

BOCC

Chuck Broerman  
12/29/2020 03:33:50 PM  
Doc \$0.00 6  
Rec \$0.00 Pages

El Paso County, CO  
  
220213268

**RESOLUTION NO. 20-479**

**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 SPLENDOE (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 addition to the existing trees which have been planted, a 6-foot-tall opaque privacy fence shall be constructed as depicted in the staff site plan within 120 days of approval of the variance of use (see attached Exhibit "B").
2. All outside storage associated with the contractor equipment yard shall be located within the 75-foot area depicted on the staff site plan (see attached Exhibit "B").
3. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
4. 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

**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.**

