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## ZBA-24-36

**TO:** City of Pueblo Zoning Board of Appeals  
**FROM:** Bart Mikitowicz  
**THROUGH:** Scott Hobson, Land Use Administrative Official  
**LOCATION:** 714 W 9th St, Pueblo, CO 81003  
**APPLICANT:** Tony Mihelich  
**PROPERTY OWNER:** Gerard Trujillo  
**YEAR BUILT:** 1954  
**LEGAL DESCRIPTION:** LOTS 1 TO 3 BLK 19 THATCHER + THOMAS ADD  
**ZONE DISTRICT:** Light Industrial (I-2) Zone District  
**PARCEL ID:** 525329001  
**LOT SIZE:** 15840

**REQUEST:** Special Use Permit to allow for a Residence, watchman or caretaker in a Light Industrial (I-2) Zone District

### BACKGROUND AND ANALYSIS OF REQUEST

714 W 9th Street is a 6,720 sq ft is a two-story commercial building constructed in 1952. The parcel is 15,840 sq. ft. located in the Midtown subdivision northeast of the Midtown Shopping Center and is zoned Light Industrial (I-2). The building originally served as the Pueblo Coca-Cola Bottling Co., followed by Arrow Electric Services, and is currently Gerard's Automotive Group. The applicant would like to convert the upstairs mezzanine into an accessory Residence, watchman, or caretaker suite. This is a use-by-review in an I-2 zone district and the applicant is required to obtain a Special Use Permit for this use before proceeding with the commercial interior model.

In analysis, the subject property is found in an I-2 zone district, however, the character of the surrounding properties is not uniform and varies significantly including; B-2, B-3, B-4, S-1, R-4, and R-2. The property has clearly defined ingress and egress, and off-street parking areas. The site has commercial trash service to the property, utilities are present, and screening and buffering are not required because none of the adjacent properties are zoned for residential use and the property is in a low-visibility industrial area. Signage is present and the caretaker's use should have little to no impact on surrounding properties. Unlike the adjacent property to the east, the tree lawn has been paved over and some vehicles were found parked illegally in front of the business upon site inspection. According to section Sec 17-4-7(c)(3) 4. "Tree-lawns with detached sidewalks in the right-of-way are encouraged and should be used or restored whenever possible." While the granting of the Special Use Permit should have little to no negative impact on the surrounding properties, it is the opinion of the Planning Department, that restoring of the tree-lawn would be an appropriate beautification and reduce illegal parking in this area.

### ZONING DISTRICT AND LAND USE

<b>Zone:</b>		<b>Developed with:</b>
North	Light Industrial (I-2) Zone District	Pueblo Sporting Goods

East	Government (S-1) Zone District	Government Use
South	Light Industrial (I-2) Zone District	Tastebudz
West	Light Industrial (I-2) Zone District	Colorado Movement Company

**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 SPECIAL 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. There is ingress and egress to the property taken off W. 9<sup>th</sup> Street.**

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. Site plans indicate adequate parking for an automotive repair shop, however there are several inoperable vehicles parked throughout the property which currently reduce the number of usable parking spaces.**

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

**Comments: Affirmative finding. According to the applicant, there is commercial trash service for the business.**

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

**Comments: Affirmative finding. The applicant attests that utilities are already being serviced to the property.**

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

**Comments: Affirmative finding. The property is in a business district surrounded by other businesses. No additional screening or buffering is required.**

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. No additional signage is attached to this request.**

7. Required yards and other open space.

**Comments: Negative finding. The property has very little landscaping onsite; furthermore the tree lawn is in a state of disrepair and is being used to park cars illegally.**

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

**Comments: Affirmative finding. The caretaker use will provide one dwelling unit, which is less intense than the existing automotive repair use; therefore, staff does not anticipate that the proposed caretaker will be incongruous with the adjacent properties.**

**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 recommended conditions:

1. re-establish the traditional treelawn with two deciduous trees in the right-of-way by the applicant.

**ATTACHMENTS**

- A. Standard Permit Conditions
- B. Aerial 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**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>6/25/2024</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>6/25/2025</b>
2.	<b>Required Revisions</b> 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.	<b>Changes</b> 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.	<b>Property Inspection</b> 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.	<b>Certificate of Occupancy</b> 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.	<b>Completion and Maintenance of Improvements and Landscaping</b> 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.	<b>Building Permit; Other Permits</b> Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	<b>Off-Site Drainage</b> 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.	<b>Appeals</b> 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.	<b>Errors</b> 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.	<b>Transfer of Ownership</b> 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.	<b>Violations/Penalties</b> 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.	<b>Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals.</b> 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 C. AERIAL MAP



EXHIBIT D. ZONING MAP



EXHIBIT E. COMPREHENSIVE PLAN MAP



EXHIBIT F. PUBLIC NOTICE



EXHIBIT G. SITE PHOTOS



H. APPLICATION



City of Pueblo PLACE

6/5/2024

24-117  
Zoning Board of Appeals -  
Special Use Permit &  
Variances  
Status: Active  
Submitted On: 6/3/2024

Primary Location  
714 W 9TH ST  
PUEBLO, CO 81003  
Owner  
TRUJILLO GERARD LEE  
9TH ST 714 PUEBLO , CO  
81003-2205

Applicant  
Tony Mihelich  
719-696-8274  
tony@dkheng.com  
2441 S Prairie Ave  
Pueblo, CO 81005

Internal

ZBA Case Number

ZBA-24-36

Planner Assigned

Planner 3

Address Validation by GIS?

ZBA

Hearing Date

06/25/2024

Hearing Results

-

Board Conditions

Appeal Term End Date

07/25/2024

Permit Completion Date

06/25/2025

## H. SUPPORTING DOCUMENTATION

### Special Use Permit Explanation for Gerard's Automotive at 714 W 9th Street

#### Property Information:

- **Location:** 714 W 9th Street
- **Zoning:** I-2 (Heavy Industrial)
- **Current Use:** Automotive repair garage (S-1 occupancy) with a (B-occupancy) office area
- **Proposed Use:** Conversion of the upstairs mezzanine portion into an (R-3 occupancy) caretaker residence

#### Background

Gerard's Automotive is an automotive repair garage situated in an I-2 (Heavy Industrial) zone at 714 W 9th Street. The facility currently includes a B-occupancy office area at the front of the building, which serves administrative functions related to automotive repair operations. Above this office/showroom area in the mezzanine, is an existing structure, which was built by an unlicensed contractor, and is being brought up to code with the help of DK Horn Engineering & Design Inc.

#### Purpose of the Special Use Permit

The request for a special use permit aims to authorize the conversion of the upstairs mezzanine portion of the building into a caretaker residence (R-3 occupancy). This modification is intended to enhance security and operational efficiency by providing on-site accommodation for a caretaker.

#### Justification for the Special Use Permit

1. **Security Enhancement:**
  - On-site residence for a caretaker will significantly improve the security of the automotive repair facility, deterring potential theft, vandalism, or other criminal activities.
2. **Operational Efficiency:**
  - The presence of a caretaker ensures rapid response to any emergencies or urgent issues that may arise after business hours, such as fire, water leaks, or unauthorized access.
3. **Zoning Compatibility:**
  - While the I-2 zoning designation primarily supports heavy industrial activities, it can accommodate ancillary residential uses like caretaker residences. This aligns with the goal of supporting industrial operations by allowing necessary supportive uses.
4. **Community Impact:**
  - The introduction of a caretaker residence is not expected to negatively impact the surrounding industrial area. Instead, it will enhance the overall safety and functionality of the premises.

## **Proposed Modifications**

### **1. Safety and Compliance:**

- The renovation will comply with all relevant safety regulations, including fire safety measures, emergency egress, and proper installation of utilities. This will involve:
  - Complying with the fire separation requirements per 2021 IBC and compliance with the local fire department with fire sprinklers to be provided in both the B-occupancy and R-3 occupancy areas.
  - Ensuring adequate smoke detectors and fire alarms are in place.
  - Providing proper means of egress according to the occupancy requirements.

### **2. Accessibility:**

- Access to the caretaker's residence will be designed to be safe and functional, using the existing staircase and ensuring that it does not interfere with the operational areas of the automotive repair garage.

## **Benefits of the Permit**

### **1. Enhanced Community Safety:**

- Continuously occupied property is less likely to attract criminal activity, contributing to the safety of the surrounding area.

### **2. Support for Business Operations:**

- On-site accommodation for a caretaker supports the smooth operation of Gerard's Automotive, providing immediate attention to any after-hours issues that could otherwise disrupt business activities.

## **Conclusion**

Granting a special use permit for Gerard's Automotive to convert the upstairs mezzanine into an R-3 occupancy caretaker residence is a strategic and beneficial move. It aligns with zoning regulations while enhancing the security and operational efficiency of the business. This change will not only benefit Gerard's Automotive but also contribute positively to the industrial community surrounding 714 W 9th Street.

