



## Legislation Details (With Text)

<b>File #:</b>	ZONE-22-0007	<b>Version:</b>	3	<b>Name:</b>	Burgerworks
<b>Type:</b>	Ordinance	<b>Status:</b>		<b>Mayor's Office</b>	
<b>File created:</b>	9/23/2022	<b>In control:</b>		<b>City Council</b>	
<b>On agenda:</b>	2/28/2023	<b>Final action:</b>		<b>2/28/2023</b>	
<b>Title:</b>	Ordinance No. 23-04 amending the zoning map of the City of Colorado Springs relating to 1.273 acres located at the northeast corner of North El Paso Street and East Fillmore Street from C-5/M1 (Intermediate Business and Light Industrial) to C-5 (Intermediate Business).				
	Related Files: DEPN-22-0074				
	Presenter: Tamara Baxter, Senior Planner, Planning & Community Development Peter Wysocki, Director of Planning and Community Development				

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. ORD\_ZC\_Burgerworks, 2. Exhibit A \_ Legal Description, 3. Exhibit B - Zone Change, 4. Staff\_CC\_BurgerworksPresentation, 5. Applicant\_Burgerworks\_Presentation, 6. CPC Staff Report\_Burgerworks E Fillmore\_TPB, 7. Project Statement, 8. Zone Change Exhibit, 9. Development Plan-updated, 10. CONTEXT MAP, 11. Development Plan, 12. Public Comment, 13. Public Comment Response, 14. 7.5.603.B Findings - ZC, 15. Signed Ordinance No. 23-04.pdf

Date	Ver.	Action By	Action	Result
2/28/2023	2	City Council	finally passed	Pass
2/14/2023	2	City Council	approved on first reading	Pass
10/12/2022	1	Planning Commission	referred	Pass

Ordinance No. 23-04 amending the zoning map of the City of Colorado Springs relating to 1.273 acres located at the northeast corner of North El Paso Street and East Fillmore Street from C-5/M1 (Intermediate Business and Light Industrial) to C-5 (Intermediate Business).

Related Files: DEPN-22-0074

### Presenter:

Tamara Baxter, Senior Planner, Planning & Community Development  
Peter Wysocki, Director of Planning and Community Development

### Summary:

Owners: Centerpointe Real Estate Group, LLC

Developer: Burgerworks, LLC

Representative: N.E.S. Inc.

Location: Northeast corner of North El Paso Street and East Fillmore Street.

The project includes concurrent applications for a zone change and development plan. The zone change would change the current zoning from C-5/M-1 (Intermediate Business/Light Industrial) to C-5 (Intermediate Business). The development plan will allow for a fast-food restaurant with ancillary site improvements.

**Background:**

The proposed will rezone 1.273-acres from C-5/M-1 (Intermediate Business/Light Industrial) to C-5 (Intermediate Business). 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 fast-food restaurant, which is a permitted commercial use in the C-5 (Intermediate Business) zone district, per City Code Section 7.3.203 *Permitted, Conditional and Accessory Uses*. 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 surrounding zoning is C-5 (Intermediate Business) with a mix of commercial and industrial uses.

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) *Establishment Of Change Of Zone District Boundaries* and found to be consistent.

An accompanying Development Plan was reviewed in conjunction with the zone change request for the establishment of a restaurant (fast food). **(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 *Office, Commercial, Industrial and Special Purposed Zone District Development Standards*). No relief from these standards has been requested. The development plan for the project has been reviewed using the criteria established in City Code Section 7.5.502(E) *Development Plans Review Criteria*. The project provides the required landscape standards for commercial development. Parking has been provided per City Code parking standards (City Code Section 7.4.203 *Parking Space Requirements*). Thirty-eight parking spaces are required for the proposed use. The project has requested and qualifies for a parking reduction of one space as the property is located four hundred feet (400'), by direct pedestrian route, of a public transit stop along East Fillmore Street (City Code Section 7.4.204(C)(1)(a) *Alternative Parking Options Conditions for Reduction*).

The existing driveway off East Fillmore Street will be removed and two access points are proposed off Grandview Street for this project. The northern 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.

The Final Drainage Report (FDR) is still being reviewed and under consideration by the City's Stormwater Enterprises Division of the Public Works Department and has not received final approval. A condition of approval by City Planning Commission was that the FDR and any related plan changes

be accepted and approved by City Stormwater Enterprises prior to being scheduled for City Council. Stormwater Enterprise has since informed City Planning staff that all major comments have been addressed with the FDR and Stormwater Enterprise is comfortable with the project being considered by City Council.

Staff 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" form 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)."*

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.

#### **Previous Council Action:**

City Council approved a rezoning in 2008 of three of the four parcels from M-1 (Light Industrial) to C-5 (Intermediate Business) per Ordinance 08-24.

#### **Financial Implications:**

NA

#### **City Council Appointed Board/Commission/Committee Recommendation:**

At the City Planning Commission meeting held on October 12, 2022, the project applications were considered under the Consent Calendar. Without discussion, the City Planning Commission recommended approval of the project applications to the City Council by unanimous vote with all members present by a vote of 9:0:0:0.

**Stakeholder Process:**

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 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 Fire, City Traffic, and City Stormwater Enterprise.

All but a couple of technical modifications have been addressed prior to City Council hearing. Stormwater Enterprise has noted that all major comments have been addressed with the FDR and the remaining plan changes include labeling. Stormwater Enterprise is comfortable with the project being considered by City Council. The applicant has been made aware that there are two remaining technical modifications to be completed prior to stamping the development plan approved.

**Alternatives:**

City Council can choose to approve, deny, or refer back to City Planning Commission.

**Proposed Motion:**

Adopt an ordinance amending the zoning map of the City of Colorado Springs relating to 1.273-acres from C-5/M-1 (Intermediate Business and Light Industrial) to C-5 (Intermediate Business), based upon the findings that the change of zone request complies with the three criteria for granting of zone changes as set forth in City Code Section 7.5.603(B).

An ordinance amending the zoning map of the City of Colorado Springs relating to 1.273 acres located at the northeast corner of North El Paso Street and East Fillmore Street from C-5/M1 (Intermediate Business and Light Industrial) to C-5 (Intermediate Business)