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ZBA-23-04

To: City of Pueblo Zoning Board of Appeals
From: Bart Mikitowicz, Senior Planner
Through: Scott Hobson, Land Use Administrative Official
Date: 2/28/2023
Request: **A Special Use Permit to allow a tow yard in a Business Park (BP) Zone District**
Site Location: 755, 765, 775, 815 Crane Ridge Dr & 750 Fortino Blvd
Legal Description: **Parcels A, B, and C, College Road Subdivision, 4th Filing RPB-21-12**
Year Built: N/A
Applicant: William Zwick
Property Owner: Michael & Wendy Fetty
Zone District: Business Park (B-P) Zone District

REQUEST AND ANALYSIS

755-815 Crane Ridge Dr & 750 Fortino Blvd are three unimproved parcels, totaling 2.25-acres, located in the College Road Subdivision, northwest of the Hwy 50 and 1-25 interchange. The applicant is requesting a Special Use Permit to allow a Tow Yard in a Business Park (BP) Zone District. As defined in Sect 17-2-2(146) a tow yard is an outdoor storage facility for the temporary storage of towed vehicles. In accordance with 17-4-51(c)(146) of the Pueblo Municipal Code (PMC), the applicant is required to obtain a Special Use Permit in order to complete this project. The applicant was previously approved for this use however the permit expired 9/21/22 and modifications were made to the site plan; therefore, the applicant is reapplying for a new Special Use Permit and requesting to amend the conditions of the SUP that was approved on September 8, 2021:

Proposed Amendments to conditions:

1. Amend the existing SUP condition that required the location of the decorative sound mitigation barrier be constructed 10-feet from behind property line to 12 feet behind back of sidewalk on property. The applicant is proposing to install the 10 feet of required landscaping setback between back of sidewalk and property line, contingent upon applicant/owner receiving a revocable permit for landscaping on the right of way.
2. Amend the condition that a decorative sound mitigation barrier be constructed around the entire periphery of the property, Parcels A, B, and C. The applicant wishes to limit construction of the sound mitigation barrier to the northern portion of Parcel A, which is located adjacent to the mobile home park to the north. The applicant is requesting to construct a six-foot opaque fence with barbed wire adjacent to Crane Ridge Drive and along the western property line of Parcel C. Finally, the applicant wishes to construct a chain link fence along the northern property line of Parcel C and along the western property lines of Parcels A and B, adjacent to the post office property.

BACKGROUND

Wayne's Towing has been a Pueblo business since 1970. They are being displaced from their current address at 2500 N Freeway Road due to the proposed Colorado Department of Transportation (CDOT) changes to the Hwy 50 E and I-25 interchange. CDOT plans to acquire the current Wayne's Towing site as additional right-of-way to complete the I-25 reconstruction project. The applicant has been searching for a new property since June 2020 when they learned of CDOT's intentions to purchase their land. According to the applicant, properties located in

Industrial zones, where a tow yard is allowed with a Special Use Permit, are either outside city limits or are outside the applicant’s price point. Wayne’s is required to stay within city limits to continue fulfilling their contract with the Pueblo Police Department, as they are responsible for the city’s fleet vehicle pickup and removal. Also, if they are relocated outside city limits, they would no longer be allowed on the city’s rotating tow list. The applicant states that it is imperative they continue to operate within city limits and have quick access to 1-25 and Hwy 50 to continue serving their customers.

The proposed business of a tow yard is a use by right only in a Heavy Industrial (I-3) Zone District, making it a heavy industrial use, which is specifically excluded in the comprehensive plan for this location. The surrounding area does include other light industrial and commercial uses such as equipment rental shop, automobile repair, tire retail sales, and automobile dealership.

However, Pueblo Grande mobile home park is located to the north of this proposed location across Fortino Blvd. Wayne’s Towing operates 24 hours a day so there will be times when cars are dropped off on site late at night or early in the morning and limiting business hours would be a detriment to the business’ operation.

ZONING DISTRICT AND LAND USE

| Zone: | | Developed with: |
|-------|---|---|
| North | Central Business (B-4) and Mobile Home Residential (R-7) Zone Districts | Fortino Blvd; Medical Equipment Sales; Pueblo Grande Mobile Home Park |
| East | Central Business (B-4) Zone District | Fortino Blvd; Crane Ridge Dr; Undeveloped Lots, future location of Sit-Means-Sit, dog training and kennels. |
| South | Central Business (B-4) Zone District | Crane Ridge Dr; Undeveloped Lots, future location of Sit-Means-Sit, dog training and kennels |
| West | Central Business (B-4) Zone District | Undeveloped Lots; United States Postal Service |

PUBLIC NOTICE

The property was publicly noticed in accordance with Title 17 Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

OTHER AGENCIES

| | |
|--------------------------------------|------------|
| Pueblo City/County Health | No comment |
| City Transportation | No comment |
| Pueblo Regional Building Department | No comment |
| Fire Department | No comment |
| City Public Works Department | No comment |
| City Stormwater Department | No comment |
| City Code Enforcement | No comment |
| Pueblo Board of Water Works | No comment |
| City Wastewater Department | No comment |
| City Parks and Recreation Department | No comment |

CONDITIONS REQUIRED FOR LIMITED USE PERMIT

1. Ingress and egress to property and proposed structures thereon with reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Comments: Affirmative finding. The site plan indicates access off Fortino Blvd and Crane Ridge Dr.

2. Off-street parking and loading areas where required, with particular attention to the economic noise, glare or odor effects of the use by review on adjoining properties and properties generally in the district.

Comments: Off-street parking is available on the property and can be accessed from Crane Ridge Dr. The customer and employee parking lot will be open to the public and not enclosed by a fence.

3. Refuse and service areas, with reference to the items above.

Comments: Affirmative finding. The dumpster on site is located inside the tow yard, behind fencing and screening, where the towed vehicles will be stored.

4. Utilities, with reference to the location's availability and compatibility.

Comments: Comments: Affirmative finding. Sewer, electrical, and water service are available to the property.

5. Screening and buffering with reference to type, dimensions, and character.

Comments: Negative finding. The applicant is proposing a heavy industrial use in a commercial area, their proposed opaque fence and chain link fence will not mitigate noises stemming from tow and storage uses that operate 24-hours day.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect and compatibility and harmony with properties in the district.

Affirmative Finding. Any proposed signs must conform with Sec. 17-10-05 Sign Standards of the Pueblo Municipal Code, BP Zone District Sign Regulations.

7. Required yards and other open space.

Comments: Affirmative finding. Since the applicant is purchasing five parcels there is ample room to construct their new building, have off street parking, and have open space for proper vehicle storage. The BP Zone District requires a twenty-five foot (25') front yard setback. However, there are no rear and side setbacks if the proposed business abuts property located in a business or industrial zone district, this property meets this requirement.

8. General compatibility with adjacent properties and other properties in the district.

Comments: Negative finding. The proposed use is not compatible with the comprehensive plan for this location, which specifically prohibits heavy industrial uses, which includes a tow yard. Future land use emphasizes retail sales and personal services with some office space intermixed, and states that parking areas

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

If the Board chooses to approve this Special Use Permit staff recommends Standard Permit Conditions 1 through 13 and the following conditions:

1. No storage of towed vehicles or other industrial uses allowed on Parcel A, College Road Subdivision 4th Filing, RPB-21-12. Parcel A may be utilized for office, administrative functions.
2. No tow yard functions within 10-feet of the western property lines of Parcels A and B and within 10-feet of the northern property line of Parcel C.
3. If the Board chooses to amend the decorative noise mitigation barrier requirement to enclose the entire property; staff recommends that at a minimum the western property line of Parcels A and B, and northern property line of Parcel C (adjacent to the Post Office) be enclosed with the same six-foot opaque fence as proposed adjacent to Crane Ridge. Staff also recommends the decorative noise mitigation barrier be constructed south of the driveway adjacent to Fortino Blvd. along the southeastern property line of Parcel A.

ATTACHMENTS

- A. Standard Permit Conditions
- B. Site Map
- C. Aerial Map
- D. Zoning Map
- E. Comprehensive Plan Map
- F. Public Notice Photo
- G. Site Photographs
- H. Application
- I. Supporting documentation.

Exhibit A. Standard Permit Conditions

| Standard Permit Conditions Date of Issuance of Permit: 2/28/2023 | |
|---|---|
| 1. | Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 2/28/2024 |
| 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 <u>PRIOR</u> 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. |
| 7. | Building Permit; Other Permits Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> 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 <u>SOLELY</u> 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. |

Exhibit B. Site Map



Exhibit C. Aerial Map

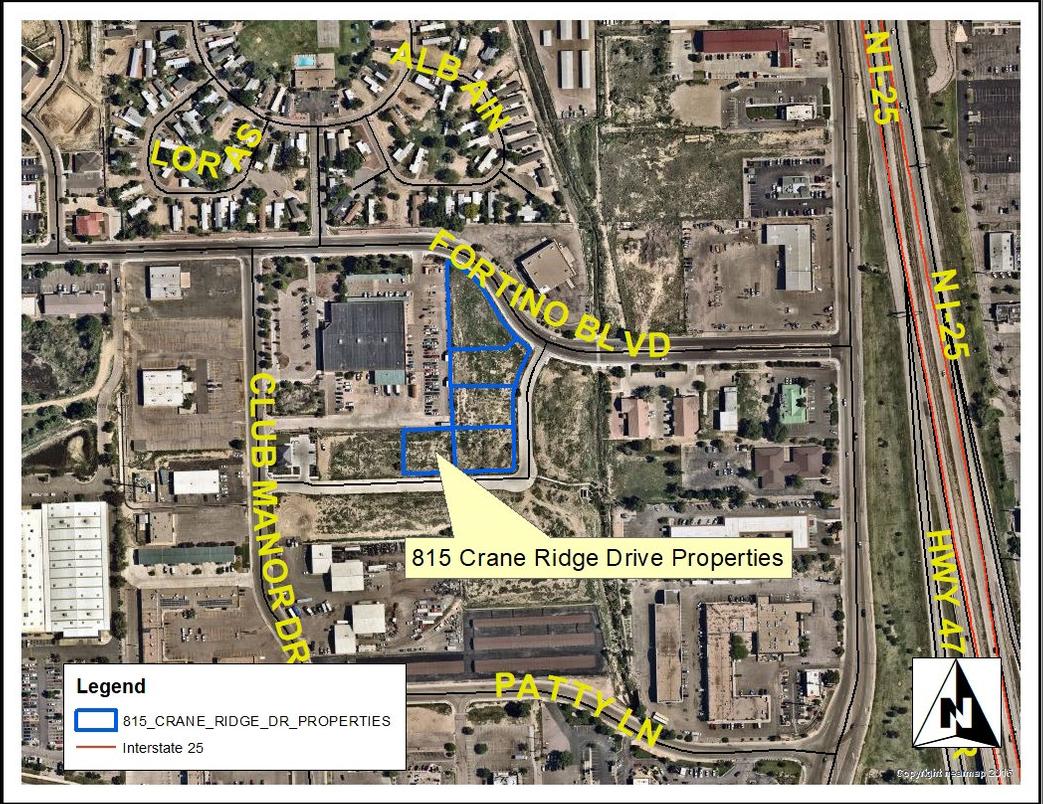


Exhibit F. Public Notice



Exhibit G. Site Photos



H. Application



01/25/2023

23-18

Zoning Board of Appeals - Special Use Permit & Variances

Status: Active

Date Created: Jan 25, 2023

Applicant

William Zwick, WJZ Enterprises, LLC
wjzwick@msn.com
11 Temple Drive
Pueblo, CO 81005
7193206483

Primary Location

750 FORTINO BLVD
PUEBLO, CO 81008

Owner:

FETTY MICHAEL L / FETTY WENDY A
332 S CONQUISTADOR AVE PUEBLO , CO 81007-3600

Additional Locations

- 765 CRANE RIDGE DR, PUEBLO CO 81008
775 CRANE RIDGE DR, PUEBLO CO 81008
815 CRANE RIDGE DR, PUEBLO CO 81008
755 CRANE RIDGE DR, PUEBLO CO 81008

Internal

ZBA Case Number
ZBA-23-04

Planner Assigned
--

ZBA

Hearing Date
02/28/2023

Hearing Results
--

Board Conditions
--

Appeal Term End Date
--

Permit Completion Date
--

Specially Requested Hearing

Public Notice

Number of Posters
--

Number of Postcards Sent
--

Cost of Newspaper Notice
--

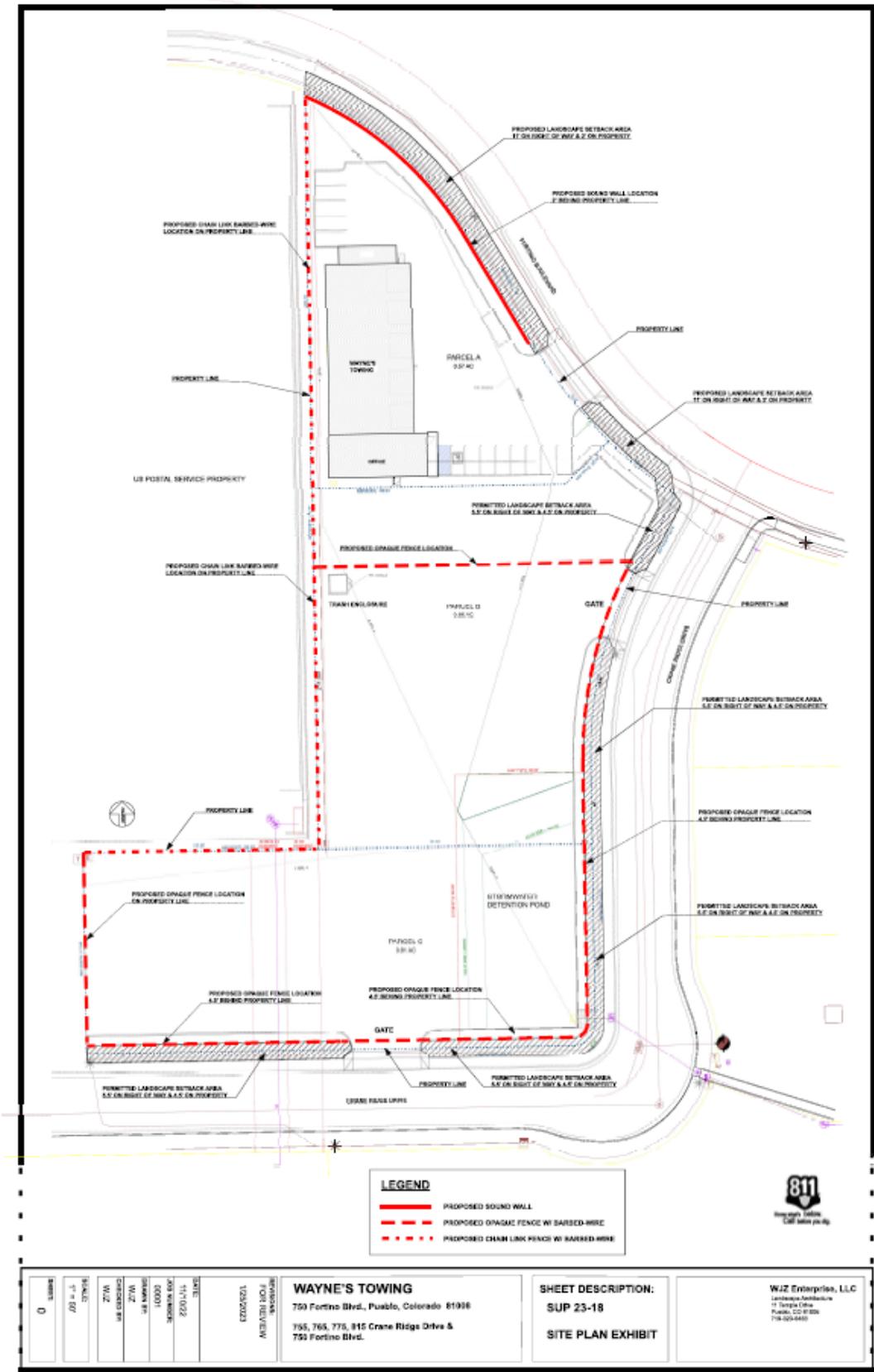
Public Notice Costs
0

Other Fees:
--

Public Notice costs must be paid by:
--

Public notice zoning poster must be displayed BY:
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Exhibit I. Supporting Documents





Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Property Owner Affidavit

Please type or print clearly. Illegible applications will not be accepted.

| | | |
|------------------------------------|----------------------------------|------------|
| Name: Mike-Wendy Feltz | Company: Wayne's Towing | |
| Address: 332 S Conquistador Ave | | |
| City: Pueblo West | State: CO | Zip: 81007 |
| Phone: 719-251-8660 | Email: Mike@Waynes-towing.co.com | |
| | | |
| Name: William Zwick | Company: WJZ Enterprises | |
| Phone: 719-320-6483 | Email: wjzwick@msn.com | |
| | | |
| Property Address: 750 Fortino Blvd | | |

I, Mike Feltz, hereby state that I am the owner of record of the property located at 750 Fortino Blvd, Pueblo, Colorado, and further acknowledge that by signing this affidavit I authorize the submission of an application for a Special Use Permit at said location.
(application type)

Michael E. [Signature] 1-25-23
 Signature of Property Owner Date

