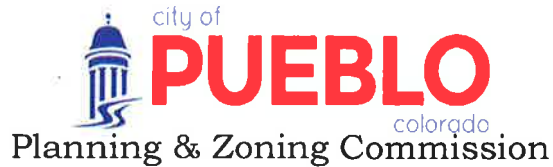


Jean Latka
Chair

Brandice Eslinger
Vice Chair

Dennis Flores
City Council Representative



Chris Kaufman

David Webb

Brian Lucas

Raymond Seybold

REGULAR MEETING
City of Pueblo, Colorado
Wednesday, November 12, 2014 – 3:30 p.m.
City Council Chambers – 1 City Hall Place

Minutes

MEETING CALLED TO ORDER

The meeting was called to order at 3:30 p.m. with Chairperson Jean Latka presiding.

Commissioners Present: Brandice Eslinger, Dennis Flores (late), Jean Latka, Ray Seybold, and David Webb.

Commissioners Absent: Chris Kaufman and Brian Lucas.

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

APPROVAL OF AGENDA

A Motion was made by Commissioner Eslinger to approve the agenda, seconded by Commissioner Webb. **Motion passed 4-0 (Flores, Kaufman, and Lucas absent).**

PUBLIC HEARINGS AND ACTION

1. **V-14-06 – Vacation:** Vacation of a Portion of the 50' Wide Drainage Easement within Lot 4, Eaglecross Subdivision, 6th Filing Generally Located at 805 Eagleridge Boulevard.

BACKGROUND

Staff report given by Jerry Pacheco for Kelly Grisham.

The applicant is requesting to vacate a portion of a drainage easement located within Lot 4, Eaglecross Subdivision, 6th Filing to install a business sign near Eagleridge Boulevard. The easement was platted with the Eaglecross Subdivision in 2003. This easement is currently not being used for drainage purposes and there are no improvements within the easement.

RECOMMENDED ACTION

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

HEARING

Randy Reeves, Cardinal Points Surveying, 4601 Eagleridge Place, Suite 110, Pueblo, CO appeared and spoke in favor of the proposed vacation.

Council Person Flores arrived.

No one spoke in opposition to the proposed vacation.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to recommend approval of the proposed vacation, seconded by Commissioner Eslinger. **Motion passed 5-0 (Kaufman, Lucas absent).**

2. **S-14-03 – Subdivision: Pinion Ridge Commercial Center, Amendment No. 1:** Resubdivision of Lot 1, Block 1 of Pinion Ridge Commercial Center Subdivision located at 1250 Platteville Boulevard.

A Motion was made by Commissioner Webb to continue this item to the December 10, 2014 Regular Meeting, seconded by Commissioner Eslinger. **Motion passed 5-0 (Kaufman, Lucas absent).**

3. **Z-14-09 – Rezoning:** Rezone Lot1, Block 1 of Pinion Ridge Commercial Center Subdivision Amendment No. 1 from A-1 and B-3 to B-3. Located at 1250 Platteville Boulevard.

A Motion was made by Commissioner Webb to continue this item to the December 10, 2014 Regular Meet, seconded by Commissioner Eslinger. **Motion passed 5-0 (Kaufman, Lucas absent).**

4. **Z-14-08 Rezoning:** Rezone 2211 Jones Avenue from R-2, Single Family Residential to R-5, Multiple Residential and Office District.

BACKGROUND

Staff report given by Jerry Pacheco for Kelly Grisham.

The subject property is located at 2211 Jones Avenue. The applicant is requesting to rezone the existing developed 3,125 square foot property to allow uses that are not currently allowed in the R-2 Zone District. The property has been vacant for some time and will continue to be vacant without a rezoning of the property due to the zoning of the property being inconsistent with the existing building.

RECOMMENDED ACTION

Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED** with the following conditions:

1. Prior to the application being forwarded to City Council, provide a landscape plan in dwf format. Landscaping must be installed within one (1) year of the rezoning approval.
2. Prior to the application being forwarded to City Council, the applicant must request and be granted a variance for parking and maximum lot coverage.
3. Prior to the application being forward to City Council, apply for and be granted a revocable permit to place the required parking spaces in the public right-of-way.

HEARING

Gerald Bensko, Jr., 50 Duke Street, Pueblo, CO, the applicant, appeared and testified in favor of the proposed rezoning.

Commissioner Eslinger left the meeting.

No one testified in opposition to the proposed rezoning.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to recommend approval of the proposed rezoning, seconded by Council Person Flores, with the following amended conditions:

1. Prior to the application being forwarded to City Council, provide a landscape plan in dwf format. Landscaping must be installed within one (1) year of the rezoning approval.
2. Prior to the application being forward to City Council, apply for and be granted a revocable permit to place the required parking spaces in the public right-of-way.

Motion passed 4-0 (Eslinger, Kaufman, and Lucas absent).

5. **TA-14-04 – Text Amendment:** An Ordinance Amending Chapters 2 and 15 of Title XVII Relating to Medical and Retail Marijuana Home Cultivation.

BACKGROUND

Staff report given by Carla Sikes, Assistant City Attorney.

Ms. Sikes began by handing out a revised version of the proposed Ordinance. On October 28, 2014, City staff met with a committee comprised of community members concerned with the amendments proposed, either in support of or in opposition to the proposed Ordinance. The committee, as well as staff members discussed aspects of cultivating marijuana (medical and recreational) and how best to move forward. Staff took the information received from the meeting and is proposing an updated version of the marijuana home grow Ordinance. Proposed changes discussed include the following:

1. The structure used for home cultivation must comply with all applicable codes and ordinances.
2. Requires all Home Cultivation to be conducted in a fully enclosed and locked space inside a detached one-family residence, or an accessory structure. Staff has made this recommendation based on the information received which shows the adverse risks associated with cultivating in the home is significantly reduced when the size of the growing operation is limited. Based on this, Staff is recommending that the number of plants be controlled by the State, but the City regulate the maximum area allowed for home cultivation in single family homes to be not more than 100 square feet, up to 10' in height. This section allows Medical Marijuana Caregivers to grow up to 100 square feet, or 25% of the total gross floor area, whichever is greater.
3. Section 6 also includes an incentive for home cultivation to be grown in a detached accessory structure, by allowing additional square footage and height.
4. In addition, this section creates the following regulations:
 - a. Any space used for home cultivation must not be accessible to the public or anyone under the age of 21, unless they possess a medical marijuana registration card.
 - b. All areas must be equipped with a ventilation system(s) that meets specific requirements.
 - c. Outdoor growing of marijuana is prohibited.
 - d. Prohibits conducting home cultivation in or on any property that is not zoned for one-family residential use.
 - e. Prohibits the sale, transfer, or other distribution of marijuana, with or without remuneration,
 - f. Prohibits the cultivation of marijuana using carbon dioxide above ambient air concentration unless prior approval from the Fire Department is obtained.
 - g. Prohibits home cultivation in multi-family and single-family attached dwellings.
 - h. Requires all renters to obtain written permission of property owner to grow marijuana on the property.
5. Section 7 amends Chapter 15 by adding an *Article 3* to the Marijuana Code. *Article 3* makes it a nuisance for marijuana to be grown or processed in any way that is perceptible from the exterior of the enclosed structure. *Article 3* makes it unlawful to grow or process marijuana in any way that creates a nuisance. *Article 3* allows for the abatement of the nuisance pursuant to the procedure set forth in Pueblo Municipal Code 7-1-1 *et seq.* if the City receives three or more complaints about the property within a 90 day period.

RECOMMENDED ACTION

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

HEARING

The City of Pueblo is the applicant. No others spoke in favor of the proposed text amendment.

The following spoke in opposition to the proposed text amendment:

Robert Davis, 1809 Yakima Lane, Pueblo, CO

David Lemon, 2408 West 16th Street, Pueblo, CO
Travis Nelson, 1541 Jackson Street, Pueblo, CO
Tim McMath, 29 Radcliff Lane, Pueblo, CO
Phillip Howell, Pueblo, CO
Tomasina Verna, Pueblo, CO

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to recommend approval of the proposed text amendment, seconded by Commissioner Seybold. **Motion passed 4-0 (Eslinger, Kaufman, and Lucas absent).**

6. **TA-14-05 – Text Amendment:** An Ordinance Amending Section 17-4-23 of Chapter 4 of Title XVII Relating to Accessory Buildings and Structures.

BACKGROUND

Staff report given by Jerry Pacheco.

The proposed text amendment will address two issues: a) architectural compatibility of greenhouses placed on single-family residential properties, and b) removal of the limitation on the Zoning Board of Appeals to approve justifiable variances.

In order to better address the various architectural styles and materials used to construct greenhouses, that in most cases do not match the architecture of the single-family residence, it is proposed that the Zoning Board of Appeals be permitted to grant exceptions for quality and compatible materials. In other words, if the greenhouse is constructed of glass, plastic panels, vinyl, etc. then the Zoning Board of Appeals may permit their use in the construction of the greenhouse so long as the size, shape, maintenance and use are compatible in the neighborhood.

The second proposed change would remove the restriction placed on the Zoning Board of Appeals to review, approve or deny variance cases related to the size of accessory structures. This change would allow more flexibility to address very large properties where larger accessory structures would be appropriate and desirable. It would also allow citizens with small homes the opportunity to construct an accessory structure larger than their home if it would be compatible in the neighborhood.

RECOMMENDED ACTION

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

HEARING

The City of Pueblo is the applicant. No others spoke in favor of the proposed text amendment.

No one spoke in opposition to the proposed text amendment.

Chairperson Latka closed the hearing and requested a motion.

COMMISSION ACTION

A Motion was made by Commissioner Webb to recommend approval of the proposed text amendment, seconded by Commissioner Seybold. **Motion passed 4-0 (Eslinger, Kaufman, and Lucas absent).**

APPROVAL OF MINUTES

A Motion was made by Commissioner Webb to approve the Minutes of the October 8, 2014 Public Hearing, seconded by Commissioner Seybold. **Motion passed 4-0 (Eslinger, Kaufman, and Lucas absent).**

SCHEDULE PUBLIC HEARING

The Public Hearing for December will convene on December 10, 2014 at 3:30 p.m. in the City Council Chambers.

SCHEDULE WORK SESSION

The Work Session for November will convene on Wednesday, November 26, 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 4:55 p.m.

Respectfully submitted,



Jean Latka
Chairperson

Attest:



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.