

Rad Dickson

From: Jane Shirley <mjaneshirley@yahoo.com>
Sent: Tuesday, December 15, 2020 7:50 PM
To: Rad Dickson; Tracey Garcia
Cc: mjane Shirley
Subject: THE BLACK FOREST RESIDENTS OPPOSITION TO REZONING 12740 BLACK FOREST RD. PARCEL #5207000004

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OPPOSITION TO REZONING 12740 BLACK FOREST ROAD A-5 TO CC FROM BLACK FOREST RESIDENTS HADDOCK S-5!
METAL ROOF INNOVATIONS, LTD PARCEL # 5207000004 FILE# CC201

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Note: Several documents were used in justifying this opposition. Originals are available upon request.

The Black Forest Opposition committee bases its argument against rezoning on the following codes: 3.2.1 A, 3.2.5, 5.1.2, 5.1.7 (A,E,F,H,J,K), 11.1.7 (A,B,C,D), 11.1.8 and 11.3.1.

Mr. Haddock owns S-5! Metal Roof Innovations. This is a global wholesale distributor of metal roofing parts. It does business with companies in 33 states, one of which is Colorado, and 29 foreign companies. (Reference: Online information).

Formally opposing: 288 petition signatures, 129 online petition signatures and 100 members of "The Opposition to Rezoning" Facebook page. Total: 517 people. Petitions were cross-referenced and duplications were eliminated.

1. Feb. 28, 2020, 10:45am, Mr. Haddock submitted a plot and description plan to EPC Planning and Development. This plan showed only a 3500 sq. ft. "barn". Because the land was zoned Agricultural, a building permit was not required. "Any approval given by El Paso County does not obviate the need to comply with applicable Federal, State, or Local laws and/or regulation". (The Opposition believes the barn should have been permitted. Barns built on 35 agricultural acres do not require a permit. (Code 3.2.1 A)

2. Barn construction began shortly thereafter. The framework was built.

3. On Mar. 7, 2020, a violation was issued due to non-compliance. On Apr. 1, 2020 construction was re-approved (Plan: R125629). And then, On Apr. 11, 2020, permit #M78797 was issued... AFTER construction had begun. (Code 5.1.2) The Project Code was 436 (Residential Garages and Carports); Project name was Barn with Living Space. (The Opposition has proven construction on the 'barn' began before a permit was obtained. It's shape is a traditional gambrel barn.)

4. On July 17, 2020, homeowners adjacent to the construction received a certified letter from PWN (Mr. Haddock's architects) notifying them of his intent to build an 8800 sq. ft. office and a 3500 sq. ft. studio/shop. He will repurpose the barn to an AV studio. Site plan was enclosed. Adjacent homeowners were invited to take part in a Virtual

Community Meeting on August 4, 2020, 7:00-8:30 pm. Included in this letter was: "This property is currently zoned A-5, agricultural, and the owner proposes to rezone the property to CC- Community Commercial consistent with adjacent land." (The opposition will attest to ALL ADJACENT LAND IS RESIDENTIAL.) Now, the proposal includes two buildings. Code 5.1.2 speaks to primary and accessory structures. (Opposition is confused. There is no primary structure. Also if the intent was to repurpose the barn to an audio-visual building, why was this not mentioned before "barn" construction began.)

5. A Black Forest resident took minutes of the August 4th "Go-To" meeting. Mr. Haddock answered the bulk of questions asked. His responses included: "there are a lot of barns like that in Black Forest"; (The Opposition could only find one barn similar in size within a 5 mile radius of 12740 BF Road.) "Don't worry, it won't look like a barn" (The design structure is that of a gambrel barn); "I can't bring goats right now, there's nothing for them to eat"; (throughout this timeline the structure has been referred to as a barn, fancy goat barn, barn with living space, studio/shop, warehouse, storage, and audio-visual studio) "I was told by county commissioners the land was good for rezoning"; (The Opposition would like to know the commissioners who made this statement.)

6. A well permit, #168912-A, was issued (date unknown). The permit states pumping shall not exceed 15gpm and water shall not be used for lawn/landscape/irrigation/domestic animal-livestock watering/or for any other purpose outside the business building(s) structure. (The Opposition would like the planners to take into consideration "the well is drilled into the Dawson aquifer." ALL AQUIFERS IN THE DENVER BASIN ARE NON-RENEWABLE WATER SOURCES according to the Feb. 2019 EPC Water Master Plan. Also defined in this Master Plan is the 300 year plan referenced in the 8/20/2020 Letter of Intent. (The Opposition will clarify water use. PLEASE NOTE, when using water from an aquifer, the water actually comes from groundwater reservoirs along the aquifer, (Attachment 2). That groundwater is very limited especially during times of drought. Those reservoirs can potentially 'dry up' at anytime (<100 years). The EPC Water Master Plan is focusing on ways to preserve groundwater surrounding these aquifers. Additionally, a fire suppression system for 12,300 sq. ft. is required. The standard pumping rate for such a system generally requires 1500 gpm. Water availability is a major concern for BF residents.)

7. There is no evidence of an actual Black Forest Land Use Committee. The Opposition cannot locate minutes, meeting dates, or member lists. The letter submitted to EDARP on 12/14/2020, 8:58 am, includes a paragraph stating the Black Forest Land Use Committee approves the project. (M. Jane Shirley, compiling this document, was a member of the Land Use Committee in the early '90's. The committee met on Howells Road in Black Forest but dissolved by the early '00's due to having little to no impact on projects effecting Black Forest residents.

8. The proposed project does not comply with 3.2.5 zoning code. It does not, nor ever will, support the needs of Black Forest residents. It will not a business that serves the community.

9. Code 5.1.7 defines Accessory Use and Structure Standards. Code 3.2.1 A also applies. This particular project has frequently shown a lack of appreciation for the policies and laws in place. For an example, Code states an Accessory Structure cannot be built on acreage less than 35 acres or unless a primary building is established. (The Opposition believes sub-codes A, E, F, H, J, K show non-compliance to Code. We believe mistakes were made by the PPRBD at the application level due to misrepresentation by owner. See summary of violations of A, E, F, H, J, K in attachment 1.)

10. Code 11.1.7 (A, B, C, D), based on the Opposition's interpretation of this code and all sub-codes, have provided ample proof this project was misrepresented early on in the process. We have provided proof of mistakes made. Because of this, WE OPPOSE THE REZONING OF PARCEL 5207000004. (See summary of A,B,C,D sub-codes in attachment 1).

11. The Opposition also objects to rezoning because of Code 11.3.1: misrepresentation of project. This code speaks for itself. The Opposition believes, because this project was misrepresented from the beginning, mistakes made by PCD would, most likely, never have occurred.

12. In support of our argument to disallow rezoning, the Opposition will speak to the Black Forest Preservation Plan (1987 rev):

a. Page 50, paragraph 1&2: Since the 1974 Preservation Plan (PP) was adopted, only limited commercial development had taken place in the planning area. Area residents continue to rely on commercial centers located outside of the (BF) planning area. The two commercial nodes present today were well established before 1974.

b. Page 51: Floor to area ratio (FAR) was used to calculate commercial land at the 2 nodes. The total was two-tenths of a percent (.20) and equals about 22 acres of commercial land. It must be noted numerous residents prefer to travel for major needs.

This sentiment combined with the calculated commercial needs shown above and the 25 commercial acres more or less contiguous at the "Glover's Corner" node (BF and Burgess Roads), will be sufficient for future commercial needs. The only reference to ¼ mile is: "All community zoned properties at both nodes are located within ¼ mile of the intersections.

13. The Opposition would like to point out this project is located amidst RR-5 homes. Before the fire (2013) the Black Forest Animal Clinic existed on the property. In 1985 the clinic focused on equine health. Tony Woodward, DVM purchased the property which was a 2000 sq. ft. living space. It appears to have been zoned rural. (Actual 1985 zoning records could not be found to confirm.) However, it was listed by RealtyTrac when purchased by Dr. Woodward, who then applied to EPCPD for a Special Use Permit (AL8407Z) for the equine vet clinic. Over the years the Clinic emerged into a small animal practice. A picture of his Clinic is attached. As seen, it looks much like a home.

14. The "rendered pictures" Mr. Haddock intends to use in his presentation do not, at all, show the total scale of the project. The arial view distorts the actual size. Notice the home to the south. It is dwarfed by this business. The home to the north is just outside the indicated area. This is a one-story log home. The residents can see nothing but the 'barn' when looking out their south and west windows.

15. Throughout the Aug. 20, 2020, Letter of Intent to Rezone, several misrepresentations can be found. One example is water. Well Permit 168912-A is a permit with restrictions. It is referred to as a commercial well permit. S-5! references water use and shows this corporation's water use will be far less than what is used in a primary residence. The majority of residences in BF does not exceed 6 occupants. S-5! will have anywhere from 10-25 occupants. Also, most existing septic systems are built to recycle groundwater.