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El Paso County, CO



RESOLUTION NO. 21-400

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO**

**APPROVE VARIANCE OF 3745 MULBERRY VARIANCE OF USE RENEWAL
VA-21-003**

WHEREAS, Mulberry Ridge, 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 A-35 (Agricultural) zoning district to allow use for an observatory and related facilities where such is not permitted for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by this reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on October 7, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use; and

WHEREAS, a public hearing was held by this Board on October 26, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, recommendations of the El Paso County Planning Commission, 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 County Commissioners during the hearing, this Board finds as follows:

- 1. That the application for the variance of use was properly submitted for consideration by the Board of County Commissioners.**
- 2. That proper posting, publication and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.**
- 3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted, and that all interested persons and the general public were heard at those hearings.**
- 4. That all exhibits were received into evidence.**
- 5. That the proposed land use does 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 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.

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Board of County Commissioners 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 the Board of County Commissioners of El Paso County, Colorado, hereby approves the application by Mulberry Ridge, LLC for a variance of use to allow an observatory and related facilities where such is not a permitted use for the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by this reference;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Approval is limited to the observatory and accessory structures as proposed and discussed in the applicant's letter of intent. Any subsequent addition or modification to the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
2. A site development plan shall be applied for and approved within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the Planning and Community Development Department Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval

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 the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

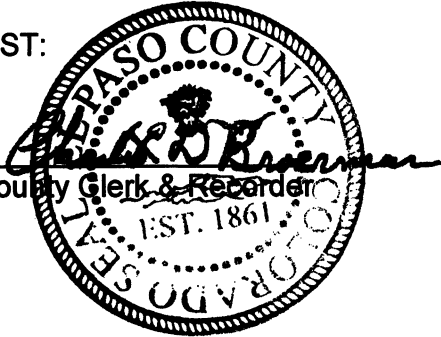
DONE THIS 26th day of October 2021, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By:

County Clerk & Recorder



By:

Chair

Stan T. Vandeweyer

EXHIBIT A

Property Description (PER Rec. No. 99112613)

A tract of land in the West ½ of section 26, township 13 South, Range 61 West of the 6th P.M. in El Paso County, Colorado, mor particularly described as follows:

Beginning at the Southwest corner of section 26 at the intersection of Big Springs Road and Mulberry Road; thence North 0°07'44" East along Mulberry Road, 1,751.96 feet;
Thence leaving said road, North 88°30'20" East, 882.18 feet;
Thence South 0°06'27", 1,1751.96 feet to a point on Big Springs road;
Thence South 88°30'21" West, along said road, 882.84 feet to the point of the beginning.