

Mike Castellucci
Chair

Weston Burrer
Vice Chair

PUEBLO

Zoning Board of Appeals

Allison Ernst
Secretary

Steve Anselmo

Yvonne Lujan-Slak

Minutes for ZBA Hearing, September 23, 2014

City Council Chambers, 1 City Hall Place

MEETING CALLED TO ORDER

The meeting was called to order at 7:05 p.m. with Chairperson Mike Castellucci presiding.

Board Members Present: Mike Castellucci, Allison Ernst, Yvonne Lujan-Slak, and Brian Lucas

Board Members Absent: Steve Anselmo

Staff Members Present: Jerry M. Pacheco, Senior Planner; Steven Meier, Director; and Paul Willumstad, Board Attorney.

APPROVAL OF AGENDA

Motion to amend the agenda continuing Item No. 8, Case No. ZBA 14-30 to a future date to be determined, to move Item No. 5 to No. 1, and Item No. 9 to No. 2 on the agenda hearing by Ernst, second by Lujan-Slak.

Motion passed 4 - 0

Motion to approve the agenda for September 23, 2014 as amended by Ernst, second by Lujan-Slak.

Motion passed 4 - 0

REGULAR BUSINESS

Consent Agenda

None

Regular Agenda

ZBA-14-27 (800 S. Santa Fe - Tom Proud, RMA Towing)

A **Special Use Permit** to allow a automobile storage.

Staff Report by Kelly Grisham

The subject property is approximately 11,900 square feet, with an existing 1,456 square foot office building that was constructed in 1971. The property is currently vacant, but was most recently used for a used vehicle sales lot. The applicant is requesting the Special Use Permit to allow for an automobile storage tow lot.

There are several issues with the request, including security of the vehicles towed, the condition (visual and operational) of the vehicles towed, and compatibility of the use with the surrounding neighborhood. First, the personal vehicles that will be towed to this lot will be done so, in most cases, without the vehicle owners' permission, or knowledge, which causes an immense security issue with the storage of these personal vehicles. In addition, there will be times when the cars are stored over night. Given the proximity to an older hotel being located immediately adjacent to the storage area, Staff anticipates a very high potential of theft or vandalism to the vehicles stored in the lot. In addition, the existing fencing is temporary chain link, which may not sufficiently secure the storage lot. Due to the heightened security issues with the use and the proximity to a transient residence, Staff is recommending the proposed use by review be denied.

In the alternative, if the application is approved, Staff is recommending that the applicant should be required to provide enhanced security fencing, such as wrought iron security fencing, over 8' tall, rather than chain link. In addition, the lights located on the property are not full cut-off lights, and do not meet City standards. Section 17-4-52(4.5)d. of the Pueblo Municipal Code requires that all non-conforming lights must be brought into compliance with the Lighting Code or removed when a land use application has been approved to change the use of the property. If the request is approved, Staff is recommending that the lights be brought into compliance with the Lighting Code and Illuminating Engineering Society of North America (IESNA) standards for appropriate security lighting.

Second, the applicant has stated that they will only be towing vehicles that are parked illegally, and all vehicles will be operational; however, the applicant has also stated that they will be towing vehicles owned by Southwest Motors to this lot for storage. Among others, these vehicles may come from auction, other sales lots, or could be vehicles waiting for warranty work or sale. We believe the comingling of two different vehicle storage businesses and operations, has a high likelihood of morphing into a full-blown tow lot, which is not permitted in the B-4 Zone District. These types of storage could increase the intensity of the use by bringing in vehicles which are inoperable, wrecked or those with mechanical or body issues. Staff is concerned this type of use could be a potential slippery slope, eventually shifting into more than towing illegally parked vehicles.

Lastly, the adjacent properties are all zoned B-4, Regional Business District, which allows uses that are primarily retail, office, commercial, finance, transient residence, including bed and breakfast homes, bed and breakfast inns, adult entertainment, government, service, social or cultural in nature, which serves the public good and which does not involve the manufacture or production, fabrication or rebuilding or the bulk storage, warehousing or wholesaling of merchandise.

	Office building
North	
East	Bramble Tree Inn motel
South	Motel
West	YWCA

An automobile storage lot, where cars are towed and may be kept overnight, is not considered compatible with the existing surrounding business uses and transient residences. In addition, the use of tow yard is strictly allowed only in the I-2, Light Industrial Zone District. By introducing an industrial type use in this area, it has the potential to negatively impact the uses in the area, and the downtown as a whole.

Staff recommendation:

In conclusion, Staff recommends the proposed use be **DENIED**; however, if the Board chooses to approve the application, staff recommends the following conditions:

1. No inoperable or junk vehicles are permitted to be stored on-site.
2. The applicant shall only tow illegally parked vehicles to this site, and shall not be permitted to tow vehicles for any other purpose to the site, including but not limited to vehicles purchased, inoperable, junk vehicles or vehicles that are associated with other car dealerships in the City.
3. The applicant must provide a site plan, to scale, showing the existing site, and all required improvements.
4. Provide a defined area for customer parking, including ADA parking spaces, and employee parking on-site. Must comply with the parking requirements contained in Section 17-4-43 through 17-4-45 of the Pueblo Municipal Code.
5. Water quality measures shall be provided in compliance with “Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo,” June 9, 1997 (City Stormwater Criteria).
6. Provide a plan showing locations and details of water quality features.
7. Provide documentation (report/calculations/letter) confirming that the water quality measure(s) are adequate for this site.
8. All vehicle maneuvering must occur on-site. Vehicles and/or tow trucks may not back across the right-of-way.
9. Existing exterior lights are not full cut-off; therefore, staff is recommending the applicant install new light fixtures which are full cut-off.
10. Lighting must be brought into compliance with the Lighting Code and Illuminating Engineering Society of North America (IESNA) standards for appropriate security lighting.
11. Lighting must be left on all night when cars are stored over night.
12. Provide landscaping setback and right-of-way landscaping, according to Section 17-4-7 of the Pueblo Municipal Code.
13. Provide a landscape plan prepared and stamped by a licensed landscape architect.
14. Provide a copy of the State PUC license.
15. Bring sidewalk, curb and gutter, and handicap ramp into compliance with current standards for public improvements.
16. The storage area must be fenced with wrought iron security fencing of over 8’ tall. Chain link fencing shall not be permitted where the cars will be stored.
17. The property shall be subject to inspection by any City of Pueblo Departments to verify the cars towed are compliant with the conditions of approval.
18. Standard permit conditions 1-13.

Mr. Proud, the applicant, was present along with the property owner, Mr. Zavislan. Mr. Zavislan spoke in support of the special use permit request. No one spoke in opposition to the request.

Commission Action:

Motion to approve, by Ernst, second by Lujan-Slak, followed by lengthy discussion of the recommended conditions with the applicant and property owner.

Motion passed 4 – 0 with the following conditions of approval:

1. No inoperable or junk vehicles are permitted to be stored on-site.
2. The applicant shall only tow illegally parked vehicles to this site, and shall not be permitted to tow vehicles for any other purpose to the site, including but not limited to vehicles purchased, inoperable, junk vehicles or vehicles that are associated with other car dealerships in the City.
3. The applicant must provide a site plan, to scale, showing the existing site, and all required improvements.
4. Provide a defined area for customer parking, including ADA parking spaces, and employee parking on-site. Must comply with the parking requirements contained in Section 17-4-43 through 17-4-45 of the Pueblo Municipal Code.
5. All vehicle maneuvering must occur on-site. Vehicles and/or tow trucks may not back across the right-of-way.
6. Existing exterior lights are not full cut-off; therefore, staff is recommending the applicant install new light fixtures which are full cut-off.
7. Lighting must be brought into compliance with the Lighting Code and Illuminating Engineering Society of North America (IESNA) standards for appropriate security lighting.
8. Lighting must be left on all night when cars are stored over night or provide overnight security.
9. Provide 6’ of landscaping setback and right-of-way landscaping, according to Section 17-4-7 of the Pueblo Municipal Code that includes plants that are appropriate for water quality.
10. Provide a landscape plan prepared and stamped by a licensed landscape architect for staff review and approval.
11. Provide a copy of the State PUC license.
12. Bring sidewalk, curb and gutter, and handicap ramp into compliance with current standards for public improvements.
13. The storage area must be fenced with wrought iron security fencing of 8’ tall along Santa Fe. Chainlink may remain along alley and 8th Street.
14. The property shall be subject to inspection by any City of Pueblo Departments to verify the cars towed are compliant with the conditions of approval.
15. Standard permit conditions 1-13.

ZBA 14-27 (816 E. 5th Street)

A **Special Use Permit** to allow a Private Recreation Facility.

Staff Report by Jerry M. Pacheco

As part of a redevelopment project in the East Side Urban Renewal Area, the OTR Foundation rehabilitated an old home adjacent to Eastside Community Garden and desires to use the home to conduct music and art activities for youth in the neighborhood. The Pueblo Urban Renewal Authority (PURA) agreed to fund \$12,000 for sidewalk improvements on the condition that the OTR Foundation obtain a Special Use Permit that would allow their outreach activities.

Janet Wilson appeared representing the property owner and reiterated the request. She stated he understood the staff recommendations and had no objections.

Commission Action:

Motion to approve with staff recommendations, motion by Ernst, second by Lujan-Slak.

Motion passed 4 – 0.

Chairman Castellucci recesses the meeting at 9:05 pm. Meeting is reconvened at 9:15 pm.

ZBA 14-24 (2729 Farabaugh lane)

A **Limited Use Permit** to allow a Medical Marijuana Facility.

Staff Report by Jerry M. Pacheco

On August 26, 2014 the Property Owners obtained variance from the minimum 1,000 foot separation buffer from an approved Medical Marijuana Facility to allow a Medical Marijuana Facility on the subject property. Base upon the granting of the variance the City issued a Medical Marijuana Certificate of Location (MMCL) which permits the applicant to request approval for a Limited Use Permit for a Medical Marijuana Facility. This request is for approval of the proposed use.

Staff recommended **APPROVAL** with Standard permit conditions 1-13 provided in Exhibit B and the following:

1. A final parking layout, fencing and loading plan must be submitted and approved by Staff prior to the issuance of the City business license.
2. The Applicant must submit to the City an official copy of their state issued license prior to the issuance of the City business license.

Steven Duran appeared and stated he understood Staff's recommendations. He argued that his proposed business would be compatible in the neighborhood.

Karen Lilley appeared in objection to the application stating that the developmentally disabled persons employed at Pueblo Diversified Industries (PDI) may be negatively influenced by the proposed business and that the use was not compatible to her and the PDI Board of Directors.

Commission Action:

Motion to approve with staff recommendations, motion by Lujan-Slak, second by Ernst.

Motion passed 3 – 1; Lucas voting no.

Discussion ensued and the Chairman offered to entertain a motion to move the remaining items to the consent agenda if there were no objections in the audience. No one in the gallery voice an objection.

Commission Action:

Motion to move remaining items left on the Regular Agenda to the Consent Agenda, motion by Ernst, second by Lujan-Slak.

Motion passed 4 - 0.

Commission Action:

Motion to approve the following items on the Consent Agenda:

- **ZBA 14-25 (2213 W. Northern Avenue)** A Special Use Permit for a tattoo shop;
- **ZBA 14-26 (5 Kalanchoe Court)** A Variance to allow a detached accessory structure to exceed size limits;.
- **ZBA 14-28 (220 W. 15th Street)** A Special Use Permit to allow an emergency stand by generator; and
- **ZBA 14-29 (1102 E Evans Avenue)** A Variance to allow an electronic variable message sign.

Commission Action:

Motion to approve with staff recommendations, motion by Ernst, second by Lujan-Slak.

Motion passed 4 - 0

ADJOURN

There being no further business the meeting was adjourned at 10:15 p.m.