

**Minutes of the Regular Meeting of the  
Buena Vista Planning and Zoning Commission  
May 18, 2016**

**CALL TO ORDER**

A Regular meeting of the Planning and Zoning Commission was called to order at 7:00pm, Wednesday, May 18, 2016 at the Buena Vista Community Center, Pinon Room, 715 E Main Street, Buena Vista, Colorado by Vice Chair Preston Larimer. Also present were Commissioners Annie Davis and Tim Bliss. Staff Present: Principal Planner Mark Doering and Planning Technician Jill Abrell.

**PLEDGE OF ALLEGIANCE**

Vice Chair Larimer led in the Pledge of Allegiance.

**ROLL CALL**

Abrell proceeded with the roll call and declared a quorum.

**AGENDA ADOPTION**

Davis called for approval of the agenda. **Motion #1** by Davis seconded by Bliss to adopt the agenda as presented. Motion carried.

**APPROVAL OF MINUTES**

Davis motioned for approval of the May 4, 2016 minutes. **Motion #2** was seconded by Bliss. Motion carried.

**PUBLIC COMMENT**

Larimer opened the public comment portion of the hearing at 7:01 p.m. With no comments received, the public comment portion of the hearing was closed at 7:02 p.m.

**NEW BUSINESS**

**Consideration of Alternate Member Application**

Doering informed Commissioners that Ed Barkowski was interested in becoming an alternate member of the Planning and Zoning Commission. The Commissioners briefly discussed Barkowski's application and availability. Davis motioned to recommend that the Board of Trustees approve Barkowski's application to become an alternate member of the Planning and Zoning Commission. Bliss seconded the motion based upon the application materials. **Motion #3** passed unanimously.

**Scheduling of Work Session with Board of Trustees**

Doering suggested to the Commissioners dates and times to hold a Work Session with the Board of Trustees. The Commissioners decided on June 7 at 7 p.m. to recommend as a meeting time to the Board of Trustees. All Commissioners in attendance said they would be available.

### **102 Brookdale Ave. Special Use Permit**

Doering explained that the applicant was requesting a Special Use Permit (SUP) to allow 3D Auto Glass and Tire to operate a tire and windshield repair and replacement shop at 102 Brookdale Ave in the B-1 zone district. The building was previously used for this purpose, but because more than six months has passed since the business was located at this address, a Special Use Permit is necessary. The applicant is proposing to use a portion of the existing building and has submitted plans showing improvements he intends to make to the building exterior.

Doering presented a video from the applicant showing the decibel (dB) levels as produced by air impact wrenches. The levels were recorded right by the building and again at the property line 60 feet away. The levels as measured were within the limits as outlined in the Municipal Code (7-163). The video was intended to address some of the concerns about the noise levels.

Doering went through the criteria for approval, noting that staff anticipates no problems with ingress/egress, off-street parking, or glare or odor effects. The criteria also looks at noise, which is what the video was intended to address. The current code allows for 60 dB in town limits, and video demonstrated that they are within that limit. Doering noted that if there were complaints about noise, the noise is measured at the property line of the subject property.

Larimer and Doering discussed how the levels were determined and the rules regarding ambient noise. Bliss also questioned if the 60dB level was in addition to the ambient noise that exists or if it is 60dB total. Doering clarified that the 60 dB level as allowed includes ambient noise.

Doering continued with the criteria for approval. He noted that the property did have a screened storage area in the back for materials and trash. It is currently existing non-conforming, but if it was damaged, it would have to be brought up to code when it was replaced. The utilities are adequate and no modifications are needed for use. Screening/buffering currently exists on the backside of the building. Doering stated that if any materials had to be stored outside, they must be stored within that area. The applicant has not yet submitted plans for signage, and that will be addressed at a later time. No new exterior lighting has been proposed, however a condition was added that if there is exterior lighting it must be downcast and shielded. Open spaces requirements have been met. Doering explained that when it came to general compatibility, the majority of properties are commercial in nature (post office, hotel, bank, office buildings), and residential to south and southwest. Predominantly, it is mostly surrounded by one story buildings. Generally, the building is compatible in scale and size with the surrounding buildings.

Doering concluded by stating that staff recommends approval with conditions to allow use on property at 102 Brookdale Ave. The following conditions were outlined in the staff report:

- 1) the noise levels must remain below 60 dB as stated in the code (7-163);
- 2) a minor subdivision must be completed to legalize the property within 120 days of adoption of the Board of Trustee's resolution;
- 3) any and all screened outdoor storage shall be stored and stacked not exceed the height of the fence; unenclosed storage is prohibited – storage must be within the enclosed screen. Should applicant need more space, they can build additional screened storage space that meets current code requirements;
- 4) automotive services not included are not permitted (i.e. only minor repairs that typically do not allow for cars to stay overnight);
- 5) if the current screen is damaged, bent, or knocked-down, applicants must put in a fence that meets current code requirements;
- 6) proposed building exterior elevations shall be made within one year of approval;

7) any new exterior light fixtures shall be downcast and shielded.

Bliss asked if the modifications to exterior were the applicant's idea or a suggestion from the Planning Department. Doering replied that it was the applicant's idea and became part of the updated application.

Larimer asked for clarification about decibel levels. Doering stated that according to the code, the maximum decibel level is 60 dB including ambient noise, and reiterated that the noise as demonstrated in the video was within that regulation. Davis asked if it was tested with the door open and Doering responded that it was.

Steve Wartman, applicant, of 29798 County Road 353, was present in the audience and stepped to the podium to speak. Mr. Wartman and the Commissioners discussed code sections 7-163 and 7-167(a) regarding decibel levels. Mr. Wartman stated that he was comfortable that they are within the 60 dB. Mr. Wartman stated that if they keep noise levels below the 60 dB required by the code, he doesn't think it should be an issue.

Bliss questioned if cars would be stored outside. Mr. Wartman responded that because most of the work is scheduled, it is very rare to have cars stored outside. Bliss followed up the original question extending it to buses or larger vehicles that won't fit inside the garage. Mr. Wartman responded that it would be highly unlikely to have buses or larger vehicles overnight, as most of the work is usually in and out in the same day. He stated that if it was an issue, they could be stored in the back.

Bliss stated that the exterior building improvements applicant proposed were appreciated. Mr. Wartman commented that he takes pride in his property and would like to fix it up. He noted improvements have already been made, such as removing a fence that was falling over and pulling weeds.

Larimer commented that the applicant would need a sign permit to put up a sign. Mr. Wartman responded that he understood that but was waiting for the SUP to be approved before applying.

Larimer opened up the discussion for public input.

Ron Haug of 36505 Hwy N rose to address the Commission. Mr. Haug was the original tenant in 1986 - first as a renter and then as an owner. He remarked that no one besides Mr. Wartman has had a problem using this building. Mr. Haug stated that the building has become run-down over the years and he would like to see it fixed up how Mr. Wartman is suggesting in his application. He also remarked that Mr. Wartman is providing a needed service to the Town and providing a future for his son and his son's family.

Sam Mick of 501 S. Railroad St. also rose to address the Commission: Mr. Mick was the owner of 102 Brookdale Ave. before Mr. Wartman. Mr. Mick expressed concern that Mr. Wartman has been put in a hardship, as he already purchased the building believing there would be no issues given that he had previously run a tire store out of the building in question. He also stated that there are other business waiting to move based upon Mr. Wartman's ability to move his business to 102 Brookdale Ave.

Gary Goms of 29105 County Road 355 rose next to address the Commission. Mr. Goms started Buena Vista Auto Care Clinic in 1977 and ran the business as a general repair shop and has maintained his business since 1977. Mr. Goms stated that he has experience as a shop owner and longtime resident. Mr. Goms remarked that Mr. Wartman is improving the building located at 102 Brookdale Ave. He stated

that it's an eyesore and Mr. Wartman will make it presentable. He continued by saying that Mr. Wartman's business is low impact business (most cars are in and out same day), and it won't generate a lot of additional traffic. He commented that since the building is already designed for automotive service, that type of business should succeed at that location. He further remarked that Mr. Wartman has a good business record and reputation, and concluded by stating that if the SUP is denied and another business goes in, he does not believe future owners would make exterior improvements.

Carle A. Linke of 32709 Columbia Ranch Road rose next to address the Commission. Ms. Linke owns properties across the street on Brookdale and has given some conditions that she would like to see the Commissioners add on to their list of conditions for approval. Ms. Linke wrote a letter outlining her desired conditions. Ms. Linke did state her support of the exterior renovations Mr. Wartman is proposing. Ms. Linke stated that she would like to correct some of the history of the property. Ms. Linke explained that residences were existing before the garage was built. Ms. Linke remarked that the Post Office changed the zoning and feel of the neighborhood, and commented that the zoning has never been proper. Ms. Linke expressed concern about the process of approving a Special Use Permit and frustration that there had been no posting for public hearing the first time the Special Use Permit was before the Commission. Ms. Linke continued stating that publicity has been ugly. She remarked that the code was broken and that she was frustrated that Mr. Wartman was allowed to re-apply after his SUP was denied. She believes that neighbors should have a chance to work out differences and the Commission should act as mediators and then make a recommendation. She expressed concerns about the Planning and Zoning Commission and the Board of Trustees, and reiterated her desire for the Commission to follow her recommendations.

Cindy Swisher of 100 Baylor rose next to address the Commission. Mrs. Swisher's husband owns Swisher-Automotive, a complete service shop. Mrs. Swisher stated that they stopped doing windshields about a year and half ago and Mr. Wartman took over. She expressed concern that the Town needed someone in town to do that. She remarked that since Mr. Wartman just does tires and windshields, 3D-Auto's smells and noises will be considerably less than previous businesses located at 102 Brookdale. Mrs. Swisher stated that if 3-D Auto had rules they have to follow, she doesn't think it would be a problem to run their business at 102 Brookdale.

Daniel Wartman of 29831 County Road 353 rose next to address the Commission. Mr. Daniel Wartman is the General Manager of 3-D Auto. Mr. Daniel Wartman stated that they have talked with Ms. Linke to try to resolve some of the issues. He remarked that they want to be good neighbors and work together to be a community. He commented that some of the things in the past have nothing to do with their operation. Mr. Daniel Wartman stated that they wanted to stay in Buena Vista for their family and build a future here. He remarked that Buena Vista is growing and they provide a needed service. He continued by stating that they have a desire to be a good looking business and considerate people, and that they are not out to make enemies or ruffle feathers. He stated that they would like to follow the code. He remarked that they make strides in appearance and quality of work. He concluded by stating that they would like to keep Buena Vista growing in all age groups and aspects, and that their future is very dependent upon their ability to run 3-D Auto.

Dennis Giese of 30699 County Road 361 rose next to address the Commission. Mr. Giese noted that the application must be judged on the seven or eight criteria as outlined. He stated that he appreciated the recommendation of the Planning Department of the Commission the last time this application was received, and that "does it fit the feel of the neighborhood" seems to be the criteria no one can agree on. Mr. Giese remarked that the shops that had previously been there were successful and that he does not

feel any other business would have a better fit than 3-D Auto. He believes that if the application meets the criteria, it should be approved, and he would like to see the Commission recommend approval again. Sheryl Dusenbery of 180 Susan Drive rose next to address the Commission. Ms. Dusenbery stated that she was appalled when the Board of Trustees denied the application the last time. She stated that the current shop is immaculate. She also noted that it's not uncommon for banks or restaurants to be located next to tire shops. She does not believe there is anything incongruous locating 3-D Auto at 102 Brookdale.

Larimer determined that no one else present in the audience had any additional remarks and closed the public hearing.

In response to comments made during the Public Hearing, Larimer stated that although the land use code is currently being re-written, it is the current guidelines. He also noted that Public Notice is not required for a Special Use Permit, and addressed Ms. Linke's frustrations. Larimer remarked to Mr. Daniel Wartman that if his application is approved by the Board of Trustees, that 3-D Auto's approach will be to be good neighbors. He noted the importance of that approach when residential zones interface with commercial zones.

Bliss and Doering clarified a couple of the procedural issues that Ms. Linke mentioned in her statements regarding the Special Use Permit process.

Ms. Linke asked for further clarification.

Larimer stated that there is no Public Notice for a Special Use Permit before the Planning and Zoning Commission meeting. Doering remarked that there are agendas posted at Town Hall, the library, and the post office, which are posted per Colorado State Law. Doering further clarified that the agendas are posted again before the Board of Trustees meeting, and that there is a Public Notice in the form of mailing and sign posting before a Board of Trustees meeting for a Special Use Permit.

Doering and Larimer noted that the code is being re-written, and there is a draft currently available for the Public to review and comment.

Davis asked Mr. Daniel Wartman how many big trucks or buses do he works on in the average year. Mr. Daniel Wartman replied that from October through May they rarely do any, but May through September he estimated that they work on 2-3 buses or bigger trucks a month. He further stated that almost all of the work could be done in a day, as they and the customers prefer quick turnaround, and that the work would probably be performed in the back. He went on to state that he does not agree with past actions of previous tenants, and that many things occurred which he would never allow as a good manager and a good neighbor. He remarked that he wanted to have a good reputation to have a livelihood for his family and his future.

Bliss asked Doering to define consideration of ambient noise. Doering stated that it is difficult to judge a 65 dB noise event if you're right next door to an event that's 80 dB. Doering noted that the background noise at the time and what is going on around it influences ambient noise. He stated that the 35 dB in the video is the background noise level.

The Commissioners discussed Ms. Linke's letter.

Mr. Wartman rose to respond to some of the Commissioners' concerns. Mr. Wartman stated that he is seeking approval based upon the code and recommendation of Mr. Doering. He went on to state that he would like to try to work with Ms. Linke to address her concerns, but would like to further discuss a few of her recommended conditions, such as keeping the doors closed, business hours, and no work on vehicles after hours or on weekends. Mr. Wartman questioned if the Town wanted to regulate hours of operation. He noted that in terms of the noise ordinance in the code, the acceptable hours of operation are 7:00 a.m. to 7:00 p.m. He stated that he would like the ability to come and go after hours, and that if something like that occurred, the doors would remain shut, and that this was not a code violation. He noted that he would rarely work on vehicles outside, and only if they would not fit in the garage. He followed up by saying that he would still strive to be a good neighbor and encouraged Ms. Linke to call him if she saw something that shouldn't be happening. Mr. Wartman reiterated his request for the SUP to be approved with conditions as provided with the recommendations of the Town Planner.

Larimer agreed with several of his statements, and stated to Ms. Linke that they do have to work by the code.

The Commissioners further discussed Ms. Linke's letter, and concluded that they did not wish to add any conditions based upon her recommendations.

Davis asked Mr. Wartman what was done with old tires. Mr. Wartman replied that tires are kept in enclosed storage in the back and that they are picked up once a month. He noted that the State requires that old tires be kept enclosed, that they usually don't have more than 100 at any given time, and that the storage of old tires does not go above fence level.

Bliss commented that if this business had never left it would still be there if not for the lapse. He remarked that there are criteria, and the criteria have been met. Larimer noted that the Wartmans now own the building and that makes a difference. He remarked that it was more significant than just being tenants.

Davis motioned that the Commission recommend to the Board of Trustees approval with the conditions as outlined by the Staff for the Special Use Permit at 102 Brookdale Drive. Bliss seconded the motion. **Motion #4** passed unanimously.

Larimer dismissed the Commission for a five minute break. The meeting reconvened at 8:41 p.m.

### **Grove-Minor Subdivision**

Doering presented the Staff review for the Grove-Minor Subdivision. The property is located at 116 N. Court Street, on the corner of Chestnut and Court. Applicants are requesting a minor subdivision to create three commercial/residential lots in the B-1 OT Zone District, which allows for mixed use. One of the lots has a house, and the other two are currently vacant. Doering noted that the lots currently run north to south, and applicants are requesting that the lots be re-oriented to run east-west. This would allow access to the alley, and change the feel of the neighborhood in a positive manner. Doering went through the criteria for subdivision approval, and recommended to the Commission approval with the following condition:

- 1) Ensure vehicular access to all three lots is only from the alley. No new driveways accessing Chestnut or Court Street shall be allowed. The easement for the access and utilities shall be required across lots two and three.

Larimer asked if the easement included parking. Doering clarified that the easement is for access and utilities only; not for parking. Doering remarked that parking would have to meet the requirements of whatever is developed on those lots. He further clarified that the lots are 100 feet deep and the easement is 20 feet.

Bliss asked if the lot lines in other directions were vacated. Doering responded that they were not, but platting will remove the property lines and turn them to align east-west.

Larimer suggested moving on to the applicant's presentation.

John Grove of 116 N. Court St. rose to address the Commission. Mr. Grove wanted to add that there is also a sewer line on Court Street so there are different access points for sanitation. Mr. Grove remarked that the idea for access and parking is for future owners to build garages for off-street parking. He noted that that would be up to whoever buys it. He concluded that reorienting the lot lines would provide a better view for future development.

Larimer determined that no one else present in the audience had any additional remarks and closed the public hearing.

The Commission had no further questions or discussion. Davis made a motion to recommend to the Board of Trustees approval of the final plat with the condition as outlined by Staff to create three new residential or commercial lots.

Grove asked for clarification about usage. Doering stated that it would be possible to have one building on a lot that was commercial downstairs and residential upstairs. Grove followed up that question asking if he can still drive through the gate off of Chestnut where he presently has vehicular access. Doering responded that he can still access through the gate but cannot build a driveway.

With no further discussion, Bliss seconded the motion. **Motion #5** passed unanimously.

#### **STAFF / COMMISSION INTERACTION**

Doering reminded the Commission about the Planning Commission training in Golden on Saturday.

Doering discussed the reasoning behind requiring alley access. He displayed some photos showing alley access and street access and explained that alley access allows for a downtown feeling and pedestrian interaction.

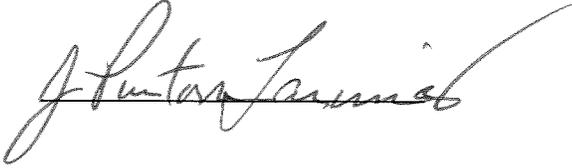
Doering informed the Commission that FEMA is closing appeal period on June 7 or 8 for the map. He noted that any appeals received will be submitted to FEMA. He remarked that FEMA is trying to be flexible, however, they have their own process.

Doering also informed the Commission that Staff now has the second part of the Unified Development Code. He stated that it was being reviewed by staff now, and that improvements need to be made before it goes to the Steering Committee. He encouraged public comment once the UDC is made public.

**ADJOURNMENT**

There being no further business to come before the Commission, Commissioner Davis motioned to adjourn the meeting at 9:00 p.m. Commissioner Banks seconded. **Motion #6** was unanimously approved.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Preston Larimer", written over a horizontal line.

Preston Larimer, Vice Chair

A handwritten signature in cursive script, appearing to read "Jill Abrell", written over a horizontal line.

Jill Abrell, Planning Technician