

Lisa Elgin

From: Leslie Hicks <lgh-lgh@hotmail.com>
Sent: Monday, August 19, 2024 11:44 AM
To: Lisa Elgin
Subject: Letter of Opposition RE: Application for Proposed Land-Use Project @ 11130 Burgess Lane
Attachments: Jan-Lee Acres - Restrictive Covenants.pdf
Categories: Orange Category

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Dear Ms. Elgin:

I am writing regarding the application from Leah Zehnder's for 11130 Burgess Lane ALQ for Permanent Occupancy. I wholeheartedly object to this proposal. As a resident of this neighborhood for more than 30 years, I can tell you that there are several inaccuracies and untruths in the Letter of Intent from Ms. Leah Zehdner. There are also a many additional reasons that this proposal should not be granted. The following items reflect the inaccuracies written in Mrs. Zehdner's proposal and other reasons to reject this proposal.

(1) *Mrs. Zehdner stated, "This special use is compatible with the master plan of the neighborhood."*

That is not factual. This proposal is in direct violation of the Jan-Lee Covenants which specifically state that "No structure of a temporary nature, tent, shack, garage, basement, barn, trailer home, etc. shall be occupied or used as a residence temporarily or permanently..."

Furthermore, the Jan-Lee Covenants state, "If any owner of a tract, or any person, shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for any owner of property in this subdivision to prosecute proceedings at law or in equity against the violator to prevent the violation or recover damages of the violations."

All properties in the Jan-Lee subdivision, including 11130 Burgess Lane, are encumbered by and subject to, the terms and conditions of these restrictive covenants adopted in 1963 and recorded with the Clerk and Recorder of El Paso County. I have included a copy of the covenants for your information.

(2) *Mrs. Zehdner states, "There is another special use that was approved at 11165 Burgess Lane."*

This is not accurate. The property owner at 11165 Burgess Lane did not add a second dwelling unit. The owner of this property added a second story onto an existing home by building over his

existing garage. It is an addition to the original building and looks exactly like the rest of his home and is completely compatible with his home and the property. The owners live in their home, and their adult daughter occupies the second story addition over the garage. (It has never been used as a rental, nor occupied by non-family members.)

In the case of the property at 11130 Burgess Lane, Leah Zehnder is an absentee owner. She rents the primary dwelling at this address and rents the trailer (second dwelling) on the property. She is renting both dwellings right now. I seriously question that Mrs. Zehdner is looking to have this second dwelling occupied by an ailing family member. If that is the case, I would ask why Mrs. Zehdner and her family do not live on the main residence to assist this person. In addition, how can an infirmed resident be a "caretaker" of the property, as she stated. It is also noteworthy that Mrs. Zehdner has the second dwelling (trailer) at the address listed with the county assessor as being owned by Ginger Bookkeeping, LLC with an address to a post office box in Monument, CO. Mrs. Zehdner has the primary dwelling 11130 Burgess Lane, which is also rented, listed as being owned by Burgess Lane, LLC, with the address also at a post office box in Monument, CO. It is curious to me that the address provided to you on her application is from the CTMS Group (a third LCC) and has an address to a post office box in Briargate. I believe that this puts into question the idea that Mrs. Zehner's motivation to "legalize" the second dwelling is to help a family member and is more likely to be a quest to "legalize" another source of income for her business of renting properties.

Leah and her family moved from their Burgess Lane property about a year ago and rent three structures on Burgess Lane. The primary home at 11130 Burgess Lane, the trailer on that property, and the home on the adjacent property. When the Zehdner's did live on Burgess Lane there was a revolving door of occupants in the second residence at 11130 Burgess Lane (the trailer). Several occupants were suspected of aiding Mr. Duane "Chevy" Zehdner, Leah's husband, in an illegal marijuana grow on the property. The residents of the trailer, along with Mr. Zehdner, harassed the resident in the adjoining property to the extent that they sold their property and moved. That neighbor was in regular contact with law enforcement regarding this situation.

(3) *"The special use is in harmony with the neighborhood."*

This is not factual. Every other parcel on Burgess Lane contains ONE single-family home (in addition to some out-buildings, such as barns, workshops, etc.) None have multiple, detached, residential dwellings. The second-dwelling proposal for the property at 11130 Burgess Lane is to "legalize" and make permanent a 1998 single-wide trailer and is not in harmony with anything in the neighborhood. Not to mention it is placed very close to the fence of the neighbor and is right in front of the main entrance to their home. It is in violation of the aforementioned covenants.

(4) *"It was originally approved by the neighbors."*

The original property owner, Frank Jarocki, had a brother who became disabled and needed a place to live. Mr. Jarocki asked the neighbors if we would allow him to bring a trailer onto his property on a TEMPORARY basis as accommodation for his brother. It was understood by all that this was a temporary arrangement to meet the medical care and housing needs of his brother.

Frank was a long-standing member of the neighborhood, and he was genuinely in need. We approved this proposal knowing that it was a temporary situation.

After the deaths of both Frank and his brother, the property was sold to the Zehnder's and instead of removing the trailer, they used it as a rental unit. This was never condoned by the neighbors and many attempts have been made over the years to have it removed.

Several complaints have been made to El Paso County Code Enforcement regarding the trailer (2011-2023). We have been informed by Code Enforcement that the trailer could NOT be used as a dwelling place and/or a rental unit. Inspectors have come out and citations have been issued, which we assume are in your records. There have also been two law enforcement raids on this property because of illegal marijuana grows and owner, Duane Zehdner, was charged. As stated before, it is our understanding that at least some of the occupants of the trailer were assisting in this illegal activity and most certainly engaged in the harassment of the neighbors.

5) *“RR-5, Residential Rural District - The RR-5 zoning district is a 5 acre district intended to accommodate low density, rural, **single-family** residential development. “*

The properties on Burgess Lane, including 11130 Burgess Lane, are zoned RR-5. The wording in Mrs. Zehdner's application to "legalize" the second residence (the trailer) is evidence that she is aware that this structure is not there legally. In addition to RR-5 properties being zoned for a single residence, it is my understanding that there should only be one well and one septic system to accommodate the needs of the main house. I do not know the arrangement for these services among the two residences at 11130 Burgess, but they either put in a second well and septic for the trailer or are sharing those services among the two residences. In either case they would be in violation of county zoning guidelines.

Based on the reasons stated above, I want to make known by opposition of the application to legalize and make permanent occupancy of the trailer at 11130 Burgess Lane. It is in violation of the covenants of Jan Lee Estates, it is not consistent with the applicable master plan of the area of RR-5 zoning, numerous citations have been issued from El Paso County regarding this trailer and have been ignored, there is a history of criminal activity at the residence, and it is not in harmony with the character of the Burgess Lane neighborhood. I am asking that this proposal be denied and hope for the removal of the trailer from the property at 11130 Burgess Lane.

Sincerely,

Leslie Hicks

11240 Burgess Lane

Colorado Springs, CO 80908

Filed at 5:07 o'clock P. M. AUG 22 1963
303701 HARRIET BEALS

BOOK 1971 PAGE 423

RESTRICTIVE COVENANTS FOR JANI-LEE ACRES
A SUBDIVISION OF EL PASO COUNTY, COLORADO

(E 1/2 of NW 1/4, Section 24, Township 12, S Range 66 West of 6th P. M.)

WHEREAS James R. Walker, Janet G. Walker, Samuel A. Pobinson and Leone W. Pobinson, being the owners of the above described property and being desirous of facilitating a harmonious and attractive development of same so that the comfort, convenience and general welfare of the owners and occupants may be protected, do hereby declare that they establish the following:

These residential covenants shall apply to all tracts of the parent property described herein and shall be in addition to all county restrictions and requirements.

1. All tracts shall be used for residential homes only, except that church structures shall be permissible on any lot.
2. No dwelling except split level and 2 story shall be permitted to be constructed having less than 1200 square feet of ground floor living area exclusive of porches and garages and all dwellings must be equipped with modern sanitation facilities properly connected to a septic system approved by the County Board of Health.
3. No structure shall exceed 2 stories in height and all structures shall be approved as to design by the Architectural Control Committee before construction. The Architectural Control Committee to be composed of the present owners of the property as named above and any three of same may approve. In event the committee fails to approve or disapprove the design of a structure within 30 days of submission to committee, then it shall be presumed that the design has been approved provided all other restrictions are fully observed. At any time, the record owners of a majority of the lots in the subdivision may change the membership of the committee. In event of death, resignation or absence of any member of the committee, the remaining members shall have full authority to act and designate a successor.
4. No building shall be located on any tract nearer to the front line (road line) than 50 feet and no structure shall be erected over a platted easement. Owners of record at covenant filing date shall not be responsible for the clearing of any utility easement right of way along the side line of any individual tract.
5. No structure of a temporary nature, tent, shack, garage, basement, barn, trailer home, etc. shall be occupied or used as a residence temporarily or permanently provided, however, that any residential structure that has been completed on the outside may be occupied if interior is to be completed promptly.
6. No noxious or offensive activity shall be carried on which may be or become a nuisance or annoyance to the neighborhood. No oil drilling, refining, quarrying, or mining operations to be permitted and no derrick or other structure designed for use in such development shall be erected.
7. Purchasers of individual tracts accept existing road as is and future maintenance or improvements to obtain county acceptance for maintenance shall be the responsibility of individual tract owners.

(Restrictive Covenants continued - Jan-Lee Estates)

- 8. No person shall be allowed to keep, breed, or raise animals or fowl for commercial purposes. This restriction shall not be construed to prohibit 4 H projects, household pets and horses, kept for recreation and pleasure, if properly confined to prevent damage to others property. A pen or corral shall not be constructed within 100 feet of any existing residence on an adjacent lot.
- 9. Each tract shall at all times be kept in a clean sightly condition, and all trash and garbage to be kept in sanitary containers.
- 10. No fence or wall to be erected in the area in front of dwelling structures in excess of 4 feet in height.
- 11. These covenants and restrictions are to run with the land for one year from date of recording and shall automatically be extended each year, unless an instrument signed by the majority of tract owners shall be recorded agreeing to change the covenants and restrictions in whole or part.
- 12. If any owner of a tract, or any person, shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for any owner of property in this subdivision to prosecute proceedings at law or in equity against the violator to prevent the violation or recover damages for the violation.
- 13. Invalidation of any of these covenants or restrictions or any provisions hereof, shall in no way affect any of the other covenants or restrictions and same shall remain in full force and effect.

IN WITNESS WHEREOF the owners have this 11th day of April 1963 caused this document to be signed.

James R. Walker
Samuel M. Robinson
Leone W. Robinson

State of Colorado)
) SS
County of El Paso)

The foregoing instrument was acknowledged before me on the 11th day of April 1963 by James R. Walker, Samuel M. Robinson and Leone W. Robinson

