

APP-CE-22-001

Mindy Madden
Mary Ritchie

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 Continued

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.

****Failure to appear at the appeal hearing is deemed a withdrawal of the request for an appeal*

Sovereign Citizen Argument

In Rem Action: Taken against the property itself

- BOCC may exercise jurisdiction over real property within its boundaries.
- The power to adjudicate was based on the presence of the property within El Paso County
- Judgment, if any, assessed and recorded against the property itself

Property Information

- 5480 North Yoder Road
 - Located at the southwest corner of the North Yoder Road and Vorenberg Road intersection.
- A-35 (Agricultural) zoning district
- 40-acres
- Commissioner District 4



Timeline

- August 25, 2021: Initial complaint received
 - ...“abundance of Trash, construction debris, unlivable buildings, junk vehicles, huge incinerator, that they burn toxic trash, fiberglass, plastic etc. the smoke is acrid and noxious, torn apart mobile homes., trash blowing everywhere in storms, at least 25 inoperable vehicles. This property has turned into a complete junk yard in the last 6 months.”
- December 3, 2021: Notice of Violation issued
- December 13, 2021: Email correspondence received from a Mr. Dustin Miles claiming to be counsel for the property owner(s) disputing the Notice of Violation
- January 14, 2022: Executive Determination issued
- January 24, 2022: Request for an appeal received

Applicability

Land Development Code (LDC)

1.3 Applicability: The provisions of this Code apply to the development of buildings, structures, and uses of land throughout unincorporated El Paso County. To the extent permitted by law, this Code applies whether development is conducted by the public, quasi-public or private entities. This Code does not apply to land within the territorial limits of any incorporated municipality.

Ordinance No: 18-02 Prohibiting the Accumulation of Rubbish

3.1 This Ordinance shall apply throughout unincorporated area of El Paso County.

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

Section 4 Definitions: Agricultural Land: 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(106).

LDC Violations

5.2.42 (B)(2): Inoperable Vehicles and Vehicle Parts: The outdoor storage or parking of any inoperable vehicle or recreational vehicle and the outdoor storage of any vehicles parts, shall be prohibited on any lot or parcel used for residential purposes or within a Residential or Agricultural Zoning District, except within the A-35 zoning district where a maximum of ten (10) inoperable non-agricultural vehicles shall be allowed as part of a rural home occupation pursuant to Chapter 5 of this Code.

- In 2018, the Board approved amendments to the Code removing the allowance for parking and storage of inoperable vehicles in the A-35 zoning district. The amendments do allow for a maximum of ten (10) inoperable vehicles as part of a rural home occupation pursuant to Chapter 5 of the Code.
 - There is not a rural home occupation operating on the property that would allow the parking or storage of any inoperable vehicles.
 - The property owner may submit application to PCD for an Administrative Determination if they have information supporting their claim of a legal non-conforming use.

LDC Violations Continued

11.3.1: Unlawful Acts: It is unlawful to use real property or improvements thereon; to develop real property, to erect, construct, reconstruct, remodel, restore or improve a building or structure, or to alter the use of any real property or improvements thereon in any way not in accordance with this Code or with the terms and conditions of any development application approval or development permit, or without first obtaining all development approvals and permits required by this Code.

Ordinance Violation

Ordinance No. 18-02: Prohibiting the Accumulation of Rubbish

Section 5: Unlawful Acts: 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.

- The property is not classified as agricultural use by the El Paso County Assessor's Office and is not exempt from Ordinance No. 18-02.

130000552
5480 N YODER RD
Total Market Value
\$49,600

Overview Land Details Buildings Details Sales History My Community Comper Deeds More

Legal Description: N2N2NE4 SEC 21-13-61 L/MR

LAND DETAILS

SEQUENCE NUMBER	LAND USE	ASSESSMENT RATE	AREA	MARKET VALUE
1	MOBILE ON OWNED LAND	7.150	40 Acres	\$44,600
2	WELL AND SEPTIC	7.150	0	\$5,000



3.2.2022 09:52



3.2.2022 09:59



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3.14.2022 12:54





3.14.2022 12:58



3.14.2022 12:51

Recommendation

Staff recommends that, based on the information provided, 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?
