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ZBA-21-08

To: City of Pueblo Zoning Board of Appeals
From: Chelsea Stromberg, Planner
Through: Scott Hobson, Land Use Administrative Official
Date: 4/27/2021
Request: **A Variance to reduce the required distance between a building in a B-P Zone District and residential use zone districts**

Site Location 2039 Alma Ave. Pueblo CO 81004
Legal Description LOT 2 LAKEVIEW WEST SUB FORMERLY 15-113-12-013

Applicant same
same
Owner Kingdom Builder Commercial Properties
303 S Santa Fe Ave. Pueblo, CO 81003
Zone District Business Park (BP Zone) District

BACKGROUND:

The applicant is requesting a variance to reduce the required distance between a building in a B-P Zone District and residential use zone district. On April 14, 2021 the Planning and Zoning Commission conditionally moved to recommend a zoning map amendment to rezone the subject parcel from B-2 Subregional Business District to B-P Business Park, pending the approval of this variance. The applicant intends to use the existing building for light manufacturing. The standards of the B-P are designed to provide for a limited number of retail, office, warehouse, light industrial and manufacturing uses within a business park. Since some BP property may be located near residential zone districts, it is necessary that high development and performance standards be established and that all manufacturing, processing or assembling of materials and products be conducted in a manner not injurious or offensive to the residents of surrounding properties. Sec. 17-4-5(4)b(3) requires buildings within a B-P Zone to be a minimum of 100 feet from residential zone districts. The existing building does not meet this requirement as it is approximately 70 feet from the nearest residential zone district to the south and approximately 95 feet from the nearest residential zone district to the east, therefore the applicant is seeking a variance from the Zoning Board of Appeals. There are also two parcels to the north of the site zoned Residential, however, they are both more than 100 feet from the building.

ZONING DISTRICT AND LAND USE:

| | Zone: | Developed with: |
|-------|--|-----------------|
| North | R-2, Single-Family Residential, single family residences/ R-3, One and Two-Family Residential, single family residences | |
| East | I-2, Industrial, nonconforming single family residence, autobody shop, outdoor storage R-4, Mixed Residential, multifamily residences | |
| South | R-2, Single-Family Residential, single family residences | |
| West | B-4, Central Business District, commercial building material supplier | |

PUBLIC NOTICE

The property was publicly noticed in accordance with the Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were noticed by mailed, and a sign was placed on the site (Attachment E). These notices occurred at least 10 days prior to the hearing.

OTHER AGENCIES

| | |
|----------------------|------------|
| Code Enforcement | No comment |
| City Public Works | No comment |
| City Fire Department | No comment |
| Parks and Recreation | No comment |
| Stormwater | No comment |
| Wastewater | No comment |
| Waterworks | No comment |

FINDINGS OF FACT FOR VARIANCE REQUIREMENTS

- 1 The variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.

comments:

Affirmative finding. The existing building is approximately 70 feet from the nearest residential zone district. However, because the zone district is drawn along the centerline of the street, the existing building is approximately 120 feet from the nearest residential structure.

- 2 The variance will not affect general planning of the City with respect to land use and the location of streets and highways will not be jeopardized.

comments:

Affirmative finding. The applicant does not plan to expand the footprint of the building, which currently does not encroach on any city rights of way.

3 Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.

comments:

Neutral finding. The applicant could build a new building on the site that conforms to the district standards, however, due to the size of the lot bringing the entire site into conformance would be an undue hardship.

4 The property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of this Title.

comments:

Affirmative finding. The site is a flag lot that fronts a commercial corridor, however, due to the location of the site, it also borders two residential zone districts.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

Should the Zoning Board of Appeals grant the variance, staff recommends the following condition and standard permit conditions

STAFF CONDITIONS

1 The site and uses therein must conform with the B-P Zone District Performance Standards Sec. 17-4-5 of the Pueblo Municipal Code.

STANDARD PERMIT CONDITIONS

Date of issuance of permit: 4/27/2021

- 1 **Time Limits:** Zoning permit shall become invalid unless work or action authorized by permit is fully executed by:
4/27/2022
- 2 **Required Revisions:** Any revisions or additions to plans required as a result of approval must be submitted and stamped "approved" prior to the sign-off of the building permit routing slip or business license.
- 3 **Changes:** The project shall be completed as shown on the plans, which have been stamped "approved" and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
- 4 **Property Inspection:** By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
- 5 **Certificate of Occupancy:** A certificate of occupancy must be issued by Regional Building PRIOR to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.

- 6 Completion and Maintenance of Improvements and Landscaping:** Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
- Building Permit; Other Permits:** Permit holder is solely responsible for obtaining BUILDING PERMIT 7 and all other applicable local, state and federal permits.
- 8 Off-Site Drainage:** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
- 9 Appeals** of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done SOLELY at the risk of the Permit holder.
- 10 Errors:** Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
- 11 Transfer of Ownership:** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
- 12 Violations/Penalties:** A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
- 13 Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals:** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations

ATTACHMENTS

- A. Location Map
- B. Site Map
- C. Zoning Map
- D. Public Notice Photo
- E. Site Photographs
- F. Application
- G. Supporting documentation

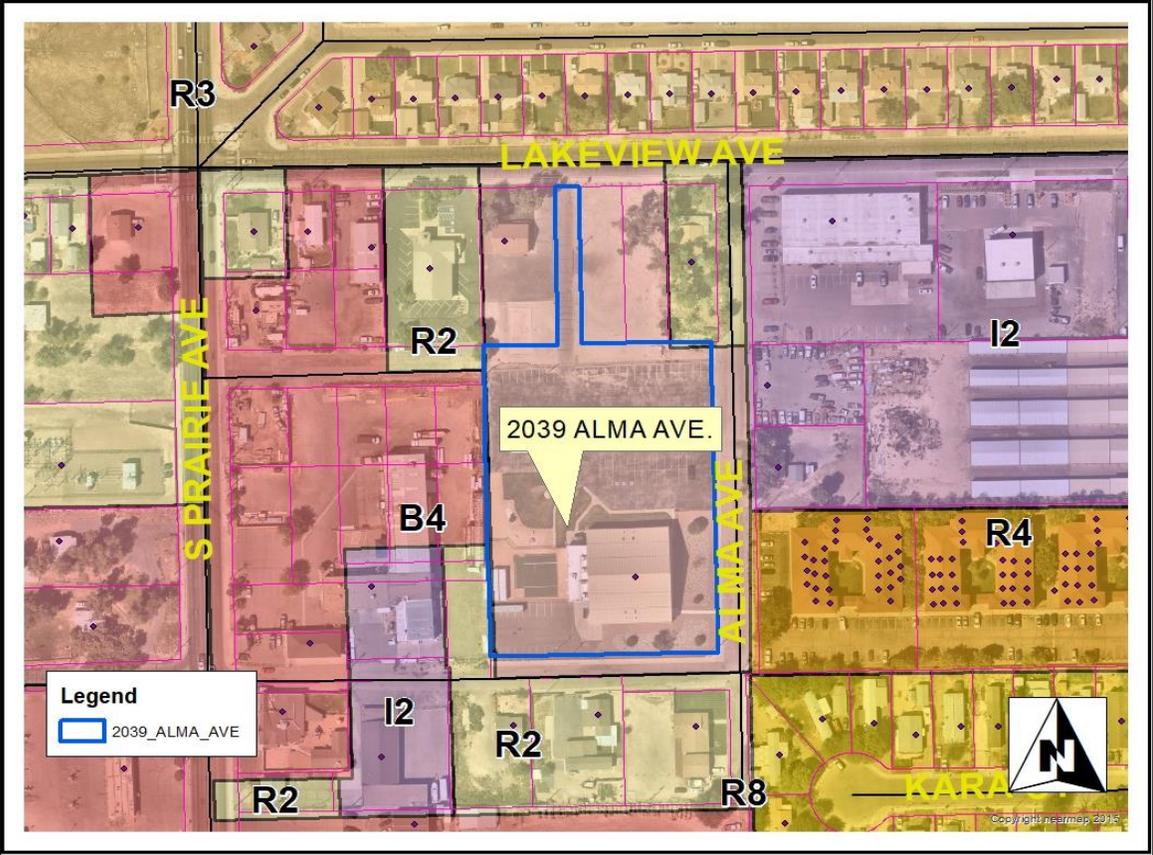
A. LOCATION MAP



B. SITE MAP



C. ZONING MAP



D. PUBLIC NOTICE PHOTO

D. PUBLIC NOTICE PHOTO



Detail Explanation

Jason Casados is the Owner of Vapor Source and the building located at 2039 Alma Avenue, Pueblo, CO 81004. The headquarters, lab, and warehouse for Vapor Source is currently located at 303 S Santa Fe Ave., Suite 120, Pueblo, CO 81003. The headquarters for Vapor Source employees 5 executive employees and the warehouse and lab employees 4 full-time employees. The warehouse receives all products for Vapor Source and distributes products to Vapor Sources 9 storefront locations. The lab receives the products needed to manufacture and distribute Vapor Sources line of e-liquid. Their manufacturing process consist of receiving nicotine, PV, PG and flavorings. Mixing the products, rebottling and labeling the products, and shipping products to their storefront locations. Vapor Source uses a waste company to pick up and destroy any expired nicotine products off site.

Vapor Source currently pays \$10,600.00 a month for rent at the current Santa Fe location. Jason would like to move his headquarters, lab, and warehouse to his property at 2039 Alma. The engineering plans have been completed and Kingdom Builder Properties is requesting to change the current zoning for 2039 Alma to BP, to accommodate Vapor Source's plans. The building is currently partially occupied by a recreational facility and the plans have been created to eliminate the current renter and house only Vapor Source. The property already has 70 plus parking spaces, with 2 paved parking lots. The surrounding area currently has I2 zoned industrial behind and across the street from this property, and residential. Although the plans are anticipated being completed in 3 months, there is an understanding it could potentially take longer because of COVID restrictions.

Justification of Facts

- a. (Neighborhood compatibility) The granting of a variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.

Vapor Source's headquarters employees 5 executive employees and the warehouse and lab employees 4 full-time employees. With the engineering plans being designed to eliminate the current recreational facility and only house Vapor Source, the number of vehicles in the area will be drastically reduced from approximately 150 to 10.

- b. (Avoiding bad legal precedents) The general planning of the City with respect to land use, density of use and the location of streets and highways will not be jeopardized.

The outside of the building will remain the same. Construction plans are limited to concrete drive outside and building of offices, a lab, and warehousing, inside the building.

- c. (Hardship imposed by the City Zoning code) Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.

Other than landscaping, the property will remain the same.

- d. (Hardship unique to this location) The property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of this Title.

The property is located across the street from zoned residential area. Other surrounding zones are Industrial. Vapor Source's production of e-liquid does not create a hazardous environment. Production is completed in an ISO certified lab. Their manufacturing process consist of receiving nicotine, PV, PG and flavorings. Mixing the products, rebottling and labeling the products, and shipping products to their storefront locations. Vapor Source uses a waste company to pick up and destroy any expired nicotine products, off site.



