

Mike Castellucci
Chair

Steve Anselmo
Vice Chair



Yvonne Lujan-Slak
Secretary

Brian Lucas
Vacant

Minutes for April 18, 2017
City Council Chambers, 1 City Hall Place

MEETING CALLED TO ORDER

The meeting was called to order at 7:10 p.m. with Chairman Castellucci presiding.

Board Members Present: Mike Castellucci, Steve Anselmo, and Yvonne Lujan-Slak.

Board Member Absent: Brian Lucas

Staff Members Present: Scott Hobson, Assistant City Manager for Community Investment; Paul Willumstad, Board Attorney, Valerie A. Sherman, Planner.

APPROVAL OF MINUTES

Motion to approve the corrected minutes from the meetings February 28, 2017 and March 28, 2017, by Lujan-Slak, second by Anselmo.

Motion passed 3 - 0

APPROVAL OF AGENDA

Motion to approve the agenda for April 18, 2017, by Anselmo, second by Lujan-Slak.

Motion passed 3 - 0 (Case No. ZBA 17-18 continued to May 23, 2017)

REGULAR BUSINESS

Consent Agenda

Case No. ZBA 17-07, Austin R. Steir, Tom's Used Cars Salvage: Special Use Permit to allow a used car/auto salvage yard in an Industrial (I-2 zone) district.

Case No. ZBA 17-12, Karmen Montes, In Harmony, LLC: Special Use Permit to allow an adult day service center in a Subregional Business (B-2 zone) district.

Motion to approve the consent agenda for April 18, 2017, by Lujan-Slak, second by Anselmo.

Motion passed 3 - 0

Regular Agenda

Each case that follows proceeded in a uniform process as directed by Chair Castellucci. Beginning with a staff report presented by Planner Valerie A. Sherman, then questions, if any, from the Board to staff members. Next, the applicant is sworn in by Board Attorney Paul Willumstad, then the applicant states

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his or her name and address. The Board questions the applicant and confirms understanding of staff report and conditions for approval. Applicant may add further information, followed by further questions, if any, from the Board. Then the Board asks if anyone present in the audience will state support for the applicant, followed by those who state opposition. Then the Board closes the public hearing and reviews findings of fact. Then the Board may motion to approve or deny the application for permit. In some cases, permits may be conditionally approved.

ZBA-17-05 (2105 Oakshire Lane)

A Variance to reduce the local distance buffer between a marijuana retail store facility and a residential zone district.

Applicants present: Warren M. Diodosio, Warren J. Diodosio accompanying

Castellucci asked me to clarify the eleven (11) foot buffer shortage and asked if Mr. Diodosio could also subdivide the parcel. I clarified that the applicant was asking for a variance for eleven (11) feet and that he could subdivide. Also, Scott Hobson explained the school buffer and the definition.

Castellucci asked Mr. Warren M. Diodosio if he understood the staff conditions and Mr. Diodosio stated that he did understand. Mr. Diodosio stated that they would have a carbon filtration system, security, and traffic would not be a problem at that location. Mr. Diodosio also stated that the site location is the only one east of I-25 that is eligible for a marijuana retail store. Lujan-Slak asked Mr. Diodosio to clarify how the carbon filtration system works and he explained how the carbon system works.

No public testimony in support.

Public testimony in opposition:

- Steve Chavez, Lead Pastor for the Praise Assembly of God, 5234 Mojave Dr. Mr. Chavez stated that they had 1,000 people in the church and lots of boys and girl's functions at night. He said that the teenagers always hang around the fast food restaurants in the area which would be right next to the marijuana retail store. He is very concerned about all the children's activities being next door to a marijuana retail store.
- James Alan Urie, Associate Pastor for the Praise Assembly of God, 6 Duncan Rd. Mr. Urie stated that he strongly opposes the retail store, and he stated that there is a high school three blocks away, an elementary school two blocks away, and elderly homes nearby. He stated that there is a bus stop on the corner of Troy and Oakshire Lane. He also stated that the children at their church, play up to the property line between the proposed site and church lot. Mr. Urie stated again that he strongly opposes the retail store and he talked about future possibilities of starting a school at the church property.

Rebuttal by applicant:

- Mr. Warren M. Diodosio stated that he wants to be a good neighbor. He clarified that people must be 21 years old to buy marijuana. There would be very high security. Consumers would be checked two times, and fines are 50 to 100 thousand dollars for selling marijuana to consumers under age 21. There would be no tolerance of marijuana use on the property. Mr. Diodosio stated that they passed all the other buffers.

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Anselmo asked Mr. Diodosio if there was a fence between the church and the site. Mr. Diodosio stated there was a ten-foot-high chain link fence. Castellucci talked about fence screening and stated that it was required no matter what.

Commission Action:

Motion to grant by Lujan-Slak, second by Anselmo.

Motion with staff conditions and standard permit conditions failed 3 - 0.

ZBA-17-06 (1739 East 2nd Street)

A Variance to allow a residential detached garage and storage shed to encroach, as built, in the required fifteen (15) foot rear yard setback.

Applicants present: Socorro Castillo

Castellucci asked me to clarify what I meant in the staff conditions by removing the roof structure off the back wall. I clarified that the one section hanging down and concreted to the wall must be removed and properly done, and down spouts had to be pointing into Mr. Castillo's back yard and not towards the alley.

Castellucci asked Mr. Socorro Castillo if he understood the staff conditions and if he could comply with them. Mr. Castillo stated that he would comply with the conditions. Mr. Castillo asked if he needed to paint the house the same as the garage. I verified that he did. Mr. Castillo understood everything.

No public testimony in support.

No public testimony in opposition.

Commission Action:

Motion to grant by Anselmo, second by Lujan-Slak.

Motion passed 3 - 0 with staff conditions and standard permit conditions.

ZBA-17-08 (3420 North Elizabeth)

Case withdrawn on March 15, 2017.

ZBA-17-09 (1226 East 8th Street)

A Special Use Permit to allow a body art studio in a Subregional Business (B-2 zone) district.

Applicants present: Maxine Montoya, Edward Franklin accompanying

Castellucci asked Ms. Maxine Montoya if she understood the staff conditions and able to comply with them. Ms. Montoya stated that she did understand the conditions and would comply with them.

No public testimony in support.

Public testimony in opposition:

- Dan Robles, son of the owner of the home adjacent to the west of the site, 8875 Redwing Avenue, Littleton, CO. Mr. Robles stated that there are cars always going through the parking lot, people loitering in the parking lot, and customers are parking right on the front sidewalk and feels it will create a nuisance. He stated that he is concerned about waste and diseases from the business and kids getting into the trash can where waste will be thrown. Mr. Robles also mentioned that while not loud, there was always music playing outside the front door of the building.
- Daniel Robles, owner of the home adjacent to the west of the site. Mr. Robles stated that he agreed with everything his son said. He also stated that cars parking along the west fence line keep bumping into the fence and pushing the fence into his house.

Rebuttal by applicant:

- Ms. Montoya clarified that they never throw waste into the trash receptacle and all waste is put in containers and properly disposed of. She also stated that she was not aware that there was a loitering problem in the parking lot and she would address that.
- Mr. Franklin stated that he would remove the outside speaker right after the hearing.

Castellucci stated that if Ms. Montoya posted a 'No Parking, for Customers Only' sign in the parking lot, then the police would have the right to respond to loitering issues. If there is no sign, then the police will not respond. Ms. Montoya stated that she would post a sign. Castellucci stated that the business should not be operated after 9pm and Ms. Montoya said she would comply. Castellucci also stated that parking bumpers need to be implemented and a solid fence needs to be built to replace the chain link fence on the west side of the property. Ms. Montoya said she would comply.

Commission Action:

Motion to grant by Lujan-Slak, second by Anselmo.

Motion passed 3 – 0 with board conditions, staff conditions, and standard permit conditions.

ZBA-17-10 (105 East Abriendo Avenue)

Case withdrawn on March 15, 2017.

ZBA-17-11 (1620 East 4th Street)

Case withdrawn on March 20, 2017.

ZBA-17-13 (2216 Perry Avenue)

A Special Use Permit to allow a prefabricated metal garage as an accessory to a single-family residence, and a Variance to allow the garage to be larger than 3,000 square feet in an Agricultural (A-4 zone) district.

Applicants present: Richard Higgins

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Castellucci asked me about the size of the building and if it would meet the minimum setbacks. I clarified that the size of the building would meet the required setbacks and the north side setback would allow the building to be built well away from the utility easement.

Castellucci asked Mr. Richard Higgins if he understood the staff conditions. Mr. Higgins stated that he did understand the conditions.

No public testimony in support.

No public testimony in opposition.

Commission Action:

Motion to grant by Anselmo, second by Lujan-Slak.

Motion passed 3 – 0 with staff conditions, and standard permit conditions.

ZBA-17-14 (72 Duke Street)

A Variance to allow more than one accessory structure, and to reduce architectural compatibility requirement for an accessory polycarbonate greenhouse.

Applicants present: Dean Pershall in behalf of Jonathon P. Grenard, Dan Grenard accompanying

Castellucci asked Mr. Dean Pershall about the lighting at night in the greenhouse. Mr. Pershall explained how the lighting would be reduced between 10pm and 5am. Mr. Pershall explained in good detail about the history of the building and its construction, and the unique features to the building. Mr. Pershall also stated that he has cleaned up and removed all litter from the property. Castellucci asked Mr. Pershall if he understood the staff conditions. Mr. Pershall stated that he did understand the staff conditions and would comply with them.

No public testimony in support.

Public testimony in opposition:

- Rich Riesner, 63 Stanford Avenue. Mr. Riesner stated that he lives behind the property and he complimented Mr. Pershall for cleaning up the yard. He stated that he was concerned about the homeless type people that were frequenting the home. He also stated that he is not interested in them tearing the greenhouse down.

Rebuttal by applicant:

- Mr. Pershall, a friend of Jonathon Grenard, 511 Del Rey, Canon City, explained that Mr. Grenard was very caring and therefore he would invite homeless people to live in his home so they had a place to go. He also stated that there are no more homeless people living in the home.
- Mr. Dan Grenard, Jonathon's father, 1350 Ridgewood Ct., Canon City, stated that he was aware of the situation and explained that Jonathon had some problems and he was in the hospital getting the help he needs. He also stated that they will get the home set up and may sell it down the road.

Commission Action:

Motion to grant by Anselmo, second by Lujan-Slak.

Motion passed 3 – 0 with staff conditions, and standard permit conditions.

ZBA-17-15 (934 Aspencrest Drive)

A Variance to allow a single-family residence to be constructed in the required twelve and a half (12½) foot second front yard setback.

Applicants present: Domega Homes Representatives: Cole Proctor, Edward Fisher

Castellucci asked me if the bay window on the site plan was the feature that was actually in the setback, and not really the house. I clarified that it was the bay window that was in the setback.

Mr. Cole Proctor from Domega Homes, stated that placing the home in the setback, would make it compatible with the placement of other homes.

No public testimony in support.

No public testimony in opposition.

Commission Action:

Motion to grant by Anselmo, second by Lujan-Slak.

Motion passed 3 – 0 with standard permit conditions.

ZBA-17-16 (2619 Farabaugh Lane)

A Variance to reduce development performance standards for an industrial facility in a Highway and Arterial Business (B-3 zone) district.

Applicants present: Darlene Horn, DKHorn Engineering

Castellucci asked Ms. Darlene Horn if she understood the staff conditions. Ms. Horn stated that she did understand the staff conditions. She also stated that she is working with architects to get things ready.

No public testimony in support.

No public testimony in opposition.

Commission Action:

Motion to grant by Anselmo, second by Lujan-Slak.

Motion passed 3 – 0 with staff conditions, and standard permit conditions.

ZBA-17-17 (2411/2415 Lake Avenue)

A Special Use Permit to allow a homeless shelter in a Highway and Arterial Business (B-3 zone) district.

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Applicants present: Wayne Moore, Pueblo Rescue Mission, Larry Yonker, Colorado Springs Rescue Mission, accompanying

Castellucci asked Mr. Wayne Moore if he understood the staff conditions. Mr. Moore stated that he did understand the staff conditions. Mr. Moore also stated that a homeless shelter is compatible with the area and there are hospitals close by.

Public testimony in support:

- Jaqueline Jaramillo, Rescue Mission, 671 W. Monument St, Colorado Springs. Ms. Jaramillo stated that she comes from the Colorado Springs Rescue Mission to help. She stated that she takes great measures to develop great properties that are first class and clean. Ms. Jaramillo also stated that they want to be good neighbors.

Public testimony in opposition:

- Carl Edwards, Pueblo, CO. Mr. Edwards stated that he owns six properties in the area and is concerned about break-ins. He would like to see them clean up the place, but is concerned about transients going by the area to the soup kitchen. He stated that it would be bad for the neighborhood.
- George Lujan, Pueblo, CO. Mr. Lujan stated he agrees with Carl Edwards. He stated that he has grandkids eight to eleven years old that play near the site and he is very concerned about the kids safety. Mr. Lujan stated that the property values will go down. He also stated that he is not opposed to a homeless shelter but wrong location due to the children in the near vicinity.
- Julie Earp, 2101 Acero. Ms. Earp expressed concern over 50 people, 25 men and 25 women staying at the shelter. She is very upset with the idea of a shelter and didn't like the idea of this type of business. She talked about the trash it will create. Ms. Earp stated that the homeless get about \$200 dollars for food stamps and she only gets \$80 dollars.
- Michael Cabello, 2122 Norman. Mr. Cabello stated that he owns a shop near the property and he is concerned about the theft problems. He stated that he sees homeless people walking around and shooting-up. Mr. Cabello asked; why does he have to lose his business and let them come in? Mr. Cabello also asked; why does he have to carry a gun?
- Dan and Barbara Oxley, 2426 California Street. Mrs. Oxley stated that she has lived in the home to the south of the property for 30 years. She stated that there have been lots of problems with the MCC people that use to stay there. She stated that they tore the fence down, threw trash and bottles over the fence into her yard, fed her dog, and whistled at her when she was in her yard. Mrs. Oxley stated that there are plenty of problems, with those kinds of people. Her property value was going down and her grandkids were not safe. She also stated that there was lots of riffraff in the area. Mr. Oxley stated that he is concerned with security of homes. He stated that they found a knife laying in their front yard. He stated that there was no place for the homeless to go for blocks of time. Mr. Oxley also stated that the fence between the property and theirs, is weak, and needs to be torn down and rebuilt.

Rebuttal by applicant:

- Castellucci asked Mr. Wayne Moore to address the 8am departure for the homeless people. Mr. Larry Yonker explained that there would not be an 8am departure time and there would be activities and classes during the day. He stated that there would be three meals a day therefore, limiting the

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amount of homeless people walking through the neighborhood to the soup kitchen. Mr. Yonker stated that it would be an opportunity to expand homeless services in the pueblo area. Mr. Yonker stated that the current system is the same as Colorado Springs. He stated that there are lots of homeless problems anyway, and the shelter did not cause it. Castellucci asked Mr. Moore if they had been out in the community to talk to people about the shelter. Mr. Moore and Mr. Yonker stated that due to the time frame on closing the sale of the property, they have had limited time to get out and talk to people in the neighborhood.

Willumstad, Board Attorney for the City of Pueblo, suggested that they talk with neighbors in the area first, and then come back when they can come to an agreement - voluntary and free.

Castellucci asked Mr. Moore why they chose that specific building and not somewhere else. Mr. Moore explained that it is the perfect design with the kitchen and bunks in rooms. Mr. Moore stated that he wants to avoid having people walk from one place to another, like to the soup kitchen.

Anselmo asked Mr. Moore if the weak fence will be fixed, and how many people will there be at any given time in the shelter. Mr. Moore stated that the fence would be repaired, and there would be about 100 people in the shelter. Mr. Moore also stated that they need a larger building than the downtown building, and that is why they chose the building.

Castellucci asked Mr. Moore if he would consider an extension, to have time to go out into the surrounding neighborhoods to talk with the residents. Mr. Moore stated that he would be agreeable to an extension.

Commission Action:

Motion to grant an extension to the May 23rd ZBA hearing by Anselmo, second by Lujan-Slak.

Motion for an extension passed 3 - 0.

Notes: Castellucci asked me to furnish mailing lists of the surrounding neighborhood to the applicants. Castellucci stated that all opposition would be part of the next hearing.

OLD BUSINESS

None

Regular agenda

None

ADJOURNMENT

Meeting adjourned at 10:40 p.m.

Minutes respectfully submitted by Sherman.