

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



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.