

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, October 25, 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, and Rudy Martinez

**Board Members Absent:** Mike Castellucci and Allison Ernst

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

**Staff Members Absent:** Ramona Baca, Court Reporter

#### APPROVAL OF MINUTES

Motion to approve the minutes from the September 27, 2011 meeting by Scaplo, second by Martinez.

**Motion passed 3-0.**

#### APPROVAL OF AGENDA

Motion to approve the October 25, 2011 agenda by Martinez, second by Scaplo.

**Motion passed 3-0.**

#### PUBLIC HEARINGS AND ACTION

##### CONSENT AGENDA

##### Special Use Permit

1. **052-2011 1105 Russ Avenue (Elizabeth Candelario) R-4**  
A **Special Use Permit** to allow a home daycare.

## **BACKGROUND**

Staff Report by Carrie Muchow.

### **Synopsis**

The subject property is located in the Bessemer 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 six (6) children under twelve (12) years of age.

### **Analysis**

The State of Colorado requires 75-square feet of open play space per child for home day cares. With six (6) children, the minimum area needed is 450 square feet. The applicant's yard allows for more than 450 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 located one (1) sex offender one block South 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.
3. Because there is no front off-street parking, drop-off and pick-up must either be along the front curb or in the rear, as noted on the applicant's site plan. No stopping in the street will be allowed. Staff recommends removing a portion of the rear fence to facilitate rear drop-off better.

## **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.
2. The applicant must provide proof of licensure within 90 days of this meeting.
3. Because there is no front off-street parking, drop-off and pick-up must either be along the front curb or in the rear, as noted on the applicant's site plan. No stopping in the street will be allowed. Staff recommends removing a portion of the rear fence to facilitate rear drop-off better.

**Motion passed 3-0.**

**2. 056-2011 2 Paladin Court (Nicole Carrillo) 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 Ridge 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 six (6) children under twelve (12) years of age.

**Analysis**

The State of Colorado requires 75-square feet of open play space per child for home day cares. With six (6) children, the minimum area needed is 450 square feet. The applicant’s yard allows for more than 450 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. Applicant must provide proof of licensure with 90 days of this meeting.

**COMMISSION ACTION**

Motion to approve by Martinez, second by Scaplo 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 3-0.**

**REGULAR AGENDA**

**Special Use Permit**

**3. 051-2011 2042 E. Evans Avenue (Ignacio Mercado) B-1**

**A Special Use Permit** to allow a restaurant.

*At the request of the applicant, the City of Pueblo provided an interpreter, Angel Melendez.*

**BACKGROUND**

Staff Report by Carrie Muchow.

**Synopsis**

The subject property is located in the Bessemer neighborhood. According to Section 17-4-51 (10) (c) (3) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a restaurant. The applicant thought that since the previous gas station had a small accessory food service that a restaurant was allowed in this zone district. Unfortunately when he came to get the Business License signed by Staff he was told that a stand-alone restaurant use was only allowed as a Use by Review.

**Analysis**

The few blocks surrounding this location is a mixture of business and residential and includes a few other similar uses in the area. The proposed restaurant fits the intent of the B-1 district to have small,

neighborhood oriented businesses and helps buffer the residences from I-25 just to the East. This restaurant will also have less potential impact on the residences than the previous gas station because the hours will not be as long, all gas pump lights have been removed to make room for the new parking lot, and the potential traffic impact will be less than because the turn over for a gas station is higher than for a restaurant of this size. Since the building has significantly changed uses, a new occupancy was established by the Fire Department. This new occupancy, 49, means that 17 parking spaces, one (1) being a handicapped space, would be required if this building were either a new building or if they added any square footage. After discussing the parking situation with the Transportation Division, Staff is recommending all 16 spaces plus the one (1) handicapped space be installed since there is enough room and it will not require significant cost to the applicant. Staff has discussed the parking layout options with the applicant and he has chosen the plan shown in Exhibit F.

### **RECOMMENDED MOTION**

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

1. Standard permit conditions 1-13.
2. The parking lot needs to be striped to accommodate at least 16 spaces plus one handicapped space. The applicant's plan to accommodate this is shown in Exhibit F. All changes to this plan must be reviewed and approved by the Transportation Division prior to installation.
3. In the long section of tree lawn along Evans, the concrete must be replaced with grass and the smaller section of concrete near the corner of Evans and Indiana must be fully landscaped with either grass or shrubs with ground cover. The trees along Evans must remain.
4. A six foot (6') tall opaque fence (such as cedar or block) must be installed along the Northern property line to help screen the adjacent residence from the rear of the building and the parking lot.
5. A six foot (6') tall opaque, permanent trash enclosure (such as a cedar fence or block enclosure) must be provided on site.
6. Any driveways being closed must be properly closed per the Pueblo Municipal Code.
7. There must be an ADA accessible path way from the Public Right of Way to the building.

Staff has discussed all recommendations with the applicant and he has agreed to comply with all of them.

### **HEARING**

**Ignacio Mercado, 2042 E. Evans Avenue, Pueblo, CO appeared** and testified in favor of the application.

### **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.
2. The parking lot needs to be striped to accommodate at least 16 spaces plus one handicapped space. The applicant's plan to accommodate this is shown in Exhibit F. All changes to this plan must be reviewed and approved by the Transportation Division prior to installation.
3. In the long section of tree lawn along Evans, the concrete must be replaced with grass and the smaller section of concrete near the corner of Evans and Indiana must be fully landscaped with either grass or shrubs with ground cover. The trees along Evans must remain.
4. A six foot (6') tall opaque fence (such as cedar or block) must be installed along the Northern property line to help screen the adjacent residence from the rear of the building and the parking lot.

5. A six foot (6') tall opaque, permanent trash enclosure (such as a cedar fence or block enclosure) must be provided on site.
6. Any driveways being closed must be properly closed per the Pueblo Municipal Code.
7. There must be an ADA accessible path way from the Public Right of Way to the building.

**Motion passed 3-0.**

**4. 054-2011 3224 Vail Avenue (Jeanne Hanten) R-2**  
A **Special Use Permit** to allow a home beauty salon.

### **BACKGROUND**

Staff Report by Carrie Muchow.

#### **Synopsis**

The subject property is located in the Aberdeen neighborhood. According to Section 17-4-51 (4)(c)(6) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home beauty salon for a maximum of five (5) clients per day, Monday through Thursday, 8am-5pm. The beauty salon would include hair cutting, hair coloring, hair styling, perms, manicures, pedicures, and fake nail application and repair.

#### **Analysis**

While home businesses often offer a business owner the opportunity to keep over head costs low, having up to five (5) clients per day is a fairly intensive home business and this particular section of Aberdeen is an extremely quiet, low traffic section of the neighborhood. The neighborhood is very self contained and actually has many dead-end streets, including at the end of both streets leading to the applicants home. This means that traffic going down these streets is very low and is only residents and their guests so adding traffic from even a slightly intensive home business has the potential to affect the residents.

With this in mind, Staff requested that the applicant poll the homes along the path she thought people would take getting to the home business to ensure no one had reservations up front. Please see Exhibit F for a map of the properties surveyed and the responses.

Since the homes surveyed did not have concerns with the potential home occupation, it is Staff's opinion that while this is a very quiet and secluded neighborhood, any potential negative impacts can be remedied by placing the typical home occupation limitations on the property such as number of hours and number of clients.

Staff also has some concerns regarding the potential quantities and hazards of chemicals used in the home occupation but, again, with a few minor limitations potential impacts on surrounding houses can be lessened.

### **RECOMMENDED MOTION**

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

1. Standard permit conditions 1-13.

2. No more than five (5) clients per day, Monday through Friday, 8am – 5pm.
3. All clients must park in the applicant’s driveway to prevent people needing to turn around at the end of the street in front of 3217 Vail Ave.
4. Absolutely no use of Poly Methacrylate or acrylic nail products.
5. Due to the increased use of flammable chemicals, the applicant must provide proof of notification of the home business to the homeowner’s insurance company within 90 days.
6. All chemicals must be disposed of per manufacturer requirements.

## **HEARING**

**Jeanne Hanten, 3224 Vail Avenue, Pueblo, CO appeared** and testified in favor of the application.

**Daniel Hanten, 3224 Vail Avenue, Pueblo, CO appeared** and testified in favor of the application.

## **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.
2. No more than five (5) clients per day, Monday through Friday, 8am – 5pm.
3. All clients must park in the applicant’s driveway to prevent people needing to turn around at the end of the street in front of 3217 Vail Ave.
4. Absolutely no use of Poly Methacrylate or acrylic nail products.
5. Due to the increased use of flammable chemicals, the applicant must provide proof of notification of the home business to the homeowner’s insurance company within 90 days.
6. All chemicals must be disposed of per manufacturer requirements.

**Motion passed 3-0.**

### **5. 055-2011 109 Ironweed Drive (Shelly Carter) R-2**

A **Special Use Permit** to allow a home nutritional and fitness business.

## **BACKGROUND**

Written Staff Report by Carrie Muchow.

### **Synopsis**

The subject property is located in the University neighborhood. According to Section 17-4-51 (4) (c) (6) of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate a home nutrition and fitness business. The applicant is proposing hours of Monday-Thursday and every other Friday, 7am to 6pm and up to 15 clients a week. The use was originally brought to Staff’s attention from an anonymous complaint letter that was investigated by Code Enforcement Staff.

### **Analysis**

This type of business is a great example of one to start from home. It has a low physical impact on the home and can be the type of business that starts very small so low over-head costs can help it survive.

However, like any other home occupation, as it becomes more successful the impact on the neighborhood increases and in this case, it has started to affect neighbors or Staff would not have received a complaint.

While the business may not be successful enough to move completely to a commercial facility, it's this Department's responsibility to represent neighbors and protect residential areas.

The hours of operation are, for the most part, during normal work hours and should impact most families significantly less than if the business was operating on weekends or in the evenings, so the suggested hours of 7am-6pm should be fine. The problems seem to stem from the number of people coming to the home. The business has gotten to the point of noticeably changing the amount of traffic in the area and has started impacting the neighbors. Because of this, Staff is recommending a better balance between the home business and neighborhood and recommends only having up to 10 clients a week come to the home, the others would then need to be met at other locations.

In this kind of economy it is important to give small business owners options to keep over-head costs low but that goal must be appropriately balanced with the purpose of a residential-only zone and the reasons people choose to live there. Unfortunately, in this case, the business has started to become a nuisance for the neighbors and while the applicant may not feel the business is successful enough to make the move to a commercial space, the home occupation still should not negatively impact neighbors.

### **RECOMMENDED MOTION**

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

1. Standard permit conditions 1-13.
2. The hours shall be limited to 7am to 6pm, Monday through Friday.
3. No more than ten (10) people per week.
4. No more than one (1) person at the home, at a time.
5. No retail sales are allowed from the home.

Staff has attempted to contact the applicant on multiple occasions to discuss the reasoning behind these recommendations but the applicant has not been responsive.

### **HEARING**

**Shelly Carter, 109 Ironweed Drive, Pueblo, CO appeared** and testified in favor of the application.

**Ann D'Ercole, 110 Ironweed Drive, Pueblo, CO appeared** and testified in favor of the application.

Ms. D'Ercole states that there has never been a problem with parking and does not believe Ms. Carter's business is a problem.

**Ronald Vasquez, 10 Terrace Drive, Pueblo, CO appeared** and testified in favor of the application.

Mr. Vasquez states that Ms. Carter has helped with rehab on his shoulder after a surgery. It has never been an issue parking at Ms. Carter's home.

## **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.
2. The hours shall be limited to 7am to 6pm, Monday through Friday.
3. No more than ten (10) visits per week.
4. No more than one (1) person at the home, at a time.
5. No retail sales are allowed from the home.

**Motion passed 3-0.**

*Chairperson Burrer states that he wanted on record that the property owner on ZBA Cases #060-2011 and #061-2011 was a client for the company he works for and he has not had any involvement in this case, the parcels or the LLC. "I do not believe that my prior relationship causes me to have any bias on this decision. If anyone has any worries, we can continue this case until next month."*

### **6. 061-2011 Lots 27 & 28, Blk 60, South Pueblo-100 Block of Main Street (Clark Engineering, LLC) HB**

A **Special Use Permit** to allow a private parking lot in the Historic Business Zone District.

## **BACKGROUND**

Staff Report by Wade Broadhead.

### **Synopsis**

The subject property is located in the Union Avenue Historic District. 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 allow a B-4 Use in the HB zone district. The HB has a limited option of uses, and allows most commercial activity under a case by case review. The property has functioned as an overflow material yard for Anderson Carpeting prior to this proposal. The applicant has recently purchased the property and wishes to repave and stripe the property for a private parking lot that will serve his holdings in the area. The lot is not being constructed to meet any parking required by the City elsewhere. The applicant is also requesting a concurrent variance (ZBA 060-2011) to reduce the number of required parking lot islands from four to two.

### **Analysis**

The Union Avenue Historic District has a number of small public and private lots scattered through the district of 83 buildings. This lot in particular has not housed a building for over four decades and has been used to store trailers and equipment for an adjacent building. The purchase and development of the lot will enhance the historic district and provide limited parking for redevelopments along the Riverwalk and Union Avenue. The project has been reviewed by the city's commercial planner and will meet all current codes except for landscaping islands which are being reduced in the rear to increase parking and circulation into the alley. The entrance will be a one way from Main Street and then will exit along the alley. With the proposed one way design the lot will hold 15 parking spaces and one handicapped parking space (sixteen total). The applicants will reconstruct the sidewalk and public improvements on and adjacent to the site.

## **RECOMMENDED MOTION**

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

1. Standard permit conditions 1-13.

## **HEARING**

**Laurie Clark, Clark Engineering, LLC, 6821 Hwy 78 West, Pueblo, CO** appeared and testified in favor of the application.

## **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.

**Motion passed 3-0.**

## **Variances**

**7. 057-2011 1100-1148 Eagleridge Boulevard (Colorado Light Industrial) B-3**  
A **Variance** to allow a reduction in the required parking.

## **BACKGROUND**

Staff Report by Carrie Muchow.

### **Synopsis**

The subject property is located in the Ridge Neighborhood near the intersection of Eagleridge Blvd. and Pioneer Rd. The applicant is requesting a variance from Section 17-4-43 (b) (2) of the Pueblo Municipal Code (PMC), to allow an existing building to have a 5 space reduction in parking, from 92 spaces to 87.

When the building was first developed the owner and developer also owned the lot directly to the South and had received approval on the plans for both lots based on a cross parking lot agreement being completed. The agreement was to be completely in place prior to the building receiving a C.O. but before either the building was finished or an agreement was drawn up, both properties were foreclosed on through different banks. Frontier Bank, the owner of this building, has acquired more property to help fulfill the parking requirements but is still unable to fulfill the requirement by 5 spaces.

### **Analysis**

This situation is an unfortunate one, and certainly not an ideal way to develop properties, however, it would be significantly worse to allow this building and lot to remain vacant and become a potential problem with crime or blight. Staff does not feel that the reduction in parking will be a detriment to the property or to the surrounding owners. Staff has discussed these plans with Pepper Whittlef at the Transportation Department and she sees no problems with what the applicant is proposing.

## **RECOMMENDED MOTION**

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

1. Standard permit conditions 1-13.

## **HEARING**

**Jason Schierling, 639 Henry, Pueblo, CO** appeared and testified in favor of the application.

## **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.

**Motion passed 3-0.**

**8. 058-2011 900 W. Northern Avenue (Gagliano Engineering) B-4**

A **Variance** to allow an increase in the size of a sign.

## **BACKGROUND**

Staff Report by Carrie Muchow.

### **Synopsis**

The subject property is located in the Bessemer neighborhood at the intersection of Orman Ave. and Northern Ave. The applicant is requesting a variance from Section 17-10-5 (f) of the Pueblo Municipal Code (PMC), to allow a new monument sign to exceed the allowed 48 square feet by 25%. The applicant is proposing a 60 square foot sign, four feet (4') by fifteen foot (15'), with a two foot (2') tall base.

Because the property has residentially zoned lots on two (2) sides, the business is only allowed a 48 square foot monument sign whereas a B-4 property surrounded by other business zones would be allowed a 100 square foot sign.

### **Analysis**

The size of the sign seems reasonable considering that the intersection the building is on is a busy one, the applicant is still proposing less than a regular B-4 would be allowed by right, and the sign is completely hidden from the surrounding residences by the building.

The proposed placement of the sign, so close to the sidewalk along Northern, is of concern to Staff, however. The building itself is already very close to the sidewalk which would ordinarily be good for walkability but in this case the building has no windows and little architecture so the large, blank walls feel very imposing to pedestrians. Adding a fifteen foot (15') long, six foot (6') tall sign that is obviously designed with motorists, and not pedestrians, in mind will make this corner even more uncomfortable for pedestrians. Because of this, Staff recommends softening the impact of the sign on pedestrians by shifting the sign slightly South so that it sits six feet (6') from the North property line. More room between the sidewalk and the sign will allow for more landscaping to buffer pedestrians from the sign, softening both

the impact of the sign and the impact of the windowless building. Shifting the sign also puts the center of the new sign in line with the center of the wall mounted sign which creates a more cohesive and organized look to the signage.

Staff has discussed this recommendation with the applicant and they have agreed to move the sign eight feet (8') from the North property line.

### **RECOMMENDED MOTION**

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

1. Standard permit conditions 1-13.
2. The sign must sit at least six feet (6') from the North property line and four feet (4') from the East property line (six feet (6') from the sidewalk) in order to allow for landscaping to help ease the impact of both the building and sign on pedestrians.

### **HEARING**

**Joe Gagliano, Gagliano Engineering, 1740 Eagleridge Blvd, Suite 150, Pueblo, CO** appeared and testified in favor of the application.

### **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.
2. The sign must sit at least six feet (6') from the North property line and four feet (4') from the East property line (six feet (6') from the sidewalk) in order to allow for landscaping to help ease the impact of both the building and sign on pedestrians.

**Motion passed 3-0.**

**9. 060-2011 Lots 27 & 28, Blk 60, South Pueblo-100 Block of Main Street  
(Clark Engineering, LLC) HB**

A **Variance** to allow a reduction in the required landscape islands from 4 to 2.

### **BACKGROUND**

Staff Report by Wade Broadhead.

#### **Synopsis**

The subject property is located in the Union Avenue Historic District. According to Section 17-5-34 of the Pueblo Municipal Code (PMC), the applicant is requesting a Variance to allow the reduction of the required parking lot end cap islands along the alley to facilitate the construction of a new parking lot. According to PMC Section 17-4-7(3)(b)(1) parking lots with more than five (5) spaces shall provide end cap islands at each end of all rows of parking spaces. The applicant is also requesting a concurrent (ZBA 061-2011) Special Use Permit to allow the B-4 use (private parking lot) in the HB Zone District. To accommodate more parking and reduce truck turning radii the applicant is asking for the omission of the

two required alley parking lot end cap islands. The parking lot is considered short term, as the owner hopes to acquire additional properties for redevelopment in the near future.

### **Analysis**

In dense urban environments such as the Union Avenue area alleyways are heavily utilized and any landscaping along the alleyway tends to get heavily damaged. The plan has been reviewed by Traffic Engineer Pepper Whittlef and Commercial Plans Reviewer Kelly Grisham, who both support the proposed design. Staff has required one of the street facing islands to increase in size and will hold the maximum amount of plant material to offset the loss of the alley islands. The remaining two Main Street parking lot islands will still have a positive visual impact on the streetscape without the barely visible alleyway islands.

### **RECOMMENDED MOTION**

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

1. Standard permit conditions 1-13.
2. Pending approval of ZBA 061-2011

### **HEARING**

**Laurie Clark, Clark Engineering, LLC, 6821 Hwy 78 West, Pueblo, CO appeared** and testified in favor of the application.

### **COMMISSION ACTION**

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

1. Standard permit conditions 1-13.
2. Pending approval of ZBA 061-2011

**Motion passed 3-0.**

### **ADJOURN**

There being no further business the meeting was adjourned at 8:35 p.m.