

Jean Latka
Chair

Brandice Eslinger
Vice Chair

Chris Kaufman
City Council Representative



Planning & Zoning Commission

Weston Burrer

David Webb

Brian Lucas

Raymond Seybold

REGULAR MEETING

City of Pueblo, Colorado

Wednesday, April 9, 2014 – 3:30 p.m.

City Council Chambers – 1 City Hall Place

Minutes

MEETING CALLED TO ORDER

The meeting was called to order at 3:32 p.m. with Chairperson Jean Latka presiding.

Commissioners Present: Brandice Eslinger (late), Chris Kaufman, Jean Latka, Brian Lucas, Ray Seybold, and David Webb.

Commissioners Absent: Weston Burrer.

Staff Members Present: Steven Meier, Director of Planning; Paul Willumstad, Attorney for the Planning and Zoning Commission; Pepper Whittlef, Transportation Engineer; and Kelly Grisham, Planner.

APPROVAL OF AGENDA

A Motion was made to approve the agenda by Commissioner Lucas, seconded by Council Person Kaufman. **Motion passed 5-0 (Burrer and Eslinger absent).**

Commissioner Eslinger arrived.

PUBLIC HEARINGS AND ACTION

1. **V-14-03 – Vacation:** Bella Vista Easement Vacation. Vacating easements located within the proposed Bella Vista Subdivision, Filing No. 3.

BACKGROUND

The applicant is proposing to construct several duplex units and a clubhouse for the expansion of the Primrose Assisted Living Facility. The proposed structures would be constructed over many of the existing lots, streets, and easements; therefore, necessitating a subdivision (S-14-01) and the vacation of the private streets and easements. Bella Vista Subdivision, Filing No. 2 was platted in 2009. At the time, the subdivision included 51 single family residential lots. The applicant is now requesting to merge 18 of those lots plus the private street into one (1) lot to facilitate expansion of the assisted living facility. Because the lots are being combined into a single lot, the streets and easements are no longer

necessary and impede the ability for the applicant to construct the buildings. There are no utilities in the easements and none of the drainage easements are being used for stormwater conveyance.

RECOMMENDED ACTION

Staff recommends that the Vacation be APPROVED.

HEARING

Mike Cuppy, NorthStar Engineering, 111 East 5th Street, Pueblo, CO appeared and testified in favor of the proposed application.

No one testified in opposition to the application.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to approve the proposed application, seconded by Commissioner Lucas. **Motion passed 6-0 (Burrer absent).**

2. **Z-14-02 – Rezoning: Bella Vista PUD Rezoning, 3rd Amendment.** Rezoning to Bella Vista PUD.

BACKGROUND

The applicant is requesting approval of the third amendment to the Bella Vista PUD. The subject property is located in the Bella Vista Subdivision, Filing No. 2, between Ridge Drive and Outlook Boulevard. On May 9, 2007 the Planning and Zoning Commission and subsequently City Council approved the Bella Vista PUD rezone. The PUD was recorded and became the document that ultimately controls development of the site. The PUD has been amended twice to allow several changes to the Single Family Attached (SFA) Planning Area. The applicant proposes to amend the current PUD to increase the Assisted Living (AL) Planning Area to include the area just south of the existing Primrose Assisted Living Facility to facilitate the construction of ten (10) duplex residential units and a clubhouse for the residents of the facility. The PUD Development Guide will largely remain unchanged except to allow duplex units in the Assisted Living Planning Area.

RECOMMENDED ACTION

Staff recommends the Planning and Zoning Commission forward a recommendation to City Council that the PUD amendment be **APPROVED**.

HEARING

Mike Cuppy, NorthStar Engineering, 111 East 5th Street, Pueblo, CO appeared and testified in favor of the proposed application.

No one testified in opposition to the application.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to approve the proposed application, seconded by Commissioner Lucas. **Motion passed 6-0 (Burrer absent).**

3. **S-14-01 – Subdivision:** Bella Vista Subdivision, Filing No. 3. Subdividing approximately six acres into four lots.

BACKGROUND

The subject property is located in the Bella Vista Subdivision, Filings 1 and 2, which were approved in 2007 and 2009, respectively. The applicant is proposing to resubdivide 18 of the single family residential lots and several easements to create a large lot for the expansion of the Primrose Assisted Living Facility. In addition, a portion of Parcel C, Sorrento Lane, is being vacated to create an additional single family residential lot.

RECOMMENDED ACTION

The Subdivision Review Committee, at their April 2, 2014 meeting, recommended that the requested Subdivision be **APPROVED** with the following noted:

Request for waiver from requirements: None requested.

Requests for Modifications to Requirements: None requested.

Plat Deficiencies: None.

Conditions of Approval:

1. The GPS Coordinates must include the ground to grid correction factor. This will need to be addressed prior to submitting mylars of the plat and being placed on City Council agenda.
2. Provide a new drainage easement, adjacent to Outlook Boulevard, that extends from the proposed sidewalk culvert to the existing water quality pond.

HEARING

Mike Cuppy, NorthStar Engineering, 111 East 5th Street, Pueblo, CO appeared and testified in favor of the proposed application.

No one testified in opposition to the application.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to approve the proposed application, seconded by Commissioner Lucas, with the following conditions:

1. The GPS Coordinates must include the ground to grid correction factor. This will need to be addressed prior to submitting mylars of the plat and being placed on City Council agenda.
2. Provide a new drainage easement, adjacent to Outlook Boulevard, that extends from the proposed sidewalk culvert to the existing water quality pond.

Motion passed 6-0 (Burrer absent).

4. **V-14-02 - Vacation:** Vacating easements located within Lot 1, Block 2, Eaglecross Subdivision.

BACKGROUND

The applicant is requesting to vacate two (2) portions of a drainage easement and a portion of the utility easement located within Lots 1 and 2, Block 2, Eaglecross Subdivision because the existing sign and a portion of the two-story hotel encroach into the existing easements. By separate application, the applicant is also requesting to eliminate the lot line between the two properties to create one (1) parcel. The easements were platted with the Eaglecross Subdivision in 1987. The hotel was constructed across the lot line and easements. To bring the property into compliance with current regulations these utility easements must be vacated. The lots currently function as one parcel; therefore, the lot line and easements are no longer necessary for the development. In addition, the existing sign along Eagleridge is located within the drainage easement. This easement is currently used for drainage purposes, but the sign will not impede usage of the easement.

RECOMMENDED ACTION

Staff recommends that the Vacation be **APPROVED**.

HEARING

Randy Reeves, Cardinal Point Surveying, 4601 Eagleridge Place, Pueblo, CO appeared and testified in favor of the proposed application.

No one testified in opposition to the application.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Council Person Kaufman to approve the proposed application, seconded by Commissioner Seybold. **Motion passed 6-0 (Burrer absent).**

5. **DPR-14-01 – Development Plan Review:** Junior League of Pueblo Playscape Plaza located in Gateway Park.

BACKGROUND

The applicant is requesting development plan approval for the installation of the Playscapes Plaza. The Plaza will be made up of groupings of boulders with a field of rubber mulch. The Project will be located in Gateway Park, to the north of the water fountain.

The area proposed for the Playscapes Plaza has been designated on the HARP Program Plan, dated November 1996, as a Plaza/Event Space. The installation of the Playscapes Plaza is consistent with the original intent of the area. The HARP Authority, per the HARP IGA, has approved the design and placement of the Playscapes Plaza at their March 12, 2014 Regular Meeting.

RECOMMENDED ACTION

Staff recommends Planning and Zoning Commission **APPROVE** DPR-14-01.

HEARING

Lynn Clark, HARP Authority, 125 Riverwalk Place, Pueblo, CO appeared and testified in favor of the proposed application.

No one testified in opposition to the application.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to approve the proposed application, seconded by Commissioner Lucas. **Motion passed 6-0 (Burrer absent).**

6. **Text Amendment:** An Ordinance Regarding Retail Marijuana.

BACKGROUND

Staff report given by Kelly Grisham.

This Ordinance will amend Chapters 2 and 4 of Title XVII of the Pueblo Municipal Code relating to Retail Marijuana and providing penalties for violation thereof.

On November 6, 2012, the voters of Colorado approved Amendment 64 to the Colorado Constitution, which authorized a system of state licensing of businesses engaged in the cultivation, testing, manufacturing, and retail sales of retail marijuana. Amendment 64 delegates to local governments the choice of whether or not a local government will allow or prohibit retail marijuana. As proposed, this Text Amendment to the Zoning Ordinance would provide for the regulation of retail marijuana product manufacturing facilities, product manufacturing, and testing facilities. Also, as proposed, this Text Amendment will prohibit the use of retail marijuana stores.

Under Section 1, the definitions of *retail bakery*, *drug store*, *farming or ranching*, *greenhouse*, *pharmacy*, have either been amended or added to clarify that marijuana facilities are not permitted under the current regulations or under current permitted uses. Definitions of *marijuana accessories*, *marijuana products*, *retail marijuana consumer*, *cultivation*, *retail store*, *testing facility*, *cultivation facility*, and *product manufacturing* have been added to create definitions of the uses being added to the code.

Section 2 establishes conditional uses under the permitted use of land and buildings and specifies zone districts where retail marijuana facilities may be permitted:

1. Retail marijuana cultivation facilities, product manufacturing facilities, and testing facilities are allowed as conditional uses in the Business Park District, Special Industrial District, Light Industrial District, and Heavy Industrial District.
2. Retail marijuana stores are not permitted in any zone district at this time.

In addition, Section 2 establishes the procedures for issuing a conditional use permit by the Administrative Official and outlines the requirements for conditions for the three (3) types of retail marijuana facilities allowed.

The conditions for each use are essentially the same and include the following:

- a. The facility shall not be located within 1,000 feet of a legally operational school, as determined by direct measurement from the property line of the facility to the closest property line of the school. Establishing a school within the required buffer after the Conditional Use Permit is issued shall not be grounds to suspend, revoke or decline to renew the Permit for such facility provided the Permit and license for the facility remains lawfully in effect.
- b. The facility shall demonstrate compliance with all applicable building and related codes, including but not limited to the health, building, electrical, plumbing, mechanical, sign, fire, and other codes, statutes, and ordinances.
- c. All grow operations shall be conducted in an enclosed building or greenhouse.
- d. Outdoor grow operations shall be prohibited.

- e. Grow operations shall not be located in any structure containing a residential use.
- f. The use or storage of other hazardous chemicals must be approved by the Fire Department before issuing the Permit.
- g. Regardless of the zone district where the facility is located, all properties with an existing structure, or those properties that will not otherwise be required to comply with full commercial requirements, shall provide, at a minimum, the following improvements:
 - 1. Landscape setback, and right-of-way landscaping, according to Section 17-4-7 of this Title.
 - 2. Comply with Section 17-4-46 (e)(7) and (f) of the Large Scale Development Standards.
 - 3. Provide parking according to *Article IV, Off Street Parking Requirements* of this Title.
 - 4. Provide public improvements to bring the site and adjacent rights-of-way into compliance with applicable City standards, including but not limited to repairing or replacing broken sidewalks, curbs and gutters, and providing an ADA driveway “walk-around.”
- h. It shall be prohibited and unlawful to have signage using the word “marijuana,” “cannabis,” any alternative spelling or abbreviation of the same, any slang term for the same commonly understood as referring to marijuana, any image of a cannabis leaf, or any depiction of any paraphernalia or other image commonly understood as referring to marijuana.
- i. Existing windows may be screened from the interior of the building, but shall not be removed or covered from the exterior.

Ms. Grisham also requested a recommendation from the Commission as to when the Ordinance will become effective – upon final passage of the Ordinance by City Council or “upon approval of a sales, use, and excise tax ballot question to be submitted to City electors on November 4, 2014 ...”

Amendments were made to add, remove, or modify the requirements of the conditional use permits and to include research testing facilities in B-3 and B-4 Zone Districts. A provision will also be added to allow the Administrative Official the authority to make minor adjustments to improvements.

RECOMMENDED ACTION

Staff recommends that the Planning and Zoning Commission forward a recommendation of **APPROVAL** of the proposed text amendment to City Council.

HEARING

Daniel Molello, Jones-Healy Realtors, 5 Belaire Drive, Pueblo, CO appeared and testified in favor of the proposed text amendment.

The Commission took a five minute break.

Cheryl Winters, 29872 County Farm Road, Pueblo, CO appeared and testified in favor of the proposed text amendment.

Frank Childress, 2530 Greenwood Street, Pueblo, CO appeared and testified in favor of the proposed text amendment.

Don Pagano, 89 Purdue Street, Pueblo, CO appeared and testified in favor of the proposed text amendment.

Dianna Moore, 4103 Andrew Drive, Colorado City, CO appeared and testified in favor of the proposed text amendment.

Karen Lillie, President and CEO, Pueblo Diversified Industries, 2828 Granada Boulevard, Pueblo, CO appeared and testified against the proposed text amendment.

David Leman, 2408 West 16th Street, Pueblo, CO appeared and testified against the proposed text amendment.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

Motion was made by Council Person Kaufman to recommend approval of the proposed text amendment, seconded by Chairperson Latka.

After a review of the requested changes and further discussion, Council Person Kaufman amended the motion to include the discussed changes and the Ordinance becoming effective upon final passage by City Council, seconded by Chairperson Latka.

Motion passed 5-1-0 (Eslinger dissenting and Burrer absent).

APPROVAL OF MINUTES

A Motion was made by Council Person Kaufman to approve the Minutes of the March 12, 2014 Public Hearing, seconded by Commissioner Seybold. **Motion passed 6-0 (Burrer absent).**

SCHEDULE PUBLIC HEARING

The Public Hearing for May will convene on May 14, 2014 at 3:30 p.m. in the City Council Chambers.

SCHEDULE WORK SESSION

The Work Session for April will convene on Wednesday, April 23, 2014 at 3:30 p.m. in the Planning Department Conference Room, 211 East D Street.

ADJOURN

There being no further business the Regular Meeting was adjourned at 5:16 p.m.

Respectfully submitted,

Attest:

Jean Latka
Chairperson

Steven Meier
Executive Secretary

Digital recordings of all the meetings of the Planning and Zoning Commission are maintained and available for inspection and review during normal business hours (M – F, 8 a.m. – 5 p.m.) at the Department of Planning & Community Development, 211 East D Street, Pueblo, CO.