



## Legislation Text

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**File #:** AR R 19-00141, **Version:** 2

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An appeal of Planning Commission's action to approve an appeal and overturn the administrative approval of a non-use variance to allow 37 parking stalls where 44 are required by Code at 1645 and 1647 S. Tejon St.

(QUASI-JUDICIAL)

**Presenter:**

Ryan Tefertiller, Urban Planning Manager, Planning & Community Development

**Summary:**

Owner: Fonseca 94, LLC

Developer: Fonseca 94, LLC

Consultant Representative: N.E.S. Inc.

Location: 1645 and 1647 S. Tejon St.

A Non-Use Variance to allow 37 parking stalls where 44 are required for a commercial center use was administratively approved on April 12, 2019. Multiple appeals were filed regarding that approval. On May 16, 2019 the City's Planning Commission voted 5-1 to grant the appeal and overturn Staff's approval. This decision is being appealed to City Council by the owner/developer.

**Previous Council Action:**

On June 25, 2019, after a lengthy public hearing, City Council voted 4 - 3 to postpone the item to the July 9, 2019 meeting.

**Background:**

The subject property is located on S. Tejon, just north of the "five-points" intersection of Tejon, Ramona, Cascade, and Cheyenne Blvd. The site contains two buildings totaling 15,629 square feet on a 29,673 square foot, C5-zoned parcel. The buildings were built in 1951 and 1974 and were historically used for a grocery store and warehouse. The site includes 26 off-street parking stalls to the north and east of the buildings while 11 additional on-street stalls existing to the west of the building. The on-street stalls are actually half on private property and half within the public right-of-way and are subject to a revocable permit approved by the City of Colorado Springs.

The subject property was granted a parking variance in 1997 to allow 27 off-street parking stalls where 65 were required for the Blue Star Restaurant and Bristol Brewing manufacturing space. The application at that time was contentious with numerous stakeholders arguing that the proposed restaurant would create significant parking problems in the area.

The subject property is within the Ivywild Urban Renewal Area which was created in 2011. The

district was created for a number of typical reasons: eliminate and prevent blight; implement the City's Comprehensive Plan; stimulate development; enhance the public realm; and others. Additionally, the plan hoped to expand the mixed-use concept that was initiated at the Ivywild School site into the surrounding area. Specifically, additional retail, residential and office uses are encouraged along Tejon St.

The building on the site addressed as 1645 S. Tejon St. was previously occupied by the Blue Star restaurant but has been largely vacant for roughly 18 months. 1647 S. Tejon St. was previously occupied by Bristol Brewing but has been occupied by Distillery 291 for a number of years. The owner has proposed converting 1645 S. Tejon into a three-tenant commercial center which would allow required parking to be calculated at a 1 stall per 250 square foot ratio. The site plan for the property illustrates the three uses as: 1) restaurant/bar/music venue, 2) retail, and 3) a MMJ dispensary.

Using the Commercial Center parking ratio for 1645 S. Tejon still leaves the site slightly deficient for private parking, but given Staff's determination that the required non-use variance criteria were met, the application was approved administratively. Staff's formal Record-of-Decision as well as the Planning Commission Staff report go into detail regarding the required criteria and analysis.

It should also be noted that the original project included a companion application for administrative relief to allow 961 feet of separation between the proposed Medical Marijuana Center (MMC) and an existing MMC to the north of the site, where 1,000 feet of separation are required by Code. While the administrative approval of this application was also appealed to Planning Commission, the administrative action was upheld at the May 16, 2019 meeting. The decision of Planning Commission was not appealed for this issue.

#### **Financial Implications:**

N/A

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

Planning Commission approved the appeal overturning Staff's administrative approval with a 5-1 vote at their May 16, 2019 meeting.

#### **Stakeholder Process:**

The stakeholder involvement for this project was significant. In January 2019 a pre-application neighborhood meeting was held to discuss the property owner's desire to convert the restaurant space at 1645 S. Tejon into a music venue that could hold approximately 500 spectators. Notices for that meeting were mailed to over 180 owners of property within 1,000 feet of the subject property. Approximately 50 people attended the neighborhood meeting, most (but not all) expressing opposition to the proposed project due to inadequate parking in the area. A few of the stakeholders present expressed support for live music venues in the area help implement the region's cultural master plan. Staff continued to receive additional input on this proposal after the neighborhood meeting due in part to media coverage of the project.

Considering the amount of opposition to the proposed music venue, the property owner modified the proposed use of the building to include three separate tenant spaces: a smaller music venue capable of holding around 100 spectators, a retail space, and a medical marijuana center (MMC). This change required the submittal of the two applications currently under appeal. When the applications

were submitted in late-February, postcards were sent same mailing list used for the pre-application neighborhood meeting. Additionally, Staff emailed all the attendees at the January neighborhood meeting as well as any stakeholder that had sent an email to Staff about the original project - a total of roughly 60 individual email addresses.

During the internal review of the applications Staff received a large number of stakeholder comments. Many stakeholders expressed concern with the lack of off-street parking for the proposed mix of uses. Some stakeholders expressed concern that the proposed applications were an “end-around” to ultimately build-out and operate the originally proposed large music venue.

Staff continued to communicate with those stakeholders who provided formal comment on the applications sending them direction on how to review my formal review letter when it was completed in late March. Stakeholders were notified via email once again when revised applications materials were received in early April, and lastly when administrative approvals were issued on April 12, 2019.

The applications were sent to a limited number of review agencies given the nature of the request; these included: Traffic Engineering, the Urban Renewal Authority, and our Medical Marijuana lead planner. All necessary technical issues were resolved by the applicant prior to application approval.

**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:**

Uphold the appeal, thereby overturning the Planning Commission’s decision and reinstating Staff’s administrative approval, allowing 37 parking stalls where 44 stalls are required, based upon the findings that the applicant has satisfied the appeal criteria of City Code Sections 7.5.906(A)(4) and 7.5.906(B) and that the application complies with the non-use variance review criteria in City Code Section 7.5.802.

N/A