

APP-CE-21-004

Mindy Madden
Mike Desmond

Procedure

Staff shall first present the item and provide testimony and evidence to support the PCD Director's decision to issue an executive determination in this matter.

The appellant(s) shall then be given an opportunity to address the Board and present any testimony and/or evidence. The Board may then ask any final questions of staff or the appellant(s) prior to rendering a decision.

Procedure Cont.

The Board, in considering the testimony and evidence presented by both staff and the appellants, shall either:

- Move to deny the appeal, thus affirming the decision of the PCD Executive Director; or
- Move to approve the appeal, thus overturning the decision of the PCD Executive Director.

Property Information

- 24215 State Highway 94 (Parcel No. 24180-01-003)
 - Located approximately 0.39 miles east of North Ellicott Highway on the southside of State Highway 94.
- A-5 (Agricultural) zoning district
- Ten (10) acres
- Commissioner District 4

Vicinity Map



Violation

Ordinance No. 18-02 Prohibiting the Accumulation of Rubbish

Section 4 of the Ordinance defines rubbish as:

Any trash, junk, garbage, litter, refuse, debris, outside storage of used tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, part 1 of article 20 of title 30, C.R.S., and any rules and regulations promulgated thereunder), lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or packaging, remnant construction or demolition materials, vehicle parts, abandoned or junk equipment, used appliances or furniture, oil, carcasses of dead animals, any object likely to injure any person or create a traffic hazard, or any other object which has been discarded or abandoned.

Section 5 of the Ordinance states:

It shall be unlawful for any owner to allow the accumulation of rubbish on any lot, parcel, or tract of land in the County under such owner's control, possession, or ownership, or upon any alley or sidewalk, adjacent to such lot, parcel, or tract of land.

Timeline

- March 18, 2021: Initial complaint received
- June 4, 2021: Notice of violation issued
- August 25, 2021: Additional complaint received
- September 14, 2021: Executive Determination issued
- September 24, 2021: Request for appeal received
- October 12, 2021: Additional complaint received

Agricultural Classification

Allen and Tara Heinze, residing at 24215 sh-94 calhan co 80808, request a hearing before the EPCBCC. We do not agree with the charge of “accumulation of rubbish” and furthermore are exempt from the ordinance by the general assembly’s plain and ordinary meaning of the term “agriculture property”. Ordinance 18-02 clearly states this ordinance “shall not apply to agriculture properties”. The planning zoning department has been made aware of this conflict and state that something extra needs to be filed. The intent of the general assembly is very clear by their choice in words and the defining of “agriculture property”.

Section 3.3 of the Ordinance states:

This Ordinance shall not apply to industrial tracts of ten (10) or more acres nor to agricultural land, as such terms are defined by this Ordinance.

Section 4 of the Ordinance defines Agricultural Land as:

Any parcel of land presently classified as agricultural use by the El Paso County Assessor’s Office, as defined and subject to the restrictions contained in C.R.S. 39-1-102(1.6).

**Pictures taken prior to the issuance of the
Executive Determination**



9.1.2021 14:59



9.1.2021 15:01





9.1.2021 14:59



9.1.2021 14:59



9.1.2021 15:00

Pictures taken on 11.10.2021



11.10.2021 17:21



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11.10.2021 16:52



11.10.2021 17:18



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11.10.2021 17:17

Recommendation

Staff recommends that the Board deny the appeal and affirm the decision of the PCD Executive Director to issue an executive determination to authorize the OCA to proceed with litigation.

Questions for Staff?
