

CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: February 4, 2016

AGENDA TITLE: Public hearing and consideration of a **Use Review** application, no. LUR2015-00105, for approval of a medical office, the Alpine Eyecare Center, an optometry clinic by converting the existing skin care clinic use. The building is located at 2449 Pine Street within the Residential - Mixed 1 (RMX-1) zoning district.

Applicant: Charles Beatty

Owner: Boulder Vision, LLC, a Colorado limited liability company

REQUESTING DEPARTMENT:

Planning, Housing + Sustainability

David Driskell, Executive Director

Susan Richstone, Deputy Director

Charles Ferro, Development Land Use Review Manager

Elaine McLaughlin, Senior Planner

OBJECTIVE:

1. Hear Staff and Applicant presentations
2. Hold Public Hearing
3. Planning Board discussion
4. Planning Board action to approve, approve with conditions, or deny

Proposal: Request for approval of a medical office, an optometry clinic, by converting the existing skin care clinic use and without any building expansion. The 1,620 square foot building is located at 2449 Pine Street within the Residential – Mixed1 (RMX-1) zoning district.

Project Name: Alpine Eyecare Center

Location: 2449 Pine Street

Size of Tract: 6,817 square feet (0.16-acres)

Zoning: Residential - Mixed 1 (RMX-1)

Comprehensive Plan: Mixed Density Residential

PROCESS:

Per the Land Use Code section 9-6-1, a Use Review is required for a medical office use in the RMX-1 zoning district. Refer to **Figure 1** for a vicinity map. Pursuant to section 9-2-15, "Use Review," B.R.C. 1981, the city manager shall review and submit a recommendation to the Planning Board for any application for a Use Review of a nonresidential use in a residential zone. Refer to **Attachment A** for the applicant's proposed plans.

BACKGROUND:

The project site is located at the northwest corner of Pine and Folsom streets within the RMX-1 zoning district, which is defined in section 9-5-2(c)(1)(D) of the land use code as "*Mixed density residential areas with a variety of single-family, detached, duplexes, and multi-family units that will be maintained; and where existing structures may be renovated or rehabilitated.*" The zoning map is provided in **Figure 2**. The area to the west and northwest of the site are a mix of one to three-story mixed density residential buildings; the area to the east and southeast include a gasoline service station and duplexes along with several other non-residential and residential buildings.

The site has operated for the past 15 years as Susan Melching, Inc. Skin Care which is defined as a “personal service” use under the Land Use Code section 9-16, B.R.C, 1981. This site has also been home to a variety of other non-residential uses over the years. Built in 1935, the building initially was a grocery store and over time it transitioned to other uses including a real estate office and a chiropractic office. City records indicate that the original grocery store was made nonconforming through a rezoning, and that the subsequent office use was approved through a Non-Conforming Review in 1977, although there is very little information on this case or subsequent proceedings. Since none of the non-residential uses that have occupied the site since the office was originally approved in 1977 have constituted an expansion of the use, there have been no subsequent Use Reviews for the property. The existing building as seen in photos in **Figure 3** and **Figure 4**, on the following page, is nonstandard as to setbacks.



Figure 1: Location of Site



Figure 2: Zoning of Site and Surroundings

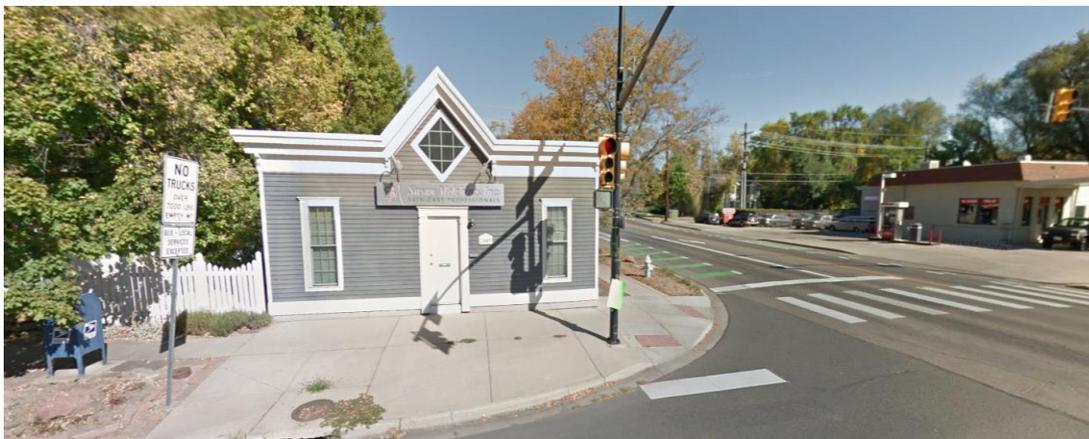


Figure 3: Photo of Existing Building Looking North



Figure 4: Photo of Existing Building Looking Northwest

PROPOSED PROJECT:

The applicant is requesting approval of a Use Review for a small Medical Office (optometry clinic) within the RMX-1 zoning district. There are no plans to expand the building, and several site improvements that may be required at building permit including landscaping if the improvements to the building exceed thresholds for landscape compliance under [section 9-9-12\(b\) B.R.C. 1981](#). Improvements could include, but are not limited to, parking lot screening and additional street trees. In addition, the applicant will be required at issuance of the building permit to provide a minimum of four off-street bike parking spaces (two long term and two short term); a van accessible ADA parking space; repairs to portions of the sidewalk on Folsom and Pine streets and construction of a ½ width (nine-foot) of concrete alley adjacent to the property. The city will pave the other ½ of the alley adjacent to the property.

The existing 1,620 square foot building is not proposed to be expanded. Within the RMX-1 zoning district, the required parking for non-residential uses is one space per 300 square feet equating to 5.4 parking spaces. Per the land use code section 9-9-6(c)(1) (B), B.R.C. 1981, "Rounding Rule,"

"For all motor vehicle and bicycle parking space requirements resulting in a fraction, the fraction shall be rounded to the next lower whole number when the required number of spaces is more than five."

Therefore, five parking spaces are required and the applicant is proposing seven, one of which would be striped for ADA accessibility. This will occur after issuance of a building permit as required by the land use code for site improvements.

The operating characteristics are provided in a Management Plan found in [Attachment A](#) and are described by the applicant in the written statement as follows:

There will be one optometrist, myself, and initially a staff of one operating under the practice name Alpine Eyecare Center, PC. I anticipate patient volume will be very similar to Susan Melching's Skin Care Clinic and definitely less than the previous clinic operating at this property from 1978-2000 with two Chiropractors, an acupuncturist and two massage therapists, typically seeing 10-15 patients per hour.

The Skin Care Clinic employed two aestheticians, each seeing 8-10 patients per day for a total of 20 on average. I plan on providing examinations to approximately 10-15 patients per day. Business hours shall be approximately 8:30 am -5:30 pm Monday through Friday with possibly a Saturday morning several times a month, similar to Ms. Melching's Clinic schedule.

ANALYSIS OF USE REVIEW CRITERIA

Applications for Use Review are reviewed for consistency with the criteria set forth in subsection 9-2-15(e), "Criteria for Review," B.R.C. 1981.

Is the proposed use consistent with the Use Review criteria set forth in subsection 9-2-15(e), "Criteria for Review," B.R.C. 1981?

Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

✓ **(1) Consistency with Zoning and Non-Conformity:** The use is consistent with the purpose of the zoning district as set forth in section 9-5-2(c), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The project site is located within the RMX-1 (Residential –Mixed 1) zone district in which "medical office" is a permitted use through Use Review.

✓ **(2) Rationale:** The use either:

N/A (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

Not applicable

N/A (B) Provides a compatible transition between higher intensity and lower intensity uses;

The site is located at the northwest corner at the intersection of Folsom and Pine streets. Folsom Street is an arterial with a high intensity of use of approximately 14,000 vehicle trips per day on average. Directly across Folsom Street from the site is a gasoline service station, which is a higher intensity use than residential. To the west of the site is a small multi-family residential building. Given that the site has operated as a non-residential use for approximately 80 years, the site has continuously served as a transition from the higher intensity service station use and the arterial to the residential uses to the west. This site context can be seen in Figure 5 below.



Figure 5: Photo Illustrating Site with Multi Family Residential to the West and Gasoline Service Station to the East

N/A (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or

Not applicable.

N/A (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (e) of this section;

Not applicable.

- ✓ (3) **Compatibility: The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;**

As noted above under criterion 2B, given the corner location of the site at the intersection of Folsom and Pine streets, the site serves as a transition from higher intensity non-residential uses to the lower intensity residential uses to the west. The relatively small size of the site and building along with operating characteristics that include standard business hours with approximately 10 to 15 patients per day, will be reasonably compatible with and have minimal impact on the use of nearby properties. Given the previous skin care use had a greater number of client visits, the new use will likely result in fewer impacts such as parking impacts. In addition to having seven spaces proposed where five are required, there are approximately 40 on-street parking spaces within one block east and west of the site on Pine Street.

- ✓ (4) **Infrastructure: As compared to development permitted under section 9-6-1, "Schedule of Permitted Uses of Land," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a non-conforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater, and storm drainage utilities and streets;**

The proposed project would not increase impacts on infrastructure for an urban site that has been served by city infrastructure for decades.

✓ (5) **Character of Area:** The use will not change the predominant character of the surrounding area; and

The areas to the west and northwest of the subject site are a mix of one to three-story mixed density residential buildings within the RMX-1 (Residential –Mixed 1) zoning district. The property to the east, across from Folsom Street is a gasoline service station that has been located on that site since the mid-1940s. To the southeast are mixed density residential buildings along with small office buildings along Folsom Street. Further to the south at Folsom and Spruce streets are other non-residential uses including the offices of the Nature Conservancy and auto-repair shops. As a small non-residential office use, the site will operate much as it has in this context since the 1930s and will therefore not change the predominate character of the surrounding area.

N/A (6) Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in subsection 9-5-2(c)(1)(a), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.

Not Applicable, as there are no existing residential uses located on the subject site.

PUBLIC COMMENT AND PROCESS

Required public notice was provided in the form of written notifications to property owners within 600 feet of the subject property. In addition, a public notice sign was posted on the property and therefore, all public notice requirements of section 9-4-3, “Public Notice Requirements,” B.R.C. 1981 were met. Staff received one comment from a neighbor, provided in [Attachment B](#), indicating concerns about the unpaved alley. Staff notes that the alley will be paved adjacent to the site to access the non-residential use, but that the residential alley will remain unpaved beyond the site as many residential alleys in Boulder. However, in further communication staff directed the neighbor to the city’s transportation maintenance division, requests for alley paving through the Inquire Boulder website. The neighbor did communicate her concern. As indicated by the Transportation Department,

“As of September 2015, the Public Works Department has suspended alley paving while it works to develop guidelines for responding to community requests for this type of work. This is one of several operational practices that the department is evaluating as part of the Transportation Master Plan (TMP) implementation, including snow and ice control and pavement management. The department wants to create better ways to evaluate alley paving requests against competing priorities for public infrastructure maintenance and improvements as well as with consideration for impacts that can result from turning a gravel alley into a paved one. This process is being initiated in response to the number of alley paving requests received from community members and the need for consistent guidelines that address all potential impacts while balancing maintenance priorities. The Public Works Department expects these guidelines to be complete by the end of 2015, which will be in time for the next paving season. Until then, alley paving services have been temporarily suspended. The department will keep all requests for alley paving open in its Inquire Boulder customer service system until new guidelines are in place to determine next steps on each request.”

STAFF FINDINGS AND RECOMMENDATION

Staff recommends that the Planning Board approve the Use Review application LUR2015-00105, adopting the staff memorandum as findings of fact and subject to the recommended conditions of approval.

RECOMMENDED CONDITIONS OF APPROVAL:

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant** on Jan. 11, 2016 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:
 - a. The Applicant shall operate the business in accordance with the Management Plan dated January 11, 2016 which is attached to this Notice of Disposition except to the extent modified by these conditions of approval.
 - b. The hours of the approved use shall be 8:30 a.m. – 6:00 p.m. Monday through Friday, and 10:00 a.m. through 3:00 p.m. on Saturdays.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to Subsection 9-2-15(h), B.R.C. 1981.
3. The Applicant **shall comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to the following: Non-conforming Use Review #NC-77-36.
4. This **approval shall be limited to Alpine Eyecare Center**, operated consistent with the Applicant's Management Plan dated January 11, 2016. Any changes in ownership shall be subject to the review and approval of the Planning Director. The purpose of such review shall be to inform such subsequent user of this space that it will be required to operate the use in compliance with the terms of this approval.

ATTACHMENTS:

- A: [Applicant's Management Plan and Preliminary Site Plan](#)
- B: [Correspondence Received](#)

Attachment A: Applicant's Management Plan and Preliminary Site Plan

City of Boulder Planning & Development Services
1739 Broadway 3rd Floor
Boulder, CO 80302
Attn: Elaine McLaughlin

11 Jan 2016

Re: Land Use Review Application
"Management Plan"
Alpine Eyecare Center
2449 Pine Street
Boulder, CO 80302

Elaine McLaughlin:

May this letter serve as a Management Plan for the medical office, Alpine Eyecare Center to do business at 2449 Pine Street in Boulder, Colorado.

Alpine Eyecare Center proposed hours of operation are:

Monday-Thursday: 8:30am-6pm Friday: 9-5pm 2nd -4th Saturday of Month: 10-3pm

Alpine Eyecare Center will initially employ one person in addition to the owner-operator/doctor. Plans to hire an additional two employees after 8-12 months when business can support the staff.

Alpine Eyecare Center will not require any changes to the structure or land to conduct its business practice. After re-striping the parking lot, it will accommodate seven total vehicles including handicap van access; reducing it prior capacity by one vehicle. The business does not for-see use of on-street parking, and if so will not be more than one vehicle on Pine Street. Bike rack facilities for ease of patient use will be provided.

Trash/recycling has been contracted with Western Disposal Services typically occurring on Wednesdays between 8am-5pm.

Deliveries are anticipated to be equivalent to the prior owner, Susan Melching. Typically two to three deliveries/pick-ups per day maximum including common carriers such as FedEx, USPS, UPS and/or courier services. Deliveries will be executed during standard business hours.

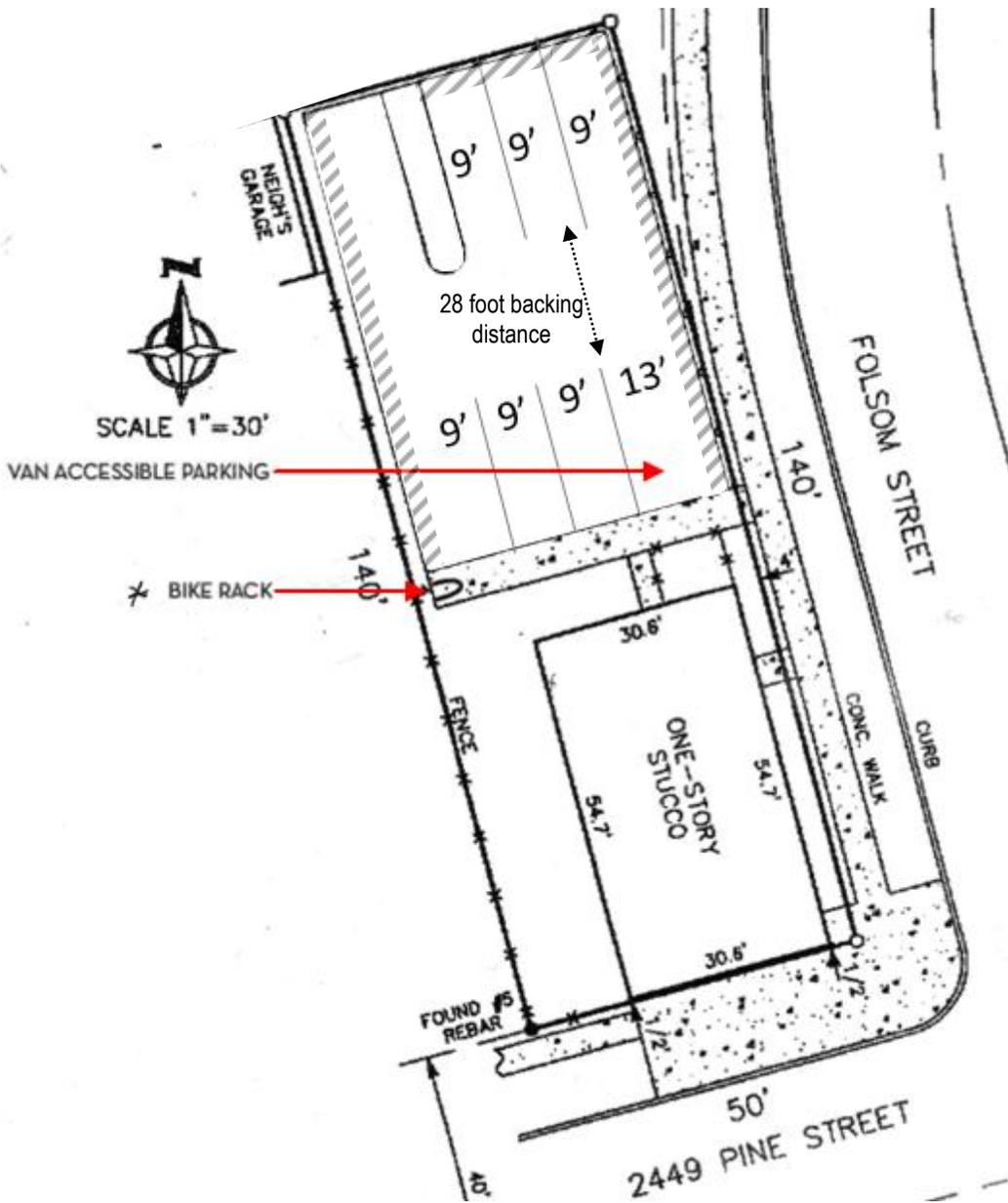
Please feel free to contact me regarding any informational needs during this Use Review process.

Sincerely,



Chuck Beatty, OD

Optometrist, President Alpine Eyecare Center



2449 Pine: Alpine Eye Care Center Preliminary Site Plan

January 11, 2016

Attachment B: Correspondence Received

-----Original Message-----

From: [REDACTED]
Sent: Thursday, November 19, 2015 3:51 PM
To: McLaughlin, Elaine
Subject: Re: 2449 Pine St

Re: 2449 Pine St
LUR2015-00105

I am a home owner in the alley where the Optometry office is being considered. My concern is for the wear and tear to the alley that comes from a business being located at that south west corner.

For years, there have been deep potholes and damage, particularly at that end but also throughout the alley as a direct result of increased traffic due to a business.

Communication with the City would occasionally result in attention and repair, but the situation would recur again and again.

If the zoning allows a business of that nature at that alley end, And if there is no recourse to change that, then I strongly plea that the City apply a permanent, hard surface to the alley that is appropriate for the increased traffic, that prevents potholes and dust.

As property taxes increase, I feel that property value in the alley is negatively affected by the deteriorated condition and the increased traffic that a business on that corner brings.
A proper resurfacing would help solve this situation.

Please inform me when the public neighborhood hearing and the Planning Board hearing will be scheduled.

Thank you for your consideration.
Ellen Spiller
2425 1/2 Pine Street
80302
Sent from my iPhone