

VARIANCE OF USE (Approved)

Commissioner Lucia-Treese moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

**RESOLUTION NO. VA-20-004
WESTERN MINING MUSEUM**

WHEREAS, Western Museum of Mining & Industry, did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zoning district to permit a business event center where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on November 2, 2021; 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 the Western Museum of Mining & Industry for a variance of use within the RR-5 (Residential Rural) zoning district to permit a business event center at 125 North Gate Boulevard 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) shall be placed upon this recommendation:

CONDITIONS

1. The applicant shall apply for and receive approval of a commercial site development plan within six (6) months of variance of use approval by the Board of County

Commissioners. The deadline may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval. The site development plan application shall include, but may not be limited to the following information:

- a. Site development plan drawings;
 - b. Lighting plans and detailed specifications, including plans and specifications for temporary lighting, as applicable; and
 - c. Sign plans, if signage is proposed.
2. Any signage must be approved by the El Paso County Planning and Community Development Department in accordance with Chapter 6 of the El Paso County Land Development Code pursuant to submittal of a separate application for a sign permit.
 3. Site lighting, including temporary lighting, will be limited to that shown on the site development plan. All light fixtures shall be directional and positioned so that the light sources are concealed and fully shielded from adjacent properties and public roadways.
 4. Operations shall comply with the County Noise Ordinance. If complaints occur, the County may require that the Applicant conduct additional testing to determine noise levels associated with site activities. If noise complaints are received by the County and it is determined that the noise generated from the site is in violation of the County Noise Ordinance, then the County may require changes to the hours of operation and/or require installation of noise controls to achieve acceptable levels as defined in the County Noise Ordinance.
 5. The applicant shall comply with federal and state laws, regulations, ordinances, review and permit requirements of applicable agencies including, but not limited to: Colorado Parks and Wildlife, Colorado Department of Transportation (CDOT), Colorado Department of Public Health and Environment, State Water Engineer's Office, United States Army Corps of Engineers (USACOE), Environmental Protection Agency, FEMA, and the United States Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
 6. Any coordination and/or action required by the United States Fish and Wildlife Service or Colorado Parks and Wildlife which may be necessary to address the avoidance or mitigation of impacts of any current or future federally listed or locally sensitive species shall be considered binding. Copies and/or written notice of all documented coordination and/or required action shall be provided to the Planning and Community Development Department within 30 days of receipt by the applicant.
 7. Hours of operation shall be limited to the following times, unless otherwise approved on a specific event basis by the Executive Director of the Planning and Community Development Department: WMMI daily operations 9:00am to 4:00pm, Monday to Saturday; business event center events 8:00am to 10:00pm, Friday to Sunday.

8. Temporary Use approval may be required for any event anticipated to have more than 1,750 visitors. A supplementary Transportation Memorandum may be required for an event of this size. Event information shall be submitted to the El Paso County Planning and Community Development Department for review and distribution no later than 60 days prior to the proposed event.*
9. Submittal of a traffic management plan will be required and shall be approved by the Planning and Community Development Department as a supporting document to the site development plan. The traffic management plan will need to address events ranging in size from between 250 and 1,250 daily visitors, and between 1,250 and 1,750 daily visitors.

** - The required review timelines identified in these conditions of approval are provided based on typical review turnaround times. El Paso County is not responsible for events that may be cancelled or delayed due to the length of review and resubmittal timelines. The applicant is encouraged to begin coordination with each of the applicable review and permitting agencies several months in advance of the identified review timelines in order to avoid cancellation or delay of events.

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.
4. The City of Colorado Springs recommends that WMMI dedicate the 55 feet of right-of-way reserved on the Mining Museum Subdivision No. 1 plat to the City.

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 Trowbridge seconded the adoption of the foregoing Resolution.

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

Commissioner Risley	aye
Commissioner Bailey	aye
Commissioner Trowbridge	aye
Commissioner Lucia-Treese	aye
Commissioner Blea-Nunez	aye

Commissioner Moraes	aye
Commissioner Carlson	aye
Commissioner Merriam	aye
Commissioner Brittain Jack	aye

The Resolution was adopted by a vote of 9 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: November 2, 2021



Brian Risley, Chair

EXHIBIT A

Western Museum of Mining & Industry
225 North Gate Blvd.
Colorado Springs, CO 80921

Legal description of property know as 125 and/or 225 North Gate Blvd.

**LOT 1 BLK 1 MINING MUSEUM SUB NO 1, TOG WIH VAC OLD NORTH GATE RD ADJ BY REC #208007172,
EX THAT PT CONV BY REC #208013928, TOG W/ THAT PT DESC BY REC # 208013927**