

VARIANCE OF USE (Approved)

Commissioner Creely moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. VA-19-004
BSK Investments Contractor's Equipment Yard

WHEREAS, BSK Investments, LLC, did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zoning district to permit a contractor's equipment yard and accessory retail sales incidental to the principal use where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on October 15, 2019; and

WHEREAS, based on the evidence, testimony, exhibits, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the Planning Commission Members during the hearing, this Commission finds as follows:

1. That the application was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. That all exhibits were received into evidence.
5. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That the proposed variance of use conforms to Chapter 5, Use and Dimensional Standards, Section 5.3.4, Variance of Use, of the El Paso County Zoning Resolutions.

7. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County, and

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Planning Commission considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or Federal regulations during construction and upon completion of the project;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED that the application of Herbertson Family Living Trust for a variance of use within the RR-5 (Residential Rural) zoning district to permit a contractor's equipment yard and accessory retail sales incidental to the principle use where such is not a permitted use for the following described unincorporated area of El Paso County be approved:

See Appendix A

AND BE IT FURTHER RESOLVED that the Planning Commission recommends the following condition and notation(s) shall be placed upon this recommendation:

CONDITIONS

- 1. Approval is limited to the renewal of the previously approved variance of use for a contractor’s office and equipment yard as depicted in the applicant’s letter of intent and site drawings.
- 2. This variance of use approval shall be deemed abandoned, and of no further force and effect, if the primary intended use and/or activity has not been substantially implemented upon the approved site within one (1) year of the Board of County Commissioners' variance of use approval, or if implemented, has been discontinued for a period of one (1) year. For the purpose of this condition, this variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.
- 3. Storage of junk or inoperable and unregistered vehicles is prohibited.
- 4. The parking of vehicles or equipment along Utah Lane is prohibited.
- 5. Retail sales shall be incidental to the principal use for which the variance is granted and shall not be marketed to passer-by traffic along the Woodmen Road corridor.

NOTATIONS

- 1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
- 2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
- 3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

AND BE IT FURTHER RESOLVED that this Resolution and recommendations be forwarded to the El Paso County Board of County Commissioners for its consideration.

Commissioner Lucia-Treese seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Risley	aye
Commissioner Lucia-Treese	aye
Commissioner Brittain Jack	aye
Commissioner Dillon	aye
Commissioner Creely	aye

The Resolution was adopted by a vote of 5 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: October 15, 2019



Brian Risley, Chair

EXHIBIT A

VA-19-004

LEGAL DESCRIPTION: 7340 UTAH LANE

A TRACT IN THE N $\frac{1}{2}$ OF SECTION 8, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PM DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SAID SECTION, THEN SOUTH ON THE WEST LINE 1,090 FEET TO THE POINT OF BEGINNING, THENCE ANGLE LEFT 90°17'30"E, A DISTANCE OF 535.14 FEET, THENCE ANGLE LEFT PARALLEL TO THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ A DISTANCE OF 230 FEET, THENCE ANGLE LEFT PARALLEL TO THE NORTH LINE OF SAID SECTION A DISTANCE OF 949.34 FEET, THENCE ANGLE LEFT AND RUNNING SOUTH PARALLEL TO THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ A DISTANCE OF 230 FEET MORE OR LESS, THENCE ANGLE LEFT 90°17'30" A DISTANCE OF 414.2 FEET MORE OR LESS TO THE POINT OF BEGINNING EXCEPTING THE EASTERLY 15.0 FEET, AND TOGETHER WITH RIGHT OF WAY AND EASEMENT AS DESCRIBED BY BOOK 2825 AT PAGE 320 OF THE RECORDS OF EL PASO COUNTY, COLORADO.