

**RECORD OF PROCEEDINGS  
PUEBLO COUNTY PLANNING COMMISSION  
WEDNESDAY, JULY 19, 2017  
COMMISSIONERS' CHAMBERS AT PUEBLO COUNTY COURTHOUSE  
215 WEST 10<sup>TH</sup> STREET**

**ROLL CALL AND DECLARATION OF QUORUM**

Commissioners Present: Betty Alt, Donald Bruestle, Epimenio Griego, Kiera Hatton, Judy Leonard, Roger Lowe, and Philip Mancha.

Commissioners Absent: None.

Staff Present: Joan Armstrong, Director; Dominga Jimenez-Garcia; Sandra Smith; and Jeffrey Woeber.

Others Present: Marci Day, Assistant County Attorney; and Pat Coffee, General Services Engineer, Pueblo County Department of Engineering and Public Works.

Chair Bruestle called the Pueblo County Planning Commission meeting to order at 5:30 p.m.

**APPROVAL OF JUNE 21, 2017 MINUTES**

Ms. Alt motioned to approve the minutes of the June 21, 2017 meeting as mailed. Ms. Leonard seconded the motion.

Ms. Hatton stated she wanted to clarify a comment she made under the "Motion" section, third paragraph, for Text Amendment No. 2017-003. She wanted to make sure the minutes reflected that her vote was based on the fact that she firmly believes regulating cannabis and alcohol need to be the same per Colorado's Constitution because it states how the people voted. She felt the text amendment was in violation of Colorado's Constitution.

Ms. Alt approved the amendment to the minutes. Ms. Leonard seconded the amendment.

The motion to approve the June 21, 2017 minutes, with the amendment, carried unanimously.

**APPROVAL OF JULY 19, 2017 AGENDA**

Chair Bruestle stated he reviewed the *Rules and Procedures* for the *Pueblo County Planning Commission, Order of Business, Article 5, Section 1*, and there was no mention of requiring approval of the Commission's agenda. If the Commission members would like that to be added to the procedure, the *Rules and Procedures* could be amended accordingly.

Ms. Armstrong stated she asked staff to add the approval of the agenda for the Planning Commission. She stated that there have been instances where the agenda needs to be revised prior the meeting. Chair Bruestle understood. He questioned the Commission members on their preference.

Mr. Mancha stated it suggests that the agenda will be amended at the beginning of the meeting. Ms. Day replied that an item cannot be added to the agenda that has not been properly noticed. A new case item would not be added. The amendments would be more in nature of changing the order of events to accommodate an applicant that may need to leave the proceedings early. Chair Bruestle stated the change would be of content and sequence. He stated there was a 24-hour posting notice for the agendas. The content could not change, but the order could. Ms. Day stated items that could be added to the agenda would be discussion items and reports that the Commission would not be voting on or requiring public notification.

Mr. Mancha questioned what the advantages or disadvantages are. Ms. Armstrong replied the advantage would be having a clearer record of what the meeting agenda entails. She stated that the Board of County Commissioners and the Liquor and Marijuana Licensing Board agendas list the approval of the agenda.

Chair Bruestle stated he had no objection in adding the approval of the agenda to the agenda. He stated that most of the meetings he attends has an approval of the agenda. He questioned the addition after comparing it to the *Rules and Procedures* and felt the procedure change should be addressed so that, if approved, it could be added to the *Rules and Procedures*.

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Ms. Hatton motioned to add the approval of the agenda to the Planning Commission agenda and change the *Rules of Procedure* by adding the approval of the Planning Commission agenda to *Article 5, Section 1*. Mr. Lowe seconded the motion. Motion carried unanimously.

**CHAIRPERSON'S REPORT**

Chair Bruestle mentioned that the Commission members' absence report, which reflects only their absences, should note the change regarding excused absences.

**DIRECTOR'S REPORT**

The Director's Report was presented by Joan Armstrong. She requested the staff reports be made a part of the record of proceedings.

(a) Acceptance of Map Amendments and/or Planned Unit Developments:

- [Map Amendment No. 2017-005](#), Eden Leasing, Inc., Frank Stringer, and Clifford Heifner request approval of a map amendment to rezone 27.8 acres of land from an A-1 to an I-3 Zone District.
- [Map Amendment No. 2017-006](#), Paula Hoffman is requesting a map amendment to rezone a 0.32± acre portion of a 0.86± acre parcel of land from a split zone district designation of S-1 and A-3 to an A-3 Zone District.

(b) Correspondence--None.

(c) Continuances--None.

(d) Withdrawals--None.

(e) Board of County Commissioners' Action--Summary of actions taken on July 12, 2017.

(f) Administrative Reviews:

- [Special Use Permit No. 2010-011](#) allows a church and religious buildings being the existing St. Joseph's Church and associated buildings in an R-2 Zone District. Staff notes that the church hall has been remodeled inside with an addition.

The Commission accepted the Administrative Review, thereby approving the continuance of this permitted use with the existing conditions and notation stating it was unnecessary to schedule this permit for further review unless there was a land use violation, a complaint, or specifically requested by the Planning Commission, as per staff's review dated July 13, 2017.

- [Special Use Permit No. 2011-001](#) allows natural deposits extraction and processing; blasting; stockpiling, crusher and screening plant; scale house; and an office on a 93.25± acre mining area in the A-1 Zone District. The application includes a proposal to reclaim the mined area to its pre-mining use of rangeland/agricultural.

Chair Bruestle questioned the term "post-mining" relative to the reclamation process. Ms. Armstrong replied that the term used should have been "pre-mining" as *post* means after and *pre* means before. Chair Bruestle wanted to confirm that the land would be reclaimed to its original use of rangeland/agricultural as it was before mining commenced. Ms. Armstrong replied yes.

The Commission accepted the Administrative Review, thereby approving the continuance of this permitted use with the existing conditions and new Directive to Staff to present a report at the July, 2022 Planning Commission hearing, as per staff's review dated July 22, 2017. Staff notes that three original conditions have been removed, i.e., two in March 2011, and one in July 2012.

Ms. Armstrong requested the Commission take action to accept the map amendments for processing; the Board of County Commissioners' action; and administrative reviews as presented.

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Mr. Lowe moved to accept the map amendments for processing; the Board of County Commissioners' action; and administrative reviews as read into the record and make the Commission's comments a part of the record of the proceedings. Mr. Griego seconded the motion.

Ms. Hatton had a question for a couple in the audience as to what case they were needing clarification. The gentleman replied he wanted clarification on Map Amendment No. 2017-006. Ms. Armstrong replied that it was on the consent agenda. Mr. Bruestle asked him to approach the podium. Ms. Day interjected and stated that the purpose of the Director's Report was to accept the map amendment for processing and not approve it. The hearing process in which public testimony is received is where the approval or denial process starts. She stated that the map amendment in question was on consent but could be removed for a full regular hearing. She stated that if clarification was satisfactory, the case would not need to be removed from the consent agenda.

Chair Bruestle questioned Page 4 of staff's review for Special Use Permit No. 2011-001. He stated the last sentence under "Recommendation" states the staff directive was modified. He wanted to make sure that it was a staff initiated recommendation. Ms. Armstrong replied yes.

After discussion, the motion carried unanimously.

**STATEMENT OF HEARING PROCEDURES BY CHAIRPERSON**

Chair Bruestle reported that the applicant and/or representative are called upon to speak, followed by any opposition, with the applicant having the final say.

**PUBLIC HEARING**

Ms. Armstrong explained there were three items on the Consent Agenda and one item on the Regular Agenda for this evening's meeting.

**CONSENT ITEMS:**

Ms. Armstrong stated there were three items on this evening's Consent Agenda this evening. For these items, staff is recommending approval; there is no known opposition; and the applicants are in agreement with the conditions of approval. She stated she will summarize the consent items. Upon completion, if any member of the Commission or a member of the audience wants an item removed, it will be placed at the end of the Regular agenda. There will be one action to approve all the consent items.

Ms. Armstrong began by making the staff reports a part of the record of this evening's proceedings.

Ms. Armstrong questioned legal counsel if Map Amendment No. 2017-006 could be clarified under the Consent Agenda without having to be removed. Ms. Day replied if the person was only asking for clarification and not a full hearing, questions could be answered under the Consent Agenda. See discussion under Map Amendment No. 2017-006.

Mr. Lowe moved to forward a recommendation of approval to the Board of County Commissioners for the three Consent Items listed below with conditions, comments, or findings. Mr. Mancha seconded the motion. Motion carried unanimously.

- [Map Amendment No. 2017-005](#), Eden Leasing, Inc., c/o Frank Stringer, and Clifford Heifner request approval of a map amendment to rezone 27.8 acres of land from an A-1 to an I-3 Zone District.

Ms. Armstrong stated staff's recommendation per staff's review dated July 6, 2017 was as follows:

Staff recommends the Pueblo County Planning Commission forward a recommendation of approval to the Board of County Commissioners (BOCC), and recommends the Planning Commission forward three findings from the Pueblo County Code regarding map amendments. Staff recommends one condition of approval, that before going to the BOCC, the applicant provide a draft deed, to combine the parcels that are being rezoned.

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- [Map Amendment No. 2017-006](#), Paula Hoffman requests a map amendment to rezone a 0.32± acre portion of a 0.86± acre parcel of land from a split zone district designation of S-1 and A-3 to an A-3 Zone District in order to bring the property into one uniform zone district, which better reflects the parcel's private ownership, intended/existing use, and size. The existing S-1 designation (on the northerly portion of the property) is not an appropriate zone district classification for this parcel. The proposed A-3, Agricultural designation for the subject property is more appropriate and consistent with the zone district designation that has been assigned to other parcels within the immediate area. Two (2) other land use applications have been filed by the land owner to address the parcel's creation and development standard deficiencies. Subdivision Exemption No. 2017-001 and Zoning Variance No. 2017-005 are on the August 9, 2017 Board of County Commissioners/Zoning Board of Appeals' agenda for review and consideration.

Ms. Armstrong stated staff's recommendation per staff's review dated July 11, 2017 was as follows:

Staff recommends the Pueblo County Planning Commission forward a recommendation of approval of Map Amendment No. 2017-006 to the Board of County Commissioners with the following findings based upon Chapter 17.144, Section 060 *Hearing and Findings* of the Pueblo County Code:

**FINDINGS:**

- A. The proposed amendment is in conformance with the Land Use Plan;
- B. The change requested promotes the public necessity, health, safety, and general welfare and is consistent with good land use and zoning practice; and
- C. The property is not directly bounded by the City of Pueblo.

Discussion ensued. Mr. Richard Straub, 8249 Zorn Road, Rye, requested clarification of the map amendment. He questioned if the rezoning would have any effect on the current property boundary. Ms. Armstrong replied that the map amendment would not change the location of the current property lines. He stated he had spoken with the State and Pueblo County water departments. He purchased his property in October 2015. He was told that he had a permitted well on his property that serves his house. It is registered for agriculture and domestic use. He stated there is another well on his property that is within two feet of his home that serves the property in question. It has never been permitted or registered. The previous renters of the home in question were having water issues. He found out from the title company that there was a six-foot easement to the well. He was concerned with the Hoffmans' ability to access the well from the easement because of the trees that were growing there.

Ms. Day stated that the proposal before the Commission was for a map amendment, noting all it does is change the zone district designation. She questioned how the issues with the well relate to the map amendment. Mr. Straub replied he was concerned how the water from the well that is located on his property was going to be used, i.e., is it going to be changed to agricultural from domestic? He questioned how the well was going to be used on other locations of the land. Ms. Day replied that the map amendment only affects the zoning designation. The proposed map amendment is changing part of the land that was previously designated as S-1, Public Use, to an A-3, Agricultural. Mr. Straub questioned if it was legal to register a well that was on someone else's property. Ms. Armstrong replied that the decision lies with the Division of Water Resources. She stated she has seen wells on other people's property with easements. She stated that it would be a civil matter between the property owner of the map amendment and him, noting that proper applications would have to be received through the Division of Water Resources. Mr. Straub stated that he has tried to bring the matter at hand to the attention of Mr. Ron Hoffman. It was explained that through his research it was found that the easement was six feet wide and easements are usually 10 to 20 feet. He stated that Mr. Hoffman didn't want to hear anything he had to say. Ms. Day stated that she understood he had some concerns, but what was before the Commission was a map amendment proposal. The standards for the map amendment include whether it is in conformance with the Land Use Plan, that it promotes the public necessity, health, safety, and general welfare and consistent with the land use and zoning practices, and involves properties bounded on one or more sides by the boundary of the City or Planning or Zoning District for its review and recommendation. If the proposal meets the standards of the Pueblo County Code, the vote is for approval. She stated that if any of his concerns related to any of those standards, the case could be moved to the regular agenda where testimony would be offered as to why it should or should not be approved.

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She felt that Mr. Straub's concerns were not relevant. Mr. Straub stated that he had been in contact with other agencies to remedy his concerns. It appears that he needs to contact Ms. Wallingford-Ingo with the Department of Planning and Development for further assistance. Ms. Armstrong replied that the research that was conducted would be accepted by staff and placed in the case file, noting that the issue needs to be addressed by the Division of Water Resources.

Ms. Day wanted to clarify for the record that Mr. Straub was not requesting Map Amendment No. 2017-006 be removed from the consent agenda and placed on the regular agenda for a full hearing. Mr. Straub replied no, he did not want it removed for testimony.

- [Marino Subdivision Final Plat No. 2017-002](#), James J. and Marino request final plat approval to subdivide 12.22± acres of land into four (4) lots including right-of-way dedication as follows: Lot 1 - 2.89± acres, Lot 2 - 3.27± acres, Lot 3 - 2.72± acres, Lot 4 - 2.72± acres, and 0.63± acre for right-of-way dedication for 35<sup>th</sup> Lane and Iris Road. The property is developed with two single-family residences and accessory structures proposed to be within Lots 1 and 2 while the other lots (3-4) are vacant.

Ms. Armstrong stated staff's recommendation per staff's review dated June 27, 2017 was as follows:

Staff recommends the Pueblo County Planning Commission forward a recommendation of approval of Marino Subdivision Final Plat No. 2017-002 with three conditions of approval regarding the plat being modified to include all technical wording and corrections, the owners be responsible for paying all recording fees and submittal of the plat in digital formats and the representative submit the final drainage plan and finalized copy of the "Notice of Fire Impact Fee Letter".

Ms. Hatton thanked the Marinos for submitting their proposal to the Planning Commission. She felt they had a good proposal originally and was sorry it had to change. She thanked them for doing things the right way.

**REGULAR ITEMS:**

**Statement of Conduct and Demeanor**

Chair Bruestle stated in order for the business of the Commission to be conducted in the most effective and expeditious manner, it is necessary that all persons maintain a demeanor of civility toward each other. Uncivil conduct will not be tolerated. Such behavior shall constitute the forfeiture of a person's right to remain in attendance and may result in them being asked to leave the meeting by the chairperson or, upon their refusal, being escorted out of the meeting by the proper authority.

- [Special Use Permit No. 2017-006](#), Robert Lucero, Colorado Cannabis Association, LLC, dba The Spot, requests approval of a special use permit to allow a retail marijuana-infused products manufacturer in the B-1 Zone District.

Ms. Armstrong, Director, Planning and Development, presented a summary of staff's review dated July 13, 2017. She noted a correction on Page 3, Paragraph 2, Line 1. The date written as 2991 should be 1991. She also submitted an Amended Memorandum, dated July 19, 2017, indicating a change to Staff Comments, Item 3(c). The reference to a retail "store with the preparation/manufacturing of some of the products being sold." needs to be removed and replaced with "marijuana-infused products manufacturer".

Ms. Armstrong stated that any of the uses-by-review in the B-1 Zone District were any of the uses-by-right in the B-4 Zone District. A retail marijuana-infused product manufacturer is a use-by-right in the B-4 Zone District; therefore, it becomes a use-by-review in the B-1 Zone District. The marijuana business would be in the existing building addressed as 2025 Independence Drive in Blende. No sales of marijuana would be conducted from this property. Delivery of product to retail stores or retail marijuana-infused product manufacture would be conducted by the applicant, The Spot.

Ms. Armstrong stated staff was recommending approval with five conditions relative to the submittal of a Zoning Compliance Review-Marijuana, Parking Plan, Drainage and Outdoor Lighting plans if applicable, and a Sign Plan, as well as a Directive to Staff to present and Administrative Review at the Planning Commission's July 2018 hearing.

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**IN FAVOR**

Ms. Liane “Buffie” McFadyen, 1012 South Charlo Drive, Pueblo West, represented the special use permit. She stated the location was 2025 Independence Drive, in the Blende area. The last use of the existing building was a bakery. She stated Mr. Lucero has owned the building for the last three years, with the intent of establishing a retail marijuana dispensary. Because the surrounding residents were in opposition to the dispensary, Mr. Lucero withdrew his application. She stated the proposal before the Commission was to allow a retail marijuana-infused products (MIP) manufacturer. The proposed location is adjacent to a B-4 Zone District. Mr. Lucero has listened to the concerns of his neighbors and brings the proposed special use permit before the Commission as a compromise. She stated that Mr. Lucero and she spent a lot of time going door-to-door in the neighborhood, twice. She wanted to make sure that all the people that would be impacted understood what would be happening. She asked for the Commission’s approval of the proposed special use permit. She clarified that there would not be a retail dispensary at the location. The products would be manufactured at the facility and used at the following The Spot locations, i.e., in Pueblo West off Industrial Boulevard, in Pueblo on North Elizabeth between the 7-11 and Applebee’s, and in Trinidad. She doesn’t anticipate additional traffic, noting that the current zoning allows for a grocery store, laundromat, and gas station with service. She felt that several of the other uses would have much more traffic impacts than the proposed MIP facility. Another goal of theirs was to increase the security of the neighborhood due in part to the added security required for the proposed facility. They want to be a good neighbor. Many of the residents were thankful the proposal was not for a dispensary.

Mr. Robert Lucero, 231 Riverwalk, Pueblo, represented the special use permit. He stated three years ago, he was before the Commission with his first application, which included a request for a retail marijuana store. He listened to the testimony of about 15 to 20 people with approximately 70 more to speak. At that time, he addressed the Commission and withdrew his application. Chair Bruestle informed Mr. Lucero he felt his actions were extremely honorable and commended him for listening to the public and taking that action. Mr. Lucero stated he has continued ownership of the building, noting he has not been able to sell it. This prompted his decision to come before the Commission with his request for a MIP facility, noting that it would not be a huge impact on the neighborhood. He has been listening to his neighbors. He stated the building is costing him \$7,000 a year in taxes. For this reason, he requested the Commission review and vote affirmatively for the proposed special use permit.

Mr. Mancha questioned what the zoning designation was, noting that staff’s review referred to both the B-1 and B-4 zone districts. Ms. Armstrong replied that the proposed property was in the B-1 Zone District. She stated that within the Pueblo County Code, those uses-by-right in the B-4 Zone District were defaulted uses-by-review in the B-1 Zone District. For example, in the B-4 Zone District, a MIP manufacturer is a use-by-right; therefore, this defaults to a use-by-review in the B-1 Zone District. Rather than list the applicable uses-by-review within the B-1 zoning standards, it refers to the uses-by-right in the B-4 Zone District. Ms. Day clarified that it was basically considered “lazy drafting”. Ms. McFadyen stated she may have confused the issue by referring to a parcel adjacent to the proposal as being zoned B-4. She stated the proposed property is in the B-1 Zone District. Mr. Mancha questioned if approval of the special use permit would affect all the B-1 Zone Districts. Ms. McFadyen replied the proposed special use permit was site specific. Ms. Armstrong stated that any marijuana use in the B-1 Zone District requires a special use permit. She noted that staff’s review, Exhibit 7, was a letter of opposition. Chair Bruestle stated he read the letter and felt the person was against the sale of marijuana products at the location and misunderstood the actual use.

**IN OPPOSITION**

Ms. Mary Marascola, 2006 Independence Drive, spoke in opposition to the special use permit. She stated her residence was 150 feet from the proposed establishment. The Commission needs to understand that the area of the proposed MIP facility is a residential neighborhood and not a business district. Years ago, the owner of the property in question was allowed to rezone that specific parcel to establish a cake shop. The rest of the parcels in the area are residential. She did not want to have anything doing with marijuana in her front yard. She stated there were four marijuana outlets within two blocks of each other along Highway 50, which was two blocks over from Independence Drive. She felt more marijuana outlets were not necessary. She stated 23<sup>rd</sup> Lane also had a high amount of marijuana establishments.

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**REBUTTAL**

Ms. McFadyen rebutted the testimony. She stated if the Commission chooses to approve the special use permit, rest assured that the applicant will continue to work with the residents to make the area a good neighborhood. There will be no retail activity, it will increase the security of the neighborhood, and they agree with the conditions of approval. For these reasons, she requested the Commission approve Special Use Permit No. 2017-006. She commended Mr. Lucero for going door-to-door with his business proposal.

Chair Bruestle closed the hearing and entered staff's comments into the record.

**MOTION**

Mr. Lowe moved to approve Special Use Permit No. 2017-006 with five conditions and staff directive per staff's review, dated July 13, 2017. Mr. Griego seconded the motion.

Discussion ensued. Ms. Hatton disclosed that prior to July 2016 she had a financial relationship with Mr. Lucero because he was a contributing donor to a campaign in which she was a consultant. She stated the relationship no longer exists.

Chair Bruestle stated he appreciated the desire to maintain the area for residential use, but the property was already zoned for business uses.

After discussion, the motion carried unanimously.

**UNFINISHED BUSINESS**

Chair Bruestle requested the status of the Comprehensive Plan. Ms. Armstrong replied that she would speak with Mr. Markuson about scheduling a presentation. Chair Bruestle understood that Mr. Markuson's department has been very busy lately, but felt the sooner they start acting on the Comprehensive Plan, the sooner they will get some issues resolved.

**NEW BUSINESS**

None.

**REPORTS OF COMMITTEES**

None.

**ADJOURNMENT**

There being now further business, the meeting was adjourned at 6:41 p.m.

Respectfully submitted,



Joan Armstrong, Director  
Department of Planning and Development

SMS