Minutes of the Board of County Commissioners Meeting, held on July 23, 2014 at 8:30 a.m. in the Commissioners Chambers, Alamosa County Services Center, 8900 Independence Way, Alamosa, CO 81101.

Members Present:

Mike Yohn, Chair
Marianne Dunne, Vice-Chair
Darius Allen, Commissioner
Jason Kelly, County Attorney
Peter Kampfer, County Administrator
Carol Osborn, Assistant Administrator
Belina Ramirez, Office Manager

Call the Meeting to Order

Pledge of Allegiance

Additions/Deletions to the Agenda

Approval of the Agenda

The addition of a walkthrough at 2pm of the new Annex Building

M/S Allen/Dunne motion to approve the agenda of July 23, 2014 with addition.
Motion was passed unanimously.

Consent agenda Items:

Approval of General Business/Minutes

The Following Minutes were presented:
Regular Minutes-July 9, 2014

M/S Allen/Dunne motion to approve the Minutes of July 9, 2014.
Motion was passed unanimously.

Approval of Bills/Obligations

M/S Allen/Dunne motion to approve the Bills/Obligations
Motion was passed unanimously.

Public Comment

No Public Comment was made.
Approval of Consent Agenda
YTime Now LLC Time and Labor Management
Chronic Disease Risk Reduction Program Subcontract
Mutual Aid Agreement-Emergency Response for Public Health

Jason Kelly has reviewed the contracts.

M/S Dunne/Allen motion to approve Consent Agenda
Motion was approved unanimously.

Public Hearings

Special Use Permit – Manuel F Castillo-Ortiz

Commissioner Dunne stated they worked hard on preparing all of these documents. She doesn’t have any questions. Along with the planning commission she respects their business plan it is very detailed.

Commissioner Allen asked for clarification on the access. Ms. Doyle spoke with both but Road & Bridge had concerns. She took this concern to CDOT. The concern is access on 160 which is CDOT but no concern of Hwy 106. This place was an auto sales before so how many years of existence was the business before. 10 years stated Mr. Vanlwarden. There is a residence on property. It is the applicants’ primary residence.

Commissioner Yohn asked how long living there. A year and a half stated Mr. Castillo. He purchased the property in 2013. Commissioner Yohn asked if this was his purpose when he purchased the property. It was his plan when he purchased it that is why he showed special interest in this property.

Commissioner Dunne asked if they are okay with the entrance being off of 106 since it leads to their primary residence. Yes stated Mr. Castillo.

List of Exhibits
1. Special Use Application Check List
2. Staff Report
3. Pre-Application Conference
4. Application
5. Receipt of Payment
6. Ownership & Encumbrance Report
7. Warranty Deed
8. Lender Letter of Notification
9. Assessor Record
10. Receipt of Taxes Paid
11. Water Documents
12. Site Plan
13. GIS Aerial View
14. List of Adjoining Property Owners
15. Letter to Neighbors
16. Public Notice for the Planning Commission
17. Public Notice for the BOCC
18. Letters to Agencies
19. Notice to Applicant
20. Business Plan for Grizzly Motors
22. BLH Sales Business License
23. Pre-Licensing Education Certification
24. Motor Vehicle Salesperson License
25. Mastery Exam

m/s Dunne/Allen motion to accept Special Use Permit including conditions set forth in staff report

Motion was approved unanimously.

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY

RESOLUTION NO: 2014 – SPU - 1

RE: APPLICATION OF MANUEL FABIAN CASTILLO-ORTIZ AND JESSICA CASTILLO FOR A SPECIAL USE PERMIT TO ALLOW THE OPERATION OF A USED CAR SALES LOT AND AUTO REPAIR SHOP IN ALAMOSA COUNTY, COLORADO.

Commissioner Dunne moved for the adoption of the following Resolution. Commissioner Allen seconded the motion.

WHEREAS, Applicants Manuel Fabian Castillo-Ortiz and Jessica Castillo have submitted an application for a special use permit to allow the operation of a used car sales lot and auto repair shop in Alamosa County on the following property:

A tract of land in Section 31, Township 38 North, Range 10 East, N.M.P.M., more particularly described as follows:

Beginning at a point in the SW ¼ of Section 31 from which the Southwest corner of said Section 31 bears South 05°24' West 1035.28 feet; thence South 61° 56 ½' East 285.37 feet; thence North 01° 26' East 427.80 feet; thence North 89° 36' West 260.48 feet; thence South 00° 24' West 295.23 feet to the point of beginning, in Alamosa County, Colorado.

said property being zoned Rural (RU) District; and
WHEREAS, a public hearing was held before the Alamosa Planning Commission on July 9, 2014, to consider said application

WHEREAS, a public hearing was held before the Board of County Commissioners on July 23, 2014, to consider said application;

WHEREAS, proper notice was provided as required by law; and

WHEREAS, there were no individuals who expressed opposition to the application; and

WHEREAS, the Board of County Commissioners has considered the application, and finds that the application meets all the requirements of the Alamosa County Land Development Code pertaining thereto; and

WHEREAS, the proposed use is consistent with the objectives and purposes of the Alamosa County Land Development Code.

IT IS THEREFORE RESOLVED AND ORDERED that the Special Use Application to allow the operation of the above mentioned business upon the above-described property is hereby granted as a Special Use pursuant to the Alamosa County Land Development Code under Article 8, Section 8.8 subject to the following conditions:

1. The number of vehicles for sale onsite shall not exceed 25;

2. If all requirements are met and the license is granted, said license shall be provisional subject to the issuance of a State license within one-hundred and eighty (180) days;

3. Hours of operation are limited to 8:00 a.m. – 6:00 p.m., Monday Through Saturday.

4. Accumulation of salvaged cars, scrap, or any other potential blight and refusal to remove said blight is grounds for the revocation of this Special Use Permit;

5. Applicant shall properly handle and dispose of all hazardous waste as mandated by the State; failure to comply with proper handling and disposal shall be grounds for revocation of this Special Use Permit.

Passed by roll call vote: Allen, Dunne and Yohn all in favor.

DATED this _____ day of __________, 2014

BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY
Commissioner Dunne spoke. She has done a lot of research on this issue too. It is a complicated issue not only for the State of Colorado and Alamosa but at a national level. The county of Alamosa voted in favor of growing and selling medical marijuana, this issue is clear. This would be their first growing operation. This building has been unoccupied for many years and even when occupied wasn’t used as well as it could have. She doesn’t believe people will know what is being grown inside of it. The way county laws go they cannot talk about this at all. It is against the law to talk about issues behind doors so she doesn’t know how the other Commissioners feel. She doesn’t believe people know this. A lot of the study she has done is the main opponents making medical marijuana a bad thing are the legal drug prescription companies. If you are selling Opiates it is legal. Stealing of prescription drugs is their main problem of crime. They need to see what is really going on. Where is this bad rap that marijuana gets? She read marijuana was made bad years ago when the immigrants were coming from Mexico. To discourage immigrants it was made illegal. It is a complicated issue. She is also very concerned about property values. She doesn’t think property values are helped by vacant buildings. She does know the healing benefits of marijuana not personally. It is proven around the world. You can study Holland even people joke about Amsterdam it is a great place.

Commissioner Allen spoke. He sees people he knows when he looks out in the audience. He has been here since 1976. Probably 10-12 years ago there was talk about an adult entertaining center. What happened is they had no regulations on this. This is like marijuana they didn’t have any regulations on it. They were able to put rules and regulations into place. After 18+ years at this job he has learned they are supposed to remain as neutral as possible until all the evidence is given to them. He has gone over all the information presented to them. It boils down to their rules and regulations. It is about what is put before them in rules and regulations they have adopted. He leans towards what they adopted. It took many years to put these rules and regulations together. He seen petitions that were presented to them. How many signatures were on there?

Mr. Kelly stated the petition handed today proponents had 335 signatures. Ones against the application were 66 today but supplements those presented previously were 175 so the total was 250.

Commissioner Allen stated on the application there is a box that says “if this box is checked pre-applicant understands that at the time of the meeting, the Alamosa County Land Use Department is of the opinion that proposed use does not currently meet the criteria under the existing Land Use Development Code and/or other County Regulations or Ordinances which was checked by
Mr. Espinosa and Ms. O'Dowd so they knew where they were at when they made the application.

Commissioner Yohn spoke. The Ordinance 16 there was a lot of effort put into that to protect all entities including the private residential landowners. Not one property but four properties they have when they look at the map. They are 978.48 feet, 962.2 feet, 912.41, and 390.54. This isn’t just one property but four properties within there. It is like putting a square peg in a round hole it doesn’t fit. It is important to protect the residential property that is there. When you purchase residential property they probably will build on it sooner than later. They did put this waiver in there because it is new and want to do the best they can do. He appreciate the work put into this but he doesn’t see this will fit where it is. He would recommend a denial.

Commissioner Dunne stated when the State drafted their Resolution 1243.3308 they must have deliberately left out residential areas but did include colleges, seminaries, and child care facilities. She is in favor of granting the waiver. She thinks the landowners are respected and a year from now the neighbors will be glad it is there.

List of Exhibits
1. Special Use Application Checklist
2. Staff Report
3. Pre Application Conference
4. Application
5. Receipt of Payment
6. Ownership & Encumbrance Report
7. Deed
8. Power of Attorney
9. Statement of Authority
10. Assessor Record
11. Receipt of Taxes Paid
12. Water Documents
13. Septic System
14. Site Plan
15. GIS Aerial View
16. List of Adjoining Property Owners
17. Letter to Neighbors
18. Public Notice for the Planning Commission
19. Public Notice for the BOCC
20. Letters to Agencies
21. Notice to Applicant
22. Additional GIS Aerial View
23. Additional List of Adjoining Property Owners
24. SLV Water Conservancy District Reply
25. Alamosa County Public Health Reply
26. Medical Marijuana Conditional License
27. Letter of Authorization
28. Division of Water Resources Letter
29. Neighbor Letter from Joann Kunugi  
30. Email from Dave Cuesta Marijuana Enforcement Division  
31. Transfer of Interest  
32. Articles of Incorporation  
33. Articles of Organization  
34. Registered Agent Information  
35. Alamosa County Business License  
36. Letter from Cheryl O'Dowd  
37. Petition of Signatures in Support of Application  
38. Other Documents provided by O'Dowd at today's hearing  
39. Opposing Signatures provided  
40. Letter Received from Airgas signed by Scott Clutts in opposition to the proposed use

**m/s Allen/Dunne motion to deny the application because it doesn’t meet the setbacks of Ordinance 16**

**Motion was carried with the vote of: Dunne -No; Allen -Yes; Yohn -Yes**

Commissioner Dunne believes the waiver is justified and they have done a good job with their work plan. She doesn’t believe it will be harmful to the community as a whole. She believes it would be a good thing.

Commissioner Allen stated he believes if they make concession then someone else will come in asking for less and where will it stop. It is not compared to an automotive shop. This is the reason they put rules and regulations into place and they need to follow them as best as they can.

Commissioner Yohn stated residential properties are just as important too. This isn’t a question of allowing marijuana because they do. If they find a place where it fits than that is good.

Commissioner Dunne stated as a county when they set the 1000’ they didn’t consider it enough.

**Alamosa County Treasurer**

Lois Widhalm were present.

Monthly Fund Report for June was presented. One shows from 6/1/2014 through 6/30/2014 and another from 1/1/2014 through 6/30/2014. It shows in balance with assets and liabilities. This will be published in valley courier after approved.

**m/s Dunne/Allen motion to approve the two reports provided by Treasurer**

**Motion was carried unanimously.**

Quarterly Report for Period April-June 2014

0720 Public Trustee Account $27,636.73 Beginning Balance

Foreclosure Processing 6,090.73

And Misc. Fees Collected
PT Fees –Foreclosures/Releases $3,110.00
Transfer to County 0 1st Quarter of Year only
Foreclosure Disbursement 5,793.88
Release Disbursement 867.00
Disbursement for PT 3,000.00

Fund Balance $27,176.58 Fund Balance as of 6/30/14
Encumbered Expenses 24,000.00 Total Encumbrances
Actual PT Fund Balance 3,176.58 Actual Balance as of 6/30/14

24 Current Active Foreclosures (16) + Bankruptcies (8)
9 New Foreclosures (April-2, May-3, June-4)
5 Completed Foreclosures (April-June, 2014)
  2 Conf Deeds; 3 Withdrawal; 0 Redemption/Lienor; 0 Redemption/Owner
104 Releases (April-June, 2014)

m/s Allen/Dunne motion to approve Public Trustee Report
Motion was approved unanimously.

They did send out their delinquent notices and are working hard to get collections so they don’t get as many that go into tax lien sale.

Alamosa County Land Use

Jinger Tilden was present.

Show Cause Hearing-Lloyd Gomez and Jennifer Ruybal

Subject: 9482 County Rd 104 S

Summary: Staff is requesting that the Board conclude that blight exists on the subject property. The property owner has allowed a single section manufactured home to be moved on to their property without proper permitting. Code Enforcement became aware of the problem dated back on October 2013 from surrounding neighbors. After investigation, the single wide was not permitted. A notice of violation letter was mailed to the property owners requesting the removal of the home. No action had been taken by the landowners. On February 6, 2014, a notice of Show Cause hearing was sent to the landowners. On February 6, 2014, a notice of Show Cause hearing was sent to the landowners requesting their attendance to the hearing. March 15, 2014, the daughter of the landowner came in to clear the violation and requested an extension. The owners planned to move the single wide to Aurora, CO. March 26th, a site visit was conducted and the trailer still remained on the property. The first ticket of $50.00 was then issued allowing 20 days to comply which was mailed certified return receipt. The landowner did sign the returned receipt proving they are aware of the citation. On April 17, 2014, the 2nd ticket was issued, for $100.00, which was undeliverable. Code Enforcement then had the ticket served by the Sheriff’s Department on May 5, 2014. The 3rd ticket was served by the Sheriff’s Department
for $300.00. Still no response from the landowners. On June 30, 2014, a Notice of Show Cause hearing was certified mailed and posted on the premises for the July 23, 2014 meeting, held today. Ken Vanlarden, 2 Deputy Sheriff's and Jinger, went out to the property on July 17, 2014 for a VIN inspection. The findings of the trailer are: the single wide came from Century Mobile Home Park; the trailer is a 1985 NMI. The property taxes for 2013 were a total of $877.85 which are paid. The Assessor’s office has it assessed for a value of $8446.00. Staff has made numerous attempts to work with the property owner to bring the subject property into compliance. At this point the current charges associate with this property add up to a total of $450.00.

Findings: Article 1 Section 4 of the Ordinance strictly prohibits activities that cause and/or causes of blight factors. Section 4 (b) also prohibits any property owner to maintain accumulation of junk trash, rubbish, storage or parking of uninhabitable mobile homes, travel trailers or campers, and inoperable vehicles.

The property staff feels is in clear violation of the Ordinance.

Recommendation: Staff is requesting that the Board approve staff’s review and findings of the property and consider that the property is in violation of the County Ordinance. Further staff is also requesting that the Board move to compel the property owner to bring the property into compliance with the County Ordinance and remove the single section manufactured home and any other item(s) that may continue to cause blight and pay all fines linked with this property.

As of yesterday the owner of the trailer Rosalie Amada Ruybal has attempted to clear up the violations. Her plans are to move the single section mobile home to High Valley Mobile Home Park. They really can’t tell if it should be moved there or not. She would have to get a moving permit with the Assessor. Also all the taxes would have to be paid along with $450 in fines.

Ms. Amada Ruybal spoke. She purchased the mobile home about four years ago for her daughter. She moved the mobile home from Century Mobile Homes to her son’s property. He lives in North Dakota. He sold it to someone who was going to move it to Aurora and what happened it turned out that the mobile lots would not accept a mobile home there and it was too expensive to move it. It wasn’t until her son notified her of the violation that it hadn’t been moved. The trailer was put back into her name. So she sold it to another individual and they were sent to jail but left an individual to move this. It is hard because they can’t find anyone to move this. She is asking for a 15 day extension.

Commissioner Dunne: Does this individual have the funds to move the trailer. He has funds to move the trailer. They estimated $500 so he gave $500. $100 is for taxes but he is not aware of fines. Does High Valley have restrictions? They can only control licensing stated Ms. Tilden. It is up to them if they want to move it in. The owner is in Arizona and she is going to get a letter from them saying it is okay.

Commissioner Allen: Is the trailer owned by you. It was in her name and it was then under Rosalind and now is going to be back her in name. He would suggest to get a letter from the
mobile home park. They just want the trailer moved in the next few days so he would ask to waive the fines.

Commissioner Yohn: The whole part of the Show Cause hearing is to determine if there is blight. It has to be moved. To waive all the fees he wouldn't be in favor of that. Land Use put a lot of work into this. It is pretty steep. He understands the situation but it isn't even in her name.

Ms. Tilden: The trailer is in Rosalie's name there was paperwork trying to get in Jessica's name but taxes have to be paid to change the name. So currently the title is in Rosalie Amada Ruybal's name. Currently she is responsible. The fines are because of the effort and time it takes to go out there and take care of things. He would be in favor of a 50% reduction.

Mr. Vanlwarden: However you make the motion he would ask to add with consequences if not complied for instance if given 30 days and it hasn't been moved they need to know the consequences for that.

Commissioner Yohn: This should be already in the blight code. No stated Mr. Vanlwarden. The next would be a court appearance.

Ms. Tilden: It would be court or another fine.

Mr. Kelly: First you need to decide whether blight and after that they could authorize attorney to seek an administrative warrant. They can give 30 days with conditions until attorney issues warrant.

List of Exhibits
1. Staff Report
2. Assessor Record
3. Aerial View and Zoning
4. 2013 Tax Notice from County Treasurer
5. Assessors Mobile Home Property Record Card
6. Pictures 10/8/2013
7. Notice of Violation Letter (10/10/2013)
8. Pictures 12/6/2013
10. Posted Notice of Show Cause Hearing 2/6/2014
11. Pictures 2/6/2014
12. Notice of Noncompliance and Show Cause Hearing 2/6/2014
13. Corrective Action Plan
14. 1st Ticket 3/26/14 Certified Return Receipt
15. 2nd Ticket 4/17/14 Undeliverable
16. Pictures 4/17/14
17. 2nd Ticket 5/5/14 served by County Sheriff
18. 3rd Ticket 6/9/14 served by County Sheriff
19. Pictures 6/30/14
20. Notice of Noncompliance mailed and posted on premises 6/30/14
21. County Clerk Title Documents
22. Pictures 7/7/14
23. Pictures dated 7/23/14 taken this morning

m/s Allen/Dunne motion that blight does exist for Lloyd Gomez
  Motion was approved unanimously.

m/s Dunne/Allen motion to give 30 days to move mobile home, pay $225 for fines, with
letter from mobile home park
  Motion was approved unanimously.

Alamosa County Assessor
Proposal for Restructure in County Assessor Office

Sandra Hostettter and Connie Ricci were present. She is proposing an increasing of 4% to each
employee and stay within budget. She still will be able to hire an entry level appraiser. The
workload is staying the same. They are starting the re-appraisal season. Barbara Flegal and
Jason Luna will take their testing for appraisal license by the end of the year. She has an ad in
the paper and hopes to have this person begin by September.

Ms. Ricci said she met with Sandra and went over figures. She will stay under budget by
$4,240.50 for 2014 and will still be under budget going into 2015.

Commissioner Dunne asked when she will would like to start the increase.

Immediately. The next pay period stated Ms. Hostettter.

Ms. Ricci stated it would be easier at the beginning of the month.

Commissioner Allen stated he likes it when they stay in budget and save money. He understands
when Ron passed away her staff stepped up. It is hard to make a change at the middle of the year
but he wouldn’t have a problem with it.

Commissioner Yohn stated one of the reasons why they came before the board it would save the
county money. He questioned the step grades such as Shannon going from 113 to 117. He can’t
believe they are all are doing Ron’s job and awarding those before got their appraisal license.

Ms. Hostettter stated everyone has had to step up. They are all doing things he did. Ron did not
strictly just do appraisals he did a little bit of everything. His title was appraiser but everyone
does a little of everything and the staff has picked up the slack.

Commissioner Yohn questioned a new hire appraiser at $9000 which seems really low.

Ms. Hostettter: That would be for the rest of the year.

Commissioner Yohn: So give a raise at the middle of the year.
Commissioner Allen: Increase would start August 1st and go into the end of the year. Then they would do an overall raise at the beginning of the year which hasn’t been determined yet.

Ms. Hostetter: It is more than likely she would be losing another employee Bette Arellano. She hasn’t received anything yet but has indicated she would like to leave at the end of the year.

Ms. Ricci: Starting appraisal they are starting at that pay step and they are not rewarded once they get a license. It takes about a year to get the license.

Commissioner Yohn: What is the starting salary for an appraiser $18,000?

Ms. Ricci: $27,046 but still under budget for 2015.

m/s Dunne/Allen motion to accept proposal for restructure
   Motion was approved unanimously.

Alamosa County Department of Human Services

Laurie Rivera was present.

They are fully staffed. They have a few new people starting in the next couple of weeks. They are all awaiting for their new director. She has had no issues the staff is very competent.

Statement of Expenditures, Ongoing Caseload Report, and Child Welfare Reports were presented. They will be requesting soon for a Hotline system and will be reporting what the county needs to be done for these requirements. Investigation Report, Child Support Collection Comparison, Recovery Collection Comparison and Child Support Cases Report were presented.

Commissioner Yohn asked for an explanation of LEAP EBT on the Expenditures Report. Mr. Rivera is not sure but her thought is that is off the scheduled year since LEAP is from November to April.

Multi-County Intergovernmental Agreement for the SLV Regional Resource Family Program
It was approved to hire one person to do all five surrounding counties. Most other counties have very small staff and the time it would take to get foster certification is great. The contract would be for the counties to reimburse this Alamosa County for this person for their salary. Also all the homes would be available. This would increase the number of homes available for all the counties. They came up with the caseworker salary and benefits that it would cost Alamosa stated Mr. Kelly. They would be reimbursed by the other counties.

Commissioner Yohn asked how much time for each county. It is not by time but as needed. They would do presentations in those areas to start recruiting and follow up on those who expressed an interest in it. Mr. Kelly stated they spend so much time going up North for foster care. If they have a hearing that caseworker has to drive up to get the child and drive back for the hearing then return the child to the home. Commissioner Dunne stated this is a great idea.
Having a specialist is excellent. Ms. Rivera stated there are audits, rules and regulations that change often with the State and Annette Perea has done a good job trying to keep up with them. She will be training this person. Ms. Ricci stated they actually hired someone already.

**m/s Dunne/Allen motion to approve the Multi-County Intergovernmental Agreement**  
**Motion was approved unanimously.**

**Contract for Services with Center for Restorative Programs**

This is HB 1451 for agency over site group. Alamosa Department of Human Services is a fiscal agent for this group. It is a collaborative management program. This is to hire a WRAP Around Facilitator working directly with families and children to try and bring agencies together and develop a plan that the families feel supported and will succeed in. This is through Restorative Programs because they supervise the WRAP Around facilitator.

**m/s Dunne/Allen motion to approve Contract with WRAP Around Program**  
**Motion was approved unanimously.**

**San Juan House Counseling Center**

This a regional program with the other counties in the valley. This is funded through the Core Services program. There is a portion that comes from the Child Welfare program. They provide a nurturing caring place for 18 families. Parents and children attend for 12 weeks. This program is endorsed and ordered by the court. Caseworkers feel they get a good service here. They have several class times with children and parents. It is an intense 12 week program. They get a meal, at least 5 home visits so they get individual time as well as group time. It is an evidence based program so it is shown to have success for families and parenting. The funding comes from Core Services and a small portion from Child Welfare. It is serving 56 families throughout the valley for $200,000. For Alamosa County they serve 18 families which is around $60,000. They usually don’t have enough slots but it is set up to pay whether they use that entire slots stated Mr. Kelly.

**m/s Dunne/Allen motion to approve San Juan Counseling Center**  
**Motion was approved unanimously.**

She just received a resignation from someone for Child Support so she would like to request to fill this position.

**m/s Allen/Dunne motion to fill employee vacancy position**  
**Motion was approved unanimously.**
Alamosa County Clerk & Recorder

Melanie Woodward was present.

The Primary Election went well. They had about 23% turnout for Alamosa County. They found when a person comes in and request a special plate when they find out it takes 4 weeks to come from the State they change their minds and get the regular green and white plates. They issue a permit until the plates come in. Commissioner Dunne asked they didn’t have issues with the mail. They have had issues with people getting renewals. They have noticed some problems with the postal service. They are not recognizing a lot of the rural addresses such as county lanes and county roads. The State has taken the registration mailings over also. Some people are not getting them and some are getting two. They have no issues with ballots.

Clerk & Recorder Report for June

m/s Allen/Yohn motion to accept Clerk & Recorder’s Report for June
Motion was approved with Dunne absent.

True Grit Liquor License Renewal

She ran a background check and there was no violations.

m/s Allen/Yohn motion to
Approved with Dunne being absent

Board/Staff Updates

Adjourn

There being no further business, the Regular Meeting of the Board of Alamosa County Commissioners was adjourned.

ATTEST:

Belina Ramirez, Office Manager

Carol Osborn, Assistant Administrator

Mike Yohn, Chairman

Marianne Dunne, Vice-Chair

Darius Allen, County Commissioner
Minutes of the Public Hearing for Special Use Permit Valley Meds LLC was held on July 23, 2014 at 9:00 a.m. in the Commissioners Chambers, Alamosa County Services Center, 8900 Independence Way, Alamosa, CO 81101.

Members Present:
Mike Yohn, Chair
Marianne Dunne-Vice Chair
Darius Allen, Commissioner
Peter Kampfer, County Administrator
Jason Kelly, County Attorney
Carol Osborn, Assistant Administrator
Belina Ramirez, Office Manager

Ken Vanlwarden and Rachel Doyle were present. Applicant Art Espinoza and Attorney Gordon Bosa were present.

Proposal: The applicant is proposing to operate a Medical Marijuana-Infused Product Manufacturer (MMIPM) and an Optional Premise Cultivation Operation (OPCO).

Legal Description: Tract 1: A tract of land located in the NE ¼ of Section 6, Township 37 North, Range 10 East, N.M.P.M.,

Project History and Background: The applicant, Valley Meds, LLC, is proposing to operate an Optional Premise Cultivation Operation (OPCO) and a Medical Marijuana-Infused Product Manufacturer (MMIPM). An OPCO and MMIPM are considered separate Special Use Permits but can be applied for concurrently according to Section 8.2.3.E Application Requirements in the Alamosa County Land Use and Development Code (LUDC). Both operations propose to grow and produce medical marijuana products only. There will be no sales of medical marijuana from this facility. They are only proposing to grow medical marijuana and produce the infused products i.e. edibles.

Valley Meds is a limited Liability Company formed on January 15, 2014 and Arthur Espinosa is the representative. Valley Meds, LLC has a Commercial Real Estate Lease with Option to Purchase agreement with the Eberhart Family Trust. Cheryl O’Dowd has Power of Attorney for the Eberhart Family Trust and is the representative for the property owner.

The parcels are zoned Industrial (I) and were formerly the site of Aspen Homes, All-Stars Sports Grill, and Alpinvale Sweeps and Stoves. Due to the Industrial character of the neighborhood and the distance from the City of Alamosa, these businesses have been unsuccessful and the principle structure, a 7,958.7 square foot building, has been vacant for several years.
The applicant has already submitted documents to the Colorado Department of Revenue Marijuana Enforcement Division (MED) for medical marijuana licensing. Additionally, they have begun to retrofit the building. They have six foot security fences and will allow no public access to their facility. They have stated there will be no signage indicating the usage of the building and that all employees are required by State law to obtain an occupational license to work in the medical marijuana industry from the Colorado Department of Revenue Marijuana Enforcement Division (MED).

Public Notice: Adjacent land owners within 1,500 feet of the subject properties have been notified by mail and notice was published in the Valley Courier. There were several phone calls to confirm the date and time of the public meetings and there were two adjacent land owners who both called and came into the office to state their opposition to the application.

The first opponents are Randy and Debbie Garrison, who own Garrison Fence Inc., a Commercial (C) zoned parcel across U.S. Highway 160. They also own and keep as their primary residence, one of the residentially zoned properties within 1,000 feet of the proposed OPCO/MMIPM. The Garrisons stated that they have publicly opposed medical marijuana in Alamosa County and were disappointed that it was passed into law. They stated that the Eberhart building is visible from both their business and their home. They stated that they have family and grandchildren visit often and they do not want to have to explain the medical marijuana facility across the street. When Land Use Staff explained, that the medical marijuana facility would be closed to the public and would not have signage indicating that it is a medical marijuana facility, they responded that that doesn’t really matter because this is a small community, and they know what is going on in the building.

The second opponent chose not to have his name included in this staff report, but stated that he lives within a quarter mile of the property and presented the letter, we sent to adjacent land owners. He says he thinks that the “law is the law” and wanted to know why Alamosa County would allow a medical marijuana facility within 1,000 feet of residentially zoned properties despite the location being in conflict with our Ordinance.

Courtesy letters were sent to the Colorado Department of Revenue Marijuana Enforcement Division, the Alamosa Fire Protection District, Alamosa County Public Health, the Division of Water Resources, the San Luis Valley Water Conservancy District, and the Rio Grande Water Conservancy District. Responses were received from the San Luis Valley Water Conservancy District and Alamosa County Public Health. To date, no other comments have been received from either adjacent land owners or other concerned parties via email, letters, telephone, or other methods that were either for or against the proposed Special Use Permit.
Compatibility: These parcels are located in an Industrial and Commercial zoned area of the County. To the east are Waterworks Irrigation and Miller Electric which are zoned Industrial (I). To the west is Ace Storage which is zoned Commercial (C).

According to Ordinance No 16 regarding Medical Marijuana in Alamosa County as amended on June 25, 2014, Medical Marijuana facilities can only be issued in the following locations and in accordance with the following restrictions:

(a) For purposes of MMC’s MMIPM’s and OPCO’s in any zoned area of Alamosa County designated as Commercial or Industrial. OPCO’s are also permitted in any zoned area of Alamosa County designated as Rural.

(b) No closer than one thousand (1,000) feet of any church, school, or child care establishment, dormitory, health services center of hospital, licensed MMC, MMIMP or OPCO, detention facility, government building, public park or other Residentially Zoned Property, (“protected purposes”). The distance shall be computed by direct lineal measurement from the nearest principle structure of the MMC, MMIMP, or OPCO to the nearest property line of the protected purpose.”

Therefore, by the zoning standards as set forth in Ordinance No. 16 the proposed parcels are eligible for a Special Use Permit for both an OPCO and a MMIPM because they are zoned Industrial (I). However, the principle structure on the property falls within 1,000 feet off of four residentially zoned parcels and the secondary building is within 1,000 feet of three of those aforementioned parcels (See Proximity Maps produced by Integrated Land Services), thus making a Special Use Permit for either an OPCO or MMIPM ineligible in that respect.

Findings:

1. The OPCO and MMIPM, if located where proposed and with the planned security modifications, are not expected to materially endanger the public health or safety if located on this site. Despite the potential health concerns related to the medical marijuana industry itself, this particular site has not been shown to pose more of a risk than if the facility was located elsewhere in the county. OPCO’s and MMIPM’s are extensively regulated by the Colorado Department of Revenue Marijuana Enforcement Division (MED) through frequent unplanned inspections, rigorous licensing requirements, 24-hour live surveillance, and the Marijuana Inventory Tracking Solution (MITS). MITS is a system using ultra-high frequency (UHF) Radio Frequency Identification (RFID) tags that track plants from seed to sale. The system requires all plants, products, and even waste matter to be tracked by weight and tagged throughout the production process.

2. Although this Special Use Permit is found to conform to the standards and practice of sound land use planning in that it is located in a predominantly industrial area of the County and makes use of a vacant building, it does not comply with other applicable regulations. These properties do not meet the 1,000 distance requirement from the Residential zoned properties as set forth in Ordinance No 16 regarding Medical
Marijuana in Alamosa County. The applicant is aware of this conflict and during the Pre-Application Conference on April 25, 2014, both owner and applicant signed documents acknowledging that the proposed use does not meet the necessary criteria for approval.

3. Due to the recently developed and continually changing medical marijuana industry, there is not enough evidence to conclusively show what effect this application would have on the value of adjoining and abutting properties or whether the facility would be detrimental to the use or development of adjacent properties. Trends in Denver and other urban areas that have decriminalized medical marijuana show that the industry is helping real estate markets in industrial and commercial areas. Unfortunately, these trends represent redevelopment of greyfields or economically failing, outdated, dilapidated, and/or underused real estate assets in urban areas, and is not necessarily applicable to rural areas of mixed commercial, industrial and residential use. The only recourse to limit the impact on surrounding parcels would be a specific additional conditions, as provided in Section 8.8.9 of the LUDC. Additional conditions would need to satisfy the concerns of neighbors and would ensure that the parcels would have modifications including, but not limited to, screening; fencing; no advertising signage; limitation in scale, intensity, or hours of operation; and additional security measures to ensure the facility is as unobtrusive to neighboring parcels as possible.

4. It is not believed that the application will adversely affect the adopted plans and policies of the county and is found to be consistent with at least one of the economic development goals as stated in the Alamosa County LUDC Article 1, Section 1.3: to “maintain opportunities for development and redevelopment to respond to changes in the marketplace, while respecting the character of surrounding areas.” Despite the controversial nature of the medical marijuana industry, it was passed into law in Alamosa County by voters in 2010 and through Ordinance No 16 regarding Medical Marijuana in Alamosa County, Medical Marijuana Centers (MMC) and MMIPMs are restricted to Commercial (C) and Industrial (I) zoned areas of the county are limited and although it would be argued that this application does not violate the character or development standards of adjacent properties because this area is primarily Industrial (I) and Commercial (C), the fact remains that this is one of the few Commercial/Industrial enclaves to almost completely surrounded by residentially zoned parcels.

5. The proposed application is not anticipated to impact environmental protections, wildlife habitats, ground and surface water, air quality, or jurisdictional wetlands (See Critical Wildlife Habitat and Floodplain Map). The facility has two commercial wells and although the water required for the growth of medical marijuana varies, courtesy letters were sent to the Division of Water Resources, the San Luis Valley Water Conservancy District, and the Rio Grande Water Conservation District.

Department Recommendation: The applicant has met all submittal requirements for a Special Use Permit according to the Alamosa County LUDC but has failed to satisfy the conditions set forth in Ordinance No 16 regarding Medical Marijuana in Alamosa County. The Land Use Staff
has reviewed the proposed application and based on the failure to comply with Ordinance No 16 regarding Medical Marijuana in Alamosa County, cannot recommend approval of the Special Use Permit application based on the information provided by the applicant.

Despite our inability to recommend this application, the Land Use Staff requests that this application be considered for a waiver as provided in Ordinance No 16 regarding Medical Marijuana in Alamosa County, which states that “the Local Licensing Authority may, for good cause shown, waive strict compliance with any provision set forth herein.” This recommendation is conditional and is only requested on the grounds that first and foremost, it is amendable to the four adjacent land owners that live within the 1,000’ buffer area, and secondly, that the applicant agrees to abide by any additional requirements as set forth by the Land Use staff, the Planning Commission, the Board of County Commissioners, the County Attorney, and if necessary, adjacent land owners.

Planning Commission Recommendation: The Planning Commission met on June 11, 2014 to hear this application. Attorney Gordon Bosa, the representative for the applicant, stated that this project is well suited to the criteria for a waiver because only growing will take place and there is will be no on-premises consumption or sales. There is a security fence that will be supplemented with mesh to make more opaque and there will be no signage. Security badges are required to gain access to the property. There are eight cameras installed inside and there will be eight cameras outside. They believe this facility will generate taxes and save a blighted property.

Pete Magee questioned whether there would be outdoor growing, to which Mr. Bosa responded that they had plans for a greenhouse. Staff informed Mr. Bosa that they had committed to a site plan at the time of the application and there were no greenhouses included and any change to the site plan requires the applicant to repeat the Special Use Permit application process.

Public Comment was opened and comments in opposition to the application included:

- Randy Garrison, a landowner within 1,000’, stated that the Ordinance No 16 is for the protection of residences; that is the purpose of a 1,000’ limit.
- Cliff Heide, a landowner within a 1,000’ is worried about burglary and driving under the influence. He said that Chief Dodd of the City of Alamosa police said that where drugs and money are combined, there is a higher potential for crime, and Alamosa already has a high crime rate. He wanted to know why so many cameras are needed if public safety is not an issue.
- Scott Clutts, the manager of Airgas, stated that he is concerned about crime because of the nature of the business. He said that fences and security cameras keep honest people out, not criminals.
- Patricia Jiron, an adjacent landowner, said that when the night club was in operation it caused public safety issues. She is concerned about the smell because she has allergies.
She compared the smell of this proposed facility with that of the mushroom farm because the mushroom farm is also an indoor operation.

- Robert McGuire, an adjacent landowner, wanted to know if the facility would affect his water or cause him to have to deepen his well. He continued that if Alamosa County receives tax money from this facility, it should go towards road repair and maintenance.
- Don Smit, an adjacent landowner, wanted to know why the County would consider a waiver if the proposed facility is within 1,000 feet of residentially zoned property. He believes there must be a better place for this facility than within 1,000 feet of residences.

The following comments were in support of the application:

- Cheryl O’Dowd, who has Power of Attorney for the Eberhart Family Trust, stated that Art Espinosa is already taking care of the property and pulling weeds to prevent it from becoming blighted. The facility they are proposing would be totally contained with no public access. They were even required to get badges for landlord access. She said that she realizes the Garrisons are opposed to this application but they are separated from each other by Cramer Road, the railroad, Highway 160, and the Garrison’s own commercial property.
- Dennis O’Dowd, husband of Cheryl O’Dowd, said that the proposed security includes people onsite at all times. Regarding the smell, he has visited some very large facilities in Pueblo and did not smell anything until he entered building.
- Art Espinosa replied in response to numerous comments about the perceived anonymity of the individual operating the proposed facility. He stated that he had lived in Alamosa County for 76 years, was a business owners, and is well known in the county.
- Art Espinosa Jr stated that they are proposing this facility for health reasons, to help kids with seizures, cancer, and migraines. He said they are not trying to hurt anyone or selling to people on the street. In response to the numerous analogies to the mushroom farm, he said that he used to haul hay for the mushroom farm and that the smell comes from mixing manure outside, not the indoor operations.

Comments that were neutral in response to the application included:

- Roni Wisdom, an adjacent landowner, questioned how they plan to distribute their product, how much truck traffic it would cause, and how they would go about waste disposal.
- Mike Wisdom, an adjacent landowner, said that he had gone by growing facilities with more security than high security prisons. He mentioned the potential employment benefits. He stated that because we are an agriculture region, we should have standards for odor control. He expressed concerns about the relative anonymity of the operator and whether there could be stipulations on the permit that would guarantee they would never be allowed to have a dispensary or consumption onsite.
- Pat McDermott, in response to the courtesy letter sent from the Land Use department, stated that the Division of Water Resources considers marijuana to be just another crop.
Irrigation is allowed for the traditional growing season but augmentation water is required for the rest of the year. The proposed facility has two wells, and although neither is legally allowed to have an agriculture operation, they have the option of purchasing a legal water supply for one of the wells from the San Luis Valley Water Conservancy District.

Eric Van Geison, questioned whether the application would fall under the Right to Farm and Ranch. Staff replied that technically yes, but the benefits of a special use permit are the conditions that they can be attached. Special conditions are allowed by the LUDC and applicants must abide by those conditions or their special use is revoked. For example an overwhelming odor could be grounds for the loss of the special use permit. Planning Commission members asked other questions regarding the transfer of the permit, water usage, waste disposal, and whether the applicant had any experience operating a similar facility. Mike Gibson stated that although this is a very difficult decision, we are always looking for economic development and every job is important to this community. He said he believes that medical marijuana is a significant medical resource for many people and that although he is not in a position to judge the significance of neighbors’ concerns, if we had not notified them of this application they may never have known what was being produced in this facility. Leroy Teem stated that the County has zoning regulations, boundaries, and areas designated for certain reasons and that he has always been attuned to those most closely impacted by these applications. In this case, that would be everyone that lives within the 1,000’ minimum distance requirement and they seem to be in opposition to this application.

Ultimately, the planning commission made a motion to deny the recommendation of approval of the Special Use Permit based on the fact that the application doesn’t meet requirements of Ordinance No 16 but recommends that the Board of County Commissioners consider a waiver for a Special Use Permit to Valley Meds, LLC.

Further Information: On Thursday, June 12, 2014 the Land Use Department received a call from Dave Cuesta with the Marijuana Enforcement Division. He informed us that Art Espinosa, the representative for Valley Meds, LLC has been given a provisional license, contingent on approval by the local jurisdiction, for both a Medical Marijuana Center (MMC) and an Optional Premise Cultivation Operation (OPCO). Staff informed Mr. Cuesta that Valley Meds, LLC. Has only applied with Alamosa County for a Medical Marijuana-Infused Product Manufacturer, not a MMC. At this time, this discrepancy is considered resolved as long as the applicant complies with the following conditions: first and foremost, that Art Espinosa must be licensed for the same facility locally as he applies for with the State or he will not receive State Licensure. Secondly, that Alamosa County restricts establishing new medical marijuana facilities within 1,000’ of each other and this property, absent an amendment to Ordinance No 16 will never be eligible for any medical marijuana business other than the MMIPM and OPCO he is applying for in this current application.
Art Espinoza and Gordon Bosa were present. He presented some petitions in favor of application with one page being surrounding businesses and the following pages being individuals. There are over 300 signatures. The reason they are here is because where the building is located there is not complete compliance of the 1000’ restriction so they are here to decide whether or not a waiver is appropriate in this instance. Alamosa County has the strictest restrictions on Medical Marijuana throughout the state. They have a 1000 foot requirement/restriction where Costilla County has 100 foot requirement/restriction. You have also subsequently passed the ability to grant a waiver in appropriate circumstance which certainly applies that the Board of County Commissioners recognizes that there are situations where a waiver might be appropriate. His point is if there ever was a facility that should be approved for a waiver based on all the circumstances this is it. The violation of Ordinance 16 eluded to you is minimal compared to two things. Compared to the other Marijuana centers that have been approved for waivers compared to their violations/restrictions. Second this is strictly a grow operation there is no dispensary and there is no intention to put in a dispensary. They are not looking for approval of a dispensary. While there is a violation of 1000’ restriction his understanding is those violations are rather de minimis, one is 65’ less than 1000’ and another is 75’ less than 1000’. Next reason for a waiver being appropriate is since there is no sale and marijuana was supposed to be regulated similar to the alcohol industry. The 1000’ restriction for alcohol establishments applies to bars and liquor stores. Analogously you don’t have a bar or a liquor store but you have a brewery and these restrictions don’t apply. The restrictions have a purpose when you are talking about the actual sale for the purchase of a product. They have no public access. There was talk about restriction of hours. This is grow operation which is 24 hours. They have security cameras, 6 foot fence already in place which is supplement with mesh which makes less accessible to public, and no signage. There was concern with crime but there is no proof with marijuana consumption with more crime. Chief Craig Dodd testified it was his opinion while it is true 80% also involve the use of alcohol. Also after the Denver Broncos game win or lose there is domestic violence where there is no proof of marijuana. The concerns of health with medical marijuana there is no proof of increase of safety here. There is a growing amount of truth in the opposition. Enough proof for medical of Chief Medical of CNN to change his mind and do a special on it. On of the stories was of a girl of 3 years age with epilepsy. They were anti-marijuana. As thing progressed she had up to 100 epilepsy a day. Out of sheer desperation they relocated to Colorado for Medical Marijuana. They placed one drop under her tongue and she went down to two seizures a day. When this story came out a similar situated parent have moved here and tried this. Many evidence of Marijuana cures cancer such as skin cancer. There is health hope in the future. The last reason to consider a waiver besides of location and nature of the business is financial. He would be more concerned with fracking. This location has tried other businesses and they haven’t worked. This is a business that will work and will increase the property taxes. In the Front Range it is difficult to buy a house in Pueblo County right now. They don’t expect a free ride they accept the burdens of the
restrictions including the tax burden in reference to the tax incentive. He implores the Commissioners to seriously consider a waiver of this instance.

Commissioner Yohn asked for anyone who is a Proponent of this application.

Proponents
Cheryl O'Dowd Representing Eberhart trust spoke. Over 20 years they had Aspen Homes and they believed they were good to their neighbors. When they closed their doors this changed. They had several renters who didn’t pay their bills, left it in despair, and not taken of property. These people have already shown respect for this property. These owners are looking into purchasing this property. When they started this process the only hurdle for them was the Industrial which was taken care of when you amended the Ordinance 16. Las Cannibas had a piece of property that from building to building was 200 feet and the Ordinance at that time read Residential property. Exhibit A Pictures provided showed properties to the east, the page behind shows the property from the northeast, and the next one shows the property from the north. When she took those pictures she was standing at the property line. The reason they are asking for a waiver is because at the time residential property was in the Ordinance and it was admitted there was an error. They are hoping that they look at this as favorable. It was taken to the Planning Commission and they recommended to withdraw residential out of the Ordinance. She believes they did this to keep legal problems from happening down the road. Exhibit B is the state’s statutes on what their barriers are and residential is nowhere in there. When you decided to change the Ordinance to add residential properties is when their hiccup began. They do have property that is in residential area. What was good at the Planning Commission meeting was they did get to hear the objections from the residence. Crime, waste, smells, and water were already talked about. There is evidence since they legalized Marijuana there has been a decrease in crime. In the newspaper Chief Deputy Robert Jackson stated legalization of Recreational and Medical Marijuana has only benefited the APD. You take out the illegal part of it and it is no longer dangerous. The state has very particular rules on how waste needs to be disposed of and because of this it helps any odors with this. There were no smells in the grow facilities they looked but there were smells in a dispensary facility but very limited. Noise because of the highway it has more noise than they will ever have. She has presented pictures from the property lines of the residents who are opposing where she added an aerial view where she was standing. The privacy fence they took a picture of the privacy fence by the high school which the residents will be able to see. Anyone driving by unless top of a building won’t be able to see what is going on. Medical benefits at the last meeting she gave a synopsis of the effects of what it is doing. Medical marijuana is affecting almost every single type of disease that is out there such as cancer and seizures. There is neurologists, children hospitals, and even the FDA has put out two new investigation reports on what medical marijuana is doing good. The problem with the medical field is it takes seven years before they can publish it as something being good. Gordon Bosa spoke about a little girl who was having 300 seizures a day and went down to two seizures a day. She was in a catatonic state and now she is able to talk, run, horseback ride, and live a
life. Another girl named Grace who had 400 seizures a day and is now down to 20 a month. She doesn’t know if anyone realizes how debilitating seizures are. This is why they have so many families moving to Colorado. They are called medical refugees. One little boy named Zacky tried over 17 medications which did not help or made seizures worse. After trying FDA drugs that have potential fatal side effects they finally found a solution. He has now been seizure free for 20 months. As Commissioner Yohn stated in the last meeting he doesn’t want to stop entrepreneur businesses from succeeding. This is a business that will help the community in a whole. This business will be bringing in a large influx of tax revenue to the community once the excise tax is approved. They are anticipating hiring up to 25 employees once it is running at full capacity. This is a big economic boost to the county. There is more demand for medical marijuana than there is supply and if this facility improves the life of just one child it is worth it.

Sharon Gonzales who resides at 5666 County Rd 106 S spoke. She wants to talk about is the crime. Look at the crime with the incidence of copper where businesses have been broken into in the area of this facility. They have security, lights and cameras and have been broken into more than once. There is no guarantee whose house will be broken into. She has a daughter who want to move back to Colorado. She is 30 years old and has problems with her body. She hates to take medication because of so many side effects. She has back problems. Doctors told her it would be nice for her to live in Colorado where she can take marijuana so she can function as a human being. Right now she is taking Vicodin which has problems where she could be addicted to it. So she doesn’t take it and suffers with the pain. She can’t even play with her children. She sees this as to help her child. It might not a normal life but a better life. She doesn’t know why people are against this, if marijuana can help she would take it and she would not judge others. Crime is everywhere, it is not just because of Marijuana. If it can help people than why not. In Denver there were millions of dollars they received from marijuana. They are going to fix schools so if medical marijuana wasn’t passed where was the money going to come from to do this. All over valley they have passed this and she doesn’t understand why others are for it and we haven’t. People don’t hide it from your kids, they need to explain it and get it the right way if not they will learn it the wrong way. There is more that kids have to worry about alcohol and tobacco. You don’t hid it because the kids are going to find out. Other places she has seen with marijuana where there is no fencing like this. She lives near one and has grandchildren who are there all the time.

Commissioner Yohn stated it is not the question of the benefits of medical marijuana. It is already allowed in Alamosa County. We are here for this permit.

Gordan Bosa stated regarding the smell he checked with these people and they intend to use carbon filters so there won’t be a smell problem and you can specify that as a requirement. They won’t even smell anything even from the back door as long as it is closed.
Opposition
Randy Garrison who resides at 5900 Aspen and has a business directly across proposed area spoke. He turned in more petitions and signatures signed against. He understands they have to live with the fact of marijuana is legal in the State of Colorado. Ordinance 16 has 1000’ and they were not opposed that. He would them to maintain that buffer zone between any residences and reject this. Tax benefit no benefit for county unless excise tax is passed and doesn’t believe it will pass. No proof of benefit to the county. These are the reasons he would like them to deny it. He knows the O’Dowds and Eberharts and has nothing against them it is just against the variance.

Patricia Jiron who resides at 6331 County Rd 106.25 spoke. She opposes this permit. She is one of resident that lives in this area. You can look at the picture and say it is not that close but they are talking about people that live in that area. If you were within this area close enough and you were living right there how would you feel if this facility was going up? It is about the sensitivity of the product. It’s is so sensitive that they are requiring badges and security cameras. At the Planning Commission the question came about how would you feel if they are growing tomatoes? Would they need security cameras, badges, and would the product need to be led by the state. It has to be disposed of properly. This is the reason as residents they are so concerned. It is not that they are composed to seeing the county get more revenue and children getting medical help. This is so close to their homes. How is this going to affect their property values down the road? They don’t know. Some of their neighbors have said they will put their property up for sale because they don’t want to be near this. How will this affect her property and her taxes? She wants the Commissioners to thinks about these things. Air vents such as McDonalds, and different restaurants do and you know what they are cooking. Mr. Bosa stated they do not have carbon filters. She is sure there are other properties in the County of Alamosa that are within 1000’ that could be considered that will not affect residences.

Ron Brink who resides at 12245 106 S spoke. He has mixed feelings and emotions about this. He sympathizes with them because this is a so new industry business. One of his questions is the revenue going to be worth it. He is always glad to see vacant buildings occupied. He has concerns with the residence in the area and their property values. He thinks they are too early in this business to tell what effects they have in the crime rate.

Cliff Heide who resides at 6348 Hart Rd spoke. He wanted to affirm what some of what his neighbors have said. He commends them on Ordinance 16. He understands there would revenue benefits. He understands there would benefits for patients. He thinks the primary responsibilities of any governing body is to protect its citizens so he wants to encourage them to be consistent with regulations they have passed.

Bob Copley who resides at 5783 Aspen Ave spoke. He and his wife moved his family in 1979 and they looked what would fit his family best. They raised their 10 kids and have 23
grandchildren now. They have them at their home frequently. They try to keep them away from things that are not good for them such as marijuana and alcohol. It is deep feeling to have this thrust on them. 1000 feet radius was passed in the Ordinance to keep the integrity of residential zoned residences. This business applying special use can find in the confines of Alamosa County some sort of property maybe some existing building else that they can convert that can comply this 1000’ radius. He doesn’t see denying this Special Use Permit will deprive them the ability to find elsewhere within the county legally and in compliance. To push this into their neighborhood is very defensive and very difficult to accept. He has heard it is only 75 feet out of compliance but his question if you make this exception and someone else comes in and asks for less where will you draw the line. Or will you go all the way down to 100’ like Costilla or let them do whatever they want. The purpose of this Ordinance is to set a guideline without pushing its way into a neighborhood where it is simply not wanted. The hearing before this clearly demonstrates the exception of the rule without hurting anyone. None of the neighbors complained about a car dealership going in there. Getting along with rules and regulations so there is no reason they have to consider this. There has been two other marijuana businesses and they have complied with rules and regulations. These people could do the same thing and comply with the 1000’ radius. He heard the statement this is clearly only a growing facility but he knows how easy it is once you get your foot in the door to go back and get more consideration. He is just asking to deny this application.

Robert Espinosa spoke. He was born and raised here since 1970. They have been working on this for twelve years. He heard that they have been dealing with this for six monthss but actually Marijuana was legalized in Colorado since 2002. There has been facilities operating since 2002. Values of homes in Boulder, Fort Collins and Front Range have doubled even tripled. You cannot even buy homes in Pueblo or Colorado Springs. The reason for the badges and cameras is to ensure everything is controlled by the State of Colorado. It is about them watching everything so the state gets their dime. You won’t even know that this place is operating. This is a controlled facility. The reason you do have security is for crime. Crime can happen with anything. The State tracks everything from seed to sell. If you take a seed out of this building it is a felony. This is more regulated than any other business in the world. So the crime rate doesn’t go up actually it goes down. Not one of these people have gone to a grow operation. This is legal in the State of Colorado, the voters want this to happen. It is not for the medical benefit it is about work and have a job. They are trying to make money and it just happens to be marijuana. He is sorry it is not a movie theatre, a bank, or anything. They are working together. He brought it up about the 1000” no one even knew. They were three months into the operation and he seen a house to the left so he contacted Rachel. In Denver they are across the street. He was born and raised in Sacred Heart Church. He would want it away from churches. This building you won’t even know this operation is here. He has six grandchildren he is concerned about their lives. He has really wants this to happen in Alamosa. This started in alcohol prohibition they had to fight for it. They are willing to take everyone to this building to show
them what is exactly going on. A grow operation is ran professionally. He would love to have a meeting in a year to show that they were right.

Rebuttals
Gordon Bosa spoke. He understands there is a waiver provision in regard to the 1000’ restriction. This implies they have circumstances involving Marijuana where a waiver should apply. They believe there is a reason you have a waiver provision and this is the justification.

Bob Copley who resides at 5783 Aspen Ave spoke. He has heard about jobs and tax income but he would only remind them if they could locate somewhere in compliance this could still happen. This is not an issue. Please consider sticking with the 1000’ restriction.

There being no further business, the Public Hearing for Special Use Permit Valley Meds LLC was adjourned.

ATTEST:

Belina Ramirez, Office Manager
Carol Osborn, Assistant Administrator

Mike Yohn, Chair
Marianne Dunne, Vice-Chairman
Darius Allen, County Commissioner
Minutes of the Public Hearing for Special Use Permit Manuel F Castillo-Ortiz was held on July 23, 2014 at 9:00 a.m. in the Commissioners Chambers, Alamosa County Services Center, 8900 Independence Way, Alamosa, CO 81101.

Members Present:  
Mike Yohn, Chair  
Marianne Dunne, Vice-Chair  
Darius Allen, Commissioner  
Peter Kampfer, County Administrator  
Jason Kelly, County Attorney  
Carol Osborn, Assistant Administrator  
Belina Ramirez, Office Manager

Ken Vanlwarden and Rachel Doyle were present. Applicants Manuel F and Jessica Castillo-Ortiz were present.

Proposal: The applicants are proposing to operate a used car sales lot and auto repair shop.

Legal Description:  
A tract of land in Section 31, Township 38 North, Range 10 East, N.M.P.M., more particularly described as follows: Beginning at a point in SW ¼ of Section 31 from which the Southwest corner of said Section 31 bears South -5°24’ West of 1035.28 feet; thence South 61°561/2’ East 285.37 feet; thence North 01°26’ East 427.80 feet; thence North 89°36’ West 260.48 feet; thence South 00°24” West 295.23 feet to the point of beginning, in Alamosa County, Colorado.

Project History and Background: The applicants, Manuel Fabian Castillo-Ortiz and Jessica Castillo are proposing to operate a used car sales lot and small auto repair shop. The business will be known as Grizzly Motors and they are hoping to reach what they describe as an underserved market, the local Hispanic population, by offering bilingual services. The address is 6021 West U.S. Highway 160, Alamosa, Colorado. The property is currently zoned as Rural (RU).

According to the Alamosa County Land Use and Development Code (LUDC), car sales are only permitted on Rural (RU) zoned districts with a Special Use Permit. This parcel is located in a Commercial (C) zoned district of Alamosa County and will not change the commercial character of the adjacent properties. The parcel is located at the intersection of U.S. Highway 160 and South County Road 106 and is currently the site of the applicant’s residence. The parcel has historically been used as both residential property as well as a used car lot, BLH Sales, owned by Brian and Lou Ann Husung.

Public Notice: Adjacent land owners within 1,500’ of the subject properties have been notified by mail and notice was published in the Valley Courier. To date, no comments have been
received from either adjacent land owners or other concerned parties via email, letters, telephone or other methods that were either for or against the proposed Special Use Permit.

Courtesey letters were sent to the Alamosa Road & Bridge Department and the Colorado Department of Transportation.

Compatibility: This parcel is zoned Rural (R) but is bounded by the East and West by Commercial (C) zoned properties. To the South is an Industrial (I) zoned district and to the North are Rural (RU) zoned properties.

Findings:
1. The application is not anticipated to endanger the public health or safety if located where proposed. The property is located on two maintained roadways and there is a turning lane from Highway 160 onto South County Road 106. Regarding traffic concerns, the highway was sufficient to service the parcel when it was previously a used car sales lot, but it is recommended that there be limitations in scale and intensity as set forth in Section 8.8.9 of the LUDC. The amount of traffic expected to be generated is less than ten vehicles per day and is not expected to have any major impacts on surrounding neighbors or access. A courtesy letter regarding this application was sent to CDOT and the County Road & Bridge Department.

2. The applicants have met all the Special Use Permit application standards and are in the process of seeking licensing from the State. At this time, the owner/applicant, Manuel Castillo is the only employee. Mr. Castillo has received a Pre-Licensing Education Certificate and has passed the Mastery Exam from the Colorado Department of Revenue Auto Industry Dealer/Wholesaler Licensing Department. The site conforms to the principles of sound land use planning insofar that is in a predominantly Commercial (C) and Industrial (I) zoned area of the county, and has frontage on a major travel corridor.

3. The Special Use Permit is not expected to have any adverse effects upon the adjoining property owners as they are predominantly commercial themselves. The proposed change is more in congruence with surrounding parcels, stays within the commercial character of the neighborhood, and meets specific demands of the county by encouraging economic development. The applicants do not anticipate having any more than 10 vehicles for sale on the lot at a time and the maximum number of vehicles would not exceed 20-25. The vehicles are all pre-owned and road-ready. The applicants do not intend to store salvaged cars or scrap material on site but it is recommended that stipulations prohibiting storage of salvaged cars, scrap, or any potential blight might be included in the applicant’s Special Use Permit so as to limit any potential negative impact on neighbors or passerby on Highway 160.
4. It is not believed that the application will adversely affect the adopted plans and policies of the county. The proposal is consistent with the economic development goals as stated in the LUDC Article 1, Section 1.3:
   E) Encourage quality commercial development and revitalizations;
   J) Maintain opportunities for development and redevelopment to respond to change in the marketplace, while respecting the character of surrounding areas;
   The applicant is not anticipated to be detrimental to the use or development of adjacent properties as they are either established businesses or zoned for Commercial (C) or Industrial (I) development. The Rural zoned parcels north of this property are either residential properties or unimproved land.

5. The proposed application is not anticipated to impact environmental protections, wildlife habitats, ground and surface water, air quality, or jurisdictional wetlands (See Critical Habitat and Floodplain Map). The primary environmental concern would be that the applicants have proposed to build a small auto repair shop onsite. At this time, it is only intended to repair vehicles for sale but could potentially expand to service other vehicles. At this time, the applicants proposed to keep three 55-gallon drums onsite for hazardous waste disposal; one drum for anti-freeze and two drums for used oil. The drums will be disposed of in accordance with the Colorado Department of Public Health and the Environment Hazardous Materials and Waste Management Division.

Department Recommendation: The applicants have met all submittal requirements for a Special Use Permit according to the Alamosa County LUDC. The Land Use staff has reviewed the proposed application and recommends approval of the Special Use Permit application with the following conditions:
   1. Number of vehicles for sale onsite not to exceed 25;
   2. If all requirements are met and the license is granted, said license shall be provisional subject to the issuance of a State License within one-hundred and eighty (180) days;
   3. Hours limited to 8:00 am -6:00 pm; closed Sundays;
   4. Accumulation of salvaged cars, scrap, or any other potential blight and refusal to remove said blight is grounds for the revocation of the Special Use Permit;
   5. Proper handling and disposal of hazardous waste as mandated by the State is required; failure to comply with proper handling and disposal is grounds for the revocation of the Special Use Permit.

Planning Commission Recommendation: The Planning Commission met on July 9, 2014 to review this application. They asked questions regarding commitment to the site plan, plans for an office building, and why the applicants had not applied for a change of zoning instead of a Special Use Permit. The applicants replied that the site plan represented the maximum footprint they would have on the site but their office will initially be much smaller. As for why they chose to pursue a Special Use Permit, the applicants stated that changing the zoning would require
them to refinance their home mortgage under commercial rates. The Planning Commission commended the applicants on their business plan and recommended the approval of the Special use Permit with the five conditions set forth by the Land Use Staff.

Manuel Castillo spoke. He will start on selling vehicles and servicing them before they put them on sale so they can sell quality vehicles. If it grows later on they can think of a repair shop.

Commissioner Yohn asked if any other correspondence written or phone calls. CDOT contacted them and spoke with Road & Bridge. They have two entrance one off of 160 an 106. There is concern of access on 160 from Road & Bridge. She did speak with CDOT and their response was they didn’t see any issues but would look into it. They were supposed to contact them but haven’t heard from them. The worst that they would have to do is close off that one entrance.

Commissioner Yohn asked if anyone is in favor of or opposition to this application.

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY

RESOLUTION NO: 2014 – SPU - 1

RE: APPLICATION OF MANUEL FABIAN CASTILLO-ORTIZ AND JESSICA CASTILLO FOR A SPECIAL USE PERMIT TO ALLOW THE OPERATION OF A USED CAR SALES LOT AND AUTO REPAIR SHOP IN ALAMOSA COUNTY, COLORADO.

Commissioner Dunne moved for the adoption of the following Resolution.
Commissioner Allen seconded the motion.

WHEREAS, Applicants Manuel Fabian Castillo-Ortiz and Jessica Castillo have submitted an application for a special use permit to allow the operation of a used car sales lot and auto repair shop in Alamosa County on the following property:

A tract of land in Section 31, Township 38 North, Range 10 East, N.M.P.M., more particularly described as follows:

Beginning at a point in the SW ¼ of Section 31 from which the Southwest corner of said Section 31 bears South 05°24' West 1035.28 feet; thence South 61° 56 ½' East 285.37 feet; thence North 01° 26' East 427.80 feet; thence North 89° 36' West 260.48 feet; thence South 00° 24' West 295.23 feet to the point of beginning, in Alamosa County, Colorado.
said property being zoned Rural (RU) District; and

WHEREAS, a public hearing was held before the Alamosa Planning Commission on July 9, 2014, to consider said application

WHEREAS, a public hearing was held before the Board of County Commissioners on July 23, 2014, to consider said application;

WHEREAS, proper notice was provided as required by law; and

WHEREAS, there were no individuals who expressed opposition to the application; and

WHEREAS, the Board of County Commissioners has considered the application, and finds that the application meets all the requirements of the Alamosa County Land Development Code pertaining thereto; and

WHEREAS, the proposed use is consistent with the objectives and purposes of the Alamosa County Land Development Code.

IT IS THEREFORE RESOLVED AND ORDERED that the Special Use Application to allow the operation of the above mentioned business upon the above-described property is hereby granted as a Special Use pursuant to the Alamosa County Land Development Code under Article 8, Section 8.8 subject to the following conditions:

1. The number of vehicles for sale onsite shall not exceed 25;

2. If all requirements are met and the license is granted, said license shall be provisional subject to the issuance of a State license within one-hundred and eighty (180) days;

3. Hours of operation are limited to 8:00 a.m. – 6:00 p.m., Monday Through Saturday.

4. Accumulation of salvaged cars, scrap, or any other potential blight and refusal to remove said blight is grounds for the revocation of this Special Use Permit;

5. Applicant shall properly handle and dispose of all hazardous waste as mandated by the State; failure to comply with proper handling and disposal shall be grounds for revocation of this Special Use Permit.
Passed by roll call vote: Allen, Dunne and Yohn all in favor.

DATED this 23rd day of July, 2014

BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY

(SEAL)

By Michael Yohn, Chairman

ATTEST:

Melanie Woodward, Clerk of the Board

There being no further business, the Public Hearing for Special Use Permit Manuel F Castillo-Ortiz was adjourned.

ATTEST:

Belina Ramirez, Office Manager
Carol Osborn, Assistant Administrator

Mike Yohn, Chair
Marianne Dunne, Vice-Chairman
Darius Allen, County Commissioner