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El Paso County, CO

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RESOLUTION NO. 20-252

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF COLORADO

APPROVAL OF A SPECIAL USE TO ALLOW A 75-FOOT TALL STEALTH COMMERCIAL MOBILE RADIO SERVICE (CMRS) FACILITY WITHIN THE A-5 (Agricultural) ZONING DISTRICT (AL-19-025) (VERIZON HIGBY STEALTH TOWER SPECIAL USE)

WHEREAS, J5 Infrastructure Partners did file an application with the El Paso County Planning and Community Development Department for approval of a special use to allow a 75-foot tall stealth commercial mabile radio service (CMRS) within the A-5 (Agricultural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on June 16, 2020, upon which date the Planning Commission did by formal resolution recommend approval of the application with conditions and notations; and

WHEREAS, a public hearing was held by this Board on July 14, 2020; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, 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, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.

5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.

WHEREAS, pursuant to Section 5.3.2 of the El Paso County Land Development Code, as amended, in approving this special use, this Board considered one or more of the following criteria:

1. The special use is generally consistent with the applicable Master Plan;
2. The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
3. The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
4. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
5. The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
6. The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
7. The special use conforms or will conform to all other applicable County rules, regulations or ordinances.
8. That for the above-stated and other reasons, the proposed special use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED, that the El Paso County Board of County Commissioners, Colorado, hereby approves the application for a special use to allow a 75-foot tall stealth commercial mobile radio service (CMRS) facility within the A-5 (Agricultural) zoning district.

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. The approval is limited to one (1) freestanding CMRS stealth facility seventy-five (75) feet in height as discussed and depicted in the applicant's letter of intent, site plan drawings, and elevations.
2. Any subsequent co-location or additional antennae on the stealth CMRS facility other than shown on the site plan shall be subject to administrative review, and if it is the opinion of the Planning and Community Development Director it constitutes a substantial increase in the size of the freestanding CMRS facility, it shall require a new special use.
3. The freestanding CMRS facility shall not be lighted except in accordance with the requirements of the Federal Aviation Administration (FAA).
4. The freestanding CMRS facility shall comply with FCC standards for prohibiting interference with localized television and radio broadcasts and with the current standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.
5. The tower shall be painted and maintained in a suitable color and condition to fit the natural surroundings, as determined by the Planning and Community Development Department.
6. Maintenance of the tower shall be in accordance with the stealth CMRS designed as approved with the special use and the associated Site Development Plan. Failure to properly maintain the stealthing treatments to the CMRS facility may result in the Board of County Commissioners revoking and/or suspending the special use approval, preceded by notice and public hearing.

NOTATIONS

1. Special 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 special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special 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 14th day of June, 2020, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO



By:  _____
Chair

EXHIBIT A

Parent Parcel Legal Description

A TRACT OF LAND AS DESCRIBED IN RECEPTION NO. 216075779 IN THE EL PASO CLERK & RECORDER OFFICE AND BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 11 SOUTH, RANGE 66 WEST, OF THE 6TH P.M., EL PASO COUNTY, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF HAPPY LANDING ESTATES AND THE CENTERLINE OF HIGBY ROAD, AS RECORDED IN PLAT BOOK S-2 AT PAGE 2 OF THE RECORDS OF EL PASO COUNTY, COLORADO; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID HAPPY LANDING ESTATES, A DISTANCE OF 1351.86 FEET TO THE SOUTHEAST CORNER OF SAID HAPPY LANDING ESTATES; THENCE EASTERLY, ALONG A LINE PARALLEL TO THE CENTERLINE OF HIGBY ROAD, A DISTANCE OF 1127.78 FEET; THENCE NORTHERLY, ALONG A LINE PARALLEL TO THE EAST LINE OF SAID HAPPY LANDING ESTATES, A DISTANCE OF 1351.86 FEET TO THE CENTERLINE OF HIGBY ROAD; THENCE WESTERLY, ALONG THE CENTERLINE OF HIGBY ROAD, A DISTANCE OF 1127.78 FEET MORE OR LESS, TO THE NORTHEAST CORNER OF SAID HAPPY LANDING ESTATES AND THE POINT OF BEGINNING, EL PASO COUNTY, COLORADO, EXCEPT ANY PORTION LYING WITHIN HIGBY ROAD.

Lease Area Legal Description

BEING A 20' x 44' LEASE AREA AND BEING A PORTION OF A TRACT OF LAND AS DESCRIBED IN RECEPTION NO. 216075779 IN THE EL PASO CLERK & RECORDER OFFICE AND BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 11 SOUTH, RANGE 66 WEST, OF THE 6TH P.M., EL PASO COUNTY, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT AND BEING A POINT ALONG THE EAST RIGHT OF WAY LINE OF HAPPY LANDING DRIVE; THENCE N50°37'13"E, A DISTANCE OF 120.83 FEET TO THE SOUTHEAST CORNER OF SAID LEASE AREA AND BEING THE POINT OF BEGINNING;

THENCE N90°00'00"W, A DISTANCE OF 44.00 FEET;
THENCE N00°00'00"E, A DISTANCE OF 20.00 FEET;
THENCE N90°00'00"W, A DISTANCE OF 44.00 FEET;
THENCE S00°00'00"E, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.