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Board of County Commissioners

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, March 21, 2024
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: THOMAS BAILEY, SARAH BRITTAIN JACK, JIM BYERS, JAY CARLSON, BECKY FULLER, BRANDY MERRIAM, BRYCE SCHUETTPELZ, WAYNE SMITH, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: JEFFREY MARKEWICH, ERIC MORAES, KARA OFFNER, AND TIM TROWBRIDGE.

STAFF PRESENT: JUSTIN KILGORE, ASHLYN MATHY, DANIEL TORRES, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: STEVE SEDER, STEVE BAGGS, AND KEITH KLAEHN.

1. REPORT ITEMS

Mr. Kilgore advised the board that the PC Hearing scheduled for Thursday, April 4, 2024, has been cancelled for a lack of projects ready for consideration.

2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA (NONE)

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held March 7, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (9-0).

**MAP AMENDMENT (REZONING)
6225 VESSEY RD - REZONE**

A request by Pawel Posorski for approval of a Map Amendment (Rezoning) of 6.02 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located at 6225 Vessey Road, approximately half a mile east of the intersection of Vessey Road and Neva Lane. (Parcel No. 5206000107) (Commissioner District No. 1)

NO PUBLIC COMMENT

DISCUSSION

Mr. Whitney mentioned that all immediately adjacent properties are zoned RR-5, but the staff report states the subject property is surrounded by smaller lots, some 2.5 acres, etc. He asked for clarification regarding the surrounding lot sizes not being compliant with the zoning (RR-5).

Ms. Mathy explained that zoning districts like RR-5 were sometimes put in place early on (1950s - 1960s) where lots already existed and did not meet the new zoning requirements. They may have already gone through the BOA process or still need to go through that process. She stated the situation was common in the subject area. She added that RR-2.5 does occur east of the subject property, and to the west, there is a PUD which includes 2.5-acre lots.

Mr. Bailey reiterated that "legal non-conforming lots" are common in the subject area.

PC ACTION: MS. FULLER MOVED / MS. BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER P241 FOR A MAP AMENDMENT (REZONING), 6225 VESSEY RD - REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-1).

IN FAVOR: BAILEY, BRITAIN JACK, BYERS, CARLSON, FULLER, MERRIAM, SCHUETTPELZ, AND SMITH.

IN OPPOSITION: WHITNEY.

COMMENTS: **Mr. Whitney** explained that while he understands the circumstance of legal non-conforming lots, building upon the situation doesn't seem like the right thing to do. He doesn't like the implication that RR-2.5 and RR-5 are interchangeable. **Ms. Fuller** asked if Mr. Whitney viewed this proposal as leapfrog development or spot zoning? **Mr. Whitney** clarified that he believes zoning should mean something. If there were no difference between RR-2.5 and RR-5, then they should have been called something different. His concern is that the Large Lot Residential Placetype essentially trumps and emasculates the two distinct zoning classifications of RR-2.5 and RR-5. **Mr. Bailey** wondered if zoning the area RR-5, when several 2.5-acre lots already existed, was the correct thing to do. **Mr. Whitney** stated that ultimately, he believes the zoning designation should mean something and it shouldn't be too easy to disregard.

4. CALLED-UP CONSENT ITEMS (NONE)

5. REGULAR ITEM

A. VR2319

MATHY

VACATION AND REPLAT SEDER SUBDIVISION - VACATE AND REPLAT

A request by Steve Seder for approval of a 9.37-acre Vacation and Replat creating two industrial lots. The property is zoned M (Industrial) and is located at 2725 Akers Drive approximately one tenth of a mile south of the intersection of Electric Drive and Akers Road. (Parcel No. 5332002015) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Whitney asked for more information regarding the property's enclave designation.

Ms. Mathy clarified that the enclave key area is used if a property is surrounded by or is adjacent to an incorporated area. The subject property is immediately adjacent to Colorado Springs.

Mr. Whitney mentioned that the clean-up seems to depend on the division and sale discussed.

Ms. Mathy explained that there is an associated Code Enforcement case. A large amount of roofing materials need to be removed from the property. For the owner to finance that process and meet all deadlines set by the State and County, they are proposing to sell part of the property.

Mr. Whitney asked if there was anything preventing the owner from selling part of the property and then taking a vacation.

Ms. Mathy answered that conditions of approval were added to ensure materials are removed in a timely matter. The State has stipulated it must be done within 90 days from the sale of the lot.

Ms. Seago added that nothing prevents the owner from taking a vacation, but the Code Enforcement case will continue.

Ms. Merriam mentioned that CDOT may be widening Marksheffel Road.

Ms. Mathy confirmed and referred to the revised Plat. Adequate space for right-of-way designation has been ensured where the property abuts Marksheffel Road.

Ms. Merriam asked if access to the property was changing with the Replat. She asked if there would be sufficient access for the clean-up.

Ms. Mathy confirmed. She referenced the revised Plat again. A company will be contracted to assist in the safe removal of debris.

Ms. Merriam asked where the debris was located on the property.

Ms. Mathy stated the materials that need to be removed are on the back side of the property.

Ms. Merriam asked if large trucks would be able to access the materials.

Ms. Mathy explained that the width of access on the flag lot is verified to meet standards. Trucks will be able to access the lot. The industrial zoning type was taken into consideration.

Ms. Merriam asked if the City of Colorado Springs had provided any review comments. (They did not.) She then asked how underground debris would be handled if or when ownership changes.

Ms. Mathy replied that she is unaware of any buried debris.

Ms. Seago stated that subsurface contamination is not addressed by County Code Enforcement. It may be an issue handled by CDPHE, which is already involved with the property.

Mr. Kilgore addressed earlier comments. The subject property *is* within a large enclave; the Cimmaron Hills area. He added that the property is located off Akers Drive, which gets significant industrial traffic. The staff presentation concluded. The applicant's presentation began.

Ms. Brittain Jack asked for verification that the zoning district for the property will remain M (Industrial). She asked if further action would be required for the existing building to remain in use.

Ms. Mathy answered that any new structures on the lot would need to be reviewed by PCD (as either Site Plan or Site Development Plan). The zoning district will not change.

Mr. Byers asked about the possibility of the subdivided lot not selling.

Ms. Steve Seder, the applicant, replied that he did not foresee that happening. The lot was already listed for sale. Multiple offers have been received. Finalization of a sale cannot be done until the subdivision process has been completed.

Mr. Byers asked if a purchase/sale agreement was in place. (There was not.) He then asked if the existing water maintenance pond functions. He asked if the pond will be shared after the subdivision and have a shared maintenance agreement.

Mr. Steve Baggs, with Baseline Engineering Corp., confirmed the pond functions and would be shared with a maintenance agreement following subdivision. It currently serves the entire area. As future plans are submitted to the County, the drainage report would be verified.

Mr. Byers asked if the 90-day timeline was achievable. He further asked if asbestos was present. As materials are removed from the property, will air quality be ensured?

Mr. Seder confirmed that no asbestos is present. Extensive testing was done on the material. He is not concerned about the material blowing away because it is a heavy weight. Regarding the timeframe of 90 days, 52,000 tons of material have already been removed. After spending \$1.3 million, they ran out of money to complete the job. When considering the rate at which they were able to remove material previously, he is confident 90 days will be sufficient after the sale. CDPHE will complete a final inspection.

Ms. Fuller asked about the history of the business.

Mr. Seder spoke about their asphalt recycling business endeavor. He mentioned two businesses that purchased recycled material in the past, but they were bought by a company that did not

want to use recycled shingle. One patent he owns is for a paving brick made of recycled shingle. Another patent is for an asphalt mulch. He stated landscaping contractors didn't want to use the mulch because it was too efficient (they wouldn't need to return for maintenance/continued business). He then spoke about their future plans for the site. They intend to sell the portion of the lot with the existing structure, and then once the remaining material is removed, turn the back portion of the lot into RV storage to serve the surrounding community.

Mr. Whitney asked where the material was taken after removal.

Mr. Seder answered that it goes to a landfill.

Ms. Fuller reiterated there is nothing hazardous in the material. She mentioned there were extra dump fees because of the weight. She asked if there was existing financing on the property.

Mr. Seder replied that there is an existing, small mortgage on the property. After the sale, there will be enough money to complete the removal process and pay off the existing loan.

Mr. Bailey added that there are significant drainage and bridge fees associated with the project.

Mr. Seder agreed. The sale of the lot will cover those expenses as well.

Mr. Carlson clarified that the front part of the property (with the existing building) currently serves the applicant's roofing business and is the portion that will be sold. (Mr. Seder confirmed.) He further clarified that the applicant would keep the back part of the property. (Mr. Seder confirmed.)

NO PUBLIC COMMENTS

DISCUSSION

Ms. Fuller complimented the Seder's for their efforts regarding their business. She believes the proposal meets all criteria and will be in favor of the application.

PC ACTION: MR. CARLSON MOVED / MR. SCHUETTELZ SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER VR2319 FOR A VACATION AND REPLAT, SEDER SUBDIVISION - VACATE AND REPLAT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH EIGHT (8) CONDITIONS, ONE (1) NOTATION, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

6. NON-ACTION ITEM

- A.** A presentation by the Defense Mission Task Force (DMTF) regarding Base Protection Opportunities provided by Keith Klaehn, Chairman of the DMTF.

MEETING ADJOURNED at 10:52 A.M.

Minutes Prepared By: Miranda Benson