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ZBA-24-17

To: City of Pueblo Zoning Board of Appeals
From: Jay-Michael Baker, Planner
Through: Scott Hobson, Land Use Administrative Officer
Date: 3/26/2024
Request: **Special Use Permit to allow for the operation of a mobile food unit (food truck) in a Historic Business (HB) Zone District.**
Site Location: 123 S Union Avenue, Pueblo, CO 81003
Legal Description: NELY 14.55 FT LOT 27 BLK 50 SOUTH PUEBLO
Year Built: 1900
Applicant: Anthony Quintana
Property Owner: Tallie Koncilja
Zone District: Historic Business (H-B) Zone District

BACKGROUND AND ANALYSIS

The applicant would like to establish a mobile food unit in a Historic Business (H-B) Zone District. A Mobile food unit means retail food establishment that is not intended to be permanent and is a motorized wheeled vehicle, or a trailer that is licensed for use on public roadways, designed and equipped to serve food and beverages, operating in either a static or transitory location and serving the public. This use is a Use-by-Review in a H-B zone district, and a Special Use permit is required to obtain a business license. The applicant wants to utilize the west portion of the parcel that fronts the alleyway, with the food truck perpendicular to the alley with the service window facing south. The Special Use Permit is attached to the parcel, not a specific mobile food unit, but the situation described is planned for a single mobile food unit.

123 S Union Ave is a two-thousand and thirty (2,030) Square foot lot with an existing structure built in 1900 and occupying 870 square feet of the parcel. The applicant intends to place the mobile food unit on the northwest corner of the rear portion of the lot. The entire lot area is currently developed and paved resulting in a 100-percent impervious surface. The parcel is located in downtown Pueblo in the South Pueblo subdivision. The location of the food unit would be adjacent to the alley and a parking lot just to the east. The parking lot and alley are frequented by pedestrian traffic walking towards the Riverwalk.

In 2013, the Pueblo Urban Renewal Authority created a Downtown Pedestrian Alleyways Master Plan that highlighted the alleyway that runs from the Riverwalk south to B Street, between Victoria Avenue to the west and Union Avenue to the east. The master plan delineates this alley as an opportunity to attract pedestrian activity to the already attractive HARP and the Union Depot/B Street streetscape which both provide strong anchors for the alleyway concept. The mobile food unit fits with the master plan and takes advantage of increased pedestrian activity already present in the alleyway and greater downtown location.

The mobile food unit will not impede traffic in the alleyway or the adjacent parking lot. The location will not serve vehicle traffic and will only serve pedestrian patrons. The layout of the proposed design has space for pedestrian activity to stay on the parcel and clear of the alleyway while waiting for their order.

The parcel in question is a legal nonconforming lot that is only 14 feet wide, therefore it does not allow for the unit to be set apart from nearby structures. After reviewing the information, the applicant provided and speaking with him, the intent is to bring electrical from the primary structure to the unit via extension cord, and he will utilize a small propane water heater in the unit utilizing a 20-pound propane tank, similar to that used for a small gas grill. The applicant states the unit will not use grease or oil, nor will it fry any foods. The primary items for sale will be crepes, and beverages like boba teas.

The Fire Department has expressed concern over the confined space and use of a propane tank to heat water. According to the Fire Department, the propane must sit 10-feet from all structures; because the parcel is only 14-feet wide, the applicant may not be able to use the propane tank to heat the water. Staff notes that the special use permit follows the parcel, not the specific mobile food unit. Therefore, while this food truck may not put off noxious fumes affecting the light and air of neighboring properties, allowance of a mobile food unit at this site, may open the door for future food trucks.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Historic Business (H-B) Zone District	Commercial
East	Historic Business (H-B) Zone District	Commercial
South	Central Business (B-4) District	Parking lot
West	Historic Business (H-B) Zone District	Commercial

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	Concerns about propane use in confined lot
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. Access to the truck comes from the 20-foot-wide alley between Union Ave. and Victoria Ave. Emergency Services should have adequate space to respond to fire or catastrophe.

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: Neutral finding. There is public parking in the lot west of the property. While there are plans for this parking lot to be fenced by the property owner, Black Hills, there is discussion of an arrangement allowing open parking for the Carriage House and Riverwalk businesses in the area.

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

Comments: Affirmative finding. All refuse is collected and maintained on-site; the current trash collection service is adequate for this use.

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

Comments: Negative finding. The applicant intends to use mobile propane for gas and to extend electrical from the primary structure to the unit.

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

Comments: Affirmative finding. Screening not necessary between commercial parcels in this situation.

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.

Comments: Affirmative finding; any proposed signs must be approved by the HPC and conform with the Pueblo Historic Business District Guidelines.

7. Required yards and other open space.

Comments: Affirmative finding. There are no required yards or open space in the HB District.

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

Comments: Neutral finding. The proposed retail food and drink use is compatible with the adjacent retail uses; however, the adjacent uses are housed in historic structures and not mobile units.

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 staff conditions.

1. Outdoor storage, trash collection, shall be screened according to section 17-4-5, (5), (c),;due to their visual and noise impacts onto adjacent properties and visitors to the site, shall be screened recessed or enclosed.
2. Hours of Operation limited from 8:00 AM to 11:00 PM.
3. Shall comply with all requirements of local, state and federal law including without limitation City business license and permit requirements, state and local requirements related to retail food establishments, state and local prohibitions on the sale or service of marijuana or alcohol, noise restrictions, signage restrictions, traffic and parking requirements and all requirements and limitations herein set forth.
4. Shall keep the sidewalks, roadways, and other spaces adjacent to the mobile food unit clean and free of paper, peelings and other refuse of any kind generated from the operation of the mobile food unit. All trash or debris accumulating within twenty-five (25) feet of any mobile food unit shall be collected by the operator of the mobile food unit and deposited in a trash container maintained by the operator in good condition and constructed of non-corrodible and watertight material, sufficient to hold the refuse generated by the business. Such container shall be removed by the operator whenever the mobile food unit moves to another location or at the close of business.
5. Only pedestrian service shall be allowed, and no vehicle or drive-thru service shall be permitted.

6. Any mobile food unit on this parcel must have electrical access brought to an access point at the parking site of the unit. This electrical access must be professionally engineered and installed by a licensed electrician.
7. The fire code prohibits the use of propane tanks within 10-feet of structures. The small space of the legal nonconforming lot is not conducive to provide adequate space between the mobile food unit and established structures. Bringing propane into such a situation introduces unmitigable hazards. Applicant will have to work with the Fire Department to develop a reasonable agreement
8. Any mobile food unit in operation at this location cannot use deep fry oil or smoke (barbecue or fry) as a means of cooking or preparation as these methods of preparation will produce noxious fumes, and this location lacks adequate square footage to provide reasonable buffer without impacting the air of neighboring properties.
9. Mobile food units may operate on private property within the districts in which the use is approved provided they comply with the following requirements and limitations:
 - a. The operator of the mobile food unit shall obtain prior written permission from the owner of the private property and shall have said written permission available for inspection at all times; and
 - b. The mobile food unit shall be parked on a paved or suitable maintained surface outside any designated fire lane and outside the sight distance triangle as that term is defined in Title XVII of this Code.

ATTACHMENTS

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

Exhibit A. Standard Permit Conditions

Standard Permit Conditions Date of Issuance of Permit: 03/26/2024	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 03/26/2025
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

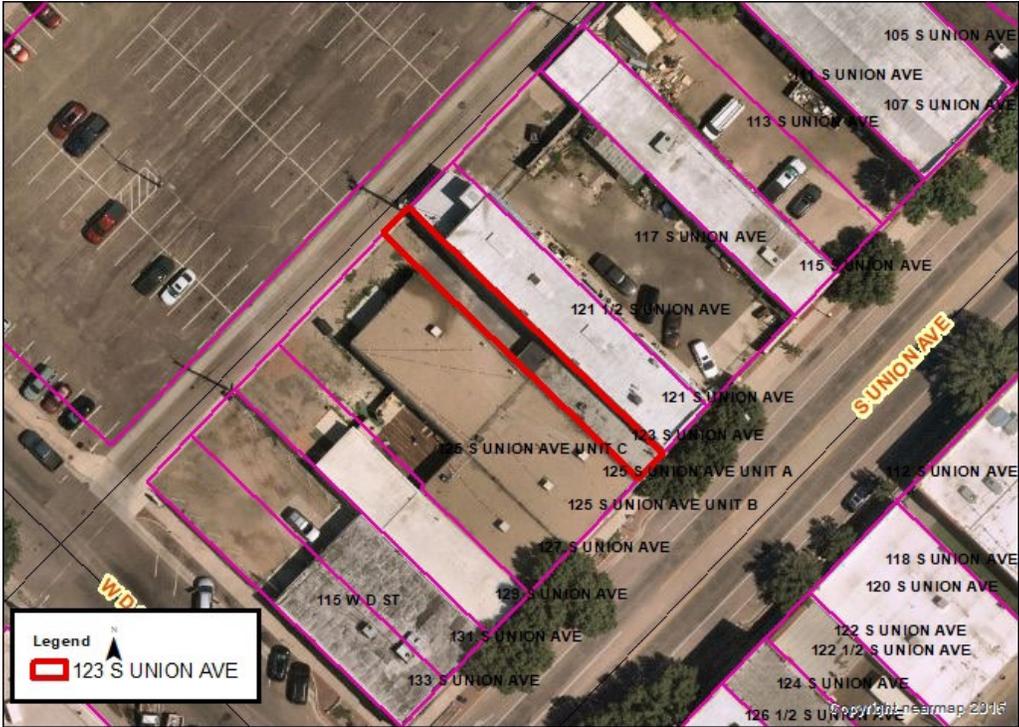


Exhibit c. Zoning Map (Zoning Map Amendments Recommended)

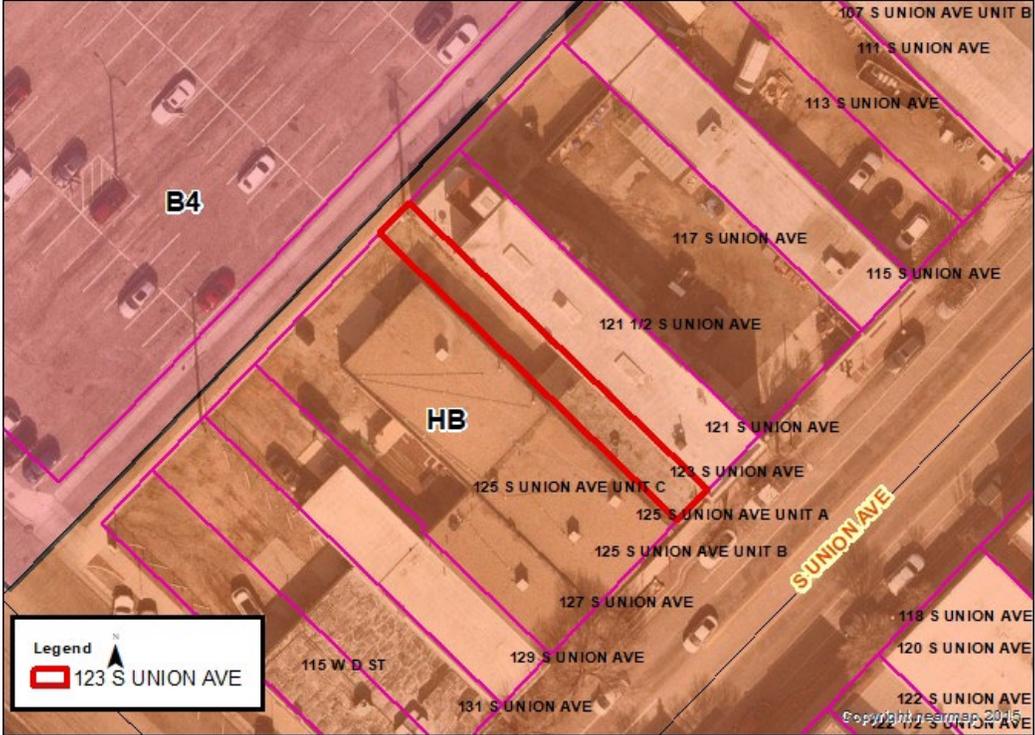


Exhibit E. Comprehensive Plan Map

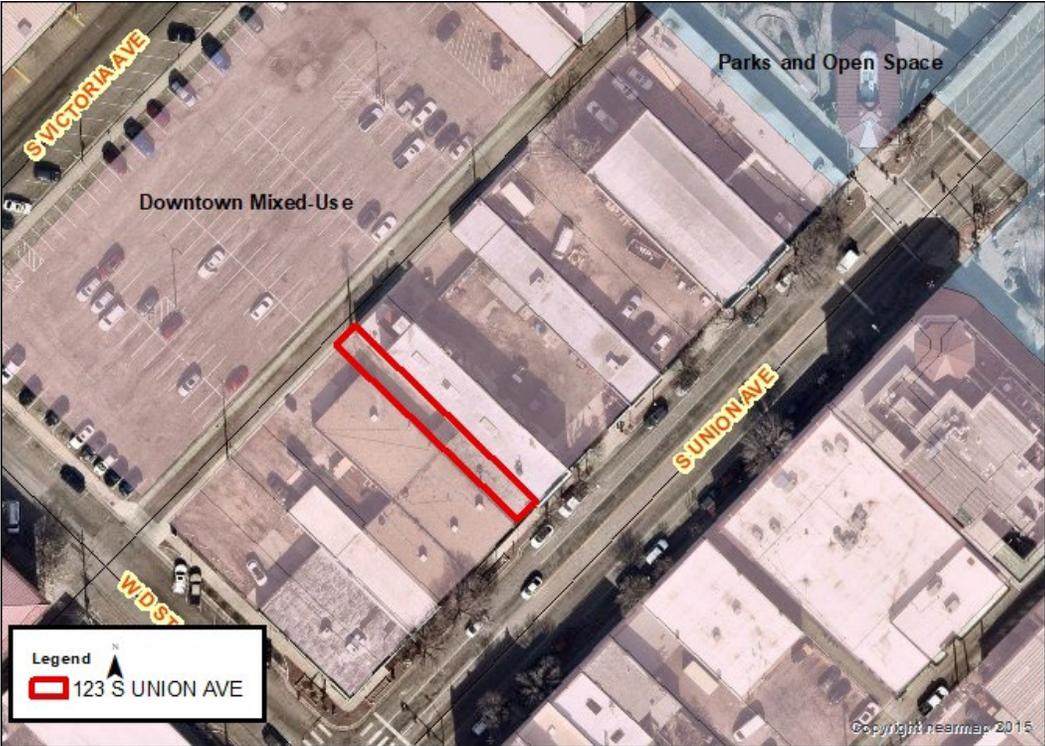


Exhibit F. Public Notice

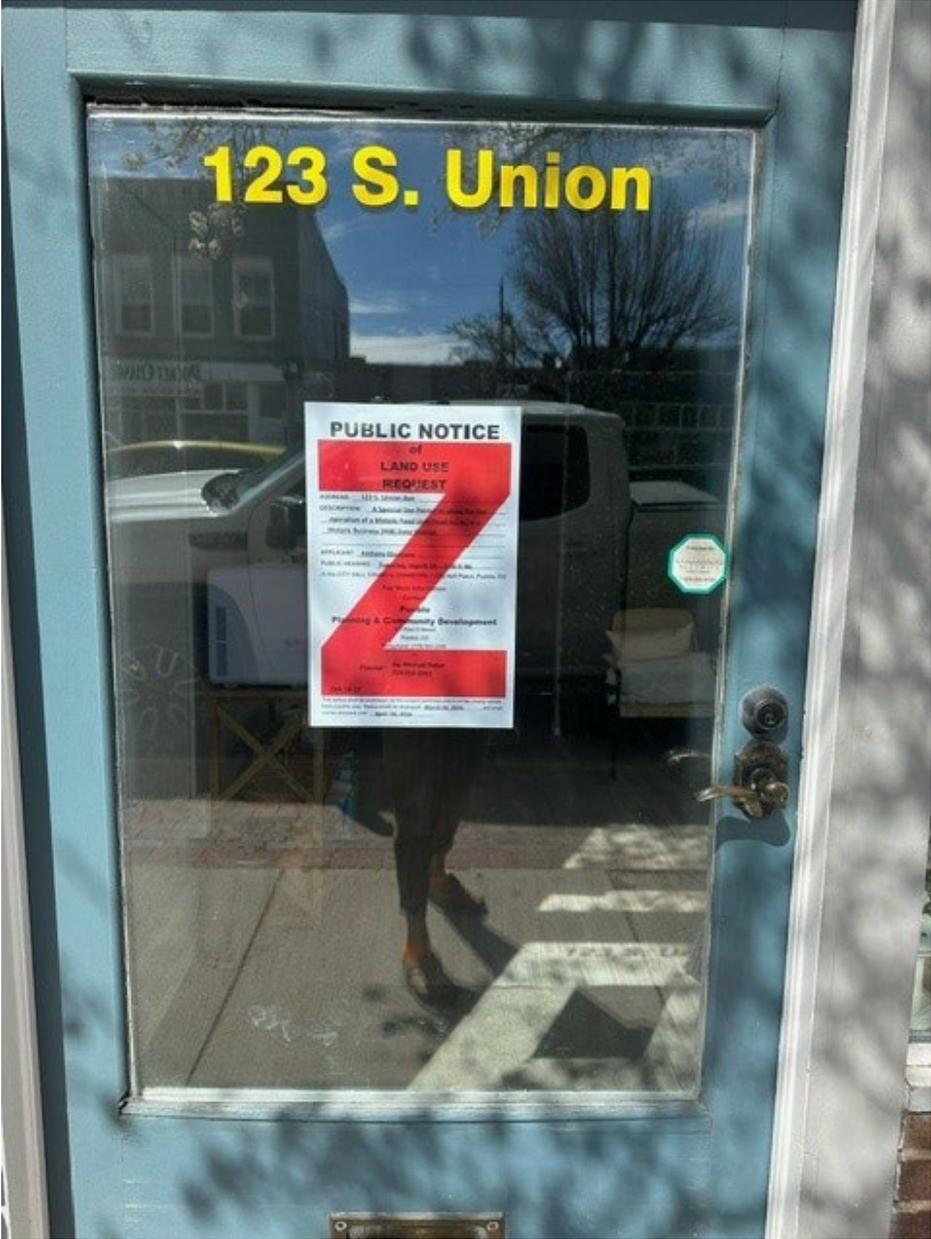


Exhibit G. Site Photos



H. Application

3/1/24, 4:04 PM

24-45



City of Pueblo PLACE

3/1/2024

24-45
Zoning Board of Appeals -
Special Use Permit &
Variances
Status: Active
Submitted On: 3/1/2024

Primary Location
123 S UNION AVE
PUEBLO, CO 81003
Owner
KONCILJA JOSEPH
125 W B ST PUEBLO , CO
81003-3400

Applicant
 anthony quintana
 269-895-6289
 bkkvpr@gmail.com
 2226 N Grand Ave
Pueblo, COLORADO (CO)
81003

Internal

ZBA Case Number

ZBA-24-17

Planner Assigned

-

Address Validation by GIS?

ZBA

Hearing Date

03/26/2024

Hearing Results

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Board Conditions

Appeal Term End Date

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Permit Completion Date

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Exhibit I. Supporting Documents



