



Land Use

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BOULDER COUNTY PLANNING COMMISSION

AGENDA ITEM 3

May 20, 2009 – 1:30 PM

Hearing Room, Third Floor, Boulder County Courthouse

PUBLIC HEARING

STAFF PLANNER: Hannah Hippely

Docket SU-08-008: PALMER MULTIPLE PRINCIPAL USES SU/SSDP

Request: Special Use and Site Specific Development Plan Review for Multiple Principal Uses including, Indoor Recreation, Day and Night Outdoor Recreation, Professional Office, Warehouse and Distribution Center, and Light Industrial.

Location: At 6185 Arapahoe Road, north of and adjacent to Arapahoe Road/State Highway 7 and west of and adjacent to 62nd Street in Section 27, T1N, R70W.

Zoning: Light Industrial (LI)

Applicant: Chuck Palmer

Agent: Bob Perletz, Winston and Associates

SUMMARY:

The Land Use Department finds that this application requesting approval of the multiple principal uses including, Indoor Recreation, Day and Night Outdoor Recreation, Professional Office, Warehouse and Distribution Center, and Light Industrial, does not meet all the applicable criteria for Special Use and Site Specific Development Plan review and are recommending that the application be denied.

DISCUSSION

The applicants have submitted an application to the Land Use Department for a Special Use and Site Specific Development Plan review for multiple principal uses to be located within the existing structure located at 6185 Arapahoe Road. The parcel is located on the northwest corner of Arapahoe Road and west of 62nd Street and falls within the Light Industrial Zone District. The structure located on the property is an approximately 32,814 sq. ft. building

that was constructed as a light industrial building by Alps Limited in 1970 (BP-70-12542). Alps Limited became Alpine Design, a company that manufactured outdoor recreation gear, and enclosed the delivery docks in 1971 (BP-71-14950). Neodata, a direct marketing service company, was the subsequent user (and later owner) of the structure and multiple building permits were issued from 1973 to 1993 to allow Neodata to remodel, perform electrical and mechanical upgrades, and re-roof the structure. Sievers Instruments, a manufacturer of scientific equipment, replaced Neodata as the building occupant in the early 1990s. In the mid-1990s building permits for remodeling and electrical upgrades were issued to Sievers Instruments (BP-95-1259 and BP-96-0092). In 2000, a building permit for a tenant finish was issued (BP-00-0176); the permit allowed the interior of the building to be remodeled to accommodate CrossLink Inc., an electronic design and engineering company. The applicant purchased the property in August 2004. In May 2005, Land Use staff had a pre-application conference (PAC-05-112) regarding the special use process for the addition of a second principal use for a dance studio. This process was not pursued at that time. In 2006, the Land Use Department received a complaint regarding ongoing construction within the building and a building code violation case was opened (BCV-06-5043) as work was underway which had not received the appropriate building permit. In order to correct the building code violation the applicant applied for the required building permit (BP-07-0016). The building permit was placed on hold so that the more information regarding the uses of the structure could be obtained from the applicant. After obtaining this information it was determined that the applicant had multiple principal uses within the structure and that a special use review was required. A letter from Bob Perletz, the applicant's agent, dated March 7, 2007 acknowledges the special use review requirement; the required application was accepted by the Land Use Department August 19, 2008. The Building Division determined after inspecting the building that safety hazards existed within the building and that it was necessary to issue a permit that would allow for the correction of the safety hazards; BP-08-0997 was issued July 7, 2008.

The applicant proposes to use the property for a variety of uses. Alpha Radio Products manufactures, sells, and provides support for radio equipment including amplifiers, transformers, and wattmeters. According to the application materials, this use will occupy approximately 6,500 square feet of the structure. The Alpha Radio Products component of the application is considered a Light Industrial use per Article 4-505.C of the Land Use Code. The application materials also indicate that Animal Care Equipment Services (ACES) occupies approximately 8,500 square feet of the building. This business is considered a Warehouse and Distribution Center per Article 4-515.B of the Land Use Code. The Indoor Recreation, Day Outdoor Recreation, and Night Outdoor Recreation portions of the application are all associated with the Avalon Ballroom. The Avalon Ballroom provides a dance venue, which may be rented by different dance organizations to hold dance classes, workshops, and social dances. These events will be open to the public, although a fee for attendance may be charged. The application materials indicate that the ballroom will occupy approximately 15,000 sq. ft. of the building. Approximately 5,000 sq. ft. of outdoor space will be resurfaced with a permeable pavement to provide outdoor dance space and outdoor lighting and a sound system would be installed. As an accessory use to the recreational uses the ballroom may be rented out for private events. The application materials indicate that ballroom may be used for private events approximately four to six times per month on Friday evenings, Saturdays, and Sundays. The applicant has not proposed a maximum level of attendance for the private events but the materials provided indicate that the capacity of the parking lot should be used to determine that maximum attendance at private events. The

remaining 2,800 sq. ft. of the building has been designated in the application materials as Professional Office Space. The applicant has not identified specific users of the office spaces although the supplemental application materials provided by the applicant indicate that they anticipate being able to lease the office space (individually or as a group) to any allowed user in the Professional Office Category excluding medical and dental offices.

The application materials outline the level of use expected on the property. Alpha Radio Products and Animal Care Equipment Services will operate open during normal business hours (8:00 am to 5:00 pm). The hours of operation for the professional offices was indicated to be dependant on the type of tenant but not expected to exceed 7:00 a.m. to 12:00 p.m. Use of the Avalon Ballroom is expected to occur primarily in the evenings Monday through Friday, although the scheduling calendar on the Avalon Ballroom website (<http://www.avalonevents.org/>) indicates that activities may be scheduled at anytime and multiple activities may occur on the same day. On weekends, activities may be scheduled at any time of day and multiple activities may occur on the same day. The materials provided by the applicant indicate that the ballroom may be rented for private parties on the weekends. The outdoor area associated with the Avalon Ballroom will be available for users of the indoor facilities and is not proposed to be used or leased independent of the indoor facilities.

REFERRAL RESPONSES:

This proposal was referred to usual agencies, departments, and adjacent property owners (within 1,500 feet). The referral responses received by the Land Use Department are summarized below:

County Long Range Planning - A response from the Long Range Planner was originally received October 23, 2008. The referral response noted that the property is bordered by the City of Boulder on two sides (the City of Boulder is designated by the Boulder Valley Comprehensive Plan (BVCP) as Area I). The property is designated by the BVCP as Area II and has had this designation for more than twenty years. The Area II designation gives this property prime eligibility status for annexation under the BVCP (Policy 1.22). The property currently receives its water and sewer service from the City of Boulder. The property is zoned Light Industrial by the County and is designated as Community Industrial by the BVCP. The Light Industrial District is defined as “areas for the development of research, light industrial, and warehouse and/or distribution centers”; whereas the BVCP Community Industrial designation is defined as “areas where the predominant uses provide a direct service to the planning area...[and] often have ancillary commercial activity and include auto related uses, small printing operations, building contractors, building supply warehouses, small manufacturing operations, and similar uses”. The proposal is not consistent with the BVCP Community Industrial Land Use Designation, map, projections or policies. The combination of the determination that the project is inconsistent with the BVCP and that the proposal is subject to a discretionary review (the Special Use Review) results in the proposal meeting the definition of “New Urban Development” as outlined in Policy 1.24 of the BVCP.

County Transportation Department – This agency reviewed the proposal and provided an initial response dated September 29, 2008. This referral requested additional information of the applicant and subsequent to the review of the materials the agency provided some additional comments dated February 24, 2009. In the initial referral response, it was noted

that the parking area appears to be functioning adequately but several recommendations to improve the parking lot were made, including the addition of ADA accessible parking, a layout which reduces pedestrian – auto conflicts, improvements to allow for adequate design for truck operations, and the relocation of parking spaces placed too close to the north access point. In the subsequent response the Transportation Department noted that 62nd Street is located within the City of Boulder. In regards to the review of the traffic study it was indicated that the traffic volumes assumptions appeared reasonable. The traffic study indicated that total trip generation for the site would be 522, an increase of 298 trips. The use would result in a net 152-trip end increase when compared to the calculated trip generation rate of the previous use. It was also noted that most of the trip ends from the studio use is expected to occur during off-peak hours. The traffic report states that the existing eastbound left turning traffic volumes warrant a left turn lane on Arapahoe Road and that the existing left hand turn lane is 240 feet where 435 feet is required. This information was forwarded to CDOT by County staff. CDOT verified the information and determined that no modifications to Arapahoe Road would be required of the applicant.

County Public Health – This agency reviewed the proposal and noted that water and wastewater treatment are supplied by the City of Boulder. Notes regarding asbestos, air emissions, and lead were also included in the referral comments.

County Parks & Open Space Department – This agency reviewed the proposal and noted that that the parcel is nearly surrounded by the City of Boulder. Although the Open Streamside Corridor Comprehensive plan designation exists on the property, there will not be any foreseeable natural resource impact associated with the proposal.

County Building Division – This agency reviewed the proposal and indicated that code violations relating to work done without a permit exist for the property. The owner must obtain a building permit for the change in occupancy to convert the space to assembly occupancy and for the work that was completed with-out a permit. The space must fully comply with the current Building Code. Prior to issuance of a building permit, approval of the Fire District will be required; Fire District approval will also be required prior to final approval of the permit and occupancy of the space.

City of Boulder – The City of Boulder reviewed the proposal and noted that the property is located within Area II of the Boulder Valley Comprehensive Plan (BVCP) and is contiguous to the City on two sides, making it eligible for annexation. Annexation of this property is consistent with the BVCP and the City’s water and sewer agreement for the property, which states that the property owner will petition the City for annexation when requested to do so by the City. The City requests that if the applicant moves forward with the project the property annex to the City.

Rocky Mountain Fire Protection District - This agency reviewed the proposal and requested answers to a variety of questions regarding the fire safety aspects of the property.

Colorado Department of Transportation – This agency reviewed the proposal and indicated that they have no comment regarding the proposal.

County Sheriff’s Office - This agency reviewed the proposal and indicated no conflict.

Boulder Valley School District - This agency reviewed the proposal and indicated no conflict.

City of Boulder Open Space and Mountain Parks - This agency reviewed the proposal and indicated no conflict.

Adjacent Property Owners – At the time of this writing, 194 letters of support for Avalon ballroom or indications of no conflict with the proposal have been received; one letter of opposition was also received.

CRITERIA ANALYSIS:

The Land Use staff has reviewed the conditions and standards for approval of a Special Use Review per Section 4-601.A of the Boulder County Land Use Code, and finds the following:

4-601 Standards and Conditions

A. A use will be permitted by special review only if the Board finds that the proposed use meets the following standards and conditions:

- (1) *Complies with the minimum zoning requirements of the zoning district in which the use is to be established, and will also comply with all other applicable requirements;*

Individually the proposed uses are allowed by right in the Light Industrial Zone District but, Special Use Review is required to allow multiple principal uses to operate on the same property. The uses proposed will primarily be located within the existing structure (except for the Outdoor Recreation uses), which meets the zone district requirements in regards to setbacks and heights. No additional structures are proposed as part of this project.

- (2) *Will be in harmony with the character of the neighborhood and compatible with the surrounding area;*

The properties east, west and south of the subject the property are a mixture of light industrial uses; however a few residential properties exist on the south side of Arapahoe Road across from the subject property. The Warehouse and Distribution Center, and Light Industrial uses proposed are similar in character to the other types of businesses in the area and are compatible with the area. The proposed Professional Office use is somewhat out of character for the area, as this type of use does not currently present; however the Professional Office use is allowed by right in the Light Industrial Zone District and is not considered an incompatible land use. The proposed Recreational uses are out of character with the adjacent light industrial uses in that the Recreational uses will be in operation in the evenings and possibly all day long on weekends; typically the activity in this area happens during the day and the area is quiet at night. The proposed Recreational use will result in a site that could have morning to night activity seven days a week. This change is activity on the site will also result in changes to the traffic patterns of the area. Currently the traffic patterns reflect the fact the businesses operate during typical business hours and the traffic is associated with employees that arrive in the morning and leave at the end of the workday. The traffic pattern associated with the proposed Recreational use is one

where traffic arrives as to attend events and leaves when the events are over. Given that the events could happen at any time on any day (the application materials indicate that they will generally be held in the evening) with possibly more than one event per day the traffic associated with the use could be significant. The traffic associated with the private events could also be significant given that the applicant proposes a level of use that maximizes the use of the parking available. The proposed outdoor activity and the associated lighting and amplified sound would also be unique for the area. Although the proposal will change the nature of the activity on the property the adjacent property owners identified no conflicts regarding the proposal.

(3) *Will be in accordance with the Boulder County Comprehensive Plan;*

The subject property is located within an area that is guided by both the Boulder County Comprehensive Plan (BCCP) and the Boulder Valley Comprehensive Plan (BVCP). The BVCP is an Intergovernmental Agreement (IGA) jointly adopted by the City of Boulder and Boulder County to guide land use decisions in the Boulder Valley. Intergovernmental Agreements are legally binding contracts between governmental entities; the BVCP plan was adopted in 1977 and has been amended numerous times since then.

The subject property lies within Area IIA of the BVCP. Area IIA are those areas that are under County jurisdiction but which may be annexed to the City of Boulder. This property and the property adjacent to the west are effectively enclaves surrounded by the City of Boulder and are eligible for annexation. Policy 1.24.b of the BVCP defines new urban development as “any proposed development within Area II subject to a county discretionary review process before the Board of County Commissioners, provided the county determines that the proposed development is inconsistent with the land use projections, maps, or policies of the BVCP in effect at that time”. The proposal has been determined by County Land Use staff to be new urban development as it requires a discretionary review process, (this Special Use Review), and is inconsistent with the land use projections, maps, and policies of the BVCP.

This proposal is inconsistent with the land use projection identified for the subject parcel on the BVCP Land Use Map: the property’s land use projection is Community Industrial. According to the BVCP, “the Community Industrial classification is shown for those areas where the predominant uses provide a direct service to the planning area. These uses often have ancillary commercial activity and are essential to the life of the Boulder community. These uses include smaller scale auto-related uses, small printing operations, building contractors, building supply warehouses, small manufacturing operations and similar uses”. Staff has determined that the largest proposed uses in this proposal, the Recreational uses and the Professional Office use, do not qualify as Community Industrial. Thus, these uses are inconsistent with the BVCP Land Use Map and the land use projection identified for the subject parcel.

The Boulder Valley Comprehensive Plan Policy 1.27.b in regards to annexation states that “the city will actively pursue annexation of county enclaves, Area II properties along the western boundary, and other fully developed Area II

properties...Applications made to the county for development of enclaves and Area II lands in lieu of annexation will be referred to the city for review and comment. The county will attach great weight to the city's response." In accordance with this policy the City of Boulder was sent a referral request regarding this proposal. The referral response from the City of Boulder included a request for the applicant to annex to the City, in accordance with the policy that the City actively pursues annexation. When this parcel was originally developed in 1970, the owners obtained water and sewer facilities from the City of Boulder under a revocable permit. The terms of the permit require that the property owner seek annexation to the City of Boulder when requested to do so by the City. The approval of the proposal by Boulder County would be counter to the annexation policy outlined in the Boulder Valley Comprehensive Plan.

Policy 1.22 of the BVCP states "new urban development may only occur coincident with the availability of adequate facilities and services and not otherwise". Additionally, Policy 3.01 of the BVCP states:

"The city and county intend that new urban development not occur until adequate urban facilities and services are available to serve the development. The county experience indicates that provision of the full range of urban facilities and services by a municipality is preferable to provision of urban facilities and services by special districts and private groups in part because municipalities have politically accountable leadership, general police power and the ability to coordinate provision of adequate urban facilities and services. Therefore, it is hereby presumed that adequate facilities and services can be provided only by the City of Boulder".

According to Policy 3.02.b "adequate facilities and services for new urban industrial and commercial development means the availability of public water, public sewer, stormwater and flood management, urban fire protection and emergency medical care, urban police protection, and urban transportation". The Urban Service and Criteria and Standards Section of the BVCP outlines the criteria used to determine the adequacy of facilities and services. Services to the property are provided by a combination of special districts, the City of Boulder, and Boulder County. At this time it is undetermined if the current service providers meet the criteria for adequacy as outlined in the Boulder Valley Comprehensive Plan. Policy 3.03 states:

"a) The city and county agree that extensions, furnishing, or provision of less than adequate facilities and services for new urban development is contrary to the objectives and intent of the comprehensive plan and would be injurious to the public health, safety and welfare because it would seriously impair the efforts of the county, which has governmental authority and jurisdiction regarding land use control and development in the unincorporated areas of the county, to implement the comprehensive plan through reasonable land use regulations. b) The county requests that the city accompany any extension of facilities and services to urban development outside the boundaries of the city with concurrent annexation to the city of the land served. The city agrees not to extend or furnish facilities and

services to new urban development outside the boundaries of the city without annexing to the city the land to be served.”

The continuation of this fractured service provision is counter to the policies regarding adequate facilities and services for new urban development. In order for complete and coordinated services to be obtained the applicant is required to annex to the City of Boulder.

This proposal is not in accordance with the BVCP and thus is also contrary to goals and policies of the Boulder County Comprehensive Plan. Therefore, staff finds that this proposal does not meet the criteria that the proposal is in accordance with the Boulder County Comprehensive Plan.

- (4) *Will not result in an over-intensive use of land or excessive depletion of natural resources;*

The property in question is a parcel already significantly developed, including both the structure and parking lot, which cover the majority of the lot. This request does not propose any significant changes to the development on the parcel, which would further impact the intensity of the use of the land or natural resources.

- (5) *Will not have a material adverse effect on community capital improvement programs;*

It is not anticipated that the current proposal will have any effect on community capital improvement programs.

- (6) *Will not require a level of community facilities and services greater than that, which is available;*

The referral responses received did not indicate any conflict in regard to available services.

- (7) *Will not result in undue traffic congestion or traffic hazards;*

The County Transportation review of this docket indicated that parking facilities available on site would be adequate to serve the proposed uses. To address the concerns regarding the parking lot layout and design and thus ensure the parking facilities are safe for the multiple different users, should this docket be approved, staff recommends that a parking plan be submitted for review and approval by the Transportation Department and implemented prior to the recordation of post approval documents.

Although the traffic study indicated that traffic at the site will increase as a result of the proposal, it was not indicated that this increase would result in undue traffic congestion or traffic hazard.

Arapahoe Road/Highway 7 is a state highway. The traffic report notes that the existing eastbound traffic warrants a turning lane of 435 feet where there is currently

a 240-foot turning lane; however, CDOT has not indicated any concerns regarding traffic congestion or traffic hazards.

- (8) *Will not cause significant air, odor, water, or noise pollution;*

No concerns regarding pollution were raised by referral agencies; staff finds that the proposal will not cause significant air, odor, or water pollution.

The applicant proposes to install an outdoor sound system and outdoor lighting as part of the outdoor dance facilities. Adjacent property owners or referral agencies raised no concerns regarding the amplified sound or outdoor lighting.

- (9) *Will not require amendment to the Regional Clean Water Plan;*

Staff finds that the proposal will not require an amendment to the Regional Clean Water Plan.

- (10) *Will be adequately landscaped, buffered, and screened;*

Staff finds that the existing structures will not require additional screening. Although the facility is clearly visible from Highway 7, the application does not propose exterior changes to the structures that would increase the visual impact of the facility.

- (11) *Will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County.*

Staff finds that (other than failure to comply with the Boulder valley Comprehensive Plan as separately noted above), the proposal will not be detrimental to the health, safety, or welfare of the inhabitants of Boulder County.

RECOMMENDATION:

The Land Use staff finds that the proposal cannot meet all of the applicable Special Use criteria; the proposal is inconsistent with the Boulder Valley Comprehensive Plan. Therefore, the Land Use staff recommends that the Planning Commission deny and recommend that the Board of County Commissioners DENY Docket SU-08-008, PALMER MULTIPLE PRINCIPAL USES SU/SSDP.

Should the Planning Commission determine that the proposal meets the all of the applicable Special Use criteria staff recommends the following conditions of approval and recommends that the Planning Commission Recommend the following conditions of approval to the Board of County Commissioners.

1. The Applicant shall provide a Development Agreement, for review and approval by County staff, prior to the issuance of any permits by the Boulder County Land Use Department, commencement of the use, or the recordation of any approval documents.
2. The Applicant shall comply with all applicable requirements of Boulder County Building Code, including but not limited to addressing the concerns and requirements of the Chief Building Official as outlined in the referral dated 8/19/2008 included as part of the official docket file.
3. Outdoor storage is not an allowed use in the Light Industrial Zone District, all items currently being stored outdoors on the property, including but not limited to the many large pieces of stone, shall be removed prior to the issuance of a building permit.
4. Private events shall remain accessory and incidental to the Recreational uses and shall be limited to four per month.
5. Prior to recordation of the Development Agreement, the Applicant shall comply with all applicable requirements of Boulder County Transportation Department, as outlined in the referrals dated 9/29/2008 and 2/24/2009 included as part of the official docket file, including but not limited to implementing the suggested for parking area design improvements.
6. The Applicant shall be subject to the terms, conditions and commitments of record and in the file for Docket SU-08-008, PALMER MULTIPLE PRINCIPAL USES SU/SSDP.