


**EL PASO COUNTY**  
**COLORADO**

**COMMISSIONERS:**  
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**LONGINOS GONZALEZ, JR. (VICE-CHAIR)**

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**STAN VANDERWERF**  
**CAMI BREMER**

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of County Commissioners**  
**Mark Waller, Chair**

**FROM: Nina Ruiz, Planning Manager**  
**Daniel Torres, PE Engineer II**  
**Craig Dossey, Executive Director**

**RE: Project File #: VA-19-008**  
**Project Name: Mountain Splendor, 2020 Application**  
**Parcel No.: 53080-00-048**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Daniel Combs 7205 Maine Lane Colorado Springs, CO 80923	Daniel Combs 7205 Maine Lane Colorado Springs, CO 80923

**Commissioner District: 2**

Planning Commission Hearing Date:	12/3/2020
Board of County Commissioners Hearing Date	12/22/2020

**EXECUTIVE SUMMARY**

A request by Dan Combs, owner of Mountain Splendor Services, for approval of a variance of use to legalize an existing contractor's equipment yard associated with a landscaping business in the A-5 (Agricultural) zoning district. The five (5) acre property is located approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane.

A variance of use was previously approved for the contractor equipment yard on February 27, 2018 with six (6) Conditions of Approval and three (3) Notations (PCD File

2880 INTERNATIONAL CIRCLE, SUITE 110  
 PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127  
 FAX: (719) 520-6695

No. VA-17-010). Please see attached for additional information and background on the variance of use request approved in 2018.

The variance of use was revoked by the Board of County Commissioners on September 10, 2019, due to the applicant failing to comply with Condition No. 2 requiring the applicant to obtain building permits to convert the existing structures to commercial structures. Please see the revocation staff report attached for additional background and detail regarding the revocation action.

The applicant no longer intends to use the existing residence for commercial purposes but will only utilize the structure for residential purposes. The applicant has now received approval from the Pikes Peak Regional Building Department to legalize the one structure they propose to utilize for commercial purposes. The applicant is now requesting approval of a variance of use to legalize the existing contractor equipment yard.

#### **A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION**

**Request:** A request for approval of a variance of use permit to legalize an existing contractor's equipment yard in the A-5 (Agricultural) zoning district.

**Waiver(s)/Deviation(s):** A waiver has been requested for the screening requirement under Section 6.2.2(D)(2)(c), Opaque Fencing or Wall Required, of the Land Development Code. Instead of constructing a fence or wall, the applicant is proposing to plant fifteen (15) 10-foot tall Austrian Pines along the southern border for screening. The Austrian Pines are intended to create a buffer between the proposed non-residential and the adjacent residential uses. This waiver request is the same as that request included within the 2017 variance of use.

**Authorization to Sign:** There are no documents associated with this application that require signing.

#### **B. PLANNING COMMISSION SUMMARY**

**Request Heard:** As a Regular item at the December 3, 2020 hearing.

**Recommendation:** Approval based on recommended conditions, notations, and waiver.

**Waiver Recommendation:** Approval

**Vote:** 7 to 0

**Vote Rationale:** N/A

**Summary of Hearing:** The applicant was represented at the hearing. Draft PC minutes are attached.

**Legal Notice:** N/A

**C. APPROVAL CRITERIA**

Pursuant to Section 5.3.4 of the Land Development Code, the Board of County Commissioners may consider the following criteria in approving a variance of use:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- 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 County;
- 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;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- 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.

**D. LOCATION**

North: A-5 (Agricultural)	Residential with a similar landscape business
South: City of Colorado Springs	Residential
East: RR-5 (Residential Rural)	Residential/orthodontic office
West: City of Colorado Springs	Commercial/contractor's equipment yard

**E. BACKGROUND**

The unplatted lot was created on April 8, 1968. The property was zoned to the A-4 (Agricultural) zoning district in 1965. Subsequent nomenclature changes have renamed the A-4 zoning district as the A-5 (Agricultural) zoning district. The single-family residence was built in 1972. The pole barn was built in 2000 and the two (2) greenhouses were built in 2002. The current owner purchased the property and established the business, Mountain Splendor Services, on the subject parcel in 2015.

A notice of violation was sent to the applicant on April 20, 2017, following a complaint being received by El Paso County Code Enforcement for the single-family residence being used for commercial purposes. The applicant submitted a request for approval of a variance of use in 2017 to legalize the use on the property. The variance of use was approved for the contractor's equipment yard on February 27, 2018 with six (6) Conditions of Approval and three (3) Notations (PCD File No. VA-17-010). Please see attached for additional information and background on the request approved in 2018.

The variance of use was revoked by the Board of County Commissioners on September 10, 2019, due to failure by the applicant to comply with Condition No. 2 requiring the applicant to obtain building permits to convert the existing structures to commercial structures. Please see the revocation staff report attached for additional background and detail regarding the revocation action. The applicant no longer intends to use the existing residence for commercial purposes but will only utilize the structure for residential purposes. The applicant has now received approval from the Pikes Peak Regional Building Department to legalize the one structure they propose to utilize for commercial purposes. The applicant is now requesting approval of a variance of use to legalize the existing contractor equipment yard.

## **ANALYSIS**

### **1. Land Development Code Analysis**

The Land Development Code defines a contractor's equipment yard as follows:

"A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment."

A contractor's equipment yard is not an allowed principal or accessory use in the A-5 (Agricultural) zoning district. Therefore, approval of a variance of use is required to legalize the continued use of the property as a contractor's equipment yard.

The contractor equipment yard includes outside storage as an accessory use. Section 5.2.37 of the Land Development Code provides use specific standards for outside storage including setback requirements as well as screening requirements. The existing site meets the requirement of the Code pertaining to outdoor storage being setback at least 50 feet from any residential zoning district boundary; however, the applicant is requesting a waiver of the screening requirements.

Outside storage is to be 100% screened from view. The unincorporated portions of the surrounding developed area do not traditionally include a privacy fence or dense vegetation that would create a 100% opaque screening. Additionally, the natural conditions would preclude thick shrubbery from thriving in this location. Instead of constructing a solid fence or wall, the applicant is proposing to plant fifteen (15) 10 foot tall Austrian Pines along the southern border for screening. The Austrian Pines are intended to create a buffer between the proposed non-residential and the adjacent residential uses.

## **2. Zoning Compliance**

A contractor's equipment yard is not an allowed use in the A-5 (Agricultural) zoning district. If the variance of use permit is approved, the existing use would be legalized subject to compliance with the conditions of approval.

## **3. Policy Plan Analysis**

Consistency with the El Paso County Policy Plan (1998) is not a required review criterion for a variance of use request. The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County master plan. Please review the attached staff report from the 2017 variance of use for an analysis regarding the Policy Plan.

## **4. Small Area Plan Analysis**

The property is not within the boundaries of a small area plan.

## **5. Water Master Plan Analysis**

Consistency with the El Paso County Water Master Plan (2018) is not a required review criterion for a variance of use request. For background, the Water Master Plan has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

***Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.***

***Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.***

***Policy 4.1.4*** – *Work collaboratively with water providers, stormwater management agencies, federal agencies, and State agencies to ensure drinking water sources are protected from contamination and meet or exceed established standards.*

***Policy 6.0.11***– *Continue to limit urban level development to those areas served by centralized utilities.*

The Water Master Plan was not yet adopted by El Paso County at the time of the initial variance of use application. The subject property is located within Region 5, the Cherokee Metropolitan District Service Area, which is not anticipated to experience significant growth through 2060; however, the District could consider expanding water and sewer service to growth areas outside of Region 5. Cherokee Metropolitan District obtains recharged water from wells drawing from the Upper Black Squirrel Creek Basin alluvial aquifer, which is recharged with seasonal precipitation and reclaimed water from both the Cherokee and Meridian Service Metropolitan Districts' wastewater treatment plants.

In 2018, Region 5 had a water supply of 4,849-acre feet per year and a demand of 4,396-acre feet per year. The 2040 water supply is projected to be 4,849-acre feet per year and the projected demand is 6,468-acre feet. The 2060 water supply is projected to be 4,849-acre feet per year, whereas the demand is anticipated to be 9,608-acre feet per year. It should be emphasized that a potential shortage of water supplies for this region is expected as early as 2040.

This region focuses on centralized providers and does not discuss water to be provided by well. Central water is not available to the subject parcel at this time. It is anticipated that as centralized water becomes available this portion of the County will redevelop at an urban level.

## **6. Other Master Plan Elements**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies potential upland deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

The El Paso County Parks Master Plan (2013) does not identify any parks or trails on or adjacent to the subject parcel.

Please see the Transportation section below for information regarding conformance with the 2016 Major Transportation Corridor Plan (MTCP).

## **F. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

No physical hazards were identified in the review of this variance request.

### **2. Wildlife**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

### **3. Floodplain**

The property is not located within a defined floodplain as determined from the FEMA Flood Insurance Rate Map panel number 08041C0537G, dated December 7, 2018.

### **4. Drainage and Erosion**

The property is located within the Sand Creek (FOFO4000) drainage basin, which is a studied basin. Drainage and bridge fees are not assessed with variance of use requests. A drainage report was submitted with the previous variance of use application (VA-17-010). The drainage report identified that the existing improvements have no anticipated water quality impact as a result of the variance of use request. A new drainage report was not required as the applicant is not proposing any development or construction on the site.

### **5. Transportation**

Maine Lane is the primary access to and from the site. Maine Lane is a private unpaved road that extends south from Adventure Way. A traffic study was not required as the proposed variance of use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate currently. The proposed variance of use will have a minimal impact to the County's transportation network. There are no improvements identified in the 2016 Major Transportation Corridor Plan (MTCP) in the immediate vicinity of the site.

## **G. SERVICES**

### **1. Water**

Water is provided to the site from an existing individual well. Findings of sufficiency for water quality, quantity, and dependability are not a requirement with a variance of use request.

**2. Sanitation**

The existing residence located on the property is served by an onsite wastewater treatment system (OWTS). No additional wastewater facilities are anticipated in association with the proposed variance of use permit. El Paso County Public Health was sent a referral for the variance of use application and has no outstanding concerns.

**3. Emergency Services**

Emergency and fire protection services are provided by Falcon Fire Protection District. The District was sent a referral and responded with no objections.

**4. Utilities**

Mountain View Electric Association provides electrical service to the property. Natural gas service is provided by Colorado Springs Utilities.

**5. Metropolitan Districts**

The property is not located within a metropolitan district.

**6. Parks/Trails**

Land dedication and fees in lieu of park land dedication are not required for a variance of use application.

**7. Schools**

Land dedication and fees in lieu of school land dedication are not required for a variance of use application.

**H. APPLICABLE RESOLUTIONS**

See attached Resolution.

**I. STATUS OF MAJOR ISSUES**

There are no major outstanding issues

**J. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.4 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

**CONDITIONS**

1. In lieu of a 6-foot tall opaque privacy fence, the applicants will plant fifteen 10-foot tall Austrian pines along the southern property boundary as visual screening within 120 days of approval of the variance of use.

2. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
3. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to be either recycled or disposed of per all State and Federal regulations related to the storage of such fluids.

#### **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.

#### **K. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified four (4) adjoining property owners on November 11, 2020, for the Board of County Commissioners meeting. Responses received to date are attached; others may be provided at the hearing.

#### **L. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Site Plan  
Staff Report from Original Approval  
Revocation Staff Report  
Adjacent Property Owner Responses  
Planning Commission Draft Minutes  
Board of County Commissioners' Resolution

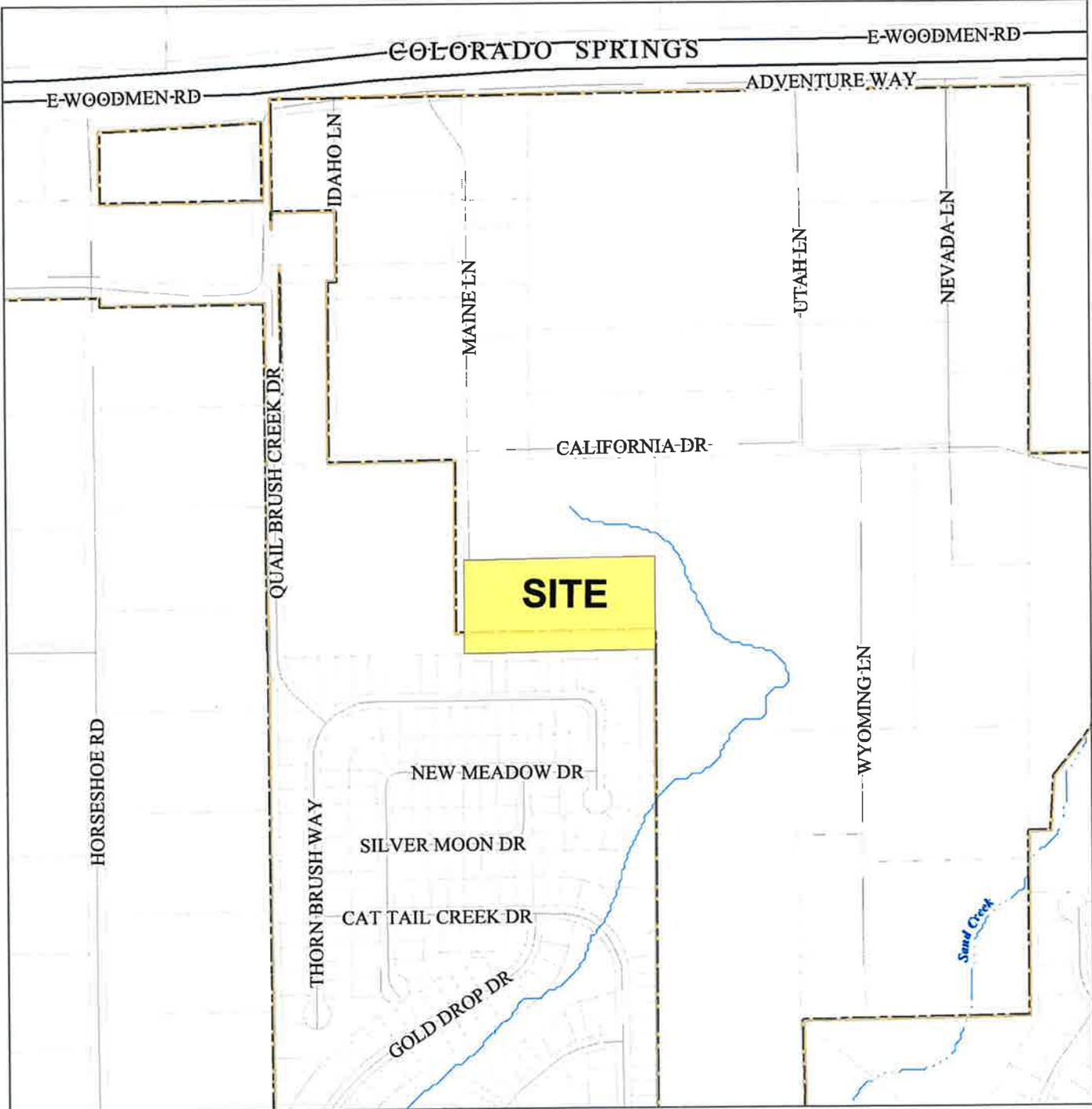
# El Paso County Parcel Information

PARCEL	NAME
5308000048	COMBS DANIEL

File Name: VA-19-008

Zone Map No. --

Date: November 12, 2020



Please report any parcel discrepancies to:  
 El Paso County Assessor  
 1675 W. Garden of the Gods Rd  
 Colorado Springs, CO 80907  
 (719) 520-6600



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## Letter of Intent

6 October 2020

### Owner/Applicant (including addresses and telephone numbers):

- 1) Owner: Dan Combs; 7205 Maine Lane, Colorado Springs, CO 80923; 719-495-2877
- 2) Applicant: Dan Combs; 7205 Maine Lane, Colorado Springs, CO 80923; 719-495-2877

### Site Location, size, and zoning:

The subject site is located at 7205 Maine Lane, approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane. The approximately five-acre property is in El Paso County, Colorado and is currently zoned Agricultural, A-5, CAD-O.

### Request and justification

Dan Combs, owner of Mountain Splendor Services, Inc., requests approval of the following application:

1. A Variance of Use in the Agricultural Zone District (A-5) for a Contractor's Equipment Yard for an existing landscape business which consists of a residential building, outdoor and indoor storage of landscape equipment and materials, vehicles and ancillary tree nursery.

### Variance of Use Criteria

In approving a variance of use, the follow criteria may be considered:

1. The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
  - a. According to Land Development Code 1.10.6, Permits Issued Before the Effective Date of this Code: Any building, sign or structure for which a building permit was duly issued before the effective date of this Code or any subsequent amendments to the Code may be completed in conformance with the issued permit, even if the building, sign or structure does not fully comply with provisions of this Code or any subsequent amendments to the Code. If construction is not commenced or completed in accordance with the applicable permit terms, the PCD Director may, upon receipt of a written request and payment of the required fee, grant one 6-month extension for good cause shown. If the building, sign or structure is not commenced or completed within the time allowed under the original permit or any extension granted, then any building, sign or structure shall comply with the requirements of this Code or any subsequent amendments to the Code. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights. Any expansion in size of an approved existing structure shall comply with this Code for the modification area.
  - b. Based on the fact that the residence located on the property was erected in 1972 and the equipment storage shed was constructed on/about June 2003 – at which times both structures met County, State and federal requirements – the strict application of current Code would result in a peculiar and exceptional practical difficulties as well as undue hardship. With that said a building permit for the maintenance building had been obtained from Pikes Peak Region Building Department (PPRBD)
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 County.

- a. Mountain Splendor is compatible with the surrounding area on Maine Lane as there are other properties on Main Lane that are zoned the same as this site and several other instances of operating landscaping companies.
- 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.
  - a. There are no pending construction projects and the activities conducted on the site in relation to the landscape business do not produce pollutants or noise that would violate the relevant codes.
- 4. The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action.
  - a. With the granting of the Use Variance the proposed use will comply with all applicable requirements of the El Paso County Zoning Code and applicable County, State and Federal regulations.
- 5. The proposed use will not adversely affect wildlife or wetlands.
  - a. As noted on the site plan, the marsh area is clearly defined and will not be disturbed. Further fencing of the site is limited thus allowing for wildlife to transit the site.
- 6. The applicant has addressed all off-site impacts.
  - a. Offsite impacts, including traffic, visual and noise are minimal and do not pose any adverse issues. Traffic to and from the site is by employees of the landscape business and few visitors. A grand majority of the work accomplished by the business is off site. There are no existing or proposed activities on the site that exceed any noise limitations. There are no nighttime activities on the site. Alternative visual screening of the site was provided by plantings (trees) in accordance with the prior approved sight plan (now expired). This request asks that the alternative compliance to a solid privacy fence in the form of planting be renewed.
- 7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping.
  - a. The site plan for this Variance of Use application provides for adequate off-street parking.
- 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.
  - a. This Variance of Use application has already received recommended approval from Colorado Springs Utilities and EPC Health Department. Fire protection, police protection, and roads are available and adequate.

The request was initially approved by the Board of County Commissioners of El Paso County, Colorado on 27 February 2018 by Resolution No. 18-079. Said approval was subject to the following conditions, among others:

- 1. Submit a site development plan for review within 60 days from date of approval.
  - a. A Site Development Plan was approved on 9/27/18 satisfying this condition.
- 2. Submit all necessary applications for building permitting within 60 days from date of approval.
  - a. Plans submitted to Pikes Peak Regional Building Department on 8/8/19 were disapproved on 8/12/19.
  - b. The process to obtain building permits was much more difficult than expected due to the age of the building and changing from residential to commercial. As a result, we contracted Daystar Construction as the General Contractor, two engineering firms, and

a commercial architect. However, the volume of construction going on in El Paso County added to the time delay in meeting the required conditions. All plans/permits submitted to Pikes Peak Regional Building Department have been rejected.

**Existing and proposed facilities, structures, roads, etc.**

No changes from initial submittal.

**Waiver requests (if applicable) and justification**

There are no applicable waiver requests.

**SITE DATA**

<b>OWNER:</b>	DANIEL COMBS 7205 MAINE LANE COLORADO SPRINGS, CO	<b>Building Setbacks:</b>	25' 25' 25' 25'
<b>Tax ID Number:</b>	530900049	<b>Lot Coverage:</b>	3%
<b>Address:</b>	7205 MAINE LANE 5.10 AC (222,219 sqft)	<b>Impervious:</b>	3%
<b>Building Height:</b>	Shed 1 - 14.00' egl Shed 2 - 2.00' egl	<b>Total Building Area:</b>	6,240 sqft

**MOUNTAIN SPLENDOR SERVICES, INC.**  
EL PASO COUNTY, STATE OF COLORADO  
SITE DEVELOPMENT PLAN

**LEGAL DESCRIPTION**

THE SOUTH HALF OF THE EAST HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE EAST HALF OF SECTION 10, TOWNSHIP 10N, RANGE 67W, COUNTY OF EL PASO, STATE OF COLORADO.

PARCEL ID: 530900049

OWNER: DANIEL COMBS

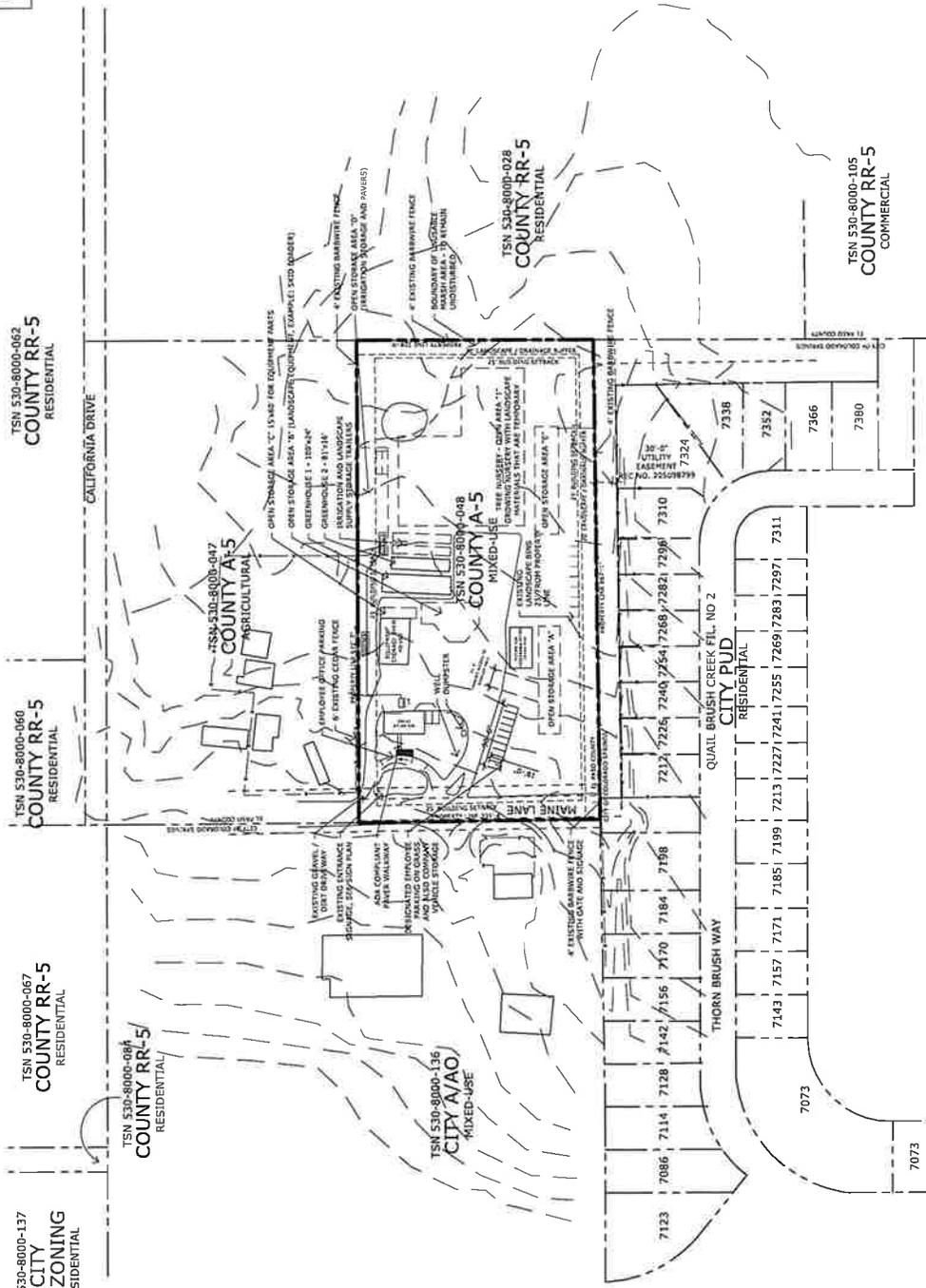
ADDRESS: 7205 MAINE LANE, COLORADO SPRINGS, COLORADO

APPROVED IN NOTICE FILED UNDER 18-1077 IN BOOK 1756 AT PAGE 403.

**NOTES**

1. FLOODPLAIN INFORMATION: THIS SITE, 7205 MAINE LANE IS NOT WITHIN A DESIGNATED F.P.A. FLOODPLAIN AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EFFECTIVE 03/12/18 (1974).
2. THE PARTIES RESPONSIBLE FOR THIS PLAN HAVE SANITIZED THIS PLAN WITH ALL CURRENT ACCESSIBILITY (ADA) AND UNIFORMED ACCESSIBILITY ACT (ADA) REQUIREMENTS AND REGULATIONS REQUIRED BY THE APPLICABLE ADA AS ENACTED AND AMENDMENTS THEREOF. THE PARTIES REPRESENT AND WARRANT THAT THE PLAN COMPLIES WITH ALL CURRENT ACCESSIBILITY LAWS OF THE STATE OF COLORADO AND FEDERAL ACCESSIBILITY LAWS OF THE UNITED STATES OF AMERICA. THE PARTIES REPRESENT AND WARRANT THAT THE PLAN COMPLIES WITH ALL CURRENT ACCESSIBILITY LAWS OF THE STATE OF COLORADO AND FEDERAL ACCESSIBILITY LAWS OF THE UNITED STATES OF AMERICA. THE PARTIES REPRESENT AND WARRANT THAT THE PLAN COMPLIES WITH ALL CURRENT ACCESSIBILITY LAWS OF THE STATE OF COLORADO AND FEDERAL ACCESSIBILITY LAWS OF THE UNITED STATES OF AMERICA.
3. ANY STORAGE PIT(S) OR (S) SHALL BE KEPT A MINIMUM OF 20' FROM THE RESIDENTIAL DISTRICT.
4. (1) ACCESSIBLE VAN PARKING SPOT HAS BEEN DESIGNATED ADJACENT TO ENTRY/REARING BUILDING.
5. NO STRUCTURE THAT IS ANCHORED OR STAKED OR OTHERWISE SECURED TO THE GROUND SHALL BE CONSIDERED A PERMANENT STRUCTURE FOR THE PURPOSES OF THIS PLAN.
6. THE PARTIES REPRESENT AND WARRANT THAT THE PLAN COMPLIES WITH ALL CURRENT ACCESSIBILITY LAWS OF THE STATE OF COLORADO AND FEDERAL ACCESSIBILITY LAWS OF THE UNITED STATES OF AMERICA.

WHITHEAD ENGINEERING  
P.O. BOX 1531  
Colorado Springs, CO 80901



**1 OVERALL SITE PLAN**



**SITE DEVELOPMENT PLAN**  
1 of 5  
DD PPR 16-017

**MOUNTAIN SPLENDOR SERVICES, INC.**  
7205 MAINE LANE  
COLORADO SPRINGS, CO 80901

**SITE DEVELOPMENT PLAN**

**SITE DEVELOPMENT PLAN**

**1**  
1 of 5

DD PPR 16-017

**MOUNTAIN SPLENDOR SERVICES, INC.**  
 EL PASO COUNTY, STATE OF COLORADO  
 ADA ROUTE PLAN

WHITEHEAD ENGINEERING, LLC  
 P.O. BOX 1551  
 Colorado Springs, CO 80901



**LEGAL DESCRIPTION**

PARCELS 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1I, 1J, 1K, 1L, 1M, 1N, 1O, 1P, 1Q, 1R, 1S, 1T, 1U, 1V, 1W, 1X, 1Y, 1Z, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J, 2K, 2L, 2M, 2N, 2O, 2P, 2Q, 2R, 2S, 2T, 2U, 2V, 2W, 2X, 2Y, 2Z, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L, 3M, 3N, 3O, 3P, 3Q, 3R, 3S, 3T, 3U, 3V, 3W, 3X, 3Y, 3Z, 4A, 4B, 4C, 4D, 4E, 4F, 4G, 4H, 4I, 4J, 4K, 4L, 4M, 4N, 4O, 4P, 4Q, 4R, 4S, 4T, 4U, 4V, 4W, 4X, 4Y, 4Z, 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J, 5K, 5L, 5M, 5N, 5O, 5P, 5Q, 5R, 5S, 5T, 5U, 5V, 5W, 5X, 5Y, 5Z, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 6I, 6J, 6K, 6L, 6M, 6N, 6O, 6P, 6Q, 6R, 6S, 6T, 6U, 6V, 6W, 6X, 6Y, 6Z, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H, 7I, 7J, 7K, 7L, 7M, 7N, 7O, 7P, 7Q, 7R, 7S, 7T, 7U, 7V, 7W, 7X, 7Y, 7Z, 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, 8I, 8J, 8K, 8L, 8M, 8N, 8O, 8P, 8Q, 8R, 8S, 8T, 8U, 8V, 8W, 8X, 8Y, 8Z, 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H, 9I, 9J, 9K, 9L, 9M, 9N, 9O, 9P, 9Q, 9R, 9S, 9T, 9U, 9V, 9W, 9X, 9Y, 9Z, 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I, 10J, 10K, 10L, 10M, 10N, 10O, 10P, 10Q, 10R, 10S, 10T, 10U, 10V, 10W, 10X, 10Y, 10Z, 11A, 11B, 11C, 11D, 11E, 11F, 11G, 11H, 11I, 11J, 11K, 11L, 11M, 11N, 11O, 11P, 11Q, 11R, 11S, 11T, 11U, 11V, 11W, 11X, 11Y, 11Z, 12A, 12B, 12C, 12D, 12E, 12F, 12G, 12H, 12I, 12J, 12K, 12L, 12M, 12N, 12O, 12P, 12Q, 12R, 12S, 12T, 12U, 12V, 12W, 12X, 12Y, 12Z, 13A, 13B, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K, 13L, 13M, 13N, 13O, 13P, 13Q, 13R, 13S, 13T, 13U, 13V, 13W, 13X, 13Y, 13Z, 14A, 14B, 14C, 14D, 14E, 14F, 14G, 14H, 14I, 14J, 14K, 14L, 14M, 14N, 14O, 14P, 14Q, 14R, 14S, 14T, 14U, 14V, 14W, 14X, 14Y, 14Z, 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15I, 15J, 15K, 15L, 15M, 15N, 15O, 15P, 15Q, 15R, 15S, 15T, 15U, 15V, 15W, 15X, 15Y, 15Z, 16A, 16B, 16C, 16D, 16E, 16F, 16G, 16H, 16I, 16J, 16K, 16L, 16M, 16N, 16O, 16P, 16Q, 16R, 16S, 16T, 16U, 16V, 16W, 16X, 16Y, 16Z, 17A, 17B, 17C, 17D, 17E, 17F, 17G, 17H, 17I, 17J, 17K, 17L, 17M, 17N, 17O, 17P, 17Q, 17R, 17S, 17T, 17U, 17V, 17W, 17X, 17Y, 17Z, 18A, 18B, 18C, 18D, 18E, 18F, 18G, 18H, 18I, 18J, 18K, 18L, 18M, 18N, 18O, 18P, 18Q, 18R, 18S, 18T, 18U, 18V, 18W, 18X, 18Y, 18Z, 19A, 19B, 19C, 19D, 19E, 19F, 19G, 19H, 19I, 19J, 19K, 19L, 19M, 19N, 19O, 19P, 19Q, 19R, 19S, 19T, 19U, 19V, 19W, 19X, 19Y, 19Z, 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20I, 20J, 20K, 20L, 20M, 20N, 20O, 20P, 20Q, 20R, 20S, 20T, 20U, 20V, 20W, 20X, 20Y, 20Z, 21A, 21B, 21C, 21D, 21E, 21F, 21G, 21H, 21I, 21J, 21K, 21L, 21M, 21N, 21O, 21P, 21Q, 21R, 21S, 21T, 21U, 21V, 21W, 21X, 21Y, 21Z, 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22I, 22J, 22K, 22L, 22M, 22N, 22O, 22P, 22Q, 22R, 22S, 22T, 22U, 22V, 22W, 22X, 22Y, 22Z, 23A, 23B, 23C, 23D, 23E, 23F, 23G, 23H, 23I, 23J, 23K, 23L, 23M, 23N, 23O, 23P, 23Q, 23R, 23S, 23T, 23U, 23V, 23W, 23X, 23Y, 23Z, 24A, 24B, 24C, 24D, 24E, 24F, 24G, 24H, 24I, 24J, 24K, 24L, 24M, 24N, 24O, 24P, 24Q, 24R, 24S, 24T, 24U, 24V, 24W, 24X, 24Y, 24Z, 25A, 25B, 25C, 25D, 25E, 25F, 25G, 25H, 25I, 25J, 25K, 25L, 25M, 25N, 25O, 25P, 25Q, 25R, 25S, 25T, 25U, 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33N, 33O, 33P, 33Q, 33R, 33S, 33T, 33U, 33V, 33W, 33X, 33Y, 33Z, 34A, 34B, 34C, 34D, 34E, 34F, 34G, 34H, 34I, 34J, 34K, 34L, 34M, 34N, 34O, 34P, 34Q, 34R, 34S, 34T, 34U, 34V, 34W, 34X, 34Y, 34Z, 35A, 35B, 35C, 35D, 35E, 35F, 35G, 35H, 35I, 35J, 35K, 35L, 35M, 35N, 35O, 35P, 35Q, 35R, 35S, 35T, 35U, 35V, 35W, 35X, 35Y, 35Z, 36A, 36B, 36C, 36D, 36E, 36F, 36G, 36H, 36I, 36J, 36K, 36L, 36M, 36N, 36O, 36P, 36Q, 36R, 36S, 36T, 36U, 36V, 36W, 36X, 36Y, 36Z, 37A, 37B, 37C, 37D, 37E, 37F, 37G, 37H, 37I, 37J, 37K, 37L, 37M, 37N, 37O, 37P, 37Q, 37R, 37S, 37T, 37U, 37V, 37W, 37X, 37Y, 37Z, 38A, 38B, 38C, 38D, 38E, 38F, 38G, 38H, 38I, 38J, 38K, 38L, 38M, 38N, 38O, 38P, 38Q, 38R, 38S, 38T, 38U, 38V, 38W, 38X, 38Y, 38Z, 39A, 39B, 39C, 39D, 39E, 39F, 39G, 39H, 39I, 39J, 39K, 39L, 39M, 39N, 39O, 39P, 39Q, 39R, 39S, 39T, 39U, 39V, 39W, 39X, 39Y, 39Z, 40A, 40B, 40C, 40D, 40E, 40F, 40G, 40H, 40I, 40J, 40K, 40L, 40M, 40N, 40O, 40P, 40Q, 40R, 40S, 40T, 40U, 40V, 40W, 40X, 40Y, 40Z, 41A, 41B, 41C, 41D, 41E, 41F, 41G, 41H, 41I, 41J, 41K, 41L, 41M, 41N, 41O, 41P, 41Q, 41R, 41S, 41T, 41U, 41V, 41W, 41X, 41Y, 41Z, 42A, 42B, 42C, 42D, 42E, 42F, 42G, 42H, 42I, 42J, 42K, 42L, 42M, 42N, 42O, 42P, 42Q, 42R, 42S, 42T, 42U, 42V, 42W, 42X, 42Y, 42Z, 43A, 43B, 43C, 43D, 43E, 43F, 43G, 43H, 43I, 43J, 43K, 43L, 43M, 43N, 43O, 43P, 43Q, 43R, 43S, 43T, 43U, 43V, 43W, 43X, 43Y, 43Z, 44A, 44B, 44C, 44D, 44E, 44F, 44G, 44H, 44I, 44J, 44K, 44L, 44M, 44N, 44O, 44P, 44Q, 44R, 44S, 44T, 44U, 44V, 44W, 44X, 44Y, 44Z, 45A, 45B, 45C, 45D, 45E, 45F, 45G, 45H, 45I, 45J, 45K, 45L, 45M, 45N, 45O, 45P, 45Q, 45R, 45S, 45T, 45U, 45V, 45W, 45X, 45Y, 45Z, 46A, 46B, 46C, 46D, 46E, 46F, 46G, 46H, 46I, 46J, 46K, 46L, 46M, 46N, 46O, 46P, 46Q, 46R, 46S, 46T, 46U, 46V, 46W, 46X, 46Y, 46Z, 47A, 47B, 47C, 47D, 47E, 47F, 47G, 47H, 47I, 47J, 47K, 47L, 47M, 47N, 47O, 47P, 47Q, 47R, 47S, 47T, 47U, 47V, 47W, 47X, 47Y, 47Z, 48A, 48B, 48C, 48D, 48E, 48F, 48G, 48H, 48I, 48J, 48K, 48L, 48M, 48N, 48O, 48P, 48Q, 48R, 48S, 48T, 48U, 48V, 48W, 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95B, 95C, 95D, 95E, 95F, 95G, 95H, 95I, 95J, 95K, 95L, 95M, 95N, 95O, 95P, 95Q, 95R, 95S,

# MOUNTAIN SPLENDOR SERVICES, INC.

## EL PASO COUNTY, STATE OF COLORADO

### SITE DEVELOPMENT PLAN

WHITEHEAD ENGINEERING  
P.O. BOX 1551  
Colorado Springs, CO 80901

MOUNTAIN SPLENDOR SERVICES, INC.  
7205 MAINE LANE  
COLORADO SPRINGS, CO 80923

SITE DEVELOPMENT PLAN

LANDSCAPE PLAN

3 OF 5

DD PPR 18-017

#### SITE DATA

OWNER: DANIEL COOMBS  
7205 MAINE LANE  
COLORADO SPRINGS, CO

Building Substrate:  
-North  
-West  
-East  
-South

Landscaping Buffer:  
-North  
-West  
-East  
-South

Lot Coverage:  
-1% Building  
-4% Impervious

Residence - 1,640 sqft  
Shed 2 - 2,400 sqft  
Total Building Area - 6,240 sqft

TREE TYPE	QTY	TREE TYPE	QTY
ASH	1	COTTONWOOD	3
HONEY LOCUST	2	WEIGELA	2
SIBERIAN ELM	7	DWARF SPRUCE	3
AUSTRIAN PINE	16	MUGO PINE	5
PONDEROSA PINE	2	RUSSIAN SAGE	7
COLORADO BLUE SPRUCE	1	DAYLILY	39
JUNIPER	2	ROSES	2

#### LEGAL DESCRIPTION

THE SOUTHWEST QUARTER OF THE EAST HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 10S, RANGE 67E, EL PASO COUNTY, COLORADO.

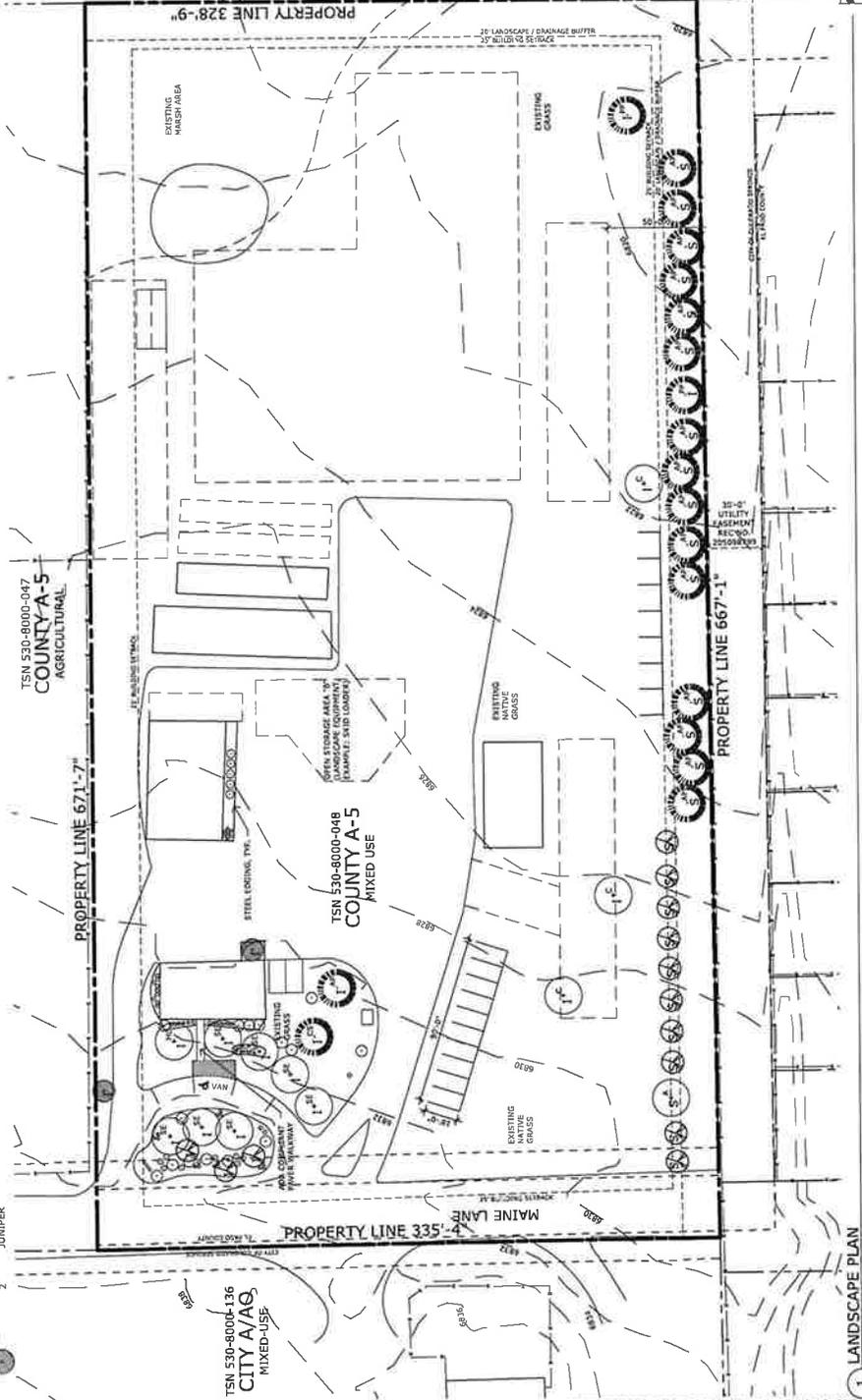
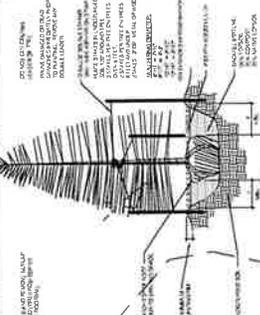
TRACT: N  
A NON-RECURSIVE INSTRUMENT FOR ACCESS TO ADJACENT LANDS AS SHOWN AS HOME ENTERED IN NOTAR RECORDS MARCH 9, 1977 IN BOOK 2704 AT PAGE 453.

#### NOTES

- ANY STORAGE ITEMS OR VEHICLES OVER THE FENCE HEIGHT WILL BE REPT A MINIMUM OF 20' FROM THE RESIDENTIAL DISTRICT.
- THE FENCES DESCRIBED FOR THIS SITE ARE TO BE CONSTRUCTED WITHIN A DESIGNATED FENCE ADJACENT TO THE RESIDENTIAL DISTRICT.
- NO VEHICULAR TRAFFIC AND/OR STORAGE OF STORAGE OF EQUIPMENT OR MATERIALS ON OR NEAR THE FENCE OVER THE FENCE ADJACENT TO THE RESIDENTIAL DISTRICT.
- NO VEHICULAR TRAFFIC AND/OR STORAGE OF STORAGE OF EQUIPMENT OR MATERIALS ON OR NEAR THE FENCE OVER THE FENCE ADJACENT TO THE RESIDENTIAL DISTRICT.
- SECURITY LIGHTING SHALL BE INSTALLED TO ILLUMINATE THE PERIMETER OF THE PROPERTY AND TO PROVIDE ILLUMINATION FOR THE PROPERTY OWNER'S CONVENIENCE.
- SECURITY LIGHTING SHALL BE INSTALLED TO ILLUMINATE THE PERIMETER OF THE PROPERTY AND TO PROVIDE ILLUMINATION FOR THE PROPERTY OWNER'S CONVENIENCE.

#### TREE REQUIREMENTS

Tree Type	Quantity	Tree Type	Quantity
ASH	1	COTTONWOOD	3
HONEY LOCUST	2	WEIGELA	2
SIBERIAN ELM	7	DWARF SPRUCE	3
AUSTRIAN PINE	16	MUGO PINE	5
PONDEROSA PINE	2	RUSSIAN SAGE	7
COLORADO BLUE SPRUCE	1	DAYLILY	39
JUNIPER	2	ROSES	2



1 LANDSCAPE PLAN

**SITE DATA**

OWNER: DANIEL COMBS  
 7205 MAINE LANE  
 COLORADO SPRINGS, CO 80923

Building Setbacks:  
 -North 25'  
 -West 25'  
 -East 25'

Landscaping Buffer:  
 -South 20'

Lot Coverage:  
 -75% building  
 -10% impervious

Residence - 1,440 sqft  
 Shed 2 - 2,400 sqft  
 Total Building Area - 6,240 sqft

**MOUNTAIN SPLENDOR SERVICES, INC.**  
 EL PASO COUNTY, STATE OF COLORADO  
 SITE DEVELOPMENT PLAN

**LEGAL DESCRIPTION**

THE SOUTH HALF OF THE EAST 1/4 OF THE NORTH HALF OF THE SOUTHWEST 1/4 OF THE NORTH 1/4 OF SECTION 36, T12N, R10W, S10E, EL PASO COUNTY, COLORADO.

PARCEL B:  
 LAND LINDA LANE, 12411 LANE, WINDYLAND AND GARDENWAY WALK AS SHOWN APPRECIATED IN NOTICED RECORDED MARCH 9, 1971 IN BOOK 1704 AT PAGE 643.

**NOTES**

1. EXCEPT AS OTHERWISE STATED, THIS SITE, 7205 MAINE LANE IS NOT WITH A DESIGNATED E.P.A. ZONING AS DETERMINED BY THE EL PASO COUNTY COMMISSIONERS' RESOLUTION, EL PASO COUNTY, COLORADO, RESOLUTION NO. 1997-001, (1997).
2. THE MATTER IS RESPONSIBLE FOR THIS PLAN AND THE PLAN IS SUBJECT TO THE CITY OF COLORADO SPRINGS ZONING ORDINANCES AND ORDINANCES OF THIS CITY BY THE CITY OF COLORADO SPRINGS DOES NOT ASSUME RESPONSIBILITY FOR COMPLIANCE WITH FEDERAL AND STATE ACCESSIBILITY LAWS WITH THE PROPOSED OFFICE.
3. ANY STORAGE ITEMS OR VEHICLES OVER THE FRONT YARD WILL BE KEPT A MINIMUM OF 50' FROM THE RESIDENTIAL DISTRICT, ADJACENT TO OPPROBRIUMS BELIEVE.
4. (1) ACCESSIBLE SANITARY FIXTURES ARE REQUIRED.
5. NO VEHICLES, TRAILERS, AND/OR PARKING OR STORAGE OF CONSTRUCTION EQUIPMENT SHALL BE PERMITTED ON THE LOT AT ANY TIME.
6. THE CITY OF COLORADO SPRINGS DOES NOT ASSUME RESPONSIBILITY FOR COMPLIANCE WITH FEDERAL AND STATE ACCESSIBILITY LAWS WITH THE PROPOSED OFFICE.

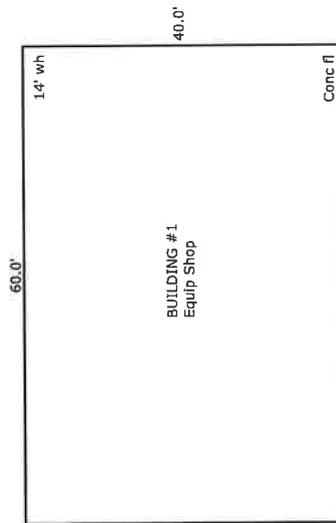


WHITEHEAD ENGINEERING  
 P.O. BOX 1551  
 Colorado Springs, CO 80901

MOUNTAIN SPLENDOR SERVICES, INC.

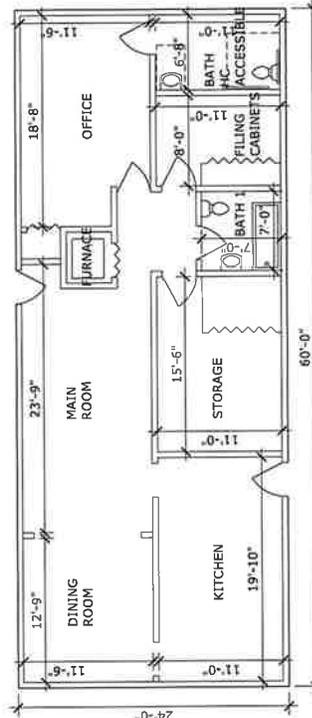
7205 MAINE LANE  
 COLORADO SPRINGS, CO 80923

DATE: 04/12/2020  
 DRAWN BY: [Name]  
 PROJECT NO: [Number]



**1 EQUIPMENT STORAGE SHED FLOOR PLAN**  
 2,440 SQFT

NOT TO SCALE



**2 RESIDENCE FLOOR PLAN**  
 1,440 SQFT

NOT TO SCALE

SITE DEVELOPMENT PLAN

FLOOR PLANS

4 of 5

DD PPR 18-017

**SITE DATA**

OWNER: DANIEL COWBS  
7205 MAINE LANE  
COLORADO SPRINGS, CO 80923

Tax ID Number: 5308000046  
Current Zoning: AGRICULTURAL A-5  
Acres: 3.10 AC (222,219 sqft)

Building Height: 30'  
Building Area: Residence - 1,540 sqft  
Shed 1 - 2,400 sqft  
Total Building Area - 6,240 sqft

Building Setbacks:  
North - 25'  
South - 25'  
East - 25'

Landscaping Buffer:  
South - 50'  
North - 50'  
East - 50'

Lot Coverage: 5%  
(70) Impervious

**MOUNTAIN SPLENDOR SERVICES, INC.**  
EL PASO COUNTY, STATE OF COLORADO  
SITE DEVELOPMENT PLAN

**LEGAL DESCRIPTION**

TRACT 13, SECTION 34, T12N, R10W, S12E, EL PASO COUNTY, COLORADO. THE SOUTH 1/4 OF THE EAST 1/4 OF THE NORTH 1/4 OF THE SOUTHWEST 1/4 OF SECTION 34, T12N, R10W, S12E, EL PASO COUNTY, COLORADO.

PARCEL B: 1/4 SECTION 34, T12N, R10W, S12E, EL PASO COUNTY, COLORADO. LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**NOTES**

1. ALL UTILITIES SHOWN ON THIS SITE. THE OWNER IS TO VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF COLORADO SPRINGS AND THE COLORADO DEPARTMENT OF REVENUE AND TAXATION.
2. THE PROJECT IS RESPONSIBLE FOR THE PERMITS AND INSURANCE REQUIRED BY THE CITY OF COLORADO SPRINGS AND THE COLORADO DEPARTMENT OF REVENUE AND TAXATION. THE PROJECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF COLORADO SPRINGS AND THE COLORADO DEPARTMENT OF REVENUE AND TAXATION.
3. SECURITY LIGHTING SHALL BE LIMITED TO WHAT IS NECESSARY AT THE PROJECT. SECURITY LIGHTING SHALL BE LIMITED TO WHAT IS NECESSARY AT THE PROJECT. SECURITY LIGHTING SHALL BE LIMITED TO WHAT IS NECESSARY AT THE PROJECT.
4. THE PROJECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF COLORADO SPRINGS AND THE COLORADO DEPARTMENT OF REVENUE AND TAXATION.
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7. THE PROJECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF COLORADO SPRINGS AND THE COLORADO DEPARTMENT OF REVENUE AND TAXATION.
8. THE PROJECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF COLORADO SPRINGS AND THE COLORADO DEPARTMENT OF REVENUE AND TAXATION.

WHITEHEAD ENGINEERING  
P.O. BOX 1551  
Colorado Springs, CO 80901

MOUNTAIN SPLENDOR SERVICES, INC.

7205 MAINE LANE  
COLORADO SPRINGS, CO 80923

DATE: 01/15/2024  
PROJECT NO: 24-001

SHEET NO: 5 OF 5

**VICINITY MAP**



1 EXISTING OFFICE / RESIDENCE - EAST ELEVATION



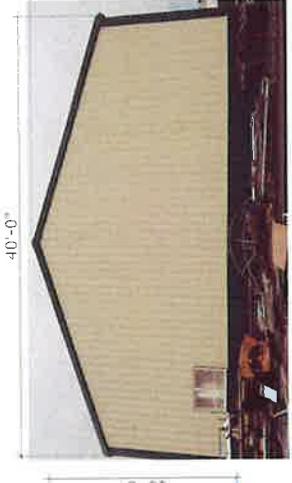
2 EXISTING OFFICE / RESIDENCE - NORTH ELEVATION



3 EXISTING OFFICE / RESIDENCE - SOUTH ELEVATION



4 EXISTING OFFICE / RESIDENCE - WEST ELEVATION



5 EXISTING STORAGE SHED - EAST ELEVATION



6 EXISTING STORAGE SHED - SOUTH ELEVATION



7 EXISTING STORAGE SHED - WEST ELEVATION



8 EXISTING STORAGE SHED - NORTH ELEVATION

NORTH SIDE OF EXISTING STORAGE SHED - PHOTOGRAPH HARD TO OBTAIN DUE TO FENCE ON NORTH SIDE OF PROPERTY

**SITE DEVELOPMENT PLAN**

**BUILDING ELEVATIONS**

5 OF 5

DD PPR 18-017

# EL PASO



# COUNTY

COMMISSIONERS:  
DARRYL GLENN (PRESIDENT)  
MARK WALLER (PRESIDENT PRO TEMPORE)

STAN VANDERWERF  
LONGINOS GONZALEZ  
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO:** El Paso County Board of County Commissioners  
Darryl Glenn, President

**FROM:** Gabe Sevigny, Planner I  
Gilbert LaForce, PE Engineer II  
Craig Dossey, Executive Director

**RE:** Project File #: VA-17-010  
Project Name: Mountain Splendor Services Contractor's Equipment  
Yard & Offices  
Parcel No.: 53080-00-048

OWNER:	REPRESENTATIVE:
Dan Combs 7205 Maine Lane Colorado Springs, CO 80923	NES ATTN: Tamara Baxter/ Andrea Barlow 619 N Cascade Ave, Suite 200 Colorado Springs, CO 80903

**Commissioner District: 2**

<b>Planning Commission Hearing Date:</b>	<b>2/6/2018</b>
<b>Board of County Commissioners Hearing Date</b>	<b>2/27/2018</b>

## EXECUTIVE SUMMARY

A request by Dan Combs, owner of Mountain Splendor Services, for approval of a variance of use to legalize an existing contractor's equipment yard associated with a landscaping business in the A-5 (Agricultural) zoning district. The five (5) acre property is located approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane. The applicant uses a pole barn for general vehicle maintenance and business related storage, two (2) greenhouses used for landscape planting storage, one (1) semi-trailer and storage container used for irrigation related storage, seven (7) landscape bins for mulch, rock and other landscape material, a wholesale tree nursery,

2880 INTERNATIONAL CIRCLE, SUITE 110  
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127  
FAX: (719) 520-6695

and two (2) 32 foot by 8 foot water tanks. Equipment includes nine (9) trucks, one (1) company car, nine (9) trailers, and seven (7) skid steer loaders.

No significant traffic or drainage impacts are anticipated as a result of the continued operation of the use on the site. Staff initially had concerns regarding the mitigation of potential negative visual impacts. However, the applicant has proposed leaving the existing four (4) foot barbed wire fence on the southern property boundary and the addition of three clusters of a quantity of three (3) Austrian Pines that at full growth can be 50-60 feet tall with a spread of 20-40 feet.

The City of Colorado Springs identified the concern that properties around this application are rapidly being annexed and are being developed with urban density uses, and that the prospect of having a small unincorporated enclave could be challenging in terms of efficient provision of services. The City has also identified the concern that the newly platted and developing residential property to the south will be impacted by noise and setbacks unless these issues are mitigated.

#### **A. REQUEST/WAIVERS/AUTHORIZATION**

**Request:** A request for approval of a variance of use permit to legalize an existing contractor's equipment yard in the A-5 (Agricultural) zoning district

**Waiver(s):** A waiver has been requested for the screening requirement under section 6.2.2(D)(2)(c), Opaque Fencing or Wall Required, of the Land Development Code. Instead of constructing a fence or wall, the applicant is proposing to plant fifteen (15) 10 foot tall Austrian Pines along the southern border for screening. The fifteen (15) 10 foot tall Austrian Pines will be in lieu of the required six (6) foot opaque fence and are intended to create a buffer between the proposed non-residential and the adjacent residential uses.

**Authorization to Sign:** There are no documents associated with this application that require signing.

#### **B. PLANNING COMMISSION SUMMARY**

**Request Heard:** February 6, 2018 as a regular item

**Recommendation:** Approval, subject to the conditions and notations. A copy of the Planning Commission Resolution is included as an attachment.

**Waiver Recommendation:** N/A

**Vote:** 8 to 0

**Vote Rationale:** N/A

**Summary of Hearing:** See attached minutes.

**Legal Notice:** N/A

**C. APPROVAL CRITERIA**

Pursuant to Section 5.3.4, Variance of Use, Criteria, of the El Paso County Land Development Code (2017), in approving a variance of use, the following criteria may be considered:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- 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 County;
- 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;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- 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.

**D. LOCATION**

The property is located approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane. The property is located adjacent to the following surrounding zoning districts and land uses:

North:	A-5 (Agricultural)	Residential with a similar landscape business
South:	City of Colorado Springs	Residential
East:	RR-5 (Residential Rural)	Residential/orthodontic office
West:	City of Colorado Springs	Commercial/Contractor's Equipment Yard

**E. BACKGROUND**

The unplatted lot was created on April 8, 1968. The property was zoned to the A-4 (Agricultural) zoning district in 1965. Subsequent nomenclature changes have resulted

in the zoning currently being titled as the A-5 (Agricultural District). The single-family residence was built in 1972, but is now only used as a main office. No one resides on the property. The pole barn was built in 2000 and the 2 greenhouses were built in 2002. To date, there are no permits for any of the structures to be used at this property to include the residence. The current owner purchased the property in 2015 from his brother and moved his landscaping business, Mountain Splendor Services, to this location. Since that time, the applicant has also moved a semi-trailer and storage container, landscape storage bins, and two water tanks on to the site. The applicant claims the property has been used as a tree farm for the previous 17 years by his brother. A tree farm is an allowed use in the A-5 (Agricultural) zoning district, but operation of a contractor's equipment yard is not an allowed use.

A complaint was submitted on March 24, 2017, that a residence had been converted into an office. Upon investigation by code enforcement, it was determined that a contractor's equipment yard was in operation without obtaining the appropriate approvals. A notice of violation was sent to the property owner on April 20, 2017, resulting in this variance application.

## **F. ANALYSIS**

### **1. Land Development Code Analysis**

The Land Development Code defines a contractor's equipment yard as follows:

#### **Contractor's Equipment Yard**

A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.

A contractor's equipment yard is not an allowed principal or accessory use in the A-5 (Agricultural) zoning district. It is allowed as a special use under the rural home occupation provisions of the Land Development Code. However, the intent of the rural home occupation provisions is to promote small home based businesses. A rural home occupation is defined in the Code as follows:

#### **Home Occupation, Rural**

A home occupation allowed in the A-35 Zoning District only and as a Special Use in other Zoning Districts, intended to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

The residence was converted to offices and the owner does not reside there. Because the applicant does not reside on the property, he cannot operate the business on the property as a rural home occupation. Therefore, approval of a variance of use permit is required to legalize the continued use of the property as a contractor's equipment yard.

The applicant have stated in the letter of intent that current outdoor storage consists of nine (9) trucks, nine (9) trailers, seven (7) skid steer loaders, one (1) company car, one (1) semi-trailer and storage container for irrigation related materials, landscape storage bins for mulch, rock, and other landscape materials, and two (2) water tanks.

The use meets the requirement of the Code that outdoor storage be setback at least 50 feet from any residential zoning district boundary; however, the applicant is requesting relief from the screening requirements. The applicant has identified tree additions to mitigate the visual impact from the residential zoning district, within the City, to the south.

## **2. Zoning Compliance**

A contractor's equipment yard is not an allowed use in the A-5 (Agricultural) zoning district. If the variance of use permit is approved, the existing use would be legalized subject to compliance with any conditions of approval. A contractor's equipment yard is only an allowed use in the I-3 (Heavy Industrial) and M (Industrial) zoning districts. It is permitted by special use in the CS (Commercial Service), I-2 (Limited Industrial), and C-2 (Commercial) zoning districts. Staff recommends that rezoning to any of these districts at this location would be inconsistent with the surrounding residential development. Additionally, such rezoning of the property would not be desirable due to the lack of available water and wastewater services necessary to support commercial, service, and industrial related uses.

## **3. Policy Plan Analysis**

Consistency with the El Paso County Policy Plan (1998) is not a required review criteria for a variance of use request. The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

### **Policy 6.2.1**

Fully consider the potential impact of proposed zone changes and development on the integrity of existing neighborhoods.

### **Policy 6.2.10**

Utilize buffer zones to provide mutually compatible transitions between neighborhoods and adjoining development with differing uses or densities.

**Policy 6.2.12**

Ensure that proposed zone changes and/or use variances in established neighborhoods are of compatible scale and physical character.

The adjacent subdivision to the south, Quail Brush Creek Filing No. 2, was approved by the City of Colorado Springs on September 11, 2015. The properties to the north, east, and west have a similar use as the applicant and have been in operation for many years.

The applicant has requested relief from the buffering standard established in the Code of a six (6) foot 100 percent opaque fence. Instead of constructing a fence or wall, the applicant is proposing to plant fifteen (15) 10 foot tall Austrian Pines along the southern border for screening. The fifteen (15) 10 foot tall Austrian Pines will be in lieu of the required six (6) foot opaque fence and are intended to create a buffer between the proposed non-residential and the adjacent residential uses.

Any future change to the outdoor storage would require Board of County Commissioners approval as an amendment to the variance of use permit.

**4. Small Area Plan Analysis**

The property is not within the boundaries of a small area plan.

**5. Other Master Plan Elements**

The variance request is consistent with or does not create negative impacts to elements depicted on the El Paso County Wildlife Habitat Descriptors Map (1996), the El Paso County Parks Master Plan (2014), the Master Plan for Mineral Extraction (1996), and the Major Transportation Corridors Plan (2016).

**G. PHYSICAL SITE CHARACTERISTICS**

**1. Hazards**

No physical hazards were identified in the review of this variance request.

**2. Wildlife**

The El Paso County Wildlife Habitat Descriptors Map (1996) indicates development will have a low impact to wildlife in the area.

**3. Floodplain**

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0537F shows the property is located outside the 500-year floodplain (Zone X).

**4. Drainage and Erosion**

The property is located within the Sand Creek drainage basin (FOFO4000) which is a studied basin. No drainage or bridge fees are assessed with variance of use

requests. The drainage report identified that the existing improvements have no anticipated water quality impact as a result of the variance of use request.

## **5. Transportation**

Maine Lane is the primary access to and from the site and is a private unpaved road extended south from Adventure Way. The applicant stated and one neighbor confirmed that Maine Lane is primarily maintained by Mountain Splendor Services year-round. A traffic study was not required and the road impact fee is not required since the variance of use does not result in an increase of at least 100 more daily vehicle trips.

## **H. SERVICES**

### **1. Water**

Water is provided to the site from an existing individual well. Findings of water sufficiency are not a requirement with a variance of use request.

### **2. Sanitation**

The existing residence located on the property is served by an onsite wastewater treatment system (OWTS). No additional wastewater facilities are anticipated in association with the proposed variance of use permit.

The Environmental Health Division of El Paso County Public Health commented on the application in a letter dated November 27, 2017, which is included as an attachment.

Comments from El Paso County Public Health included requirements that no vehicular traffic or storage occur over the existing septic system. The comments also state that any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all state and federal regulations related to the storage of such fluids. These requirements have been added as recommended conditions of approval. The letter has also been included as an attachment for reference.

The El Paso County Public Health letter also requested the applicant hire a Colorado Registered Professional Engineer with experience in OWTS design, to provide verification that the existing OWTS installed in 1988 is sufficient in terms of capacity to serve the number of employees who work in the office including those employees that may use the restroom while at the property. The applicant hired Drexel, Barrell & Company to determine that the capacity and functionality of the OWTS system is sufficient to accommodate the regularly scheduled employees and any that may use the restroom while at the property.

**3. Emergency Services**

Emergency and fire protection services are provided by Falcon Fire Protection District.

**4. Utilities**

Mountain View Electric Association provides electrical service to the property. Natural gas service is provided by Colorado Springs Utilities

**5. Metropolitan Districts**

The property is not located within a metropolitan district

**6. Parks/Trails**

No park fees or land dedication in lieu of fees are required with this application.

**7. Schools**

The property is located in Falcon School District No. 49. School land dedication or fees in-lieu of land dedication are not required for a variance of use permit.

**I. APPLICABLE RESOLUTIONS**

See attached resolutions.

**J. STATUS OF MAJOR ISSUES**

There are no major issues that need to be addressed with this property.

**K. CONDITIONS AND NOTATIONS**

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in 5.3.4 (Variance of Use) of the El Paso County Land Development Code (2016), staff recommends the following conditions and notations:

**CONDITIONS**

1. Within 60 days from the date of approval, the applicant shall submit a site development plan for review and approval by the Planning and Community Development Department. The site development plan shall provide a detailed depiction of existing and proposed structures and improved surfaces associated with the approved variance of use permit.
2. Within 60 days from the date of approval, the applicant shall submit all necessary applications for building permitting for each structure located on this property to Pikes Peak Regional Building Department.
3. In lieu of a 6 foot tall opaque privacy fence, the applicants will plant within 120 days fifteen (15) 10 foot tall Austrian pines along the southern property boundary as visual screening.

4. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
5. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all State and Federal regulations related to the storage of such fluids.

The due dates may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to comply with the above Conditions.

#### **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.

#### **L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 15 adjoining property owners on January 17, 2018, for both the Planning Commission and Board of County Commissioner hearings. Responses are attached.

#### **M. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Site Plan  
Adjacent Property Owner Letters  
Planning Commission Minutes  
Planning Commission Resolution  
Board of County Commissioners Resolution

# El Paso County Parcel Information

File Name:

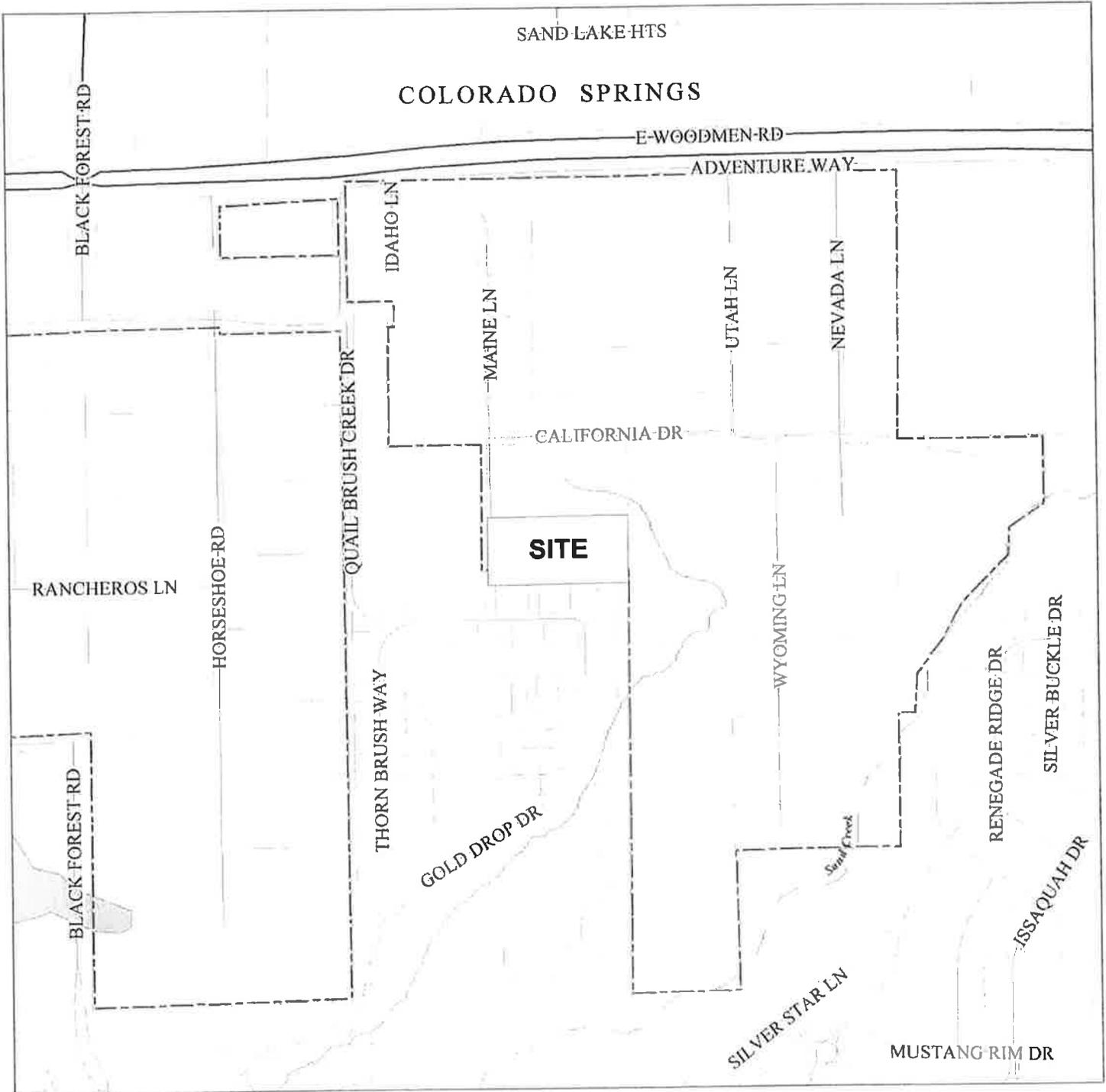
PARCEL	NAME
5308000048	COMBS DANIEL

Zone Map No.:

ADDRESS	CITY	STATE
7205 MAINE LN	COLORADO SPRINGS	CO

ZIP	ZIPPLUS
80923	4237

Date:



Please report any parcel discrepancies to:  
 El Paso County Assessor  
 1675 W Garden of the Gods Rd  
 Colorado 80907  
 (719) 520-6600



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**MOUNTAIN SPLENDOR SERVICES**

**PROJECT STATEMENT**

**OCTOBER 2017**

**REVISED: FEBRUARY 2018**

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**REQUEST**

N.E.S. Inc. on behalf of Dan Combs/Mountain Splendor Services requests approval of the following application(s):

1. A Variance of Use in the Agricultural Zone District (A-5) for a service establishment – Landscape Business, related tree nursery, and landscape equipment and material yard.

**LOCATION**

The subject site is located off of Maine Lane, south of Adventure Way. Maine Lane provides access to various single-family residents and similar landscape type small businesses. The property is located in El Paso County ("County") and is zoned Agricultural, A-5. The properties to the north and east are located in the County. The property to the north is zoned A-5 and the property to the east is zoned RR-5. The property to the west was annexed in to the City of Colorado Springs in 2005/2006 and is zoned A/AO. The lots to the south are part of the Quail Brush Creek Subdivision, located within the City of Colorado Springs and is zoned PUD. The property is not within a small-area master plan boundary in El Paso County.



## **PROJECT DESCRIPTION**

The site is approximately 5 acres and zoned A-5. The site is primarily accessed from Woodmen Road at Black Forest Road and Adventure Way to Maine Lane.

The Applicant has owned and operated Mountain Splendor Services since 2009. Mountain Splendor Services has been at the Maine Lane location since 2015, which is the primary business location. Mountain Splendor Services offers professional landscape services to commercial business and residential uses. The Applicant purchased this property from his brother in 2015, who owned and operated a wholesale tree nursery on-site for over 15 years. There have been no residential use on-site for over 17 years. The Applicant purchased the land in 2015, as a primary location for his landscape business as it provided a natural extension of the wholesale tree nursery use that has been previously operating on-site. The existing landscaping use is no more intensive than the previous use. There is no retail sales that occur on-site in association with this landscape business use.

### **Site Structures/Uses/Equipment**

The primary landscape business activities have remained similar in nature for the last 17+ years. Below is a brief summary of the uses/structures and equipment on-site.

The site is improved with the following structures/uses:

- Single-family residence which is used by Mountain Splendor Services as the main office. Built in 1972.
- Pole Barn used for general related vehicle maintenance and business related storage. Built 2000.
- Two greenhouse structures used for landscape planting storage. Installed in approximately 2002.
- One semi-trailer and storage container use for irrigation related storage materials. Brought on-site by Applicant in 2015.
- Landscape storage bins for mulch, rock, and other landscape material. Installed by Applicant in 2015.
- Tree nursery for wholesale and use for landscape related projects.
- Two (2) 32' x 8' water tanks. Brought on-site by Applicant 2017.
- Employee parking areas and open landscape material and equipment storage areas identified on the Site Plan.

Landscape business related equipment includes the following:

- Nine (9) trucks;
- One (1) company car;
- Nine (9) trailers;
- Seven (7) Bobcats.

## **Business Operation**

Mountain Splendor Services has defined peak and off- seasons. Below is a brief summary of the activities that occur during peak season and off-season.

### **Peak Season:**

- Due to the nature of the business and climate, peak season is approximately 8 months of the year from March/April through October/November.
- Hours of operation are normally 7:00 am to 5:30 pm. Some employees will arrive on-site between 6:30 am/6:45 am to obtain specific landscape job information, begin gathering landscape materials and equipment, and head out to jobs off-site between 7:00 am and 7:30 am. There is very little back and forth travel to and from job sites to the subject site during the day.
- During peak season there are 30 employees. Less than half of the employees come to the subject site. Most 'crew' employees will meet at specific job locations off-site.
- There can be up to 5 employee vehicles parked on-site during business hours.
- During peak season the company trucks are normally not parked on-site as employees take them home in the evening. There may occasionally be 1 or 2 company trucks that are parked overnight.

### **Off-Season:**

- During off-season months (October/November through March/April), 4-5 employees work on-site in the main office. Most off-season work is in the office with minimal outside on-site activity.
- During the off-season, hours of operation are 7:30 am to 4:00 pm.
- There can be up to 5 employee vehicles parked on-site during business hours.
- The company trucks, usually gone during peak season, are parked on-site during off-season as most employees leave town during off-season.

## **Maine Lane**

Maine Lane is the primary access to and from the subject site. Maine Lane is a private unpaved road from Adventure Way. Maine Lane has primarily been maintained by Mountain Splendor Services year around. This involves snow plowing in the winter and grading/dust control during summer months as needed. The City of Colorado Springs has an easement on Maine Lane for utilities.

## **EPC Land Use Code**

As a result of a Notice of Violation that was issued for the use, the Applicant is requesting approval of a Variance of Use to continue to operate the landscape business, related tree nursery, and ancillary landscape equipment and material yard on site.

In accordance to the Code definitions, a "Contractor's Equipment Yard" is defined as *"a service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or*

*outdoor storage of tools, equipment, materials, and vehicles uses by the establishment.*" The Land Use Code does not allow contractor's equipment yards in the A-5 zone district.

The Code allows contractor equipment yards as special use in the CS, I-2, and C-2 Districts, as an allowed use in the I-3 and M Districts, and potentially as an accessory use in the A-5 (Agricultural) district and other large lot residential districts as a rural home occupancy as a special use. If the required development standards were met, a contractor's equipment yard could be administratively approved as a rural home occupancy as a special use in the A-5 district. Those development standards limit the amount of employees, trips generated by the use and require the home occupancy to be clearly subordinate to the use of the property as a residence.

As a result of the Notice of Violation and the 'primary' use of the property, a Variance of Use request was required in order to avoid compliance difficulties and not have binding limits on the number of employees and trips generated per day. A site plan has been provide which illustrates the manner of the use on-site.

### **Landscape Buffer**

The property is almost entirely encompassed within a 4' existing barb wire fence, except along Maine Lane. On the south side of the property, there is a 30' utility easement owned by the Quail Brush Creek Subdivision HOA, between the single-family residences and the subject site, which is used as part of the subdivisions' trail system. The residences along the south boundary all have a 6' cedar privacy fence along the utility easement.

Pursuant to Section 6.2.2(D)(2) of the Code, a buffer is required when use-to-use compatibility is a concern and between non-residential and residential zoning district. The Code requires a minimum 15' foot deep buffer and minimum number of trees be planted for every 25 feet of common lot, in addition to the installation of an opaque fence or wall. In accordance to the Code, *"the minimum number of trees in the buffer shall be one tree for every 25 feet of common lot, parcel, or tract line. A minimum of 1/2 of the trees shall be evergreen trees."* The Applicant proposes to install 15 Austrian Pines at a minimum height of 10' along the southern property boundary in accordance with the Site Plan. This is in addition to the 11 existing deciduous trees (crabapple and cottonwood trees) and 1 existing pine tree, for a total of 27 trees. The Austrian Pines can grow up to a height of 50-60' with a spread of 20-40' at maturity and will provide sufficient screening of the subject site from the single-family residences to south. This live buffer will be permanent.

As part of the Quail Brush Creek Subdivision Annexation approved by the City of Colorado Spring in 2007 and the approval of the Concept and Development Plans Amendment in 2014, it was determined by the City that the 6' cedar fence along the north boundary of the residential lots in addition to the 30' utility easement was sufficient buffering between City and County properties. Therefore, the Applicant requests that the required 6' opaque fencing along the south boundary not be required to be installed. The installation of another 6' opaque fence between the uses will provide for an unappealing and potentially unsafe environment for trail users.

## **Water/Wastewater**

Water is provided to the site by an individual well. A copy of the well permit issued for the site in April 1983 has been provided. The Applicant has submitted water quality testing through the County Health Department. Results were not received prior to submittal of this application. Upon receipt, results will be submitted to the County. Water use on the property is for the office use and irrigation of the tree nursery. The irrigation system was installed by the previous by the wholesale nursery business approximately 12 years ago. The Applicant is proposing to place two (2) existing 32' X 8' tanks along the north property boundary, adjacent to the storage trailers and tree nurse outside of the setbacks. These tanks will be used when necessary for water storage and used for tree irrigation. Water to fill the tank will be from the existing well and will only be used during years of significant drought.

Sanitation is provided on the site by an on-site wastewater system.

## **Drainage and Erosion**

The site is located in the Sand Creek drainage basin. No additional grading or site development is proposed as this time. The Final Drainage Report prepared by Drexel, Barrell, & Co. dated September 30, 2017, indicates that "The change in zoning use of the property, will not adversely affect surrounding or downstream developments."

## **PROJECT JUSTIFICATION**

### **A. Variance of Use**

To approve a variance of use, the following conditions shall exist:

- 1. 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 this area and County.**

**Response:** The proposed uses is compatible with the surrounding area and uses to the north, east and west. It is not detrimental to the surrounding area nor the future development of the area. There is no indication that it detrimental to the health, safety or welfare of the inhabitants of this area or County.

The reason for this Variance of Use application is a result of a complaint expressing opposition to this use adjacent to residential development. Mountain Splendor Services is a small local business serving the Colorado Springs area that provides professional landscape services to commercial business and residential developments in the area.

There is a legal term called "Coming to the Nuisance". This terminology is defined as "*Individuals who have knowledge of a foreseeable nuisance in an area, but still choose to build, operate a business, or reside in that area may not be entitled to relief from the nuisance.*"

Mountain Splendor Services has been operating on-site prior to the construction of the residential house to the immediate south and southwest. Homeowners were aware or should have been made aware by the developer of the existing use on the subject site and in the immediate area prior to construction of new homes. Choosing to construct a home next to a non-residential use, should not put unnecessary burden and hardship on existing non-residential use(s).

During the City of Colorado Springs review of the Quail Brush Creek Subdivision, it was noted that most of the County neighborhood residents enjoy using their property for home occupations and businesses and keep horses and other animals. The Subdivision was slightly modified along its westerly boundary during the review process to increase setbacks to conform to rural densities of the surrounding area. However, along the property boundary that adjoins both the subject site and the Quail Brush Creek Subdivision, the 30' utility easement was anticipated to provide sufficient buffering between uses along with the installation of a 6' cedar privacy fence.

Values of these residences should not be affected due to the continued use of the existing use.

**2. 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.**

**Response:** The proposed use meets the County Standards for air, water, odor or noise. Hours of operation during peak-season is 7:00 am to 5:30 pm and off-season is 7:30 am to 5:30 pm. Most noise from this use occurs in the morning hours when crews gathering landscape materials and equipment for off-site jobs and again towards the end of the day when equipment is being returned on-site. There is minimal disturbance or noise during the day time hours. Aside from the occasional diesel odor from landscape equipment, there is minimal odor. For dust control, roto-millings is done on the parking and drive areas, as the rest of the property is either grass or trees. Mountain Splendor Services tries to minimize any dust as a result of its operation.

**3. The propose use will not adversely affect property values in the immediate area;**

**Response:** The proposed use does not adversely affect the property values in the immediate area. Similar landscape type small businesses are located in the immediate area and are adjacent to residential neighborhoods. Letters of support have been provided in support of this business and for the continued operation of this use on-site. Mountain Splendor Services has been a respectable neighbor.

**4. The proposed use will comply with all requirements of this Code and all County, State, and federal regulations except those portions varied by this action;**

**Response:** The proposed use will comply with all County, State and Federal regulations as deemed necessary.

**5. The proposed use will not adversely affect wildlife and wetlands;**

**Response:** The proposed use will not adversely affect wildlife and wetlands. The marsh area along the east portion of the property is and has been undisturbed by this use. This area has been delineated on the site plan.

**6. The applicant has addressed all off-site impacts;**

**Response:** Off-site impacts have been addressed to the maximum extent possible.

**7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping;**

**Response:** The site plan provides graphically depicts the limits of the existing operation. Adequate parking for employees and landscape equipment has been provided. The Applicant will install 21 Austrian Pines, in addition to the existing evergreen and deciduous trees along the southern property boundary as required by the County Landscape Code to provide required buffer between the residential houses to the south.

**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; and**

**Response:** Water is provided by an existing well and there is on-site wastewater system. The site falls under the Falcon Fire Protection District. Police protection is provided by the Sheriff Department. Maine Lane is a private unpaved road that serves approximately nine (9) parcels.

**9. The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property.**

**Response:** As a result of a Notice of Violation that was issued, the Applicant is requesting approval of a Variance of Use to continue to operate the landscape business and auxiliary landscape contractor yard on site. The Applicant understands that a Variance process is not intended to remove all practical difficulties or hardship for the reasonable use of the property. The grant of variance is purposed to address peculiar and exceptional practical difficulties or undue hardship caused by strict compliance of the Code. The inability to continue operation of this landscape business and auxiliary landscape contractor yard at this location will cause significant undue financial hardship to this small local business.

# Green Thumb

COMMERCIAL GROUNDS MAINTENANCE, INC.  
7209 QUAIL BRUSH CREEK DRIVE COLORADO SPRINGS, CO 80923  
(719) 632-5184 FAX (719) 494-0521  
greenthumb7209@msn.com  
www.greenthumbsince1976.com

To whom it may concern:

Dan Combs (Mountain Splendor) operating at 7205 Maine Lane has maintained the same operation since buying the property. He is running a landscape/nursery out of the location. This operation is the same as it was before him back to 2000. It is located on a private road (Maine Lane). Green Thumb Commercial Grounds Maintenance Inc. (7209 Quail Brush Creek Dr, directly to the west) has no issues with the operation nor has seen any changes in what is being done on this property. If I can be of any further assistance please contact me at (719) 632 -5184.

Sincerely,



Jason Gingerich  
Green Thumb Commercial Grounds Maintenance Inc.



**HYDRO-TURF**

7215 Maine Lane  
Colorado Springs, CO 80923  
(719) 591-8151  
(719) 591-7446 (fax)

**Mailing Address**  
P.O. Box 303  
Larkspur, CO 80118

10/14/17

To Whom It May Concern:

Mountain Splendor Services, Inc. has been operating a landscape/nursery business from the property at 7205 Maine Lane since owner Dan Combs purchased the property two years ago.

We have no issues with Mountain Splendor's business operation. In fact, Dan has taken it upon himself to ensure that Maine Lane is maintained at his own expense.

We support a variance for Mountain Splendor Services/Dan Combs. Feel free to contact us if you have any questions.

Sincerely,

Pam and Leon Mazanec  
Owners  
Hydro Turf, Inc.

Philip B. Ciborowski  
7385 California Dr.  
Colorado Springs, CO 80923

8 November 2017

RE: Mt. Splendor Variance

To Whom It May Concern,

I recently received a letter in the mail concerning a variance for Mt. Splendor to operate a service establishment on their property which is in an Agricultural Zone.

My question is - why is a variance needed at all? I am their neighbor that lives directly ~~west~~ east of this property and we share a fence line that goes the length of their property. I can tell you that we have never had any noise issues or neighbor issues with this property- they have been the perfect neighbors. This property was previously owned by a service yard and again they were the perfect neighbors.

I would recommend that this variance be granted or better yet that it not be considered at all. If you have any questions for me please feel free to call me on my cell phone-719-650-1328.

Sincerely,

*Philip B. Ciborowski*



**MOUNTAIN SPLENDOR SERVICES, INC.**  
 EL PASO COUNTY, STATE OF COLORADO  
 VARIANCE OF USE



N.E.S. Inc.  
 619 N. Cooper, Avenue, Suite 209  
 Colorado Springs, CO 80903  
 TEL: 719.471.4073  
 FAX: 719.471.1827  
 www.mcsplendor.com  
 info@nesh.com

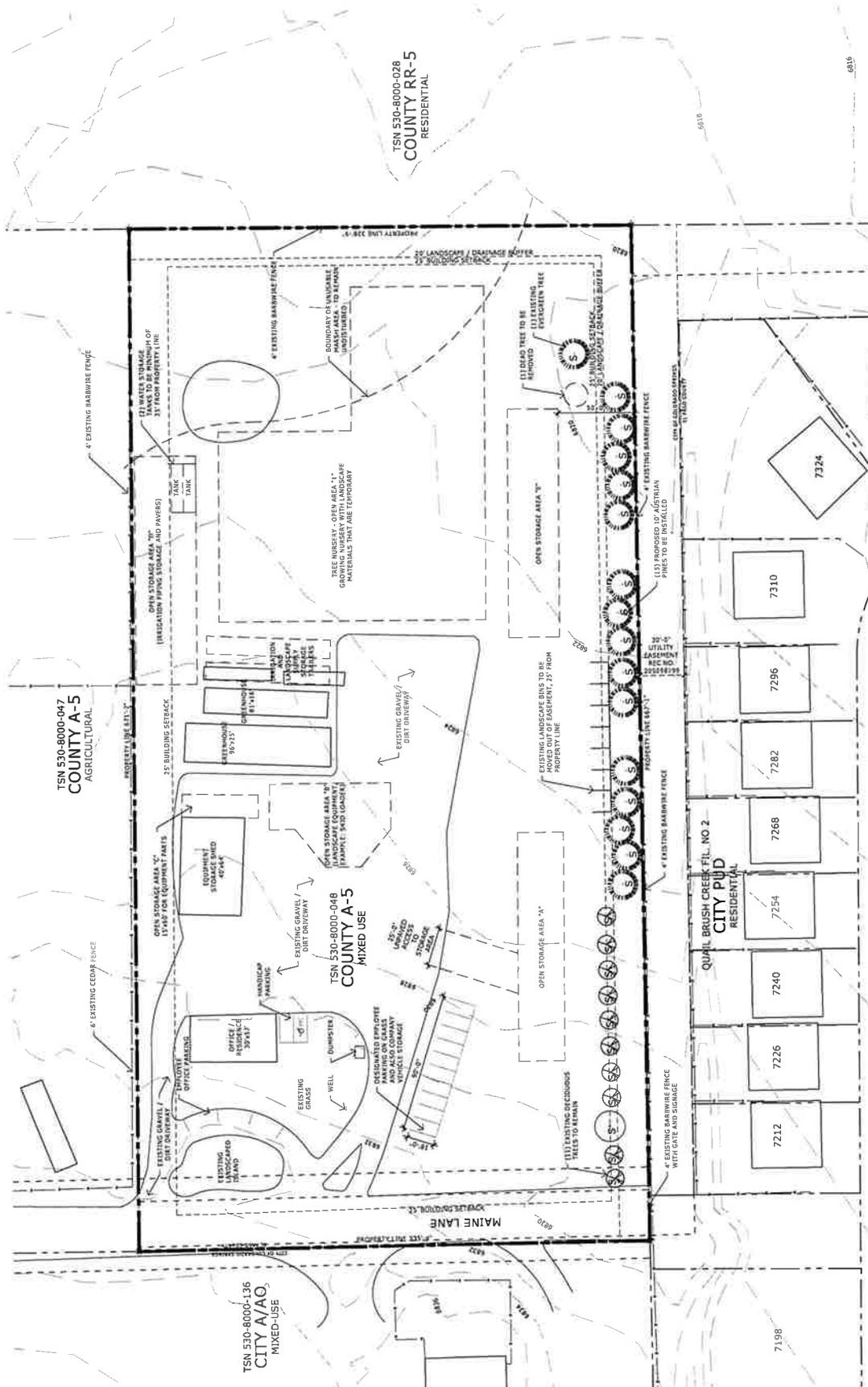
**MOUNTAIN SPLENDOR SERVICES, INC.**  
 MAINE LANE  
 VARIANCE OF USE  
 7365 MAINE LANE  
 COLORADO SPRINGS, CO 80913

DATE: 10/20/2011  
 PROJECT: 11-1111  
 DRAWING: 11-1111-01

VARIANCE OF USE

SITE PLAN

2  
 2 OF 2



1 OVERALL SITE PLAN

THIS PLAN IS THE PROPERTY OF MOUNTAIN SPLENDOR SERVICES, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF MOUNTAIN SPLENDOR SERVICES, INC.

  
**EL PASO COUNTY**  
**COLORADO**

COMMISSIONERS:  
 MARK WALLER (CHAIR)  
 LONGINOS GONZALEZ, JR. (VICE-CHAIR)

HOLLY WILLIAMS  
 STAN VANDERWERF  
 CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**To:** Board of County Commissioners  
 Mark Waller, Chair

**From:** Gabe Sevigny, Planner II  
 Mindy Madden, Code Enforcement Supervisor  
 Craig Dossey, Executive Director

**Re:** VA-17-010 -- Mountain Splendor Services Contractor Equipment  
 Yard (Parcel No. 53080-00-048)

**Subject:** Revocation of a variance of use pursuant to Section  
 5.3.4(G) of the El Paso County Land Development Code  
 (2019)

OWNER:	REPRESENTATIVE:
Dan Combs 7205 Maine Lane Colorado Springs, CO 80923	Dan Combs 7205 Maine Lane Colorado Springs, CO 80923

**Commissioner District: 2**

Board of County Commissioners' Hearing Date	9/10/2019
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**Executive Summary**

A request by the Planning and Community Development Department (PCD) to revoke approval of a variance of use for a contractor's equipment yard pursuant to Section 5.3.4 (G) of the El Paso County Land Development Code (2019). The applicant has failed to obtain building permits within sixty (60) days as required by Condition No. 2 of the variance of use approval (VA-17-010). The five (5) acre property is zoned A-5 (Agricultural) and is located approximately one-half (1/2) mile southeast of the Woodmen Road and Black Forest Road intersection. Daniel Combs received approval for a variance of use to allow for a

2880 INTERNATIONAL CIRCLE, SUITE 110  
 PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127  
 FAX: (719) 520-6695

contractor's equipment yard, Mountain Splendor Services, in the A-5 zoning district on February 27, 2018, due to a complaint against the property submitted to Code Enforcement on March 24, 2017, of a residence being converted into an office. The investigation at that time determined there was a contractor's equipment yard in operation without obtaining the appropriate approvals. Approval of the variance of use included multiple conditions of approval. Specifically, Condition of Approval No. 2, which has not been complied with to date, states:

"Within 60 days from the date of approval, the applicant shall submit all necessary applications for each structure located on this property to Pikes Peak Regional Building Department."

Due to the owner's failure to comply with the conditions of approval, staff recommends that Section 5.3.4(G) of the Land Development Code should apply. Section 5.3.4(G) states the following:

"The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the variance of use permit shall constitute sufficient grounds for suspension or revocation of the variance of use permit by the BoCC, subject to the requirements of Chapter 11."

The BoCC may revoke a variance of use approval if all conditions of approval are not met. The Planning and Community Development Department is requesting the variance of use approval be revoked for failure to comply with Condition of Approval No. 2.

### **Background**

Daniel Combs received approval on February 27, 2018, for a variance of use to allow a contractor's equipment yard, Mountain Splendor Services, in the A-5 zoning district. The County was made aware of the illegal use as a result of a Code Enforcement complaint that was made against the property, which was submitted on March 24, 2017. The complaint stated that a residence had been converted to an office. The investigation at that time determined there was a contractor's equipment yard in operation without obtaining the appropriate approvals. After approval of the variance of use, the applicant satisfied Condition of Approval No. 1 by applying and receiving approval of a site development plan (PPR-18-017), however, the applicant has failed to obtain building permits from Pikes Peak Regional Building Depart (PPRBD).

Another complaint was received on April 25, 2019, after approval of the variance of use, that the property owner was storing equipment and materials in a location not designated as outside storage on the approved Site Development Plan and that building permits had not been obtained for the structures on the property as required by Condition of Approval No. 2 on the variance of use.

PCD staff spoke to the property owner regarding the violations on May 2, 2019. The property owner stated he would move the materials located in the unapproved location, but that PPRBD told him he did not need building permits for the structures onsite. PCD staff informed the property owner that the information received from PPRBD was that building permits were required. Staff confirmed with PPRBD again on July 17, 2019, that building permits were required and that a letter had not been issued for this property stating otherwise.

A notice of violation was sent to the property owner on May 30, 2019, after the property owner failed to correct the violations identified on his property. On June 17, 2019, Code Enforcement was able to confirm that the property owner removed the materials from the prohibited area, but did not apply for building permits for the structures on the property. As a result of this inspection, an executive determination was issued on June 17, 2019 by the PCD Director after the property owner failed to bring the property into compliance within the fourteen (14) days provided for on the notice of violation.

A request for an appeal of the executive determination was not received within ten (10) days of the date of the executive determination. The PCD Director's decision to issue an executive determination is now final and the Office of the County Attorney is authorized to pursue litigation. In addition to pursuing legal action, the Land Development Code provides another option when a violation of a development application approval has occurred. Section 11.3.2 (B) of the Land Development Code states:

"If an alleged violator is in violation of the terms and conditions of a development application approval or development permit that was issued by the PCD without review by the Planning Commission or the BoCC, the PCD Director may revoke the development permit or development application approval. Notice of the revocation may be sent via first class mail to the property owners mailing address as listed in the records of the Assessor's Office and to the mailing address of the property if one exists. Appeals of revocations may be taken to the BoCC pursuant to the procedures set forth in the Procedures Manual."

**Recommendation:**

The owner has had 20 months to obtain building permits from PPRBD and bring the subject property into conformance with the conditions of approval for the variance. For this reason, staff recommends revocation of the variance of use approval as permitted in Section 11.3.2 (B) of the Land Development Code rather than pursuing legal action to remedy the violation.

If the Board of County Commissioners revokes the variance of use approval, the applicant may submit a new variance of use application if he chooses to continue the operations onsite. If the request to revoke the variance of use is authorized, the Office of the County Attorney may proceed with litigation. The zoning violation file will not be closed unless the applicant obtains the necessary building permits and applies for a variance of use or the commercial operation is discontinued on the property.

**Attachments:**

Vicinity map

Resolution No. 18-079

Board of County Commissioners Resolution Revoking the Special Use

Vicinity Map





**RESOLUTION NO. 18-079**

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

**APPROVE VARIANCE OF USE TO LEGALIZE AN EXISTING CONTRACTOR'S  
EQUIPMENT YARD ASSOCIATED WITH A LANDSCAPING BUSINESS  
(VA-17-010)**

WHEREAS, Dan Combs 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-5 (Agricultural) zoning district to legalize an existing contractor's equipment yard associated with a landscaping business 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 February 6, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use VA-17-010; and

WHEREAS, a public hearing was held by this Board on February 27, 2018; 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 Dan Combs for a variance of use to legalize an existing contractor's equipment yard associated with a landscaping business within the A-5 (Agricultural) zoning district 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. Within 60 days from the date of approval, the applicant shall submit a site development plan for review and approval by the Planning and Community Development Department. The site development plan shall provide a detailed depiction of existing and proposed structures and improved surfaces associated with the approved variance of use permit.
2. Within 60 days from the date of approval, the applicant shall submit all necessary applications for building permitting for each structure located on this property to Pikes Peak Regional Building Department.
3. In lieu of a 6' opaque privacy fence, the applicants will plant within 120 days fifteen (15) 10' tall Austrian pines along the southern property boundary as visual screening.
4. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
5. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all State and Federal regulations related to the storage of such fluids.
6. Security lighting shall be limited to that in existence at the time of approval of the variance of use. No additional lighting, excluding standard wall-mounted entryway lighting, shall be installed without prior approval by the Board of County Commissioners of an amended variance of use application.

The due dates may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to obtain the approval listed above.

**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 27th day of February, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: Charles D. Broerman  
County Clerk & Recorder

The seal of El Paso County, Colorado, is circular with a double border. The outer border contains the text "EL PASO COUNTY, COLORADO" at the top and "1876" at the bottom. The inner border contains the text "COUNTY CLERK & RECORDER". In the center of the seal is a smaller circular emblem featuring a landscape with a mountain, a river, and a sun.

By: [Signature]  
President

**EXHIBIT A**

THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO.

RESOLUTION NO. 19-

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

APPROVE REVOCATION OF A VARIANCE OF USE PURSUANT TO SECTION 5.3.4 (G) OF THE EL PASO COUNTY LAND DEVELOPMENT CODE WITHIN THE A-5 (AGRICULTURAL) ZONE DISTRICT (VA-17-010).

WHEREAS, Daniel Combs did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use for a contractor's equipment yard on a 5 acre lot within the A-5 (Agricultural) Zone District; and

WHEREAS, the Board of County Commissioners approved the variance of use request on February 27, 2018 with 6 conditions and 3 notations attached hereto as Exhibit B; and

WHEREAS, Daniel Combs has not complied with the conditions of approval for the variance of use; and

WHEREAS, the Planning and Community Development Department has requested revocation of the variance of use approval pursuant to Section 5.3.4 (G) of the El Paso County Land Development Code for noncompliance; and

WHEREAS, a public hearing was held by this Board on August 27, 2019; and

WHEREAS, based on the evidence, testimony, exhibits, comments of the El Paso County Planning and Community Development Department, comments of public officials and agencies, and comments from all interested parties, this Board finds as follows:

1. The variance of use for a contractor's equipment yard on a 5 acre lot within the A-5 (Agricultural) Zone District shall be revoked.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of El Paso County, Colorado, hereby revokes approval for a variance of use for Daniel Combs to allow a contractor's equipment yard on a 5 acre lot within the A-5 (Agricultural) Zone District for property located within the unincorporated area of El Paso County more particularly described in Exhibit A, which is attached hereto and incorporated by reference;

Resolution No. 19-  
Page 2

DONE THIS 27<sup>th</sup> day of August, 2019 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
County Clerk & Recorder

Resolution No. 19-  
Page 3

Resolution No. 17-  
Exhibit A

SE4SW4 EX S 30.0 FT THEREOF DEDICATED AS A R/W FOR COUNTY RD

Variance of Use  
Mountain Splendor Application – 2020  
VA -19-008

-When Dan Combs/ Mountain Splendor first sought a variance to their A-5 Zoning in 2017, they were not in compliance at that time to A-5 Zoning regulations for their property.

-After the variance was approved in 2018, they never fully complied with the requirements set forth by the BOCC to keep that variance and they were not in compliance with zone regulations for their type of property.

-After their variance was revoked in September 2019, they never once became compliant to A-5 zoning.

And now they are once again seeking a variance.

If anyone thinks Mountain Splendor will suddenly start complying with any zoning regulations or variance requirements, the historical evidence is not being taken into consideration.

\*Quail Brush Creek Filing 2 was approved by the City of Colorado Springs in September of 2015 – A neighborhood street was already paved and there was no evident contractor's work being done at Mountain Splendor and The people buying homes in this neighborhood were told that it was zoned for Agriculture. Mr. Combs did not acquire this property from his brother until April of 2016.

Exhibit A - 2015 map of Mountain Splendor and Quail Brush Creek

Exhibit B – 2017 map of Mountain Splendor and Quail Brush Creek

Exhibe C – Quail Brush Creek Filing 2

**Since the residential area adjacent to his property had already begun development and was completed long before Dan Combs applied for his first commercial variance, the neighborhood should have precedence.**

If Mountain Splendor had been a noisy, junky commercial business at time I started building my home in early 2016, I would not have bought a home here. This neighborhood has a right to quiet and peaceful enjoyment of our homes, which is nearly impossible when there is a loud junk yard in your back yard.

Additionally:

One of the requirements of Mountain Splendor receiving their variance was that they were to have a large storage building on their property properly permitted. They never did and this was one reason that their variance was revoked. However, in July of 2020, they decided to try and get it permitted as a residential garage, since it could not be permitted any other way. **And they are now using a residential detached garage for their commercial business.**

Exhibit D – Residential Detached Garage.

Here's a comment from code enforcement about this garage

EPC Code Enforcement

LOI mistakenly says they are requesting a "renewed approval". This should be reworded.

9/2/2020 12:13:52 PM

Verification of building permit for the accessory structure is needed. Clarification is needed to ensure the permit is for a structure used for a commercial business.

Regarding the screening requirement under section 6.2.2(D)(2)(c), Opaque Fencing or Wall Required, of the Land Development Code. The trees that this property owner was allowed to plant in lieu of the Land Development Code requirement- do nothing to actually screen the property.

Waiver(s): A waiver has been requested for the screening requirement under section 6.2.2(D)(2)(c), Opaque Fencing or Wall Required, of the Land Development Code. Instead of constructing a fence or wall, the applicant is proposing to plant fifteen (15) 10 foot tall Austrian Pines along the southern border for screening. The fifteen (15) 10 foot tall Austrian Pines will be in lieu of the required six (6) foot opaque fence and are intended to create a buffer between the proposed non-residential and the adjacent residential uses.

**Those trees provide zero coverage between the neighborhood and Mountain Splendor Services.**

-The walking path runs between the Quail Brush Creek neighborhood this commercial business. Small children play and ride their bikes on this path.

-The noise and bad appearance of this business is a definite deterrent for anyone seeking to buy a home that backs up to it. It negatively affects home prices in this neighborhood.

-This was a comment by Code Enforcement- Nothing has changed since the day this was written – further evidence that this business has never and will never

**comply with el paso county zoning rules or regs.**

EPC Code Enforcement

Vehicles/trailers unrelated to the business (collectors' vehicles), truck bed, and horse trailers are being stored on the property. Site plan indicated water tank is to be moved by June 2018. The tank appears to still be onsite. Limit should be placed on distance materials can be pouring out of the bins.

12/4/2019 8:08:25 AM

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**I ask you to please consider this information and the fact that the plans for this residential neighborhood were signed by the City of Colorado Springs and construction begun prior to them seeking a commercial variance – and deny this variance once and for all.**

**Thank you!**

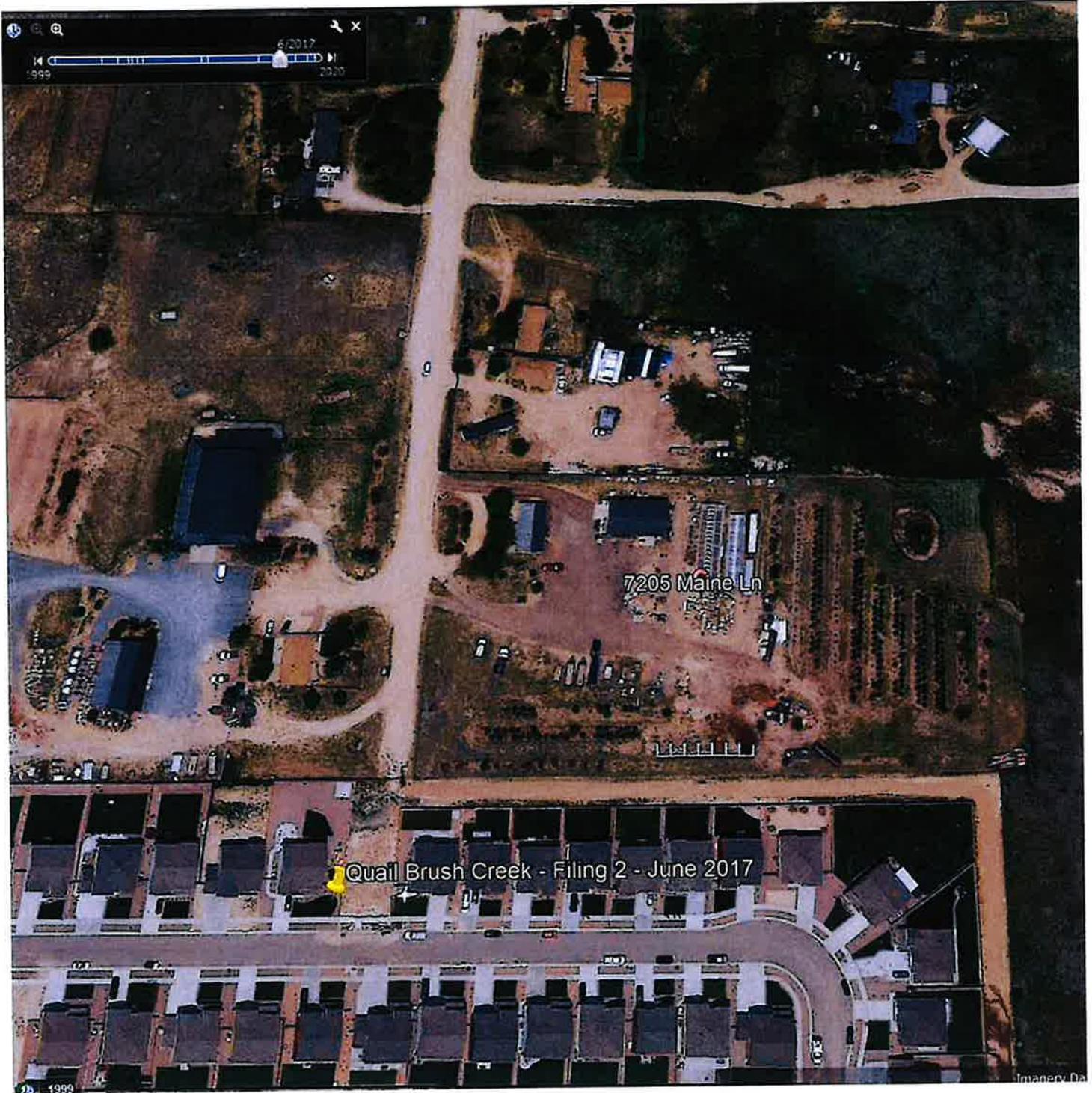






Imagery Date: 11.2.2015 39°56'10.5"

1999





Pikes Peak Regional Building Department

Engineering, Inspection, and Construction Services  
 1000 Central Expressway, Colorado Springs, CO 80902

**Permit: M93935**

7207 MAINE LN, COLORADO SPRINGS, CO, 80922

Permit Status: Final

M93935

**Permit Details**

<b>Address:</b>	7207 MAINE LN, COLORADO SPRINGS, CO, 80922 <a href="#">View Google Permits at this address</a>
<b>Parcel #:</b>	5206000043 Click to view Assessor Information
<b>Lat / Long:</b>	38.9562682, -104.69552924
<b>Roof Truss P/SF:</b>	30 (Elevation: 6840 ft.)
<b>Code Version:</b>	2012 APPRC
<b>Project Code:</b>	436 (Residential Garages and Carports (Att & Detached))
<b>Project:</b>	PERMIT NOT PREVIOUSLY REQUIRED - CHANGE OF USE TO DETACHED GARAGE
<b>Plan:</b>	<a href="#">View Info for Plan R1271.22</a>

**Map**

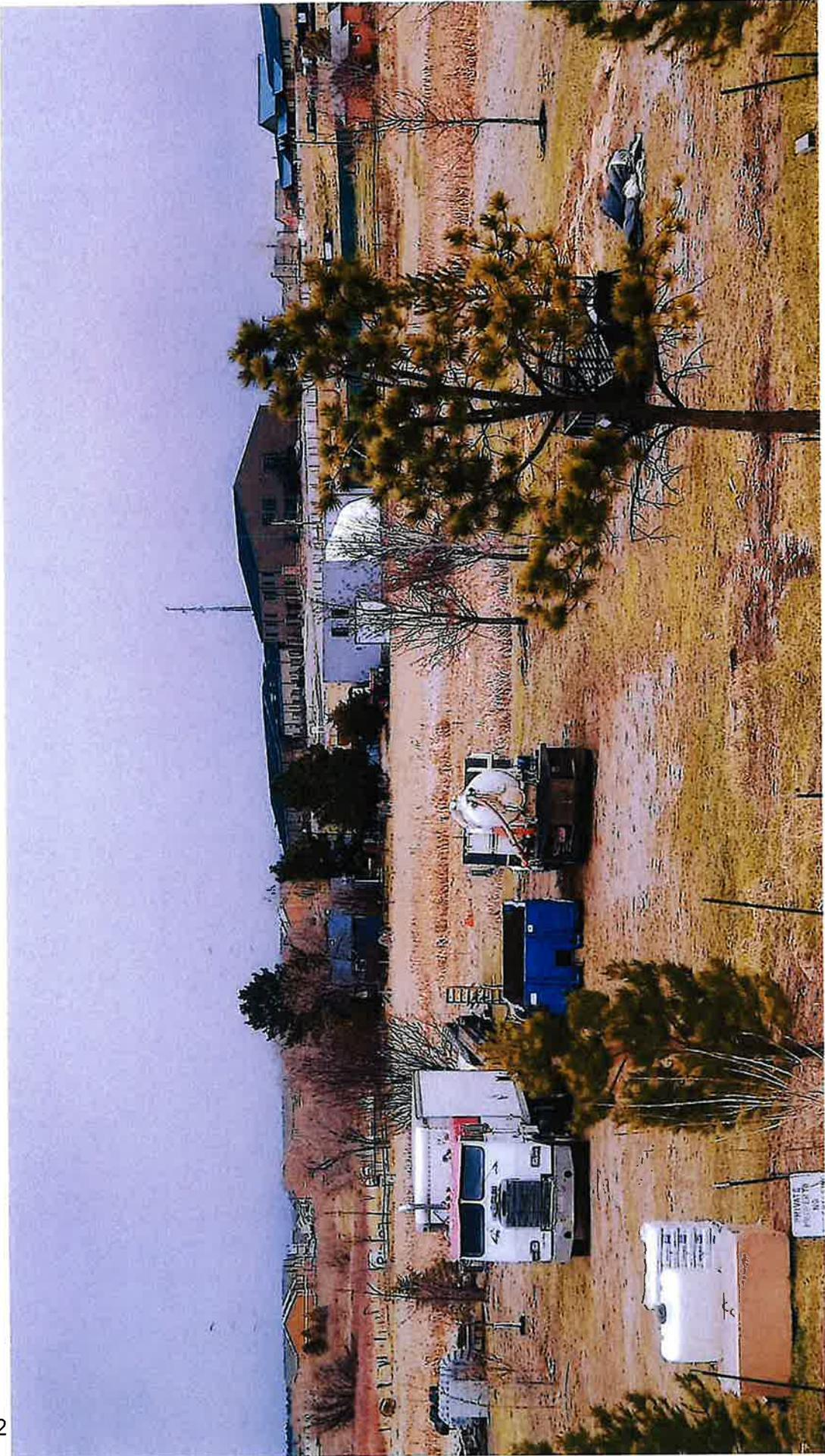


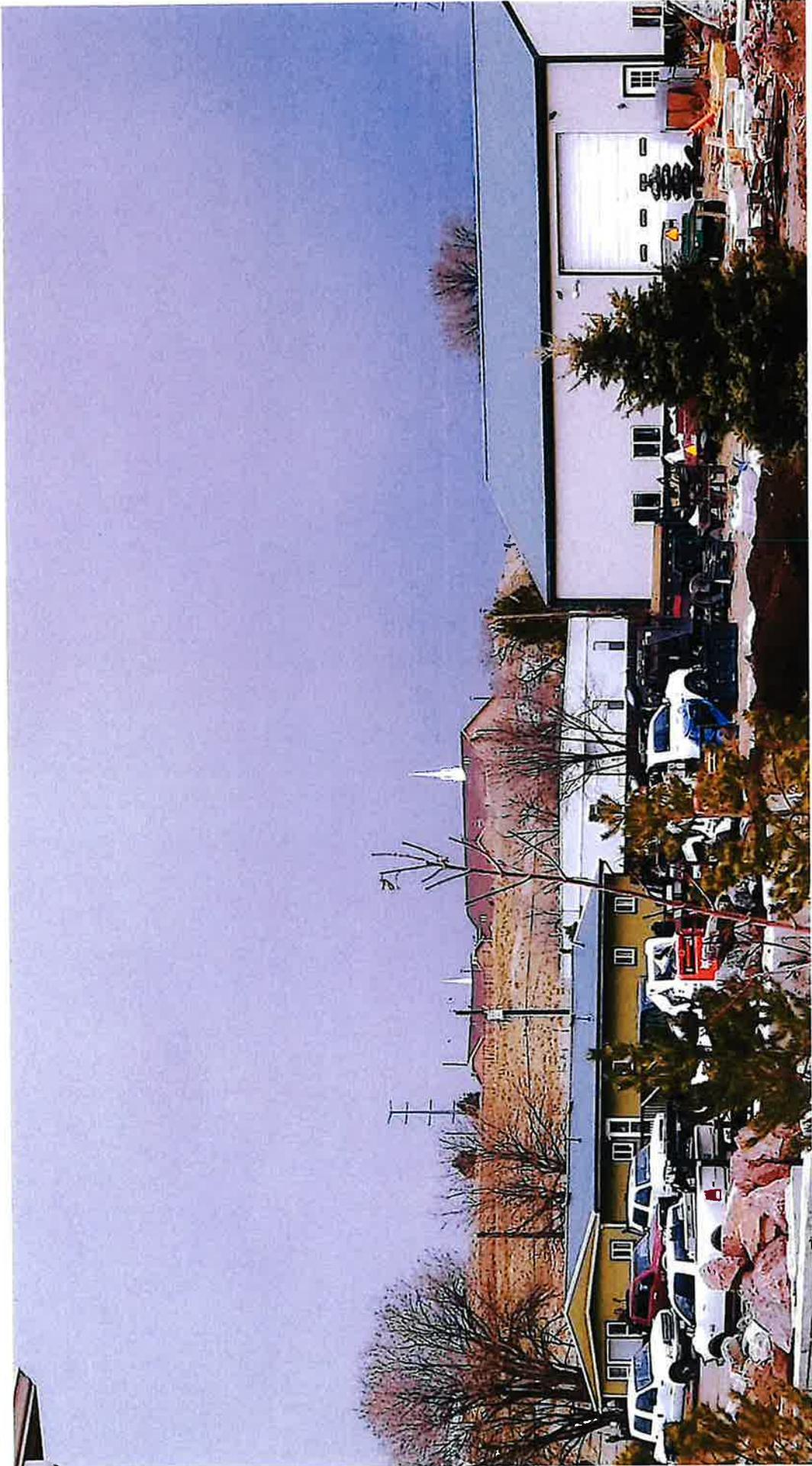
**Permit Notes**

Note Entered  
 7/9/2020 3:54:39 PM

**Notes**

Allen 661-5444 585.08







PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting  
Thursday, December 3, 2020  
El Paso County Planning and Community Development Department  
200 S. Cascade Ave – Centennial Hall Hearing Room  
Colorado Springs, Colorado

**REGULAR HEARING**

**1:00 p.m.**

**PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, SARAH BRITTAIN JACK, TIM TROWBRIDGE, JAY CARLSON, BECKY FULLER, AND MORAES**

**PRESENT VIA ELECTRONIC MEANS AND VOTING: GRACE BLEA-NUNEZ AND THOMAS GREER**

**PRESENT AND NOT VOTING: NONE**

**ABSENT: JAY CARLSON AND JOAN LUCIA-TREESE**

**STAFF PRESENT: CRAIG DOSSEY, NINA RUIZ, RYAN HOWSER, LINDSAY DARDEN (VIA REMOTE ACCESS), DANIEL TORRES, EL PASO COUNTY ATTORNEY COLE EMMONS**

**OTHERS SPEAKING AT THE HEARING: KEVIN CURRY, JON ROMERO, DAVID AND CINDY SMALLIDGE, BRENT NEISER, DAVID WHITEHEAD, DANIEL COMBS**

**Report Items**

**1. A. Report Items -- Planning and Community Development Department -- Mr. Dossey -- The following information was discussed:**

- a) The next scheduled Planning Commission meeting is for **Thursday, December 17, 2020 at 1:00 p.m.**

- b) **Mr. Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.
- c) **Mr. Dossey** also gave the November Total Single Family Building Permits numbers. He further gave major development application numbers for the PCD department for the year. The numbers are at all time highs.
- d) **Mr. Dossey** gave a report on the Master Plan process and timeline. The draft plan is still in review by staff.

**B. Public Input on Items Not Listed on the Agenda - NONE**

**2. Pulled Consent Items to Regular**

**A. Approval of the Minutes – November 19, 2020**

The minutes were unanimously approved as presented. (8-0)

**B. PUDSP-20-004**

**HOWSER**

**PLANNED UNIT DEVELOPMENT/PRELIMINARY PLAN  
THE ESTATES AT ROLLING HILLS FILING NO. 2**

A request by Meridian Ranch Investments, Inc., for approval of a map amendment (rezoning) from a conceptual PUD (Planned Unit Development) to a site-specific PUD (Planned Unit Development) and approval of a preliminary plan for 98 single-family residential lots. The 117.21-acre property is located west of Eastonville Road at the easternmost terminus of Rex Road and within Sections 19 and 20, Township 12 South, Range 64 West of the 6th P.M. (Parcel No.42000-00-407) (Commissioner District No. 2)

**Mr. Trowbridge** requested it be pulled to review the deviations and the ECM modifications. An abbreviated presentation to address these concerns will be done. **Mr. Curry** would also like to offer opposition, attending remotely.

**Mr. Ryan Howser** and **Mr. Daniel Torres** gave the presentation on behalf of PCD planning and engineering staff.

**Mr. Trowbridge** – When is the extension of Rex Road projected to be developed? **Mr. Torres** – It’s a minor arterial roadway in the 2040 MTCP. As these developments come in, it will continue to be extended first to Eastonville, but ultimately to Highway 24. The traffic studies that were collected support the collector roadway. If the County feels it necessary, the County could upgrade.

**Mr. Trowbridge** – I have an issue with the cul de sac extension being 50% greater than allowed. I understand that the fire department signed off on it, but that is still a concern. **Mr. Torres** – We only support it because the fire department gave their approval.

**IN FAVOR: NONE**

**IN OPPOSITION:**

**Mr. Curry** - My concern is for the future. At some point, the road will need to be built out to the full standard and it will be the county's responsibility to do that. If the final plat is approved after 1 January, then no problem - the fees will have been paid to the County to pay for that expansion. But if the final plat is approved before the end of the year, the fees go to the Metro District, which means the County would have to build out the road without having been paid for it. A simple condition stating the final plat cannot be approved in 2020 solves the issue - it lets the application proceed exactly as submitted and ensures the County is paid for the work it will eventually have to do at some point in the future. **Mr. Torres** – It is staff's opinion that the application meets the criteria. There is an IGA between Woodmen Road Metro District and County in place to ensure that developers within the district pay their fair and equitable share of the regional roads. **Mr. Dossey** – In regard to the scenario where a developer would construct half of a principal arterial, we do that because we can't legally require them to build a road that exceeds the impact of their development. Fees that could be collected could pay for this section of road does not add up. It would be a drop in a bucket of what is required to construct that road.

**Mr. Moraes** – What was it their (Meridian Ranch) responsibility to go to the Rex Road boundary when they started building that out? **Mr. Torres** – They will be constructing Rex Road. The buildout to the south is comprised of three filings. It's currently a stub out but will be constructed in Filing 3.

**DISCUSSION:**

**Mr. Emmons** – It looks like the applicant is available online as well if they want to speak. I want to underscore what Mr. Dossey said. So, what you have before you is a PUD and preliminary plan. The PUD is a negotiation between the applicant and the County. In straight zoning, there isn't much flexibility, but in a PUD there is more flexibility. They could ask for dedication of ROW or more open space. However, the County has to be careful of what they want. The development will come with impacts, so the County makes exactions that are in proportion to the development. The impacts from the traffic to Rex Road would not be proportional if the requirement was to build the full road out, so therefore the deviation must be approved. As far as the fees, my understanding is that this is an IGA that was entered into by the

City of Colorado Springs and Woodmen Road Metro District. There is \$17 million that the County will put into the developments, so therefore the those are paid pack through road impact funds. If this final plat gets approved after the first of the year, then the County has to pay those impact funds to the metro district. I would recommend against placing a condition on as Mr. Curry stated.

**Mr. Jon Romero**, NES, wanted to speak on behalf of the applicants. We wanted to reiterate the improvements that will be completed during the three filings. We echo what the County spoke on and agree with their presentation.

**PC ACTION: MORAES MOVED/BRITTAIN JACK SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, PUDSP-20-004, FOR A PLANNED UNIT DEVELOPMENT AND PRELIMINARY PLAN FOR THE ESTATES AT ROLLING HILLS FILING NO. 2, UTILIZING RESOLUTION PAGE NOS. 29 AND 25, CITING 20-055 WITH SIX (6) CONDITIONS AND SIX (6) NOTATIONS, AND FIVE (5) MODIFICATIONS WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).**

C. PUD-20-003

DARDEN

**PLANNED UNIT DEVELOPMENT  
ROLLING THUNDER BUSINESS PARK PUD AMENDMENT**

A request by Brewing Ground Investments for approval of a map amendment (rezoning) from PUD (Planned Unit Development) to PUD (Planned Unit Development) to amend those permitted uses in the industrial portion of the PUD. The 12.36 acre property is located at the southeast corner of the East Woodmen Road and Golden Sage Road intersection and within Section 11, Township 13 South, Range 65 West of the 6th P.M. (Parcel Nos. 53111-01-001, 53111-01-002, 53111-01-003, 53111-01-004, 53111-01-005, 53111-01-006, 53111-01-007, 53111-01-008, 53111-01-014, 53111-01-013, 53111-01-012, 53111-01-011, 53111-01-015) (Commissioner District No. 2)

**PC ACTION: FULLER MOVED/BAILEY SECONDED APPROVAL OF CONSENT ITEM 2C FOR PUD-20-003 FOR A PLANNED UNIT DEVELOPMENT FOR ROLLING THUNDER BUSINESS PARK PUD AMENDMENT UTILIZING RESOLUTION PAGE NO. 29, CITING 20-056, WITH SEVEN (7) CONDITIONS, AND SEVEN (7) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY**

**COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).**

**D. SF-19-010**

**RUIZ**

**FINAL PLAT  
MAYBERRY, COLORADO SPRINGS FILING NO. 2**

A request by Colorado Springs Mayberry, LLC, for approval of a final plat to create three (3) commercial lots. The 38.89 acre property is zoned CS (Commercial Service) and is located south of Highway 94, approximately 1.3 miles west of the Highway 94 and North Ellicott Highway intersection and within Section 14, Township 14, Range 63 West of the 6th P.M. (Parcel No. 34000-00-440) (Commissioner District No. 4)

**PC ACTION: BAILEY MOVED/MORAES SECONDED APPROVAL OF CONSENT ITEM 2D FOR SF-19-010 FOR A FINAL PLAT FOR MAYBERRY, COLORADO SPRINGS FILING NO. 2, UTILIZING RESOLUTION PAGE NO. 19, CITING 20-057, WITH ELEVEN (11) CONDITIONS, AND TWO (2) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).**

**E. VA-20-003**

**HOWSER**

**VARIANCE OF USE  
11955 FALCON HWY EVENT CENTER**

A request by David & Cynthia Smallidge for approval of a variance of use for a business event center. The 41.92-acre property is zoned RR-5 (Residential Rural) and is located at the southeast corner of the Meridian Road and Falcon Highway intersection and within Section 18, Township 13 South, Range 64 West of the 6th P.M. (Parcel No. 43180-00-028) (Commissioner District No. 2)

It was requested by an adjacent property owner to pull the item and heard as a Regular item. **Mr. Trowbridge** also wanted the item pulled and heard as Regular.

**Mr. Howser** gave a brief overview and asked **Mr. Emmons** to go over the review criteria for a variance of use.

**Mr. Emmons** – A variance of use is a zoning action. You will look at a proposed use that is not allowed in a particular zoning district, so it doesn't comply with master plan components. You have to look at why or why not you

are allowing this use when otherwise not allowed. You are dealing with trying to mitigate the impacts to a surrounding area giving you greater flexibility in denying it or imposing additional conditions that would further address the impacts to the surrounding area.

**Mr. Howser** then introduced the applicants, **Mr. and Mrs. Smallidge**, to go over their presentation.

**Mr. Trowbridge** – I am familiar with this area. (Went over familiar businesses in the area for identification purposes)

**Ms. Jack** – Did you speak with school District 49 to see if they had any concerns? **Ms. Smallidge** -- We did not speak with them, but they did receive a letter.

**Mr. Trowbridge** – Do you have a diagram of your plans? Could staff bring up the layout of the lot to show the building layout? My question is more about the orientation of the site and why you chose to bring traffic in. Why did you not put it closer to the highway to keep from visual impact to the other neighbors? **Ms. Smallidge** – The other property owners can't even see this area where the parking will be located. **Mr. Smallidge** – The septic location also had a part to play in the decision of where to locate the building.

**Ms. Fuller** – Did you look at rezoning to A-35 instead of the variance? I don't see this as a hardship to say you can't find another piece of land. Does this stay with the land forever? **Mr. Smallidge** – We got permission to use our existing well to go to the other building. **Mr. Howser** – The use allows the use as a business event center, up to 75 people. A for profit business whose purpose is to provide a place for people to assemble for events in the nature of, but not limited to, recreational, social, cultural, political uses. Looking at the surrounding zoning, it's primarily RR-5 with a small lot subdivision. Commercial didn't appear to be a viable option to match the surrounding area.

**Mr. Moraes** – Twice you said 75-80 people, but please realize the condition states no more than 75 people along with other conditions.

**Mr. Howser** gave his full presentation to the Planning Commission.

**Mr. Trowbridge** – Could you point out the elementary school? (**Mr. Howser** showed on map) So this would be directly across from the school? **Mr. Howser** – That is correct.

**Mr. Risley** -- It states three-days a week, so who decides what days that is? I think it could use some clarification. **Mr. Howser** – It states three days, so

it's not determined specific days. We could clarify further in the condition, maybe say holidays and weekends.

**Mr. Torres** gave his engineering report/findings.

**Mr. Bailey** – Is the driveway across from the entrance to the school? **Mr. Smallidge** – Yes, it is.

**Mr. Howser** – We could modify Condition #5 to say that it is limited to weekends and holidays.

**Mr. Emmons** – The other thing you do is name the days that the use will be in place. **Mr. Risley** – Or if we do specify holidays state that it say federal holidays.

**Mr. Trowbridge** – Condition 1 says limited use applicable to the applicants' letter of intent. If there is a conflict, which trumps which, the LOI or the conditions? **Mr. Emmons** – The conditions would trump the letter of intent.

**Ms. Fuller** – Does a variance stay with the property or just with these owners? **Mr. Howser** – it would run with the property, but there is a condition to say if the use is abandoned for two years, it reverts back to the regular zoning.

#### **IN FAVOR: NONE**

#### **IN OPPOSITION:**

**Mr. Brent Neiser** – I am owner of 11 properties in the area. I am not the original developer, but I was one of several investors. I would like to see them find another piece of property that is zoned commercial. I imagine that there will be alcohol served at their events, I'm concerned about people leaving at 10 p.m. and driving intoxicated.

**Ms. Smallidge** – We are okay with the 75 people and only having events on Saturday and Sunday. **Mr. Smallidge** – We will be contracting with reputable vendors who will take responsibility for any alcohol-related issues that may occur.

**Ms. Fuller** – I don't see a big deal with it just saying weekends and not specifying particular dates. I don't see this as a big impact to the area; I will be in favor of this project.

**Mr. Trowbridge** – I agree with Ms. Fuller's comments. I don't think the school traffic will complicate this operation because generally they will be different times.

**Mr. Moraes** – I look at this large piece of property, and if we said no they could come back and rezone and get a special use in place. They aren't putting a large industrial use on the property. I feel it is in character with the surrounding area.

**Mr. Bailey** – I agree with all the comments. I think the trend will work away from the rural and go more urban. Rezoning to A-35 doesn't usually happen, it usually goes to smaller density. I think this is a good area and I will be in support of this.

**Mr. Risley** – I appreciate that the owners went through the appropriate channels to do this correctly. There are other large-scale structures already in the area, but you did this through the County. There is also a lot of commercial development already in the area. Condition 5 will be limited to Saturdays and Sundays and will commence at 10 p.m.

**Ms. Brittain Jack** – I thought it was suggested to include holidays and Fridays. Does the applicant want to change that?

**Ms. Blea-Nunez** – Think of it as a business. You could very well have some weddings that want to occur on Fridays and Mondays. I think you should go broader.

**Ms. Smallidge** – Friday noon to Sunday at 10 p.m. and 8 a.m. to 10 p.m. on federal holidays

**Mr. Dossey** – My suggestion would be to not say hours of the day and just say days of the week and federal holidays, with the exception of conclusion at 10 p.m.

**Mr. Risley** – So I understand the condition now should be "shall be limited to Fridays, Saturdays, and Sundays and federal holidays and all events shall conclude by 10 p.m.

**PC ACTION: BRITTAIN JACK MOVED/TROWBRIDGE SECONDED APPROVAL OF CONSENT ITEM 2E FOR VA-20-003 FOR A VARIANCE OF USE FOR 11955 FALCON HIGHWAY EVENT CENTER, UTILIZING RESOLUTION PAGE NO. 19, CITING 20-058, WITH SEVEN (7) CONDITIONS, AND THREE (3) NOTATIONS, WITH A CHANGE TO CONDITION NUMBER 5 AS STATED BY MR. RISLEY ABOVE, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).**

**Regular Items**  
**3. VA-19-008**

**RUIZ**

**VARIANCE OF USE**  
**MOUNTAIN SPLENDOR, 2020 APPLICATION**

A request by Daniel Combs for approval of a variance of use for a contractor equipment yard. The variance of use was previously approved on February 27, 2018 and then revoked on September 10, 2019 due to noncompliance. The five (5) acre property is zoned A-5 (Agricultural) and is located on the west side of Main Lane, approximately 0.3 miles south of Woodmen Road and within Section 8, Township 13, Range 65 West of the 6th P.M. (Parcel No. 53080-00-048) (Commissioner District No. 2)

**Mr. Greer** left the hearing, there is still a quorum of seven voting members.

**Ms. Ruiz** gave a brief overview of the project and asked **Mr. Emmons** to go over the review criteria for a variance of use. She then asked the applicants' representative, **Mr. David Whitehead**, to give their presentation.

**Ms. Ruiz** then gave her full presentation, **Mr. Torres** gave his engineering report/findings, and they answered questions from the Planning Commission.

**Mr. Trowbridge** – Could you review the adjacent properties to the north? It appears there are already three other landscaping businesses in the area. **Ms. Ruiz** – Yes, that is correct. It's definitely a transition area. We are seeing some urban development applications coming in.

**Ms. Fuller** – Are the other three equipment yards like this one? **Ms. Ruiz** – There is outside storage according the aerial.

**Ms. Fuller** – Why was this completely ignored and why are we looking at this two years later? I'd like to have that conversation.

**Mr. Bailey** – I understand that most of the conditions have been addresses even though it was revoked, is that correct? **Ms. Ruiz** – yes, that is correct. They have planted trees and filed the appropriate permits.

**IN FAVOR: NONE**

**IN OPPOSITION:**

**Ms. Cathy Bell** – (provided handouts prior to hearing) – This neighborhood should not have commercial business right next door to residential. His property is very loud, an eye sore, and trees that he planted does nothing for screening. He should have

never received a variance in the first place, and then he ignored it all, and now wants it all again. The pole barn that he finally got permitted is permitted as a commercial garage that he wants to use for his business. I don't think his business can meet noise and dust control. It's not safe with a barbed wire fence next to where children ride bikes. (showing pics to PC and public).

**Mr. Trowbridge** – Could you identify where your property is located in comparison to the subject property? **Ms. Bell** – I took these pictures from the walking trail, not from my property. (showed maps of 2015 and 2017).

The applicants' representative had an opportunity for rebuttal. **Mr. Whitehead** stated that the caller's view is sees the northwest portion of the site. The fence was supposed to be constructed further out which would have added to the visual impact. The owner struggles with trespassing, people cut the fence and use his property as a cut through. To the east across the open space, there are other landscaping businesses. To the west, there are two more landscaping businesses. To date, we have met all the conditions and have a building permit.

**Ms. Fuller** – Could you address why those conditions were never met two years ago? **Mr. Combs** – When we applied for this two years ago, we got the approval, got the package and said here you go. We had stipulations that storage tanks be removed. The tanks are 15,000 gallon tanks. They've since been sold and moved. I buy semi-truck loads of compost and rock. We stored that material in bulk around the property. I had to get structural engineers involved in the building design. That took months to get stamped trusses. I bring trucks in, I have material hauled in, and equipment is on site that I use for the business. I'm not a contractor, I'm a landscaper. The complaint of scrap pipe is a recycling area. I haul a semi load of that off once a year.

**Ms. Fuller** – Are you willing to actually fence this area or are you wanting just the trees be considered your screening? **Mr. Combs** – I'm not trying to get around anything. The reason that NES filed to get the trees as opposed to a fence, you have 6 ft fence on two sides as an unlit area. The town is crowding around us. I'm not opposed to a fence. If it has to be a fence, I'll do it. I met the criteria; I planted trees. I don't want it to look industrial. I think the trees offer a different look. **Ms. Fuller** – I think a fence would mitigate the visual impacts.

**Mr. Moraes** – Could you please show the pictures of the trees? (shown) Are these the pine trees that were approved? **Mr. Combs** – yes, I planted 15 trees about 4 years ago. **Mr. Moraes** – The trees don't screen much. I can look right through and see everything. You say that people keeping cutting your fence, wouldn't make sense to construct a solid fence that would be more secure? **Mr. Combs** – I think it was built in 1972, and never had a problem. Six months ago, people started going through my property. They were trespassing. **Mr. Moraes** – To me, it would make more sense to have the solid fence, and it's a liability to have people on your property if

they get hurt. As for having 2 six-foot fencing on two sides and it being unlit, that's not really your problem. I don't think the trees are doing what was intended, and they won't for 5, 10 or more years. **Mr. Combs** – I am agreeable to putting a fence up.

**Mr. Bailey** – We need to remember that the trees are there in lieu of a 6 ft privacy fence. A fence won't offer any more screening. The developer of Quail Bush decided to put their fence on the wrong side and didn't offer the buffer that they should have initially. I do think that you made a good faith effort to finally comply. Unfortunately, lots look like this more and more, with houses butting right against other properties.

**Ms. Ruiz** – Our experience has been that when you have a dark narrow area fenced on either side, the area is not properly maintained, items begin to be illegally dumped, and it becomes a favorite location for unsavory activities. Regarding the outside storage and visual clutter, maybe instead of doing a solid fence along the property boundary, they fence the open storage areas A and E that would screen the immediate view of the neighbors. From a planning perspective, if there is an additional condition recommended that we'd offer this as an alternative to one large solid fence.

**Mr. Trowbridge** – If a fence were erected a fence where the barbed wire is, I don't think that would be visually appealing. I would point out that the County Commissioners approved the trees along with the Planning Commission. I would not be in favor of a tall privacy fence where the barbed wire fence is currently located. I like **Ms. Ruiz's** idea of fencing those storage areas.

**Mr. Moraes** – You've seen my correspondence with Ms. Ruiz in your packet. It was only after I saw the pictures from the opposition that I saw that the trees did nothing to screen.

**Ms. Brittain Jack** – The homeowners knew what they were facing when they built there. This was in existence long before they build.

**Ms. Fuller** – I would agree with that. A lot of homeowners build and think an area will stay open space. These houses did encroach, but the use is much more intense than it was when your brother had this property. There is an obligation to make it less horrible visually.

**Mr. Combs** – I don't think a 6-foot fence around the storage areas will work, but maybe more trees. I am a good neighbor; I maintain Maine Lane for all the residents. I don't want to create a force within the property.

**Mr. Bailey** – I think we might be overstating the nature of that trail. People tend to walk there and if they have to look at a contractor's equipment yard, they've made that choice.

**Ms. Brittain Jack** – There is three or four letters from businesses on that road complimenting Mr. Combs for maintaining that road and being a good neighbor.

**Ms. Fuller** – How big are the lots of the other landscaping businesses? **Mr. Whitehead** – They are approximately 3-4 acres. There's one that is 10 acres.

**Mr. Moraes** – If the general feeling is that we want him to put in more trees, then we should take a break to see how we need to word that to get the intent. If we don't want to change it, then we press on. **Mr. Bailey** – I am happy with what was approved before and what is being requested at this time. **Ms. Fuller** – I believe Mr. Combs will do what he says and continue to be a good neighbor. **Mr. Moraes** – I'm good with whatever the consensus is.

**Mr. Trowbridge** – I am somewhat sympathetic to the applicant of not understanding what was expected before, but I hope he recognizes that it is his responsibility to understand all the conditions that are before him. I've heard enough here today to move forward with this.

**Mr. Risley** – You have stated on record that you will continue to be a good neighbor and that you will adhere to the requirements set forth.

**PC ACTION: BAILEY MOVED/MORAES SECONDED FOR APPROVAL REGULAR ITEM NUMBER 3, VA-19-008, FOR A VARIANCE OF USE FOR MOUNTAIN SPLENDOR, UTILIZING RESOLUTION PAGE NO. 51, CITING 20-059, WITH THREE (3) CONDITIONS, THREE (3) NOTATIONS, AND ONE (1) WAIVER, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0)**

- 4. El Paso County Master Plan – Information Update – No Action Needed – Mr. Dossey** gave an update of the Master Plan during report items. No further information provided.

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at [www.elpasoco.com](http://www.elpasoco.com) to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

VARIANCE OF USE (Approved)

Commissioner Bailey moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION**

**OF THE COUNTY OF EL PASO**

**STATE OF COLORADO**

**RESOLUTION NO. VA-19-008  
Mountain Splendor, 2020 Application**

WHEREAS, Dan Combs 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-5 (Agricultural) zoning district to legalize an existing contractor's equipment yard associated with a landscaping business where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on December 3, 2020; 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 Dan Combs for a variance of use within the A-5 (Agricultural) zoning district to legalize an existing contractor's equipment yard associated with a landscaping business where such is not a permitted use for the following described unincorporated area of El Paso County be approved,

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

**Waiver(s)/Deviation(s):** A waiver has been requested for the screening requirement under Section 6.2.2(D)(2)(c), Opaque Fencing or Wall Required, of the Land Development Code. Instead of constructing a fence or wall, the applicant is proposing to plant fifteen (15)

10-foot tall Austrian Pines along the southern border for screening. The Austrian Pines are intended to create a buffer between the proposed non-residential and the adjacent residential uses. This waiver request is the same as that request included within the 2017 variance of use.

**CONDITIONS**

1. In lieu of a 6-foot tall opaque privacy fence, the applicants will plant fifteen 10-foot tall Austrian pines along the southern property boundary as visual screening within 120 days of approval of the variance of use.
2. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
3. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to be either recycled or disposed of per all State and Federal regulations related to the storage of such fluids.

**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 Moraes seconded the adoption of the foregoing Resolution.

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

Commissioner Bailey	aye
Commissioner Moraes	aye
Commissioner Risley	aye
Commissioner Trowbridge	aye
Commissioner Brittain Jack	aye
Commissioner Fuller	aye
Commissioner Greer	aye

The Resolution was adopted by a vote of 7 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: December 3, 2020

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Brian Risley, Chair

## **EXHIBIT A**

### **Legal Description:**

#### **PARCEL A:**

THE SOUTH HALF OF THE EAST HALF OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO.

#### **PARCEL B:**

A NON-EXCLUSIVE EASEMENT FOR ACCESS OVER THOSE ROADWAYS KNOWN AS MAINE LANE, IDAHO LANE, UTAH LANE, NEVADA LANE AND CALIFORNIA DRIVE, AS REFERENCED IN NOTICE RECORDED MARCH 9, 1977 IN BOOK 2904 AT PAGE 643.

RESOLUTION NO. 20-

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

APPROVE VARIANCE OF USE TO LEGALIZE AN EXISTING CONTRACTOR'S EQUIPMENT YARD ASSOCIATED WITH A LANDSCAPING BUSINESS FOR MOUNTAIN SPLENDOR (VA-19-008)

WHEREAS, Dan Combs 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-5 (Agricultural) zoning district to legalize an existing contractor's equipment yard associated with a landscaping business 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 December 3, 2020, 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 December 22, 2020; 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 Dan Combs for a variance of use to legalize an existing contractor's equipment yard associated with a landscaping business within the A-5 (Agricultural) zoning district 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:

**Waiver(s)/Deviation(s):** A waiver has been requested for the screening requirement under Section 6.2.2(D)(2)(c), Opaque Fencing or Wall Required, of the Land Development Code. Instead of constructing a fence or wall, the applicant is proposing to plant fifteen (15) 10-foot tall Austrian Pines along the southern border for screening. The Austrian Pines are intended to create a buffer between the proposed non-residential and the adjacent residential uses. This waiver request is the same as that request included within the 2017 variance of use.

#### **CONDITIONS**

1. In lieu of a 6-foot tall opaque privacy fence, the applicants will plant fifteen 10-foot tall Austrian pines along the southern property boundary as visual screening within 120 days of approval of the variance of use.
2. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
3. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to be either recycled or disposed of per all State and Federal regulations related to the storage of such fluids.

#### **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 22nd day of December, 2020, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
County Clerk & Recorder

**EXHIBIT A**

Legal Description:

PARCEL A:

THE SOUTH HALF OF THE EAST HALF OF THE NORTH HALF OF THE  
SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION  
8, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL  
MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO.

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR ACCESS OVER THOSE  
ROADWAYS KNOWN AS MAINE LANE, IDAHO LANE, UTAH LANE,  
NEVADA LANE AND CALIFORNIA DRIVE, AS REFERENCED IN NOTICE  
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