
- 2008: Vacating portions of First Street (20-feet on either side) and Hazel (20-feet on either side).

### **Background:**

The property owner seeks to vacate twenty (20) feet of the First Street right-of-way along the frontage of the subject property from Beech Avenue to Broadmoor Avenue. The purpose of the applicant's request to vacate the right-of-way is two-fold: first, a portion of the home encroaches into the existing right-of-way and the required twenty-five (25) foot front yard setback (a corner of the home is near the property line); and second, the property owner is slightly under the allowed maximum lot coverage (20%) for this zone district (R - Estate). The proposed vacation would provide the homeowner flexibility for a future home addition without exceeding the maximum lot coverage for the zone.

The property owner and their architect considered an application for a non-use variance to allow additional lot coverage. However, the property owner feels the vacation of right-of-way is warranted considering the home already encroaches into the required setbacks and the existing right-of-way far exceeds what is necessary given the narrow roadway adjacent to the site.

The First Street right-of-way was created as part of the Broadmoor subdivision plat in 1890 (Figure 1) and maintained by El Paso County until annexation in 1981 (Southwest Annexation). The First Street right-of-way is one hundred (100) feet wide and includes an approximately twenty two (22) foot wide road mat. No curb, gutter or sidewalk exists within this portion of the neighborhood. As recently as 2008, City Council approved the vacation of forty (40) feet of First Street right-of-way (between Maple Avenue and Mesa Avenue) which created the standard sixty (60) foot right-of-way width for local streets. First Street will not be expanded to a higher roadway classification; therefore, a one hundred (100) foot wide right-of-way is not needed..

There are five criteria that must be evaluated and complied with for a proposed vacation of public right-of-way:

1. The right-of-way is no longer needed for public transportation purposes;
2. The vacation will not adversely impact use of the right-of-way for public utility and/or drainage purposes;
3. The vacation will not adversely impact the uniform width of the remaining portions of the public right-of-way along the block frontage for which vacation is sought;
4. Access to lots or properties surrounding the public right-of-way will not be adversely affected;
5. The vacation is consistent with the purpose of this Subdivision Code.

After review by multiple City enterprises and departments, including Colorado Springs Utilities and the Public Works Department, it was determined that all five criteria are met and that the proposed vacation should be approved.

### **Financial Implications:**

Not Applicable.

### **Board/Commission Recommendation:**

Not Applicable. This item does not require a public hearing by the City Planning Commission.

### **Stakeholder Process:**

The site was posted and postcards were sent to 34 property owners within 500 feet at the time of

application submittal. Several property owners have objected to the vacation request citing the following concerns:

- Location of a private water service that is located within the eastern portion of the right-of-way (Figure 2 - not a legal survey);
- Vacating the right-of-way allows the property owner additional building coverage and future additions to the home could potentially block private views to the mountains;
- Desire to preserve the “open space” the right-of-way creates within the neighborhood.

See attached letters (Figure 3) from neighbors in opposition to the proposed vacation.

The site will be posted and postcards mailed once again prior to the Council hearing.

**Alternatives:**

1. Approve the vacation and ordinance conveying a portion of the public right-of-way back to private ownership, retaining a public utility easement on the property.
2. Deny the vacation application and ordinance retaining the public alley.

**Proposed Motion:**

CPC V 14-00125 - VACATION OF RIGHT-OF-WAY

Approve the vacation of right-of-way application, retaining a public utility easement, based upon the finding that the application complies with the review criteria set forth in City Code Section 7.7.402.C.

An ordinance vacating a portion of First Street public right-of-way consisting of 4,356 square feet (.1 acres) located between Beech Avenue and Broadmoor Avenue.