

**RECORD OF PROCEEDINGS
PUEBLO COUNTY PLANNING COMMISSION
WEDNESDAY, SEPTEMBER 16, 2015
COMMISSIONERS' CHAMBERS AT PUEBLO COUNTY COURTHOUSE
215 WEST 10TH STREET**

ROLL CALL AND DECLARATION OF QUORUM

Commissioners Present: Betty Alt; Donald Bruestle; Epimenio Griego; Kiera Hatton; Judy Leonard; Ronald Leyba; and Philip Mancha.

Commissioners Absent: Ron Greenwell and Roger Lowe.

Staff Present: Joan Armstrong, Director; Sandy Blanco; and Gail Wallingford-Ingo.

Others Present: Marci Day, Assistant County Attorney; and Pat Coffee, County Public Works Department.

Chair Bruestle called the Pueblo County Planning Commission meeting to order at 5:32 p.m.

APPROVAL OF AUGUST 19, 2015 MINUTES

Ms. Alt moved to approve the minutes of the August 19, 2015 meeting as mailed. Mr. Griego seconded the motion. The motion carried by a 6-0-1 vote with Ms. Hatton abstaining.

CHAIRPERSON'S REPORT

Chair Bruestle had nothing to report.

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 the proceedings.

(a) Acceptance of Map Amendments and Planned Unit Developments for processing:

- [Midwest Ranch Planned Unit Development Amended No. 2015-005](#), Jeff Ayotte, Midwest Wholesale Colorado, LLC, rezoning from Midwest Ranch Planned Unit Development to Midwest Ranch Planned Unit Development Amended. The property is located on the south side of State Highway No. 96 around Martin Lane and north of the Arkansas River in the eastern portion of Pueblo County.
- [Colorado Natural Health Centers Planned Unit Development No. 2015-006](#), Don Kern, Colorado Natural Health Centers, rezoning from the A-2 to the Colorado Natural Health Centers Planned Unit Development. The property is addressed as 7791 State Highway 78.

(b) Correspondence--One piece of correspondence was distributed: Letter, dated September 9, 2015, requesting continuance of [Special Use Permit No. 591](#) Fourth Amendment (also known as SUP 1986-015 Fourth Amendment for filing purposes only) to the October 21, 2015 Planning Commission hearing.

(c) Continuances--None.

(d) Withdrawals--None.

(e) Board of County Commissioners' Action--Summary of actions taken on September 16, 2015.

(f) Administrative Review:

- [Special Use Permit No. 591](#) Fourth Amendment (also known as SUP 1986-015 Fourth Amendment for filing purposes only) allows a Sportsman Arena for Gun and Archery Ranges in an A-1 Zone District.

The Commission voted to continue the administrative review to the October 21, 2015 Planning Commission hearing.

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Ms. Armstrong requested the Commission take action to accept the planned unit developments for processing, late correspondence, Board of County Commissioners' action, and administrative review as presented.

Ms. Alt moved to accept the planned unit developments for processing, late correspondence, Board of County Commissioners' action, and administrative review as read into the record and make the Commission's comments a part of the record of the proceedings. Mr. Leyba seconded the motion. 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 was one item on the Consent Agenda and two items on the Regular Agenda for this evening's meeting.

CONSENT ITEM

Ms. Leonard moved to approve the Consent Item listed below with conditions. Ms. Hatton seconded the motion. The motion carried unanimously.

- [Special Use Permit No. 2015-008](#), Kevin M. Parker, requests to permit two (2) wind turbines (each with an overall height of 105 feet) for residential purposes in an A-1 Zone District.

The Commission approved with three conditions of approval and Directive to Staff which imposes an annual review in September, 2016. PCPC Resolution No. 15-013, dated September 16, 2015, was also approved.

Chair Bruestle stated three or four years ago they approved a request for a wind turbine in Pueblo West, which limited the height to no more than 35 feet. He questioned if the zone district determined how high the tower or blades could be. Ms. Armstrong replied yes, noting the A-3 and A-4 Zone Districts have a 35-foot maximum building height, and the A-1 Zone District has no height requirement.

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.

- [Midwest Ranch Planned Unit Development Amended No. 2015-005](#), Jeff Ayotte, Midwest Wholesale Colorado, LLC (Applicant), Midwest Wholesale Colorado (Owner), Mangini & Associates Inc., c/o Rocky Mangini (Representative), 50100 East State Highway 96, requests an Amendment to Midwest Ranch Planned Unit Development, a 5 acre parcel in a 441.46 acre parcel of land, to add Medical Marijuana Infused Product (MIP) Manufacturer/Marijuana Oil Extraction Facility and Testing Laboratory for Medical MIP and Medical Marijuana Oil Extraction Facility both on-site and off-site. Midwest Ranch Planned Unit Development, on the same 5 acre property, was approved by the Board of County Commissioners on June 10, 2015 to accommodate Retail (recreation) Marijuana-Infused Product Manufacturer/Marijuana Oil Extraction Facility for on-site Cultivation. The original zoning of A-1 allows the Cultivation, but not the Marijuana-Infused Product Manufacturing. No sales of any product will be made from the PUD site. The property is located on the south side of State Highway No. 96 around Martin Lane and north of the Arkansas River in the eastern portion of Pueblo County.

Ms. Joan Armstrong, Director, Pueblo County Department of Planning and Development, summarized her staff review dated September 7, 2015. She stated the

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surrounding land use is open range with A-1 zoning. The PUD has its own zone district, which identifies the uses that can be done on the five acres, as well as the development standards including lot dimensions, area, coverage, floor area ratio, building height, setbacks, and separation. They also identify the parking, fencing, screening, buffering, and weed control. In order to regulate the amount of traffic the MIP Manufacturing and Testing Facility uses for off-site cultivation, staff is suggesting the applicant consider adding the performance standards section. It would address the number of daily traffic counts generated by the MIP Manufacturing and Testing Facility, noting the average daily traffic (ADT) is the average number of vehicles two-way passing a specific point in a 24-hour period. The average household generates ten trips per day, so each time a vehicle arrives or departs from the property, one trip has been generated. In order to maintain the rural atmosphere of the property, staff suggests adding a maximum count and only the vehicles from the Midwest Ranch PUD facility would be used for pickup and drop-off of the product at the off-site locations. They may also want to eliminate having specific days of the week to reduce the indication of travel.

Ms. Armstrong stated Mr. Ayotte has a cistern for water and some fire prevention resources. The floodplain issue has been taken care of, noting he submitted a Floodplain Development Area Permit. Staff conducted an inspection of the property on August 28, 2015, and identified ten items the Planning Commission must consider in making its recommendation to the Board of County Commissioners. The property was properly posted and the public notice was published in the Pueblo Chieftain, with the surrounding owners notified per the regulations. The revised PUD plan includes the list of items that must be submitted to staff by September 30, 2015 in order to review and forward to the Board of County Commissioners.

IN FAVOR

Mr. Jeff Ayotte, 50100 East Highway 96, Boone, spoke in favor of the planned unit development. He stated the traffic increase is zero. The facility will only accommodate making so many products unless they expand, and they're not expanding, just adding two flavors, medical and recreational. They are trying to team up with both universities to put a test facility in Pueblo, which they don't have. They share Martin Road with the ditch and there's more traffic on a daily basis with the ten-wheelers on Park Road. The original PUD gave permission for traffic by a Quit Claim Deed. Ms. Armstrong stated the Quit Claim Deed deeded Martin Lane to Pueblo County. Mr. Ayotte stated they put in their own road, which is an extension of Yatze Road.

Mr. Griego asked Mr. Ayotte if he gets his water from Yatze. Mr. Ayotte replied no, noting he gets his water from Aqua.

IN OPPOSITION

There was no opposition.

MOTION

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

Ms. Alt moved to forward a recommendation of approval of Midwest Ranch Planned Unit Development Amended No. 2015-005 to the Board of County Commissioners with three comments and four conditions, per staff's review dated September 7, 2015. Mr. Griego seconded the motion. The motion carried unanimously.

- [Colorado Natural Health Centers Planned Unit Development No. 2015-006](#), Don Kern, Colorado Natural Health Centers (Applicant), Colorado Natural Health (Owner), DK Horn Engineering & Design, Inc., c/o Darlene Horn (Representative), 7791 State Highway 78. Applicant requests a planned unit development to rezone a 227.05 acre parcel of land from the A-2, Agricultural (minimum 5 acre) Zone District to the Colorado Natural Health Centers Planned Unit Development to allow Medical Marijuana uses for indoor and outdoor Cultivation, Marijuana-Infused Product Manufacturer, Storage; Retail Marijuana uses for indoor and outdoor Cultivation, Marijuana-Infused Product Manufacturer, Storage, Testing Facility; Hemp uses including indoor and outdoor Cultivation, Storage; and specific uses-by-right allowed in the A-2 Zone District.

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Ms. Joan Armstrong, Director, Pueblo County Department of Planning and Development, summarized her staff review dated September 5, 2015. The specific uses-by-right allowed in the A-2 Zone District for hemp include Home, Receiving; Residence, 1-Family; Residence, 2-Family; Guest House; Housing, Tenant; Mobile Home; Ranch, Guest; Riding Academy, Stables; Equestrian Arena, Personal; Farming or Ranching; Greenhouse and Nursery; Fruit and Vegetable Processing, Wholesale and Retail; Hay, Grain, Feed, Seed and Fertilizer, Retail, Storage and/or Wholesale; Roadside Sale Stand, Retail Agricultural Products; and Agricultural Custom Contractor. The A-2 Zone District allows the Cultivation but not the Marijuana-Infused Product Manufacturing. No sales of any product will be made from the PUD site. The property is located on the north side of State Highway No. 78 West and west of Waterbarrel Road in the western portion of Pueblo County. The site is improved with a residence and outbuildings. The neighboring land use and zoning to the north is open range, zoned A-1; east has residences, zoned A-2; south includes one residence, zoned A-1, the Pine Drive Telephone Company, zoned I-2, open range, zoned A-1, and open space, which is Twin Butte Estates Amended Rural Land Use Plan; and west are two residences and open range, zoned A-1, and one residence, zoned A-3. There are other uses listed, noting the purpose needs to be revised.

Ms. Armstrong stated with the use of the Medical Marijuana Storage and Retail Marijuana Storage, even though they're not listed uses in the A-1 and A-2 Zone Districts, staff looks at the Storage of the product as an ancillary use of Cultivation and MIP Manufacturing. The Storage is limited to the product grown and manufactured on-site, not for the Storage of the off-site product as allowed in the I-1 and I-2 Zone Districts. Staff will require both uses to identify on-site product only. The Medical Marijuana, Indoor and Outdoor Grow, and Retail Marijuana, Indoor and Outdoor Grow are listed uses. The Pueblo Board of Water Works will supply potable water via their water dispensing station, noting if any of the future phases include the outdoor cultivation of marijuana or hemp, they won't supply water for those outdoor uses; therefore, Medical Marijuana, Outdoor Grow, and Retail Marijuana Outdoor Grow will need to be removed from the Permitted Uses in this PUD. If another water source is obtained that can be used for the marijuana outdoor grows, an amendment to this PUD will be required to request Medical and Retail Marijuana Outdoor Grow. The Retail Marijuana Testing Facility is not a listed use in the A-1 or A-2 Zone Districts. The permitted zone district for the Testing Facility is the 0-1, Neighborhood Office District as a use-by-review; I-1 and I-2 as a use-by-right; I-3 as a use-by-review; B-4 as a use-by-right; and PUD subject to the definitions set forth in this Title. The Testing Facility is intended as a separate business only for testing Retail Marijuana for Retail Marijuana businesses. This site is not conducive for a Testing Facility due to its relatively small acreage, size, and location. If the property was larger and not in close proximity to neighbors, the industrial use of Testing Facility may be compatible with the surrounding land use. Staff recommends the Retail Marijuana Testing Facility be removed from the Permitted Uses in this PUD. Greenhouse and Nursery is a use-by-right in the A-2 Zone District for non-marijuana and non-hemp uses. The applicant will need to make it more specific by indicating Greenhouse and Nursery (non-marijuana; non-hemp). The Medical Hemp Uses, Medical Hemp Storage, Medical Hemp Indoor and Outdoor Grow, Medical Hemp Contiguous Optimal Premises Cultivation Operation, Medical Hemp Non-Contiguous Optional Premises Cultivation Operation, and Medical Hemp Greenhouse Cultivation, as defined in the section of the Code, are not listed uses in the A-1 or A-2 Zone Districts and not defined in the Code. The reference to Medical Hemp Uses and the listed uses shall be removed from the Permitted Uses in this PUD. Hemp Establishment, as defined in the section of the Code, is a listed use-by-right in the A-1 and A-2 Zone Districts and can remain under the Permitted Uses in this PUD. However, with the statement from the Pueblo Board of Water Works, if any future phases include the outdoor cultivation of marijuana or hemp, they will not supply water for those outdoor uses. Staff requests the following statement be placed after the Hemp Establishment wording: "No outdoor hemp grow will be allowed." As previously stated, if another water source is obtained that can be used for Hemp Outdoor Grow, an amendment to this PUD will be required to request Hemp Outdoor Grow. The proposed Permitted Uses, other than Medical Hemp, are currently listed as permissible uses-by-right in the A-2 Zone District. Staff does not agree with some of the uses allowed in the PUD, as explained by the statement after each use. Home, Receiving, Medical Marijuana Cultivation and MIP, and Retail Marijuana Cultivation and MIP are not allowed to be located within 250 feet of any existing

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licensed childcare facility, so in staff's opinion, the allowing of a Home, Receiving on the same property with any marijuana use is not in compliance with the Pueblo County Code, and staff is recommending it be removed from the Permitted Uses. Residence, 2-family, is defined as Dwelling, Two-Family, and means a building or semi-attached building containing two dwelling units. The A-1 and A-2 Zone District standards allow for a Mobile Home or Residence, 1-family or Residence, and 2-family. Only one residence, mobile home, manufactured home, or stick-built home is allowed on one property regardless of the size. The Residence, 2-family use can remain in the listed Permitted Uses if the following language is added after the Permitted Uses: "Only one Mobile Home or one Residence, 1-family, or one Residence, 2-family is allowed on the property." Housing, Tenant, refers to structures on farms and ranches intended primarily for the housing of persons and/or their families, who are employed on the farm or ranch. This property contains a single-family residence whose occupants are the marijuana business operators for the approved Zoning Compliance Review Marijuana. In staff's opinion, this property is not suitable for large-scale farming and/or ranching due to the lack of water for crops and acreage. The owners of the property are allowed to conduct farming and ranching, but the size of the property is not conducive for a large-scale farm and/or ranch to warrant a tenant house. Staff recommends Housing, Tenant be removed from the listed Permitted Uses. Mobile Home, as explained before, only one residence, mobile home, manufactured home, or stick-built home is allowed on one property. Guest Ranch, which is also a Dude Ranch, refers to a destination resort offering overnight accommodations and activities typical of Western ranches. The size of the property and uses are not conducive and typical of a Guest Ranch or Dude Ranch. A Guest Ranch could have minors, noting with the marijuana and hemp uses proposed, staff prefers there not be any use allowed on the property that could create a conflict or issue with minors. Staff recommends the Ranch, Guest be removed from the listed Permitted Uses. Riding Academy, Stables is a facility providing for the rental of horses and accessories and doesn't include rodeo grounds or the keeping of horses for personal use. Staff's comments are the same as the Guest Ranch pertaining to the possibility of minors visiting the Riding Academy, Stables, and recommend it be removed from the listed Permitted Uses. Roadside Sale Stand, Retail Agricultural Products is a structure and/or area for the display and retail sale of agricultural products. Agricultural products are those sold with the intent of human consumption as food. The definition also includes the retail sale of ornamental bulbs and bedding plants. The normal and incidental accessory uses for those agricultural products for sale at a roadside sale stand include packaging, sorting, cleaning, drying, roasting, and popcorn popping. As previously stated, it's staff's opinion this property is not suitable for large-scale farming due to the lack of water for crops. Also, with the cultivation of marijuana and hemp in the front portion of the property, there is the possibility of conflict with people stopping to purchase agricultural products. The cultivation of marijuana and hemp should be kept on the low key, and staff recommends Roadside Sale Stand, Retail Agricultural Products be removed from the listed Permitted Uses. Agricultural Custom Contractor includes the repairing, etc. of agricultural machinery and could be in conflict with marijuana and hemp uses on the property. The visible cultivation areas are not in the best interest of the public and neighbors, and staff is recommending it be removed from the listed Permitted Uses. If and when the marijuana and hemp uses are not being conducted on the property, the owner can submit an Amended Colorado Natural Health Centers PUD to remove the marijuana and hemp uses from the listed Permitted Uses, and add other uses that might be conducive to the property. They can also request rezoning back to the A-2 Zone District.

Ms. Armstrong stated Accessory Uses such as sheds and detached garages have not been identified, but the applicant may consider listing Accessory Uses on the Plan. Lot Dimensions and Development Standards are typical of the A-2 Zone District being 300 feet in width or depth. Since the PUD has its own zone district, they have to specifically identify the Lot Dimensions and Lot Area of the specific site. The legal description is Parcel A of Subdivision Exemption No. 2015-002. She is requesting the Lot Dimension standard be revised to reflect the dimensions as shown for Parcel A, Subdivision Exemption No. 2015-002. She had the same comment for the Lot Area, noting the area listed is for the A-2 Zone District, which is the required lot area for the PUD. Lot Coverage includes the total ground area covered by all buildings and shall not exceed twenty-five (25) percent of the total ground area of the parcel, which staff agrees to. There is no requirement for Building Height in the A-2 Zone District, so staff is in agreement. The Building Setbacks for

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front, side, and rear are the same as in the A-2 Zone District for principal structures. The structures associated with the proposed uses are considered principal and shall adhere to those setback requirements. The Accessory Building Setbacks for front, side, and rear are the same as in the A-2 Zone District for accessory structures. The applicant may want to identify the accessory uses so they can be allowed in this PUD. There are no issues with Separation and Parking, noting the gravel and rock has a minimum depth of four inches, as depicted in the Off-Street Parking and Loading Standards. The Fencing, Screening and Buffering, Performance Standards, and Signs are good, but they may want to change the Sign Standards to reflect the A-1 through A-3, as depicted in the Pueblo County Code. There are no issues with Weed Control. The Division of Water Resources is in agreement with the Pueblo Board of Water Works. The wastewater is on-site by a treatment facility. The Fire Protection is through the Beulah Fire Protection & Ambulance District, noting they have no objections, but the facility will be required to be designed for compliance with the 2015 International Building Code, the 2015 International Fire Code, and the 2015 International Wildland-Urban Interface Code as required by the Pueblo Regional Building Department and the Beulah Fire Protection & Ambulance District. The MIP Manufacturing and Storage will require on-site water demands for firefighting operations. The Beulah Fire Protection & Ambulance District will review the plans submitted to the Pueblo Regional Building Department and advise the applicant/business of the water and firefighting requirements necessary for approval of the plans. There is no floodplain issue. The access is from the Colorado Department of Transportation, noting they issued an access permit. She received a telephone call from an adjoining landowner, Suellen Levy, who is in opposition to the PUD.

Ms. Armstrong reviewed the conditions the Planning Commission must consider in making its recommendation to the Board of County Commissioners. The proposed land use will be compatible with the existing and permitted land uses in the surrounding area, and in harmony and responsive with the character of the surrounding areas. Staff can support the MIPs Manufacturing, noting they relate to the uses for Fruit and Vegetable Processing, Wholesale, but no retail, as identified as a use-by-right in the A-2 Zone District. The other requested uses identified are uses-by-right in the A-2 Zone District, but staff doesn't agree with some of the uses allowed as Permitted Uses due to the marijuana and hemp uses on the property. With the requested Permitted Uses being removed and/or reworded, staff feels the Colorado Natural Health Centers PUD could be compatible with the existing and permitted land uses in the surrounding area, and in harmony with the character of the surrounding areas.

Ms. Armstrong stated staff recommends the Pueblo County Planning Commission forward a recommendation of approval of Colorado Natural Health Centers Planned Unit Development No. 2015-006 to the Board of County Commissioners with comments and conditions. The PUD is consistent with the designation of Rural Ranch in the Pueblo Regional Development Plan, and with sound planning and zoning practice. Staff would request that prior to the Board of County Commissioners taking final action on this PUD, the following documents be submitted to the Department of Planning and Development: Zoning Compliance Review Marijuana application for the Medical Marijuana-Infused Product Manufacturer, and Retail Marijuana-Infused Product Manufacturer; Zoning Compliance Review Hemp application; and revised PUD Plan with the Permitted Uses and Development Standards as identified. The requested documents and revised PUD Plan need to be submitted on or before September 30, 2015, in order to provide the Department of Planning and Development adequate time to properly review the documents and make a recommendation to the Board of County Commissioners. Prior to recordation of the PUD, the Plan shall be modified to include all technical wording and corrections, with the application fee paid to the Department of Planning and Development, as well as the final mylar.

Ms. Armstrong stated she has not heard from the applicant or its representative as to whether or not they agree with staff's recommendations.

Ms. Hatton asked Ms. Armstrong how the recommendations become conditions. Ms. Armstrong replied by the applicant agreeing to them. If they don't agree, it would be advantageous to continue this PUD to work out the details in order for the Planning

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Commission to have a clean application in hand for their recommendation to the Board of County Commissioners.

IN FAVOR

Ms. Darlene Horn, DK Horn Engineering & Design, Inc., 301 North Main Street, spoke in favor of the planned unit development. She stated a lot of the uses were included to keep their options open for the PUD, and agreed with removing them based on the explanations and descriptions. She will have the revisions made for the PUD per the recommendations and comments by September 30, 2015.

Chair Bruestle questioned if September 30, 2015, worked for staff. Ms. Armstrong replied yes, noting it was part of her recommendations. Ms. Horn stated her goal would be to have it done prior to that date. Ms. Armstrong stated that would give her extra time and would appreciate that. Ms. Hatton questioned if it would be timely to continue the PUD and hold the full hearing at that time. Ms. Day replied if the Commission feels they don't have enough information to make a decision tonight, they can vote to continue the PUD to the next meeting. The applicant agrees with staff's suggested modifications and conditions of approval, noting it would be acceptable if that's what the Commission wants to do. Ms. Alt asked Ms. Hatton if she wants to see the final document with the modified recommendations, and Ms. Hatton replied yes. Mr. Leyba stated Ms. Horn indicated she would contact the applicant and come back with the corrections. Ms. Day stated if the Commission decides they want to continue the PUD to the next meeting, they have two options. They can leave the hearing open and accept further testimony from the people there tonight, or they can close the hearing after the testimony and leave their decision until the next meeting. They wouldn't be getting any additional information, just the modified document. Ms. Alt stated she doesn't mind letting the people testify, but like Ms. Hatton and Mr. Leyba, she wants to see the final document.

Ms. Hatton moved to continue Colorado Natural Health Centers Planned Unit Development No. 2015-006 to the October 21, 2015 meeting, and to leave the hearing open. Mr. Leyba seconded the motion. Chair Bruestle asked Ms. Hatton if she wanted to leave the hearing open and allow testimony tonight, and Ms. Hatton replied yes. Ms. Day stated they would continue with the hearing and at the conclusion of the testimony take a motion to continue it to the October 21, 2015 meeting. Ms. Hatton and Mr. Leyba agreed. Chair Bruestle questioned if they were withdrawing their motion and second. Ms. Hatton and Mr. Leyba withdrew their motion and second.

Chair Bruestle stated they would be accepting testimony tonight for or against the application. No decision will be made tonight, noting it would be continued to the October 21, 2015 meeting. At that time, they would take additional testimony, close the hearing, and the Commissioners would take a vote.

IN OPPOSITION

Mr. Douglas Knepper, 7796 State Highway 78 West, Beulah, spoke in opposition to the planned unit development. He stated he lives directly across from the proposed drug operation. He was born and raised in New Jersey and moved to Beulah five years ago. He retired from his job after 30 years and moved to what he had hoped was going to be a pleasant and quiet retirement. He isn't new to Beulah, noting his great-grandfather, George Bragdon, built a home there in the late 1800s, and in 1902, built the first summer home on Pine Drive, which he now owns with his cousin. He has many fond memories of Beulah, noting he purchased his home and spent thousands renovating, landscaping, and removing the trash and rubble. He never envisioned in his worst nightmares being in such close proximity to a drug operation. He knew when the aforementioned property changed hands, something out of the ordinary was taking place. He had heard rumors and hoped they were just rumors, until he witnessed preparations for the drug operation. A converted bus is parked on the property, which he was told is a cannabis oil processing lab. In addition, trucks of unknown deliveries fill the garage and barn. Most recently, even though the operation hasn't been approved, delivery of the retail building sits on Highway 78. The grading is also completed and nobody has resided in the house for the past couple of months, noting the home has become a factory warehouse rather than its intended purpose. He asked the Commission to consider the feelings of the Beulah

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people who don't want this element in their community. He thinks of the founding fathers like his great-grandfather, who never envisioned such filth coming to Pueblo County. He sees what a toll passing marijuana has taken on Pueblo County. All he reads about in the Pueblo Chieftain are drug busts, illegal grow operations, crime, failing schools, etc. They are all items that potential employers consider when choosing to move to a community, as well as residents. He was always proud when Pueblo was listed as one of the top places to live in various publications, but those days are over. The location of the proposed operation doesn't give a very good first impression of Beulah, nor of Pueblo County as a whole. Those operations should be in contained areas away from the mainstream. A friend, who works for one of the better employers in Pueblo, told him that more than 50% of the applicants fail the drug test, even though they're qualified. His cousin, who is a realtor in Colorado Springs, told him that people are moving north to escape the infiltration of marijuana and the total failure of Pueblo's future. He feels safer on the streets of New York and New Jersey than he does at certain Pueblo establishments, noting marijuana is consuming the town. The people of Colorado voted in this mess, and a lot of what has come to fruition was never envisioned. They have the power to slow this cancer down that's continually destroying Pueblo County, noting it's not too late. If these operations continually infiltrate, it's more to second guess their elected officials. He pleaded the Commission not approve this drug operation in such a beautiful place.

Ms. Armstrong stated the applicant has a Zoning Compliance Review Marijuana No. 2015-032 for Medical Marijuana Non-Contiguous Cultivation, which was approved on June 22, 2015. The Marijuana Cultivation and Hemp Cultivation Processing are uses-by-right in the A-2 Zone District. The MIPs, which is the Marijuana Infused Product Manufacturing, is not allowed as a use-by-right in the A-2 Zone District, which requires the PUD application. At this time, they have every right to grow marijuana and hemp on the property. Mr. Knepper stated he has every right to his opinion. Ms. Armstrong stated yes, of course, noting she just wanted to clarify the uses-by-right in the PUD. Mr. Mancha asked Mr. Knepper where his property was located, and Mr. Knepper replied he's directly across the Beulah Highway.

Mr. Robert Diller, 7745 Highway 78 West, Beulah, spoke in opposition to the planned unit development. He stated his home is located directly east of the proposed site. He has been watching the operation for six months and didn't realize what was happening. He became familiar with the engineer in charge of constructing the buildings, and noticed they were changing the water system and leveling the ground. His house is right next to a creek where a lot of water runs. If they get another big rain, the water would flood his front yard and house. The engineer indicated they would be building a holding pond that would hold the water and back it up with a spillway. They haven't done anything and are grading more, which is a real concern. The bigger concern is his home, noting it's worth \$300,000, but when the marijuana plant is established, he would be surprised to get \$200,000. All of their property values will go down because nobody wants to live 500 feet from a marijuana production. He was also told they were going to sell marijuana on the premises. The area has good pasture, which is meant for grazing horses and cows. He asked the Commission to be considerate, noting they lied to him and he didn't know they were dealing with marijuana until just recently.

Mr. Mancha asked Mr. Diller who told him they were putting in holding ponds. Mr. Diller replied the foreman who was doing the work. Mr. Mancha questioned if he got anything in writing, and Mr. Diller replied no. Chair Bruestle asked Ms. Armstrong if any of staff's comments or conditions pertained to the water flow or water retention. Ms. Armstrong replied no, noting they don't look at drainage. Chair Bruestle questioned who was responsible for that. Ms. Armstrong replied the Colorado Department of Transportation, noting they need to submit a State Storm Water Permit if they disturb more than one acre of land. Also for clarification, they cannot sell product from the site. If the PUD is approved for the Manufactured Infused Product, they have to take it off-site to a store or center to sell. If they do sell from the property, there's a Marijuana Enforcement Division with the State, and a Marijuana Code Compliance Inspector with the Department of Planning and Development that works hand in hand with the State. Mr. Diller stated the foreman also told him they were going to construct three 10,000 square foot buildings. Ms. Armstrong stated she would have to look at the Zoning Compliance Review Marijuana that was approved, noting they asked for specific areas for the marijuana grow and she thought it was in the front of the property. She didn't remember seeing

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three 10,000 square foot buildings. To do that, they would have to come back and amend their application, noting they have to get building permits through the Pueblo Regional Building Department. Mr. Diller stated the grow operation is pretty close to the highway. Ms. Armstrong stated when she was at the site she saw some grading and stakes. Mr. Diller stated marijuana smells like a skunk and to allow it is disgusting.

Ms. Laura Miller, 5184 Siloam Road, Beulah, spoke in opposition to the planned unit development. She stated she is there as a mother, noting she didn't move to Beulah to raise a family next to someone growing marijuana, and opposes it.

Ms. Alt asked Ms. Miller how long she had lived there. Ms. Miller replied they have owned the property for ten years and lived there for eight years. They just recently built a permanent house, noting they lived and survived in a little, single-wide unit for eight years before building a house. Ms. Armstrong asked Ms. Miller if they owned other acreage. Ms. Miller replied yes, noting they own 70 acres, as well as the Twin Butte Estates, which is open space. She never envisioned having her boys out there riding their horses across from a marijuana facility.

Ms. Suellen Levy, 7787 State Highway 78 West, Beulah, spoke in opposition to the planned unit development. She stated she appreciated the opportunity to address the issue tonight and thanked Ms. Armstrong for a very complete report. She has waited over thirty years to live in the country. She is a retired school teacher and it was her dream to move back to Pueblo, which is where she grew up and attended school. After she moved into the area, she realized she was in a subdivision. In March, she had a knock at her door. It was a man who introduced himself as the site manager of the neighboring house. He asked her to sign a letter dealing with the fact that her house and the neighboring property had been illegally subdivided. He needed a response within 24 hours as to whether or not she would partner with the owner of the proposed solar plant. They were going to put up a couple of 10,000 square foot buildings and manufacture solar ingredients. She told him she didn't understand and didn't know anything about the illegal subdivision and would have to do some research. She also spoke to the owner, Don Kern, and at no time did Mr. Kern mention he had plans to develop a marijuana farm. She was concerned and had an uneasy feeling, noting that's when she called Ms. Armstrong and found out about the proposed marijuana farm and illegal subdivision exemption. At that time, she thought she was dealing with a solar plant. She wrote a letter, which is an emotional response to shocking information. Pueblo didn't look the same to her several months ago when she returned and understands there's a tremendous need for quick money. Her letter states she's concerned about living next door to a marijuana farm and worried about that type of agriculture having an adverse affect on the local water supply and air quality. She talked to numerous ranching families in the area who are concerned about the water usage. A continuance might be a good thing for them as neighbors, noting quite often in adversity, people unite and she never thought this was how she would get to know her neighbors. She is disappointed with the officials of Pueblo County in supporting the marijuana industry and looking at it as a way to boost the sagging economy. She is suspicious of a neighbor who goes out of his way to befriend her and tell half-truths about his intentions for development. He is using the property for personal gain without concern to the surrounding neighbors. She is dismayed to know she foolishly put all of her eggs in one dream home lifestyle basket, and now she's looking at the possibility of having to sell her hobby farm, which took nearly 40 years to have. She is fearful for her personal safety, peace of mind, and property security. She is concerned about the lack of police force they have to address some of these problems. She is sorry that her vote against legalization of recreational marijuana was defeated, and that her beautiful State of Colorado will now become known as the Rocky Mountain High Capital, attracting all kinds of pleasure seeking pot heads. She is angry because as a former public school teacher, billions of dollars went into drug awareness education, including the DARE Program. She listened to the programs year after year with children of all ages. The children were taught to stay away from marijuana, noting it was the gateway drug. Now, those same lawmakers have promised the voters they would fund monies from the marijuana industry back into public schools. She asked the Commissioners if they would want to live next door to a marijuana farm, noting she would make them a good deal on her property. She questioned the water, as depicted in staff's review, which states Pueblo Water will not take a position for or against to accommodate the initial phase of constructing

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a 10,000 square foot indoor grow facility. She doesn't understand, noting City Council agreed to sell water and now they're not sure where they stand. It also states Pueblo Water won't supply water for outdoor uses. She doesn't understand the water issue and where they're going to get water from for what sounds to be a big operation. Staff's review also states the operation was approved based on 100% hauling of the water supply. She would hesitate to approve the PUD until they see a plan on the cistern installation to verify the hauling practice. She referred to another item in staff's review, which states the approval of a marijuana grow at this particular location would conserve the value of the land. She has had four realtors from four different local realty companies all tell her the same thing. She would be screwed with the incoming business, and the only people that would look at her property are other marijuana people. She asked the Commission from the bottom of her heart to think strongly before casting their votes. They are impacting a way of living for many people who have put their life's work, dreams, hopes, and desires into living this near perfect life.

Mr. Mancha asked Ms. Levy if Mr. Kern deliberately misled her as to what was taking place. Ms. Levy replied absolutely, without any question in her mind. The site foreman promised her they would help with the road because they saw she was alone and had a lot of property to take care of. She felt like she was being bribed and when she talked to him on the telephone, at no time did he or his site foreman ever say it was going to be a marijuana property. Mr. Mancha asked Ms. Levy what he told her, and Ms. Levy replied that it would be a solar factory.

Mr. Bill Thompson, 7611 Highway 78 West, Beulah, spoke in opposition to the planned unit development. He stated they also own 7695 Highway 78 West. His family settled the Beulah Valley in the late 1800s. His grandparents purchased the property they currently own in the early 1940s. They also own the company, Good Pasture, LLC, which is agricultural ranching, livestock, cattle, and horses. They are concerned with water, which has always been an issue and always will be. All of the wells in the area, and the majority of them in Pueblo County, are tributary wells that come from the Arkansas River or the St. Charles River Basin. Whenever a major water user taps into a tributary well, it diminishes the water source, which makes a big difference for agricultural people and people who have made their life there. They are also concerned about property and land values. He regrets this happening and opposes it in every way.

REBUTTAL

Ms. Horn stated she can't speak to the conversation between Mr. Kern and his neighbors, but she can assure them they would be using a cistern and hauling water. They wouldn't be using the wells or any other water source. She was hired as the engineer and did the grading plan for the retention pond, which will slow flow and discharge to the natural swale that's located on the property, just west of the east property line, and then back to the natural arroyo. They have to make sure whatever water develops on the property doesn't adversely affect anybody else's property, which is a standard engineering practice.

Ms. Alt questioned the retention pond for the water draining onto Mr. Diller's property. She lives north of town and several years ago 15 acres was subdivided and the owners were required, by this Commission, to build a retention pond eight-feet deep. There are times during heavy rains when that retention pond can't hold the water and it floods onto her property. She asked Ms. Horn if that's what she's envisioning. Ms. Horn replied the retention pond she designed is for the 10,000 square foot building and takes into account the impervious area that will be on-site. Historically, water goes into the ground or surface drain, but when impervious areas like concrete or asphalt are on-site, they don't allow the water to secrete into the ground and increase the flow. That is when a retention pond is designed to slow the rate of flow. That is standard practice throughout the County, and designed for a 100-year storm for historic rate.

Mr. Mancha questioned the initial phase and their future plans. Ms. Horn replied they talked about possible future plans, but didn't know the details. Mr. Mancha stated this is a big project and the applicant wasn't there. With all due respect, he sent somebody who can't answer the question and hopes the next time around they can get some answers.

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Chair Bruestle asked Ms. Day if the Commission has to wait until next month to make a decision or can they make a decision tonight. Ms. Day replied there's no motion on the table. The motion by Ms. Hatton was withdrawn so the Commission has the option to make a motion to close the hearing and continue it, to leave the hearing open and continue it, or if they feel they have enough information to make a decision tonight, they can do that as well. If they choose to leave it open for further testimony and continue it, any additional testimony has to take place in the hearing process. Chair Bruestle stated the Commission has several options. If they feel they heard enough testimony, they can close the hearing and make a motion, or they can keep the hearing open, take further testimony next month, close the hearing, and make a decision. Ms. Alt stated she can't vote on it until she sees exactly what she's voting on.

Chair Bruestle questioned the remaining uses that are permitted. Ms. Day stated Chair Bruestle is asking what uses will remain per staff's recommendations and after amendment. Staff recommended removing a lot of uses that were included in the application, noting they want to know what's left. Ms. Armstrong replied with her recommendation, what would be allowed is the Medical Marijuana Cultivation, Indoor, the Medical Marijuana Infused Product Manufacturer, and the Medical Marijuana Storage. Ms. Day asked Ms. Armstrong if any of those are currently permitted uses, and Ms. Armstrong replied no. Ms. Day questioned if they would be added to the PUD. Ms. Armstrong replied yes, noting the same goes for the Retail Marijuana Cultivation, Indoor, the Retail Marijuana Infused Product Manufacturer, and Retail Marijuana Storage. Both Storage uses would be changed to on-site only, and the Testing Facility would be removed from the PUD. Chair Bruestle asked Ms. Armstrong if grows would be permitted. Ms. Armstrong replied yes, noting the Medical and Retail Marijuana, Indoor and Outdoor Cultivation are allowed uses-by-right in the A-1 and A-2 Zone Districts. She is requesting the Outdoor Cultivations be removed because the Pueblo Board of Water Works indicated they wouldn't supply water for any outdoor hemp or marijuana grows. Hemp is indoor cultivation only, with Storage removed. The Home, Receiving would be removed; the Guest House wasn't addressed because they can't have a guest house; Housing, Tenant would be removed; Residence, 1-family, Residence, 2-family, Mobile Home, and Ranch, Guest would be removed; Riding Academy, Stables would be removed; Equestrian Arena, Personal would stay; Farming or Ranching would stay; Greenhouse and Nursery would have language added for non-marijuana products; Fruit and Vegetable Processing, Wholesale and Retail, she had no comments; Hay, Grain, Feed, Seed, and Fertilizer, Retail Storage and/or Wholesale, she had no comments; Roadside Sales Stand, for Retail Agricultural Products would be removed; and Agricultural Custom Contractor would be removed.

Ms. Hatton asked Ms. Armstrong if the applicant saw the recommendations. Ms. Armstrong replied yes, noting the applicant was mailed the staff review, as well as the representative.

Chair Bruestle stated the Commission has two choices. To continue the hearing until next month, take additional testimony, close the hearing, and take a vote, or to close testimony tonight, take no more public testimony, and take a vote. Ms. Day stated they can also choose to close the hearing and continue the vote until the next meeting, which would give them additional time to review the information they have. They can leave the hearing open and continue it, they can close the hearing and continue it, or they can vote to take action tonight.

Ms. Alt questioned if there was anybody who could tell them how many buildings there would be, noting she needs to know because it's a big question. It would mean hearing it all again, but as it stands now, she can't vote. Ms. Day replied it's not what they're planning to do, but what they're allowing them to do through the PUD. Chair Bruestle stated he can't consider something that hasn't been proposed to them. Mr. Mancha stated they don't know whether or not they're going to accept the changes staff proposed. Chair Bruestle stated Ms. Horn indicated they would accept the changes and bring them back next month. Mr. Mancha stated he didn't hear they accepted the changes. Ms. Armstrong stated that's what she heard. Ms. Day stated they can have Ms. Horn clarify it. Ms. Horn stated yes, that's their intention. Mr. Kern and the other partners with the Colorado Natural Health Centers have a copy, and she plans on making the changes that Ms. Armstrong requested and resubmitting them for a second review. Mr. Mancha asked Ms. Horn if she spoke to

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Mr. Kern about it. Ms. Horn replied not specifically, but he has a copy and she can only assume he read it. Mr. Mancha stated there's no confirmation that the applicant agreed to make the changes. Ms. Horn stated he would have to in order to get the PUD approved. Ms. Hatton stated the applicant didn't give his due diligence, noting he didn't give them enough information to work with.

MOTION

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

Ms. Hatton moved to approve Colorado Natural Health Centers Planned Unit Development No. 2015-006. Mr. Leyba seconded the motion. Chair Bruestle stated there would be discussion on the motion to approve the PUD and asked for clarification that there would be no more testimony taken tonight. Ms. Day stated Ms. Hatton needs to restate her motion to include she is moving to close the hearing and to approve the application.

Ms. Hatton moved to close the hearing and approve Colorado Natural Health Centers Planned Unit Development No. 2015-006. Mr. Leyba seconded the motion.

Ms. Armstrong stated they are recommending approval to the Board of County Commissioners. Ms. Day stated the motion is not for approval, but to forward a recommendation of approval to the Board of County Commissioners. Chair Bruestle stated the Pueblo County Planning Commission is forwarding a recommendation of approval of Colorado Natural Health Centers Planned Unit Development No. 2015-006 to the Board of County Commissioners with comments and conditions, and questioned if the motion was to include the comments and conditions. Ms. Hatton and Mr. Leyba replied yes.

Ms. Day stated when the Commission votes no on an item, it's very important to have their findings on the record. It's important for an approval as well, but especially for a denial for appeal purposes. After their vote, every member needs to state briefly why they voted yes or no.

Mr. Leyba voted no, noting he feels it's not congruent with the land uses that are currently in place.

Mr. Mancha voted no, noting in addition to what Mr. Leyba stated, they don't know whether or not the owner or applicant accepted the changes that were proposed, and without that information, he can't support it.

Mr. Griego voted no, noting the applicant wasn't there and the engineer didn't know if they're going to accept all the comments and conditions.

Ms. Alt voted no, noting she feels it's not compatible with the surrounding area.

Ms. Leonard voted no, noting she also didn't think it's compatible with the area, and didn't know whether the applicant accepted the conditions or not without being there.

Ms. Hatton voted no, noting she believes the applicant didn't do his due diligence in responding to the Planning Department regarding so many staff comments and recommendations. She also has concerns that it could be incompatible with the land use.

Chair Bruestle voted no, noting he feels the applicant didn't provide enough information and it may not be compatible with the land use.

The motion was denied by a vote of 7-0.

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UNFINISHED BUSINESS

Pueblo County Planning Commission Bylaws' Adoption (Continued from August 19, 2015)

Ms. Armstrong stated the Commission needs to adopt the Rules of Procedures. The Board of County Commissioners looked at them, and last month the Planning Commission was going to approve and adopt them, but they ran out of time. She changed the title to reflect the current date, noting staff distributed the first two pages prior to the meeting, which should be replaced with their original copy. In case they were misplaced, staff will mail them out tomorrow.

Mr. Leyba moved to approve the modified Rules of Procedure. Mr. Griego seconded the motion. The motion carried unanimously.

NEW BUSINESS

- a) PCPC Procedures
- b) Voting on regular items: give findings for yes or no
- c) Chair votes
- d) Reason for recusal

Ms. Day stated the PCPC Procedures are the Pueblo County Planning Commission Bylaws, which they already discussed.

Ms. Day stated the Commission needs to keep in mind those cases that can be appealed to the Board of County Commissioners, as well as the ones they make the final decision on like special use permits, noting it's important to have a good record on the health, safety, and welfare. Ms. Armstrong stated staff always depicts the findings in their reviews. Ms. Day stated staff does a wonderful job on their staff reports and always include the relevant portions of the Code and the findings they need to make. They don't have to agree with staff's review, they just have to get it on record why they're voting no and why they don't think it meets the standard of the Code. Chair Bruestle stated they can disagree with staff. Ms. Day stated they can disagree with staff if they don't think the application meets the standard of the Code, noting that's why she wants it on the record because if it gets appealed, that's what she has to support. Ms. Armstrong stated if they recommend approval and agree with the findings, they can just state they recommend approval based on the facts and findings in staff's review. Ms. Day stated if they're voting against the recommendation, they have to be careful and get it on the record. Mr. Mancha asked Ms. Day if they have to state the reason for both yes and no. Ms. Day replied yes, noting it's preferable. For clarity of the record, it's best to do it with a roll call vote.

Chair Bruestle stated he was reminded he has an obligation to the public to vote and can choose to vote last. Ms. Alt stated when she was Chair she told staff to put her last because people see the Chair as being all knowing and she doesn't know any more than anyone else.

Chair Bruestle asked Ms. Day if they recuse themselves before they vote or before the matter is before them for public testimony. If a member isn't going to vote because they feel there's a conflict of interest, does that person have the right to ask questions of the public. Ms. Day replied her instinct is to say no, but she can research the issue further. They shouldn't be participating because they can steer the conversation by the questions they ask or the comments they make. Chair Bruestle referred to Article 1. General Provisions, Section 2 of the Bylaws, which states any member of the Commission who has a personal or financial interest in a matter before the Commission shall neither vote thereon nor participate in any meeting or hearing of said matter. He questioned if an item comes up on the agenda they feel they shouldn't be voting on, for whatever reason, if they should state so before they take testimony and briefly state the reason why. Ms. Day replied they don't have to state what the conflict is, just the reason for the recusal. It can be a conflict of interest, be biased, or they have additional information that's not being provided to the rest of the Commission. Mr. Mancha stated a conflict of interest would cover everything, noting they shouldn't vote beyond that. Ms. Leonard stated they can always remove themselves physically for recusal. Ms. Day stated that was correct, noting they don't have to stay. It's important to at least state they have a conflict of interest or a reason for the recusal because they have a duty to the Commission and a duty to those who appointed them to the Commission to be an active participant.

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Chair Bruestle stated counsel would like to review judicial versus quasi-judicial. Ms. Day stated there was a question about the quasi-judicial versus the legislative role of the Commission members. Most of what the Commission votes on is quasi-judicial, even when they're not making the ultimate decision like they do with special use permits. They include planned unit developments, map amendments, and items that go to the Board of County Commissioners for final approval. They have to be careful, noting if anybody talks to them outside of the hearing process, cut them off and tell them to attend the hearing because they can't hear anything unless the entire Commission hears it. They don't want to put themselves in the position of having to decide whether or not they're going to recuse and want to avoid that happening. Chair Bruestle questioned the legislative role of the Commission members. Ms. Day replied there are two instances when they have a purely legislative role and that is for text amendments and the Comprehensive Plan. Also, for administrative actions, noting amending the Bylaws could be an administrative action, but historically, is a grey area.

OTHER BUSINESS

Ms. Armstrong stated instead of just leaving the north door unlocked, which has stairs, she is going to ask Facilities to leave the east door unlocked, which is handicapped accessible. From a fire safety prospective, they should have more than one egress.

REPORTS OF COMMITTEES

None.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,



Joan Armstrong, Director
Department of Planning and Development

SJB