

Weston Burrer  
Chair

Rudy Martinez  
Vice Chair

# PUEBLO

Zoning Board of Appeals

Ralph Scaplo  
Secretary

Mike Castellucci

Allison Ernst

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**Zoning Board of Appeals**  
City of Pueblo, Colorado  
Tuesday, September 27, 2011-7:00 p.m.  
Interim City Council Chambers-301 W. "B" Street

## Minutes

### MEETING CALLED TO ORDER

The meeting was called to order at 7:00 p.m. with Chairperson Weston Burrer presiding.

**Board Members Present:** Ralph Scaplo, Rudy Martinez, Mike Castellucci and Allison Ernst

**Staff Members Present:** Jeff Bailey, P.E., Assistant City Manager for Development Services; Carrie Muchow, Planner; Ramona Baca, Court Reporter; and Paul Willumstad, Board Attorney.

### APPROVAL OF MINUTES

Motion to approve the minutes from the August 23, 2011 meeting by Scaplo, second by Martinez.

**Motion passed 5-0.**

### APPROVAL OF AGENDA

Motion to amend the agenda and move ZBA #046-2011 to the regular agenda for the September 27, 2011 meeting by Castellucci, second by Scaplo.

**Motion passed 5-0.**

### PUBLIC HEARINGS AND ACTION

#### CONSENT AGENDA

##### Special Use Permit

1. **045-2011 41 Loch Lomond Ln. (The Kid's Shack) R-1**  
A **Special Use Permit** to allow a home daycare.

#### BACKGROUND

Staff Report by Carrie Muchow.

**Synopsis**

The subject property is located in the Belmont neighborhood. According to Section 17-4-51 (6)(c)(3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home daycare for a maximum of eight children under 12 years of age.

**Analysis**

The State of Colorado requires 75-square feet of open play space per child for home day cares. With eight children, the minimum area needed is 600 square feet. The applicant’s yard allows for more than 600 square feet as part of their designated play area. City Staff defers to the State Department of Human Services; Division of Child Care to further inspect and license the operation. Staff did not locate any sex offenders within one block of the proposed use.

**RECOMMENDED MOTION**

Staff recommends **APPROVAL** with the following conditions:

- 1. Standard permit conditions 1-13.
- 2. The applicant must provide proof of licensure within 90 days of this meeting.

**COMMISSION ACTION**

Motion to approve by Castellucci, second by Martinez with the following conditions:

- 1. Standard permit conditions 1-13.
- 2. The applicant must provide proof of licensure within 90 days of this meeting.

**Motion passed 5-0.**

**2. 047-2011 2919 2<sup>nd</sup> Avenue (Kim Spidell) R-2**

**A Special Use Permit** to allow a home daycare.

**BACKGROUND**

Staff Report by Carrie Muchow.

**Synopsis**

The subject property is located in the Country Club neighborhood. According to Section 17-4-51 (6)(c)(3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home daycare for a maximum of eight children under 12 years of age.

**Analysis**

The State of Colorado requires 75-square feet of open play space per child for home day cares. With eight children, the minimum area needed is 600 square feet. The applicant’s yard allows for more than 600 square feet as part of their designated play area. City Staff defers to the State Department of Human Services; Division of Child Care to further inspect and license the operation. Staff did not locate any sex offenders within one block of the proposed use.

**RECOMMENDED MOTION**

Staff recommends **APPROVAL** with the following conditions:

- 1. Standard permit conditions 1-13.
- 2. The applicant must provide proof of licensure within 90 days of this meeting.

**COMMISSION ACTION**

Motion to approve by Castellucci, second by Martinez with the following condition(s):

- 1. Standard permit conditions 1-13.
- 2. The applicant must provide proof of licensure within 90 days of this meeting.

**Motion passed 5-0.**

**3. 049-2011 712 Fortino Blvd. (Pueblo Area Pet Emergency Hospital) B-4**  
A Special Use Permit to allow a veterinary hospital.

**BACKGROUND**

Staff Report by Carrie Muchow.

**Synopsis**

The subject property is located between the Country Club and Ridge neighborhoods. According to Section 17-4-51 (6) (c) (3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a veterinary hospital in a B-4 zone.

The property has been used as a veterinary hospital since approximately 1998 but the previous tenant apparently failed to get a sales tax license and was therefore never made to get a Special Use Permit. The applicant assumed that since the previous hospital had operated for so long that the use must be allowed but was informed of the need for a Special Use Permit after receiving Sales Tax paperwork.

**Analysis**

The property is in the middle of a business area near I-25 and will only be open during weekends and holidays when other businesses in the area are closed so there are no expected adverse affects from light, noise, or traffic for this location. Also, because of the irregular hours, there is plenty of available parking around the building. The same use operated for many years in this location with no complaints.

**RECOMMENDED MOTION**

Staff recommends **APPROVAL** with the following conditions:

- 1. Standard permit conditions 1-13.
- 2. All signage must be approved prior to installation.

**COMMISSION ACTION**

Motion to approve by Castellucci, second by Martinez with the following condition(s):

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. All signage must be approved prior to installation.

**Motion passed 5-0.**

**4. 050-2011 1505 E. 17<sup>th</sup> St. (Sandra Valdovinos) R-2**

**A Special Use Permit** to allow a home daycare.

**BACKGROUND**

Staff Report by Carrie Muchow.

**Synopsis**

The subject property is located in the Eastside neighborhood. According to Section 17-4-51 (6)(c)(3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home daycare for a maximum of eight children under 12 years of age.

**Analysis**

The State of Colorado requires 75-square feet of open play space per child for home day cares. With eight children, the minimum area needed is 600 square feet. The applicant's yard allows for more than 600 square feet as part of their designated play area. City Staff defers to the State Department of Human Services; Division of Child Care to further inspect and license the operation. Staff did not locate any sex offenders within one block of the proposed use.

**RECOMMENDED MOTION**

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. The applicant must provide proof of licensure within 90 days of this meeting.

**COMMISSION ACTION**

Motion to approve by Castellucci, second by Martinez with the following condition(s):

1. Standard permit conditions 1-13.
2. The applicant must provide proof of licensure within 90 days of this meeting.

**Motion passed 5-0.**

**REGULAR AGENDA**

**Special Use Permit**

**5. 044-2011 2625 N. Elizabeth St. (Pueblo Prime Development, LLC) B-2**

**A Special Use Permit** to allow a pawn shop.

## **BACKGROUND**

Written Staff Report by Carrie Muchow.

### **Synopsis**

The subject property is located in the Northside neighborhood. According to Section 17-4-51 (6) (c) (3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a pawn shop. The applicant states that the location was chosen based on the existing clientele from Family Dollar and the desire to utilize the existing clients.

### **Analysis**

This particular section of Elizabeth St. is a transitional area where the street goes from historic residential homes to heavy commercial as you near Hwy 50. Directly behind the building in question are residential homes and while there is a church directly to the South, residential homes begin again on the other side of the church. Across Elizabeth are small office uses and then residential homes. Aside from Family Dollar, which is medium scale retail, small scale offices continue for the next block and a half on both sides. On the other side 29<sup>th</sup> St., larger scale commercial uses become the norm.

The applicant claims that the existing use is mechanical repair and the sale of new and used merchandise. The most recent use, Bob's Bikes, was small scale, neighborhood, bicycle repair. Bicycle repair is not typically considered mechanical repair and any retail would be secondary to the neighborhood repair shop.

Pawn shops typically have significantly more adverse affects on a neighborhood than most other businesses and would not be considered a neighborhood business use. When businesses and residents look for an area to locate, pawn shops and cash advance businesses represent a neighborhood in decline, which the Northside neighborhood is not. However, if a pawn shop is allowed to locate this close to the residential area, it could lead to a downturn in neighborhood pride and eventually property values. It is also important to consider that the Northside neighborhood residents are trying to get a Historic District going in the neighborhood and this type of business will not help their efforts.

The purpose listed in the PMC for the B-2 zone is "...intended to provide areas for the sale and retail of convenience type goods and services required by residents of a subregion provided that the outlets create no nuisance". The pawn shop use does not fit this zone's purpose when considering this location. A pawn shop is not a required good or service for neighborhood residents and can create nuisances for surrounding properties. The only reason this is a use by review in a B-2 is because it would be allowed in a B-3 and all uses by right in B-3 zones are uses by review in B-2 zones, it was never an intended use for a B-2.

The difference for Family Dollar is that it does not have the same affects on neighborhoods as a pawn shop does and is considered a retail shop of convenience type goods required by residents.

The building and location could be used for a number of uses from a small restaurant to a small, local retail store, or even an office. It would be unfortunate to let a prime retail spot become a less than desirable use for a neighborhood especially when it would be allowed as a use by right further North on Elizabeth. This section of Elizabeth was intended to be, and should remain a, buffer for the residential homes before the heavy commercial uses start further up Elizabeth. It was not intended for heavier commercial uses to extend closer and closer into the residential area.

Carrie provided a memorandum to the Board explaining that after working with the Director of Planning and the Property Owner, Staff recommends APPROVAL of this case with the following conditions:

**RECOMMENDED MOTION**

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. The parking must be restriped.
3. As is typical for Special Use Permits in similar cases, a landscaped tree lawn with grass and trees must be installed per the Pueblo Municipal Code along Elizabeth St. in place of the current concrete.
4. All signage must be approved prior to installation.
5. Hours of operation must be limited to 8am – 7pm.
6. Absolutely no external display of products, either for sale or storage, is allowed.
7. A four foot (4') tall, opaque fence must be installed along the entire southern border of the parking lot and over to the corner of the building

**HEARING**

**Alan Lucas, Elk Valley Development, 1918 Newton Road, Pueblo, CO appeared** and testified in favor of the application.

Mr. Lucas explained the business is being run by six local business people. There will be an owner-operator on the premises at all times. Mr. Lucas submits two pictures/exhibits into evidence showing the before and after photos of the business. They are marked Exhibit A (picture showing Bob’s Bicycles) and Exhibit B (picture showing what the site would look like once improvements are completed).

**Joseph Costanza, AAA Plumbing, 29286 Iris Road, Pueblo, CO appeared** and testified in favor of the application.

**Darla Ewing, 2107 W. 32<sup>nd</sup> Street, Pueblo, CO appeared** and testified in opposition of the application.

Ms. Ewing states she is the owner of Family Dollar and would not like this business next door because a pawn shop is not considered a retail location.

**COMMISSION ACTION**

Motion to approve by Castellucci, second by Martinez with the following condition(s):

1. Standard permit conditions 1-13.
2. The parking must be restriped.
3. As is typical for Special Use Permits in similar cases, a landscaped tree lawn with grass and trees must be installed per the Pueblo Municipal Code along Elizabeth St. in place of the current concrete.
4. All signage must be approved prior to installation.
5. Hours of operation must be limited to 8am – 7pm.
6. Absolutely no external display of products, either for sale or storage, is allowed.
7. A four foot (4') tall, opaque fence must be installed along the entire southern border of the parking lot and over to the corner of the building

**Motion passed 5-0.**

**6. 048-2011 1302 Van Buren (Chi Therapy) R-2**

A **Special Use Permit** to allow a home massage therapy business.

**BACKGROUND**

Staff Report by Carrie Muchow.

**Synopsis**

The subject property is located in the State Fair neighborhood. According to Section 17-4-51 (6) (c) (3.1) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home occupation.

The applicant is proposing to run a home massage therapy business using 50% of the square footage of the residence.

**Analysis**

A home occupation, as defined in Section 17-2-1 (25) b of the PMC, must only use 25% or less of the home for the home occupation. If the applicant can not reduce the needed square footage, the proposed business can not take place at this location because it can not be considered a home occupation and a regular massage therapy business is not allowed in an R-2 zone.

Provided that the square footage is reduced to only 25% (373.5 sf) of the residence, the proposed location seems appropriate for the home occupation. The property is on the corner of Northern and Van Buren and two of the four corners are zoned for business and Northern has a number of businesses up and down the street.

**RECOMMENDED MOTION**

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. No signs may be placed on the property.
3. The hours are limited to 9am to 5pm.
4. The number of clients coming to the home can not exceed fourteen (14) per week and no more than one person waiting.
5. Applicant must maintain all appropriate licensing.
6. The rear yard can not be turned into a parking lot.
7. The maximum square footage to be used for the home occupation is limited to 373.5 square feet, 25% of the home.

**HEARING**

**Rebecca Waring, 1302 Van Buren, Pueblo, CO appeared** and testified in favor of the application.

**Tonya Gregg, 1306 Van Buren, Pueblo, CO appeared** and testified in favor of the application.

Ms. Gregg lives across the street and is okay with having customers come to Ms. Waring's home.  
**Audra Martinez, 1311 Van Buren, Pueblo, CO appeared** and testified in favor of the application.

Ms. Martinez lives next door to Ms. Waring. Ms. Martinez does not have any problems with the clients and her neighbor is quiet.

### **COMMISSION ACTION**

Motion to approve by Ernst, second by Castellucci with the following condition(s):

1. Standard permit conditions 1-13.
2. No signs may be placed on the property.
3. The hours are limited to 10am to 9pm, 7 days a week.
4. The number of clients coming to the home can not exceed fourteen (14) per week and no more than one person waiting.
5. Applicant must maintain all appropriate licensing.
6. The rear yard can not be turned into a parking lot.
7. The maximum square footage to be used for the home occupation is limited to 373.5 square feet, 25% of the home.

**Motion passed 5-0.**

### **Variances**

**7. 046-2011 2223 E. Orman Avenue (Santos Granillo) R-2**

A **Variance** to allow an addition to a nonconforming structure to exceed 40% of the existing structure's square footage.

### **BACKGROUND**

Staff Report by Carrie Muchow.

### **Synopsis**

The subject property is located in the Bessemer Neighborhood. The applicant is requesting a variance from Section 17-3-4 of the Pueblo Municipal Code (PMC), to allow a new addition to be more than 40% of the square footage of a non-conforming structure.

The applicant wants to add an additional 1600 square feet to the current 1232 square foot house. This is an increase of 130% of the original floor area. The applicant is requesting the variance in order to add additional bedrooms for his growing family. Over the last 13 years in the home, they have outgrown the original floor plan.

### **Analysis**

While at first glance the jump from 40% to 130% may seem like a lot, consider that most homes built in 1925 do not meet modern, growing families' needs. If the addition is approved, the total square footage of

the home will be still only be 2832 square feet, a very reasonable size. According to the National Association of Home Builders, the average home size in 2009 was 2700 square feet.

Except for being over 40% of the square footage of the original home, the addition meets all other requirements including setbacks and lot coverage.

The home sizes in this neighborhood vary from smaller than the current 1232 home to much larger than the proposed plan so the size being proposed will not be out of character with the neighborhood. In older neighborhoods such as these, it's important to continue to encourage redevelopment and reinvestment where appropriate and, in this instance, the addition proposed will be a good addition to the home and neighborhood.

### **RECOMMENDED MOTION**

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. All storm water must drain away from neighboring properties.
3. The addition must be architecturally compatible with the rest of the home.

### **HEARING**

**Beatriz & Santos Granillo, 2223 E. Orman Avenue, Pueblo, CO** appeared and testified in favor of the application.

### **COMMISSION ACTION**

Motion to approve by Castellucci, second by Ernst with the following condition(s):

1. Standard permit conditions 1-13.
2. All storm water must drain away from neighboring properties.
3. The addition must be architecturally compatible with the rest of the home.

**Motion passed 5-0.**

**8. 030-2011 1164 Eagleridge Blvd. (CLID, LLC) B-3**

A **Variance** to allow a parking reduction for an existing building.

(Withdrawn)

### **ADJOURN**

There being no further business the meeting was adjourned at 8:27 p.m.