


EL PASO COUNTY
COLORADO

COMMISSIONERS:
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Planning Commission
Brian Risley, Chair

FROM: Nina Ruiz, Planning Manager
Daniel Torres, PE Engineer II
Craig Dossey, Executive Director

RE: Project File #: VA-19-008
Project Name: Mountain Splendor, 2020 Application
Parcel No.: 53080-00-048

| OWNER: | REPRESENTATIVE: |
|---|---|
| Daniel Combs 7205 Maine Lane Colorado Springs, CO 80923 | Daniel Combs 7205 Maine Lane Colorado Springs, CO 80923 |

Commissioner District: 2

| | |
|--|------------|
| Planning Commission Hearing Date: | 12/3/2020 |
| Board of County Commissioners Hearing Date | 12/22/2020 |

EXECUTIVE SUMMARY

A request by Dan Combs, owner of Mountain Splendor Services, for approval of a variance of use to legalize an existing contractor's equipment yard associated with a landscaping business in the A-5 (Agricultural) zoning district. The five (5) acre property is located approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane.



A variance of use was previously approved for the contractor equipment yard on February 27, 2018 with six (6) Conditions of Approval and three (3) Notations (PCD File No. VA-17-010). Please see attached for additional information and background on the variance of use request approved in 2018.

The variance of use was revoked by the Board of County Commissioners on September 10, 2019, due to the applicant failing to comply with Condition No. 2 requiring the applicant to obtain building permits to convert the existing structures to commercial structures. Please see the revocation staff report attached for additional background and detail regarding the revocation action.

The applicant no longer intends to use the existing residence for commercial purposes but will only utilize the structure for residential purposes. The applicant has now received approval from the Pikes Peak Regional Building Department to legalize the one structure they propose to utilize for commercial purposes. The applicant is now requesting approval of a variance of use to legalize the existing contractor equipment yard.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request for approval of a variance of use permit to legalize an existing contractor's equipment yard in the A-5 (Agricultural) zoning district.

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.

Authorization to Sign: There are no documents associated with this application that require signing.

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code, the Planning Commission and Board of County Commissioners may consider the following criteria in approving a variance of use:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- 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 County;
- 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;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- 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.

D. LOCATION

| | |
|---------------------------------|---|
| North: A-5 (Agricultural) | Residential with a similar landscape business |
| South: City of Colorado Springs | Residential |
| East: RR-5 (Residential Rural) | Residential/orthodontic office |
| West: City of Colorado Springs | Commercial/contractor’s equipment yard |

E. BACKGROUND

The unplatted lot was created on April 8, 1968. The property was zoned to the A-4 (Agricultural) zoning district in 1965. Subsequent nomenclature changes have renamed the A-4 zoning district as the A-5 (Agricultural) zoning district. The single-family residence was built in 1972. The pole barn was built in 2000 and the two (2) greenhouses were built in 2002. The current owner purchased the property and established the business, Mountain Splendor Services, on the subject parcel in 2015.

A notice of violation was sent to the applicant on April 20, 2017, following a complaint being received by El Paso County Code Enforcement for the single-family residence being used for commercial purposes. The applicant submitted a request for approval of a variance of use in 2017 to legalize the use on the property. The variance of use was approved for the contractor's equipment yard on February 27, 2018 with six (6) Conditions of Approval and three (3) Notations (PCD File No. VA-17-010). Please see attached for additional information and background on the request approved in 2018.

The variance of use was revoked by the Board of County Commissioners on September 10, 2019, due to failure by the applicant to comply with Condition No. 2 requiring the applicant to obtain building permits to convert the existing structures to commercial structures. Please see the revocation staff report attached for additional background and detail regarding the revocation action. The applicant no longer intends to use the existing residence for commercial purposes but will only utilize the structure for residential purposes. The applicant has now received approval from the Pikes Peak Regional Building Department to legalize the one structure they propose to utilize for commercial purposes. The applicant is now requesting approval of a variance of use to legalize the existing contractor equipment yard.

ANALYSIS

1. Land Development Code Analysis

The Land Development Code defines a contractor's equipment yard as follows:

“A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.”

A contractor's equipment yard is not an allowed principal or accessory use in the A-5 (Agricultural) zoning district. Therefore, approval of a variance of use is required to legalize the continued use of the property as a contractor's equipment yard.

The contractor equipment yard includes outside storage as an accessory use. Section 5.2.37 of the Land Development Code provides use specific standards for outside storage including setback requirements as well as screening requirements. The existing site meets the requirement of the Code pertaining to outdoor storage being setback at least 50 feet from any residential zoning district boundary; however, the applicant is requesting a waiver of the screening requirements.

Outside storage is to be 100% screened from view. The unincorporated portions of the surrounding developed area do not traditionally include a privacy fence or dense vegetation that would create a 100% opaque screening. Additionally, the natural conditions would preclude thick shrubbery from thriving in this location. Instead of constructing a solid 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.

2. Zoning Compliance

A contractor's equipment yard is not an allowed use in the A-5 (Agricultural) zoning district. If the variance of use permit is approved, the existing use would be legalized subject to compliance with the conditions of approval.

3. Policy Plan Analysis

Consistency with the El Paso County Policy Plan (1998) is not a required review criterion for a variance of use request. The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County master plan. Please review the attached staff report from the 2017 variance of use for an analysis regarding the Policy Plan.

4. Small Area Plan Analysis

The property is not within the boundaries of a small area plan.

5. Water Master Plan Analysis

Consistency with the El Paso County Water Master Plan (2018) is not a required review criterion for a variance of use request. For background, the Water Master Plan has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.

Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.

Policy 4.1.4 – *Work collaboratively with water providers, stormwater management agencies, federal agencies, and State agencies to ensure drinking water sources are protected from contamination and meet or exceed established standards.*

Policy 6.0.11– *Continue to limit urban level development to those areas served by centralized utilities.*

The Water Master Plan was not yet adopted by El Paso County at the time of the initial variance of use application. The subject property is located within Region 5, the Cherokee Metropolitan District Service Area, which is not anticipated to experience significant growth through 2060; however, the District could consider expanding water and sewer service to growth areas outside of Region 5. Cherokee Metropolitan District obtains recharged water from wells drawing from the Upper Black Squirrel Creek Basin alluvial aquifer, which is recharged with seasonal precipitation and reclaimed water from both the Cherokee and Meridian Service Metropolitan Districts' wastewater treatment plants.

In 2018, Region 5 had a water supply of 4,849-acre feet per year and a demand of 4,396-acre feet per year. The 2040 water supply is projected to be 4,849-acre feet per year and the projected demand is 6,468-acre feet. The 2060 water supply is projected to be 4,849-acre feet per year, whereas the demand is anticipated to be 9,608-acre feet per year. It should be emphasized that a potential shortage of water supplies for this region is expected as early as 2040.

This region focuses on centralized providers and does not discuss water to be provided by well. Central water is not available to the subject parcel at this time. It is anticipated that as centralized water becomes available this portion of the County will redevelop at an urban level.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies potential upland deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

The El Paso County Parks Master Plan (2013) does not identify any parks or trails on or adjacent to the subject parcel.

Please see the Transportation section below for information regarding conformance with the 2016 Major Transportation Corridor Plan (MTCP).

F. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No physical hazards were identified in the review of this variance request.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

3. Floodplain

The property is not located within a defined floodplain as determined from the FEMA Flood Insurance Rate Map panel number 08041C0537G, dated December 7, 2018.

4. Drainage and Erosion

The property is located within the Sand Creek (FOFO4000) drainage basin, which is a studied basin. Drainage and bridge fees are not assessed with variance of use requests. A drainage report was submitted with the previous variance of use application (VA-17-010). The drainage report identified that the existing improvements have no anticipated water quality impact as a result of the variance of use request. A new drainage report was not required as the applicant is not proposing any development or construction on the site.

5. Transportation

Maine Lane is the primary access to and from the site. Maine Lane is a private unpaved road that extends south from Adventure Way. A traffic study was not required as the proposed variance of use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate currently.

The proposed variance of use will have a minimal impact to the County's transportation network. There are no improvements identified in the 2016 Major Transportation Corridor Plan (MTCP) in the immediate vicinity of the site.

G. SERVICES

1. Water

Water is provided to the site from an existing individual well. Findings of sufficiency for water quality, quantity, and dependability are not a requirement with a variance of use request.

2. Sanitation

The existing residence located on the property is served by an onsite wastewater treatment system (OWTS). No additional wastewater facilities are anticipated in association with the proposed variance of use permit. El Paso County Public Health was sent a referral for the variance of use application and has no outstanding concerns.

3. Emergency Services

Emergency and fire protection services are provided by Falcon Fire Protection District. The District was sent a referral and responded with no objections.

4. Utilities

Mountain View Electric Association provides electrical service to the property. Natural gas service is provided by Colorado Springs Utilities.

5. Metropolitan Districts

The property is not located within a metropolitan district.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a variance of use application.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a variance of use application.

H. APPLICABLE RESOLUTIONS

Approval Page 51

Disapproval Page 52

I. STATUS OF MAJOR ISSUES

There are no major outstanding issues

J. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.4 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

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.

K. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified four (4) adjoining property owners on November 11, 2020, for the Planning Commission meeting. Responses will be provided at the hearing.

L. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Staff Report from Original Approval
Revocation Staff Report

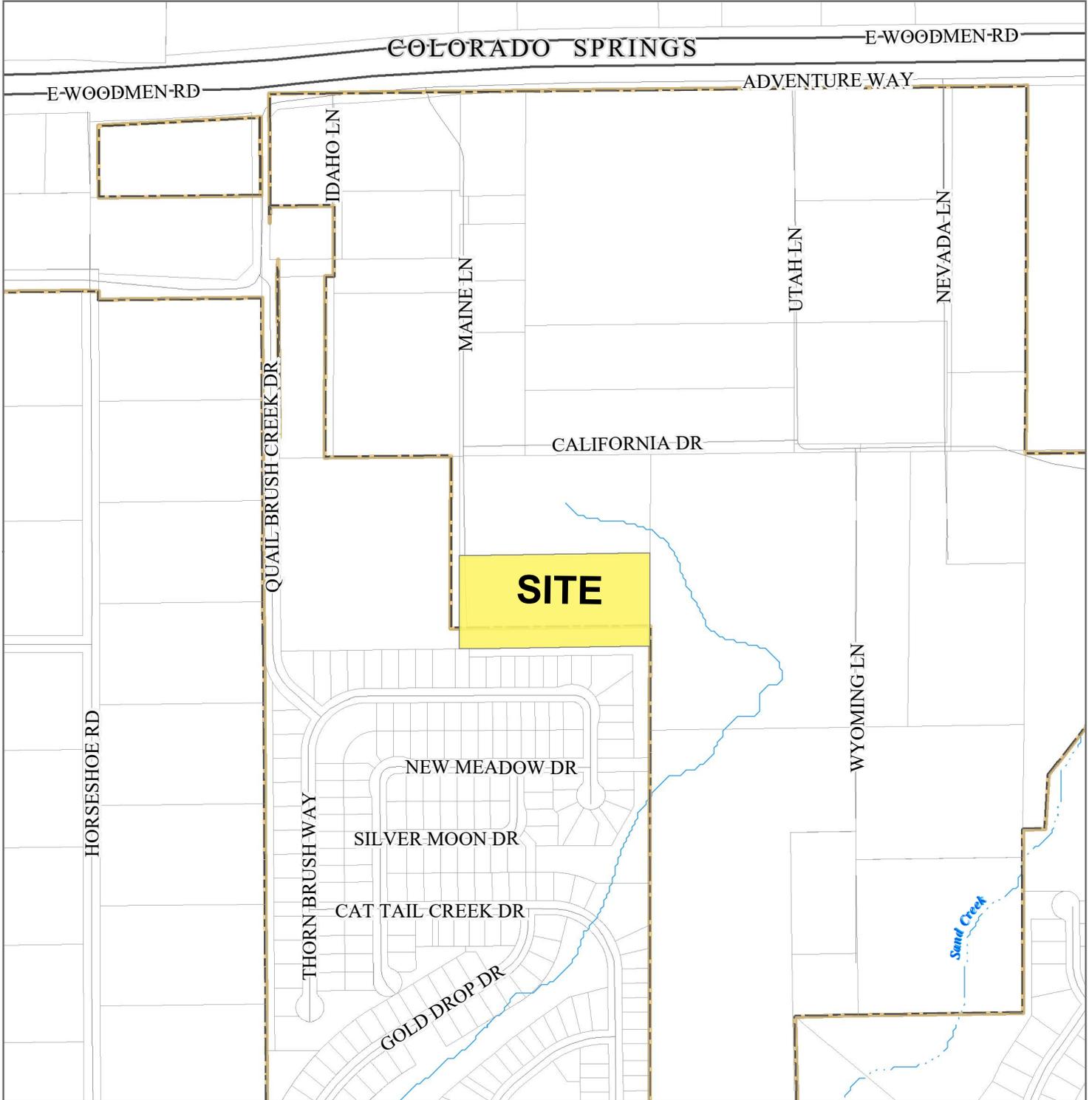
El Paso County Parcel Information

File Name: VA-19-008

| PARCEL | NAME |
|------------|--------------|
| 5308000048 | COMBS DANIEL |

Zone Map No. --

Date: November 12, 2020



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (719) 520-6600



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Letter of Intent

6 October 2020

Owner/Applicant (including addresses and telephone numbers):

- 1) Owner: Dan Combs; 7205 Maine Lane, Colorado Springs, CO 80923; 719-495-2877
- 2) Applicant: Dan Combs; 7205 Maine Lane, Colorado Springs, CO 80923; 719-495-2877

Site Location, size, and zoning:

The subject site is located at 7205 Maine Lane, approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane. The approximately five-acre property is in El Paso County, Colorado and is currently zoned Agricultural, A-5, CAD-O.

Request and justification

Dan Combs, owner of Mountain Splendor Services, Inc., requests approval of the following application:

1. A Variance of Use in the Agricultural Zone District (A-5) for a Contractor's Equipment Yard for an existing landscape business which consists of a residential building, outdoor and indoor storage of landscape equipment and materials, vehicles and ancillary tree nursery.

Variance of Use Criteria

In approving a variance of use, the follow criteria may be considered:

1. The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
 - a. According to Land Development Code 1.10.6, Permits Issued Before the Effective Date of this Code: Any building, sign or structure for which a building permit was duly issued before the effective date of this Code or any subsequent amendments to the Code may be completed in conformance with the issued permit, even if the building, sign or structure does not fully comply with provisions of this Code or any subsequent amendments to the Code. If construction is not commenced or completed in accordance with the applicable permit terms, the PCD Director may, upon receipt of a written request and payment of the required fee, grant one 6-month extension for good cause shown. If the building, sign or structure is not commenced or completed within the time allowed under the original permit or any extension granted, then any building, sign or structure shall comply with the requirements of this Code or any subsequent amendments to the Code. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights. Any expansion in size of an approved existing structure shall comply with this Code for the modification area.
 - b. Based on the fact that the residence located on the property was erected in 1972 and the equipment storage shed was constructed on/about June 2003 – at which times both structures met County, State and federal requirements – the strict application of current Code would result in a peculiar and exceptional practical difficulties as well as undue hardship. With that said a building permit for the maintenance building had been obtained from Pikes Peak Region Building Department (PPRBD)
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 County.

- a. Mountain Splendor is compatible with the surrounding area on Maine Lane as there are other properties on Main Lane that are zoned the same as this site and several other instances of operating landscaping companies.
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.
 - a. There are no pending construction projects and the activities conducted on the site in relation to the landscape business do not produce pollutants or noise that would violate the relevant codes.
4. The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action.
 - a. With the granting of the Use Variance the proposed use will comply with all applicable requirements of the El Paso County Zoning Code and applicable County, State and Federal regulations.
5. The proposed use will not adversely affect wildlife or wetlands.
 - a. As noted on the site plan, the marsh area is clearly defined and will not be disturbed. Further fencing of the site is limited thus allowing for wildlife to transit the site.
6. The applicant has addressed all off-site impacts.
 - a. Offsite impacts, including traffic, visual and noise are minimal and do not pose any adverse issues. Traffic to and from the site is by employees of the landscape business and few visitors. A grand majority of the work accomplished by the business is off site. There are no existing or proposed activities on the site that exceed any noise limitations. There are no nighttime activities on the site. Alternative visual screening of the site was provided by plantings (trees) in accordance with the prior approved sight plan (now expired). This request asks that the alternative compliance to a solid privacy fence in the form of planting be renewed.
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping.
 - a. The site plan for this Variance of Use application provides for adequate off-street parking.
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.
 - a. This Variance of Use application has already received recommended approval from Colorado Springs Utilities and EPC Health Department. Fire protection, police protection, and roads are available and adequate.

The request was initially approved by the Board of County Commissioners of El Paso County, Colorado on 27 February 2018 by Resolution No. 18-079. Said approval was subject to the following conditions, among others:

1. Submit a site development plan for review within 60 days from date of approval.
 - a. A Site Development Plan was approved on 9/27/18 satisfying this condition.
2. Submit all necessary applications for building permitting within 60 days from date of approval.
 - a. Plans submitted to Pikes Peak Regional Building Department on 8/8/19 were disapproved on 8/12/19.
 - b. The process to obtain building permits was much more difficult than expected due to the age of the building and changing from residential to commercial. As a result, we contracted Daystar Construction as the General Contractor, two engineering firms, and

a commercial architect. However, the volume of construction going on in El Paso County added to the time delay in meeting the required conditions. All plans/permits submitted to Pikes Peak Regional Building Department have been rejected.

Existing and proposed facilities, structures, roads, etc.

No changes from initial submittal.

Waiver requests (if applicable) and justification

There are no applicable waiver requests.

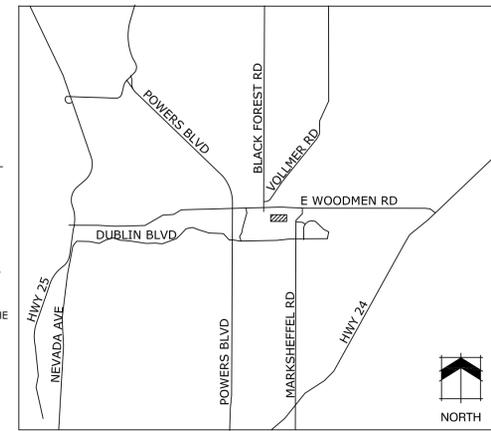
SITE DATA

| | | | |
|------------------|--|--------------------|--|
| OWNER: | DANIEL COMBS 7205 MAINE LANE COLORADO SPRINGS, CO | Building Setbacks: | -North 25' -West 25' -South 25' -East 25' |
| 80923 | | Landscape Buffer: | -South 20' |
| Tax ID Number: | 530800048 | Lot Coverage | |
| Current Zoning: | AGRICULTURAL A-5 | -(-%) building | 3% |
| Acreage: | 5.10 AC (222,249 sqft) | -(-%) impervious | 3% |
| Building Height: | 30' | | |
| Building Area: | Residence - 1,440 sqft Shed 1 - 2,400 sqft Shed 2 - 2,400 sqft Total Building Area - 6,240 sqft | | |

MOUNTAIN SPLENDOR SERVICES, INC.

EL PASO COUNTY, STATE OF COLORADO
SITE DEVELOPMENT PLAN

VICINITY MAP



WHITEHEAD ENGINEERING
P.O. BOX 1551
Colorado Springs, CO 80901

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.

NOTES

- FLOODPLAIN STATEMENT: THIS SITE, 7205 MAINE LANE IS NOT WITHIN A DESIGNATED F.E.M.A. FLOODPLAIN AS DETERMINED BY THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER (08041C0537F), EFFECTIVE (03/17), (1997).
- THE PARTIES RESPONSIBLE FOR THIS PLAN HAVE FAMILIARIZED THEMSELVES WITH ALL CURRENT ACCESSIBILITY CRITERIA AND SPECIFICATIONS AND THE PROPOSED PLAN REFLECTS ALL SITE ELEMENTS REQUIRED BY THE APPLICABLE ADA DESIGN STANDARDS AND GUIDELINES AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF JUSTICE. APPROVAL OF THIS PLAN BY THE CITY OF COLORADO SPRINGS DOES NOT ASSURE COMPLIANCE WITH THE ADA OR ANY OTHER FEDERAL OR STATE ACCESSIBILITY LAWS OR ANY REGULATIONS OR GUIDELINES ENACTED OR PROMULGATED UNDER OR WITH RESPECT TO SUCH LAWS. SOLE RESPONSIBILITY FOR COMPLIANCE WITH FEDERAL AND STATE ACCESSIBILITY LAWS LIES WITH THE PROPERTY OWNER.
- ANY STORAGE ITEM(S) OR VEHICLE(S) OVER THE FENCE HEIGHT WILL BE KEPT A MINIMUM OF 50' FROM THE RESIDENTIAL DISTRICT.
- (1) ACCESSIBLE VAN PARKING SPOT HAS BEEN DESIGNATED ADJACENT TO OFFICE/RESIDENCE BUILDING.
- NO VEHICULAR TRAFFIC AND/OR PARKING OR STORAGE OF CONSTRUCTION EQUIPMENT, MATERIALS OR SUPPLIES SHALL OCCUR OVER THE EXISTING ONSITE WASTEWATER TREATMENT SYSTEM COMPONENTS.
- SECURITY LIGHTING SHALL BE LIMITED TO THAT IN EXISTENCE AT THE TIME OF APPROVAL OF THE VARIANCE OF USE. NO ADDITIONAL LIGHTING, EXCLUDING STANDARD WALL-MOUNTED ENTRYWAY LIGHTING, SHALL BE INSTALLED WITHOUT PRIOR APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS OF AN AMENDED VARIANCE OF USE APPLICATION.

TSN 530-8000-137
CITY RE-ZONING
RESIDENTIAL

TSN 530-8000-067
COUNTY RR-5
RESIDENTIAL

TSN 530-8000-060
COUNTY RR-5
RESIDENTIAL

TSN 530-8000-062
COUNTY RR-5
RESIDENTIAL

TSN 530-8000-084
COUNTY RR-5
RESIDENTIAL

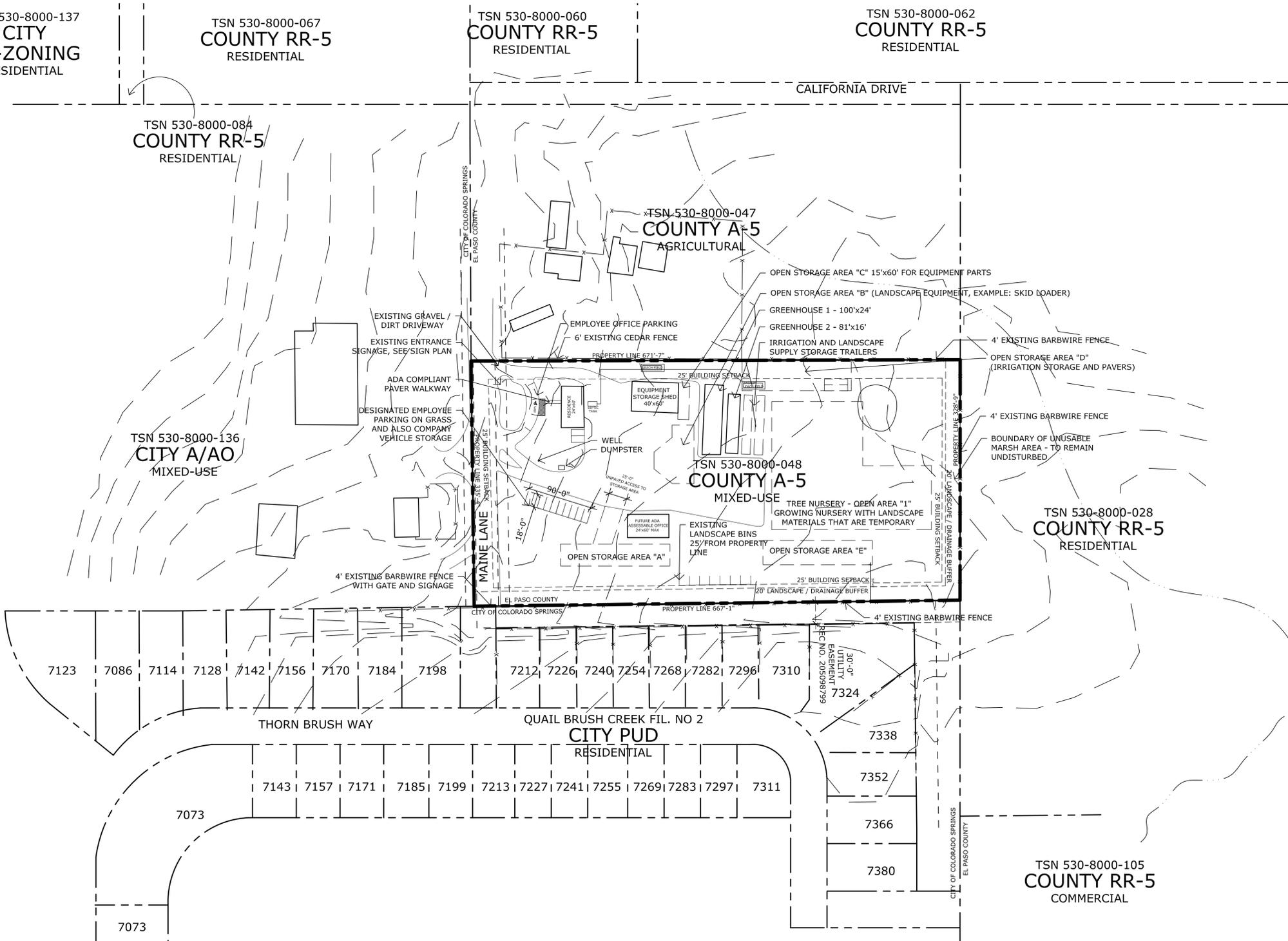
TSN 530-8000-047
COUNTY A-5
AGRICULTURAL

TSN 530-8000-136
CITY A/AO
MIXED-USE

TSN 530-8000-048
COUNTY A-5
MIXED-USE

TSN 530-8000-028
COUNTY RR-5
RESIDENTIAL

TSN 530-8000-105
COUNTY RR-5
COMMERCIAL



1 OVERALL SITE PLAN

MOUNTAIN SPLENDOR SERVICES, INC.

7205 MAINE LANE
COLORADO SPRINGS, CO 80923

DATE: 04/07/2020
PROJECT MGR: CG
PREPARED BY: DW

SITE DEVELOPMENT PLAN

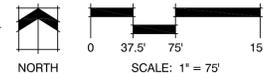
DATE: BY: DESCRIPTION:

SITE DEVELOPMENT PLAN

1

1 OF 5

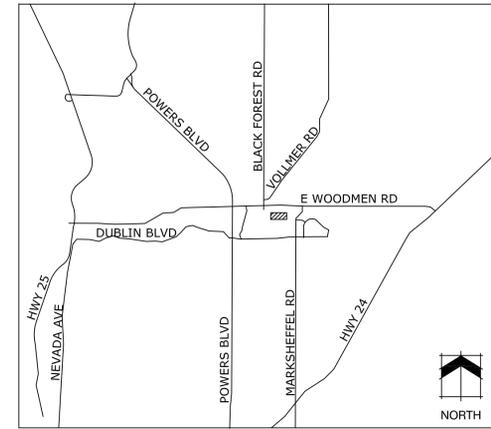
DD PPR 18-017



MOUNTAIN SPLENDOR SERVICES, INC.

EL PASO COUNTY, STATE OF COLORADO
ADA ROUTE PLAN

VICINITY MAP



WHITEHEAD ENGINEERING, LLC
P.O. BOX 1551
Colorado Springs, CO 80901

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,
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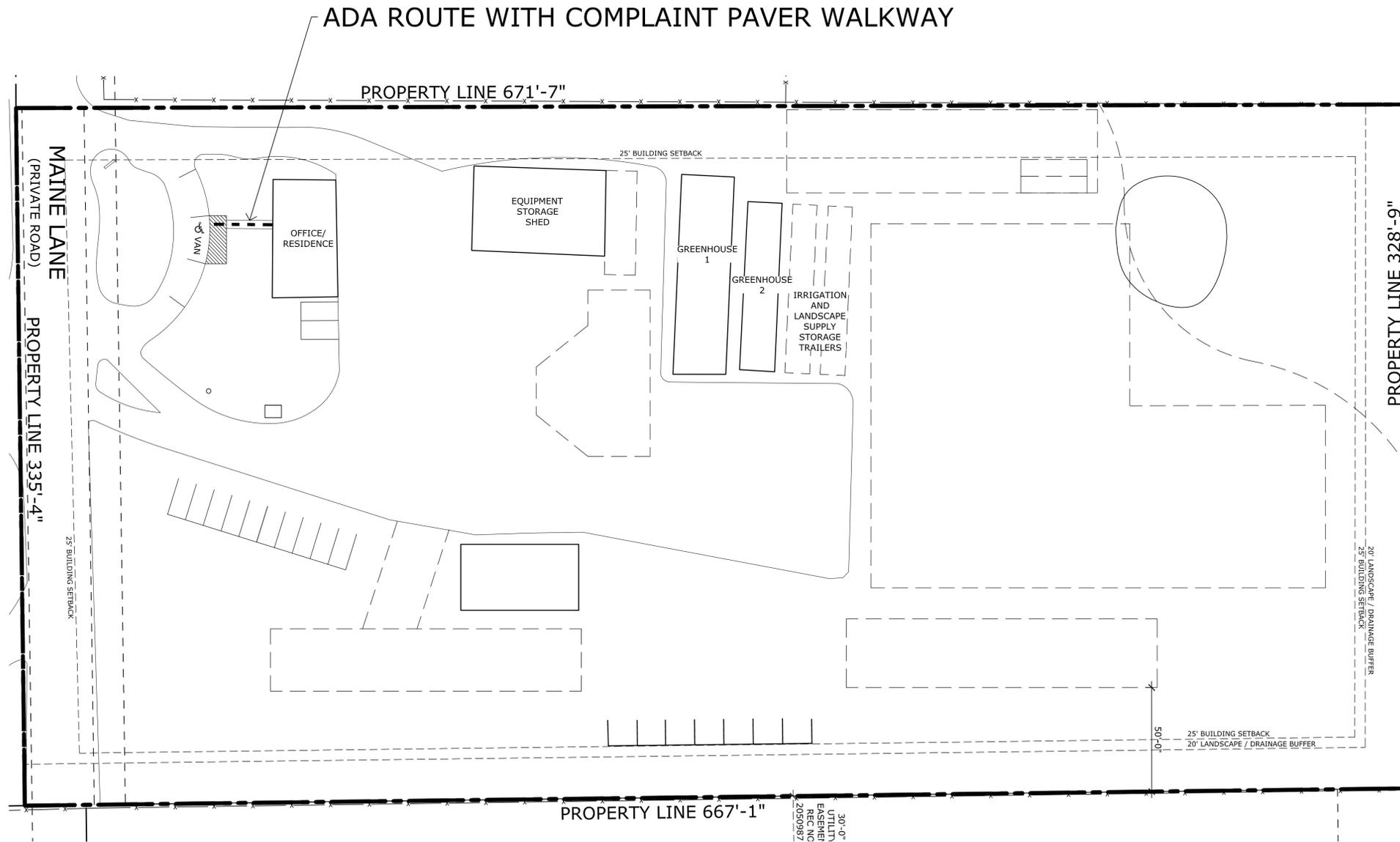
SITE DATA

OWNER: DANIEL COMBS
7205 MAINE LANE
COLORADO SPRINGS, CO 80923

Tax ID Number: 5308000048
Current Zoning: AGRICULTURAL A-5
Acreage: 5.10 AC (222,249 sqft)

NOTES

1. MAINE LANE IS A PRIVATELY OWNED AND MAINTAINED ROAD.



MOUNTAIN SPLENDOR SERVICES, INC.

7205 MAINE LANE
COLORADO SPRINGS, CO 80923

DATE: 04/07/2020
PROJECT MGR: CG
PREPARED BY: DW

ADA ROUTE PLAN

DATE: BY: DESCRIPTION:

ADA ROUTE PLAN

2

2 OF 5

DD PPR 18-017

SITE DATA

OWNER: DANIEL COMBS
 7205 MAINE LANE
 COLORADO SPRINGS, CO

80923

Tax ID Number: 530800048
 Current Zoning: AGRICULTURAL A-5
 Acreage: 5.10 AC (222,249 sqft)

Building Height: 30'
 Building Area: Residence - 1,440 sqft
 Shed 1 - 2,400 sqft
 Shed 2 - 2,400 sqft
 Total Building Area - 6,240 sqft

Building Setbacks:
 -North 25'
 -West 25'
 -South 25'
 -East 25'

Landscape Buffer:
 -South 20'

Lot Coverage
 -(-%) building 3%
 -(-%) impervious 3%

MOUNTAIN SPLENDOR SERVICES, INC.

EL PASO COUNTY, STATE OF COLORADO
 SITE DEVELOPMENT PLAN

LEGAL DESCRIPTION

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 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.

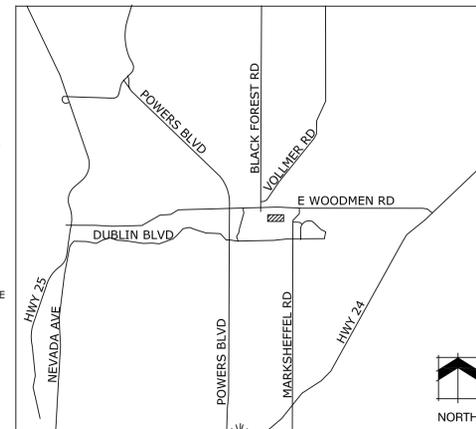
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TREE REQUIREMENTS

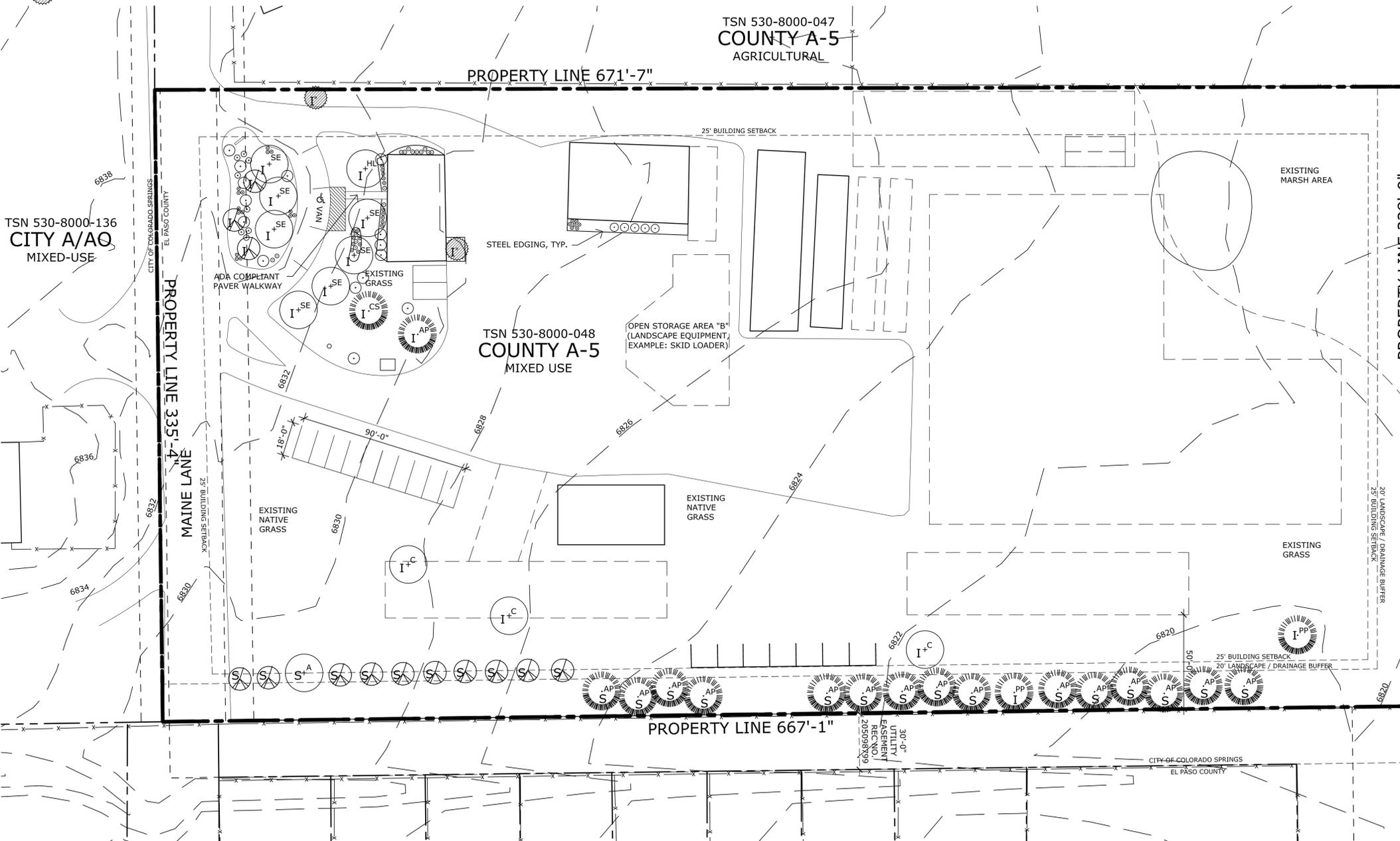
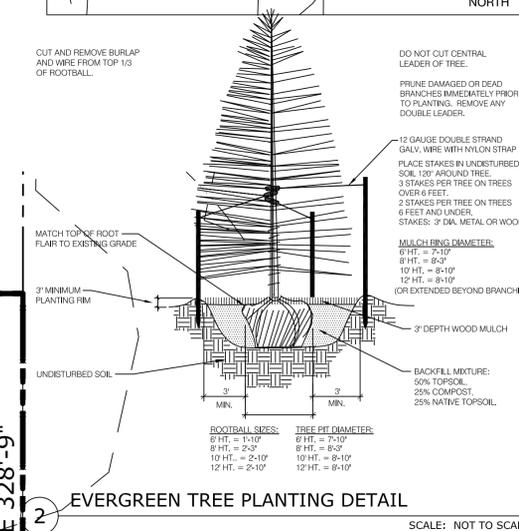
| LDC Plant Category | Tree Requirement Classification | Parameters | Required Trees (1/25') | Provided Trees (substitutes 1 tree/10 shrubs) |
|--------------------|--|--|-------------------------|---|
| (ML) | Maine Lane (Private Road) | 335'-4" | 0 | 0 (shrub substitute 0) |
| (S) | Landscape Buffer at 30' Utility Easement | 667'-1" | 26 | 26, (shrub substitute 0) |
| (P) | Parking Tree Requirements | 10 spaces | none if under 15 spaces | 0 (shrub substitute 0) |
| (I) | Internal Landscaping Area | 5% of lot to be landscaped Required 10,800 sqft | 21 | 20, (shrub substitute 10) |

VICINITY MAP

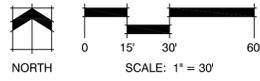


PLANTING LEGEND - EXISTING

| TREE SYMBOL | QTY | TREE TYPE | TREE SYMBOL | QTY | TREE TYPE | SHRUB SYMBOL | QTY | SHRUB TYPE |
|-------------|-----|----------------------|-------------|-----|------------|--------------|-----|--------------|
| (Symbol) | 13 | CRABAPPLES | (Symbol) | 3 | COTTONWOOD | (Symbol) | 2 | WEIGELA |
| (Symbol) | 1 | ASH | (Symbol) | 13 | EUONYMOUS | (Symbol) | 3 | DWARF SPRUCE |
| (Symbol) | 2 | HONEY LOCUST | (Symbol) | 2 | LILAC | (Symbol) | 5 | MUGO PINE |
| (Symbol) | 7 | SIBERIAN ELM | (Symbol) | 5 | BOXWOOD | (Symbol) | 7 | RUSSIAN SAGE |
| (Symbol) | 16 | AUSTRIAN PINE | (Symbol) | 4 | SPIREA | (Symbol) | 39 | DAYLILY |
| (Symbol) | 2 | PONDEROSA PINE | (Symbol) | 2 | ROSES | | | |
| (Symbol) | 1 | COLORADO BLUE SPRUCE | | | | | | |
| (Symbol) | 2 | JUNIPER | | | | | | |



1 LANDSCAPE PLAN



WHITEHEAD ENGINEERING
 P.O. BOX 1551
 Colorado Springs, CO 80901

MOUNTAIN SPLENDOR SERVICES, INC.

7205 MAINE LANE
 COLORADO SPRINGS, CO 80923

DATE: 04/07/2020
 PROJECT MGR: CG
 PREPARED BY: DW

SITE DEVELOPMENT PLAN

LANDSCAPE PLAN

3 OF 5

DD PPR 18-017

C:\LAND PROJECTS\20002 - Mountain Splendor\DWG\MountainSplendor.dwg [Landscape Plan] 4/7/2020 9:25:29 AM David

SITE DATA

| | | | |
|------------------|--|--------------------|--|
| OWNER: | DANIEL COMBS 7205 MAINE LANE COLORADO SPRINGS, CO | Building Setbacks: | -North 25' -West 25' -South 25' -East 25' |
| 80923 | | Landscape Buffer: | -South 20' |
| Tax ID Number: | 530800048 | Lot Coverage | |
| Current Zoning: | AGRICULTURAL A-5 | -(-%) building | 3% |
| Acreage: | 5.10 AC (222,249 sqft) | -(-%) impervious | 3% |
| Building Height: | 30' | | |
| Building Area: | Residence - 1,440 sqft Shed 1 - 2,400 sqft Shed 2 - 2,400 sqft Total Building Area - 6,240 sqft | | |

MOUNTAIN SPLENDOR SERVICES, INC.

EL PASO COUNTY, STATE OF COLORADO
SITE DEVELOPMENT PLAN

LEGAL DESCRIPTION

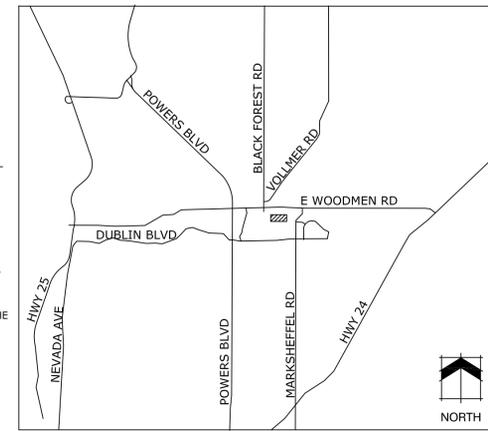
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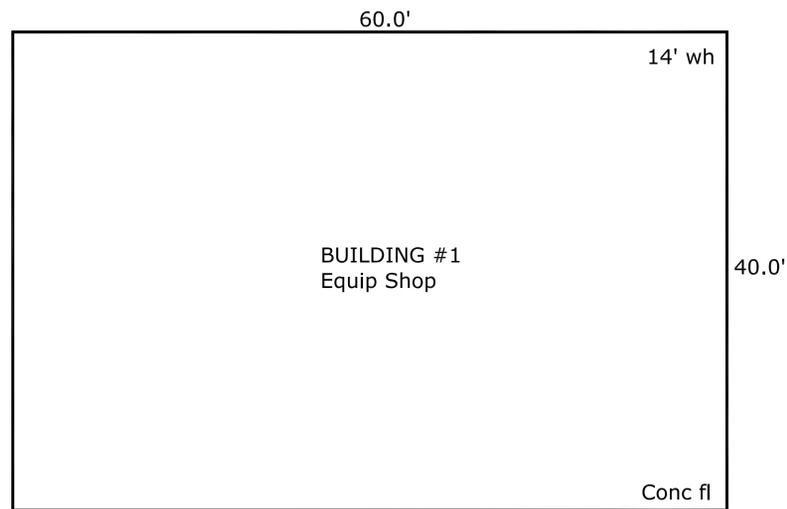


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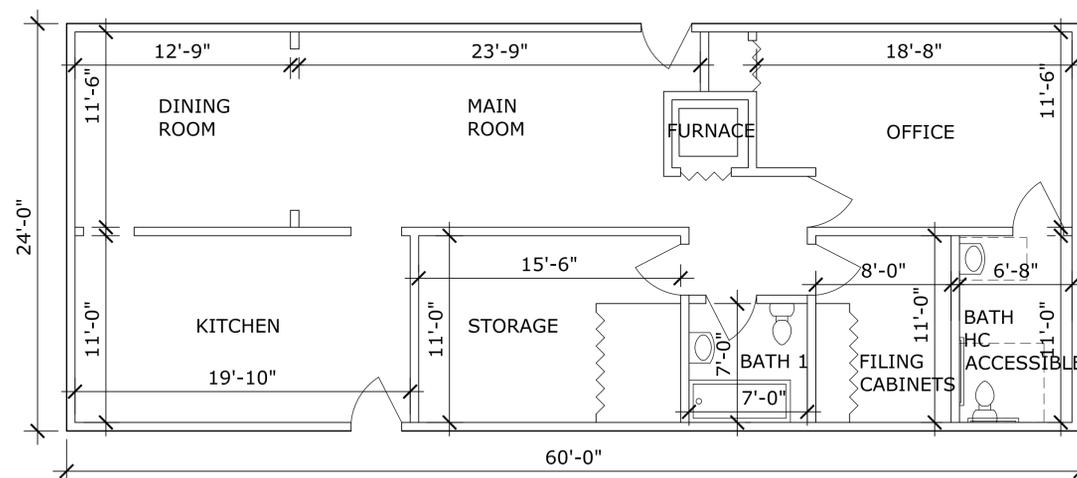
MOUNTAIN SPLENDOR SERVICES, INC.

7205 MAINE LANE
COLORADO SPRINGS, CO 80923

DATE: 04/07/2020
PROJECT MGR: CG
PREPARED BY: DW



EQUIPMENT STORAGE SHED BUILDING (Existing)
2,440 SQFT



RESIDENCE BUILDING (Existing Modular)
1,440 SQFT



1 EQUIPMENT STORAGE SHED FLOOR PLAN

2 RESIDENCE FLOOR PLAN

NOT TO SCALE

NOT TO SCALE

SITE DEVELOPMENT PLAN

FLOOR PLANS

4

4 OF 5

DD PPR 18-017

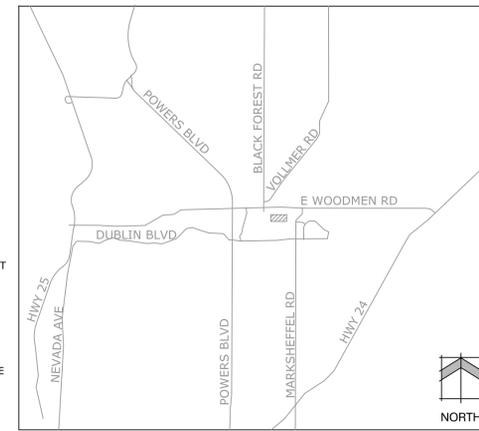
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MOUNTAIN SPLENDOR SERVICES, INC.

EL PASO COUNTY, STATE OF COLORADO
SITE DEVELOPMENT PLAN

VICINITY MAP



LEGAL DESCRIPTION

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1 EXISTING OFFICE / RESIDENCE - EAST ELEVATION
NOT TO SCALE



4 EXISTING OFFICE / RESIDENCE - WEST ELEVATION
NOT TO SCALE



2 EXISTING OFFICE / RESIDENCE - NORTH ELEVATION
NOT TO SCALE



5 EXISTING STORAGE SHED - EAST ELEVATION
NOT TO SCALE



7 EXISTING STORAGE SHED - WEST ELEVATION
NOT TO SCALE



3 EXISTING OFFICE / RESIDENCE - SOUTH ELEVATION
NOT TO SCALE



6 EXISTING STORAGE SHED - SOUTH ELEVATION
NOT TO SCALE



8 EXISTING STORAGE SHED - NORTH ELEVATION
NOT TO SCALE

NORTH SIDE OF EXISTING STORAGE SHED - PHOTOGRAPH HARD TO OBTAIN DUE TO FENCE ON NORTH SIDE OF PROPERTY

WHITEHEAD ENGINEERING
P.O. BOX 1551
Colorado Springs, CO 80901

MOUNTAIN SPLENDOR SERVICES, INC.

7205 MAINE LANE
COLORADO SPRINGS, CO 80923

DATE: 04/07/2020
PROJECT MGR: CG
PREPARED BY: DW

SITE DEVELOPMENT PLAN

DATE: BY: DESCRIPTION:

BUILDING ELEVATIONS

5 OF 5

DD PPR 18-017



COMMISSIONERS:
DARRYL GLENN (PRESIDENT)
MARK WALLER (PRESIDENT PRO TEMPORE)

STAN VANDERWERF
LONGINOS GONZALEZ
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of County Commissioners
Darryl Glenn, President**

**FROM: Gabe Sevigny, Planner I
Gilbert LaForce, PE Engineer II
Craig Dossey, Executive Director**

**RE: Project File #: VA-17-010
Project Name: Mountain Splendor Services Contractor's Equipment
Yard & Offices
Parcel No.: 53080-00-048**

| OWNER: | REPRESENTATIVE: |
|--|---|
| Dan Combs 7205 Maine Lane Colorado Springs, CO 80923 | NES ATTN: Tamara Baxter/ Andrea Barlow 619 N Cascade Ave, Suite 200 Colorado Springs, CO 80903 |

Commissioner District: 2

| | |
|---|------------------|
| Planning Commission Hearing Date: | 2/6/2018 |
| Board of County Commissioners Hearing Date | 2/27/2018 |

EXECUTIVE SUMMARY

A request by Dan Combs, owner of Mountain Splendor Services, for approval of a variance of use to legalize an existing contractor's equipment yard associated with a landscaping business in the A-5 (Agricultural) zoning district. The five (5) acre property is located approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane. The applicant uses a pole barn for general vehicle maintenance and business related storage, two (2) greenhouses used for landscape planting storage, one (1) semi-trailer and storage container used for irrigation related storage, seven (7) landscape bins for mulch, rock and other landscape material, a wholesale tree nursery,



and two (2) 32 foot by 8 foot water tanks. Equipment includes nine (9) trucks, one (1) company car, nine (9) trailers, and seven (7) skid steer loaders.

No significant traffic or drainage impacts are anticipated as a result of the continued operation of the use on the site. Staff initially had concerns regarding the mitigation of potential negative visual impacts. However, the applicant has proposed leaving the existing four (4) foot barbed wire fence on the southern property boundary and the addition of three clusters of a quantity of three (3) Austrian Pines that at full growth can be 50-60 feet tall with a spread of 20-40 feet.

The City of Colorado Springs identified the concern that properties around this application are rapidly being annexed and are being developed with urban density uses, and that the prospect of having a small unincorporated enclave could be challenging in terms of efficient provision of services. The City has also identified the concern that the newly platted and developing residential property to the south will be impacted by noise and setbacks unless these issues are mitigated.

A. REQUEST/WAIVERS/AUTHORIZATION

Request: A request for approval of a variance of use permit to legalize an existing contractor's equipment yard in the A-5 (Agricultural) zoning district

Waiver(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 fifteen (15) 10 foot tall Austrian Pines will be in lieu of the required six (6) foot opaque fence and are intended to create a buffer between the proposed non-residential and the adjacent residential uses.

Authorization to Sign: There are no documents associated with this application that require signing.

B. PLANNING COMMISSION SUMMARY

Request Heard: February 6, 2018 as a regular item

Recommendation: Approval, subject to the conditions and notations. A copy of the Planning Commission Resolution is included as an attachment.

Waiver Recommendation: N/A

Vote: 8 to 0

Vote Rationale: N/A

Summary of Hearing: See attached minutes.

Legal Notice: N/A

C. APPROVAL CRITERIA

Pursuant to Section 5.3.4, Variance of Use, Criteria, of the El Paso County Land Development Code (2017), in approving a variance of use, the following criteria may be considered:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- 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 County;
- 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;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- 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.

D. LOCATION

The property is located approximately 0.3 miles south of Woodmen Road at the southern terminus of Maine Lane. The property is located adjacent to the following surrounding zoning districts and land uses:

| | |
|---------------------------------|---|
| North: A-5 (Agricultural) | Residential with a similar landscape business |
| South: City of Colorado Springs | Residential |
| East: RR-5 (Residential Rural) | Residential/orthodontic office |
| West: City of Colorado Springs | Commercial/Contractor's Equipment Yard |

E. BACKGROUND

The unplatted lot was created on April 8, 1968. The property was zoned to the A-4 (Agricultural) zoning district in 1965. Subsequent nomenclature changes have resulted

in the zoning currently being titled as the A-5 (Agricultural District). The single-family residence was built in 1972, but is now only used as a main office. No one resides on the property. The pole barn was built in 2000 and the 2 greenhouses were built in 2002. To date, there are no permits for any of the structures to be used at this property to include the residence. The current owner purchased the property in 2015 from his brother and moved his landscaping business, Mountain Splendor Services, to this location. Since that time, the applicant has also moved a semi-trailer and storage container, landscape storage bins, and two water tanks on to the site. The applicant claims the property has been used as a tree farm for the previous 17 years by his brother. A tree farm is an allowed use in the A-5 (Agricultural) zoning district, but operation of a contractor's equipment yard is not an allowed use.

A complaint was submitted on March 24, 2017, that a residence had been converted into an office. Upon investigation by code enforcement, it was determined that a contractor's equipment yard was in operation without obtaining the appropriate approvals. A notice of violation was sent to the property owner on April 20, 2017, resulting in this variance application.

F. ANALYSIS

1. Land Development Code Analysis

The Land Development Code defines a contractor's equipment yard as follows:

Contractor's Equipment Yard

A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.

A contractor's equipment yard is not an allowed principal or accessory use in the A-5 (Agricultural) zoning district. It is allowed as a special use under the rural home occupation provisions of the Land Development Code. However, the intent of the rural home occupation provisions is to promote small home based businesses. A rural home occupation is defined in the Code as follows:

Home Occupation, Rural

A home occupation allowed in the A-35 Zoning District only and as a Special Use in other Zoning Districts, intended to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

The residence was converted to offices and the owner does not reside there. Because the applicant does not reside on the property, he cannot operate the business on the property as a rural home occupation. Therefore, approval of a variance of use permit is required to legalize the continued use of the property as a contractor's equipment yard.

The applicant have stated in the letter of intent that current outdoor storage consists of nine (9) trucks, nine (9) trailers, seven (7) skid steer loaders, one (1) company car, one (1) semi-trailer and storage container for irrigation related materials, landscape storage bins for mulch, rock, and other landscape materials, and two (2) water tanks.

The use meets the requirement of the Code that outdoor storage be setback at least 50 feet from any residential zoning district boundary; however, the applicant is requesting relief from the screening requirements. The applicant has identified tree additions to mitigate the visual impact from the residential zoning district, within the City, to the south.

2. Zoning Compliance

A contractor's equipment yard is not an allowed use in the A-5 (Agricultural) zoning district. If the variance of use permit is approved, the existing use would be legalized subject to compliance with any conditions of approval. A contractor's equipment yard is only an allowed use in the I-3 (Heavy Industrial) and M (Industrial) zoning districts. It is permitted by special use in the CS (Commercial Service), I-2 (Limited Industrial), and C-2 (Commercial) zoning districts. Staff recommends that rezoning to any of these districts at this location would be inconsistent with the surrounding residential development. Additionally, such rezoning of the property would not be desirable due to the lack of available water and wastewater services necessary to support commercial, service, and industrial related uses.

3. Policy Plan Analysis

Consistency with the El Paso County Policy Plan (1998) is not a required review criteria for a variance of use request. The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

Policy 6.2.1

Fully consider the potential impact of proposed zone changes and development on the integrity of existing neighborhoods.

Policy 6.2.10

Utilize buffer zones to provide mutually compatible transitions between neighborhoods and adjoining development with differing uses or densities.

Policy 6.2.12

Ensure that proposed zone changes and/or use variances in established neighborhoods are of compatible scale and physical character.

The adjacent subdivision to the south, Quail Brush Creek Filing No. 2, was approved by the City of Colorado Springs on September 11, 2015. The properties to the north, east, and west have a similar use as the applicant and have been in operation for many years.

The applicant has requested relief from the buffering standard established in the Code of a six (6) foot 100 percent opaque fence. 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 fifteen (15) 10 foot tall Austrian Pines will be in lieu of the required six (6) foot opaque fence and are intended to create a buffer between the proposed non-residential and the adjacent residential uses.

Any future change to the outdoor storage would require Board of County Commissioners approval as an amendment to the variance of use permit.

4. Small Area Plan Analysis

The property is not within the boundaries of a small area plan.

5. Other Master Plan Elements

The variance request is consistent with or does not create negative impacts to elements depicted on the El Paso County Wildlife Habitat Descriptors Map (1996), the El Paso County Parks Master Plan (2014), the Master Plan for Mineral Extraction (1996), and the Major Transportation Corridors Plan (2016).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No physical hazards were identified in the review of this variance request.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors Map (1996) indicates development will have a low impact to wildlife in the area.

3. Floodplain

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0537F shows the property is located outside the 500-year floodplain (Zone X).

4. Drainage and Erosion

The property is located within the Sand Creek drainage basin (FOFO4000) which is a studied basin. No drainage or bridge fees are assessed with variance of use

requests. The drainage report identified that the existing improvements have no anticipated water quality impact as a result of the variance of use request.

5. Transportation

Maine Lane is the primary access to and from the site and is a private unpaved road extended south from Adventure Way. The applicant stated and one neighbor confirmed that Maine Lane is primarily maintained by Mountain Splendor Services year-round. A traffic study was not required and the road impact fee is not required since the variance of use does not result in an increase of at least 100 more daily vehicle trips.

H. SERVICES

1. Water

Water is provided to the site from an existing individual well. Findings of water sufficiency are not a requirement with a variance of use request.

2. Sanitation

The existing residence located on the property is served by an onsite wastewater treatment system (OWTS). No additional wastewater facilities are anticipated in association with the proposed variance of use permit.

The Environmental Health Division of El Paso County Public Health commented on the application in a letter dated November 27, 2017, which is included as an attachment.

Comments from El Paso County Public Health included requirements that no vehicular traffic or storage occur over the existing septic system. The comments also state that any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all state and federal regulations related to the storage of such fluids. These requirements have been added as recommended conditions of approval. The letter has also been included as an attachment for reference.

The El Paso County Public Health letter also requested the applicant hire a Colorado Registered Professional Engineer with experience in OWTS design, to provide verification that the existing OWTS installed in 1988 is sufficient in terms of capacity to serve the number of employees who work in the office including those employees that may use the restroom while at the property. The applicant hired Drexel, Barrell & Company to determine that the capacity and functionality of the OWTS system is sufficient to accommodate the regularly scheduled employees and any that may use the restroom while at the property.

3. Emergency Services

Emergency and fire protection services are provided by Falcon Fire Protection District.

4. Utilities

Mountain View Electric Association provides electrical service to the property. Natural gas service is provided by Colorado Springs Utilities

5. Metropolitan Districts

The property is not located within a metropolitan district

6. Parks/Trails

No park fees or land dedication in lieu of fees are required with this application.

7. Schools

The property is located in Falcon School District No. 49. School land dedication or fees in-lieu of land dedication are not required for a variance of use permit.

I. APPLICABLE RESOLUTIONS

See attached resolutions.

J. STATUS OF MAJOR ISSUES

There are no major issues that need to be addressed with this property.

K. CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in 5.3.4 (Variance of Use) of the El Paso County Land Development Code (2016), staff recommends the following conditions and notations:

CONDITIONS

1. Within 60 days from the date of approval, the applicant shall submit a site development plan for review and approval by the Planning and Community Development Department. The site development plan shall provide a detailed depiction of existing and proposed structures and improved surfaces associated with the approved variance of use permit.
2. Within 60 days from the date of approval, the applicant shall submit all necessary applications for building permitting for each structure located on this property to Pikes Peak Regional Building Department.
3. In lieu of a 6 foot tall opaque privacy fence, the applicants will plant within 120 days fifteen (15) 10 foot tall Austrian pines along the southern property boundary as visual screening.

4. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
5. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all State and Federal regulations related to the storage of such fluids.

The due dates may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to comply with the above Conditions.

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.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified 15 adjoining property owners on January 17, 2018, for both the Planning Commission and Board of County Commissioner hearings. Responses are attached.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Adjacent Property Owner Letters
Planning Commission Minutes
Planning Commission Resolution
Board of County Commissioners Resolution

El Paso County Parcel Information

File Name: VA-17-010

| PARCEL | NAME |
|------------|--------------|
| 5308000048 | COMBS DANIEL |

Zone Map No.: --

| ADDRESS | CITY | STATE |
|---------------|------------------|-------|
| 7205 MAINE LN | COLORADO SPRINGS | CO |

| ZIP | ZIPUS |
|-------|-------|
| 80923 | 4237 |

Date: January 16, 2018



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (719) 520-6600



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MOUNTAIN SPLENDOR SERVICES

PROJECT STATEMENT

OCTOBER 2017

REVISED: FEBRUARY 2018

REQUEST

N.E.S. Inc. on behalf of Dan Combs/Mountain Splendor Services requests approval of the following application(s):

1. A Variance of Use in the Agricultural Zone District (A-5) for a service establishment – Landscape Business, related tree nursery, and landscape equipment and material yard.

LOCATION

The subject site is located off of Maine Lane, south of Adventure Way. Maine Lane provides access to various single-family residents and similar landscape type small businesses. The property is located in El Paso County (“County”) and is zoned Agricultural, A-5. The properties to the north and east are located in the County. The property to the north is zoned A-5 and the property to the east is zoned RR-5. The property to the west was annexed in to the City of Colorado Springs in 2005/2006 and is zoned A/AO. The lots to the south are part of the Quail Brush Creek Subdivision, located within the City of Colorado Springs and is zoned PUD. The property is not within a small-area master plan boundary in El Paso County.



PROJECT DESCRIPTION

The site is approximately 5 acres and zoned A-5. The site is primarily accessed from Woodmen Road at Black Forest Road and Adventure Way to Maine Lane.

The Applicant has owned and operated Mountain Splendor Services since 2009. Mountain Splendor Services has been at the Maine Lane location since 2015, which is the primary business location. Mountain Splendor Services offers professional landscape services to commercial business and residential uses. The Applicant purchased this property from his brother in 2015, who owned and operated a wholesale tree nursery on-site for over 15 years. There have been no residential use on-site for over 17 years. The Applicant purchased the land in 2015, as a primary location for his landscape business as it provided a natural extension of the wholesale tree nursery use that has been previously operating on-site. The existing landscaping use is no more intensive than the previous use. There is no retail sales that occur on-site in association with this landscape business use.

Site Structures/Uses/Equipment

The primary landscape business activities have remained similar in nature for the last 17+ years. Below is a brief summary of the uses/structures and equipment on-site.

The site is improved with the following structures/uses:

- Single-family residence which is used by Mountain Splendor Services as the main office. Built in 1972.
- Pole Barn used for general related vehicle maintenance and business related storage. Built 2000.
- Two greenhouse structures used for landscape planting storage. Installed in approximately 2002.
- One semi-trailer and storage container use for irrigation related storage materials. Brought on-site by Applicant in 2015.
- Landscape storage bins for mulch, rock, and other landscape material. Installed by Applicant in 2015.
- Tree nursery for wholesale and use for landscape related projects.
- Two (2) 32' x 8' water tanks. Brought on-site by Applicant 2017.
- Employee parking areas and open landscape material and equipment storage areas identified on the Site Plan.

Landscape business related equipment includes the following:

- Nine (9) trucks;
- One (1) company car;
- Nine (9) trailers;
- Seven (7) Bobcats.

Business Operation

Mountain Splendor Services has defined peak and off- seasons. Below is a brief summary of the activities that occur during peak season and off-season.

Peak Season:

- Due to the nature of the business and climate, peak season is approximately 8 months of the year from March/April through October/November.
- Hours of operation are normally 7:00 am to 5:30 pm. Some employees will arrive on-site between 6:30 am/6:45 am to obtain specific landscape job information, begin gathering landscape materials and equipment, and head out to jobs off-site between 7:00 am and 7:30 am. There is very little back and forth travel to and from job sites to the subject site during the day.
- During peak season there are 30 employees. Less than half of the employees come to the subject site. Most 'crew' employees will meet at specific job locations off-site.
- There can be up to 5 employee vehicles parked on-site during business hours.
- During peak season the company trucks are normally not parked on-site as employees take them home in the evening. There may occasionally be 1 or 2 company trucks that are parked overnight.

Off-Season:

- During off-season months (October/November through March/April), 4-5 employees work on-site in the main office. Most off-season work is in the office with minimal outside on-site activity.
- During the off-season, hours of operation are 7:30 am to 4:00 pm.
- There can be up to 5 employee vehicles parked on-site during business hours.
- The company trucks, usually gone during peak season, are parked on-site during off-season as most employees leave town during off-season.

Maine Lane

Maine Lane is the primary access to and from the subject site. Maine Lane is a private unpaved road from Adventure Way. Maine Lane has primarily been maintained by Mountain Splendor Services year around. This involves snow plowing in the winter and grading/dust control during summer months as needed. The City of Colorado Springs has an easement on Maine Lane for utilities.

EPC Land Use Code

As a result of a Notice of Violation that was issued for the use, the Applicant is requesting approval of a Variance of Use to continue to operate the landscape business, related tree nursery, and ancillary landscape equipment and material yard on site.

In accordance to the Code definitions, a "Contractor's Equipment Yard" is defined as *"a service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or*

outdoor storage of tools, equipment, materials, and vehicles uses by the establishment.” The Land Use Code does not allow contractor’s equipment yards in the A-5 zone district.

The Code allows contractor equipment yards as special use in the CS, I-2, and C-2 Districts, as an allowed use in the I-3 and M Districts, and potentially as an accessory use in the A-5 (Agricultural) district and other large lot residential districts as a rural home occupancy as a special use. If the required development standards were met, a contractor’s equipment yard could be administratively approved as a rural home occupation as a special use in the A-5 district. Those development standards limit the amount of employees, trips generated by the use and require the home occupancy to be clearly subordinate to the use of the property as a residence.

As a result of the Notice of Violation and the ‘primary’ use of the property, a Variance of Use request was required in order to avoid compliance difficulties and not have binding limits on the number of employees and trips generated per day. A site plan has been provide which illustrates the manner of the use on-site.

Landscape Buffer

The property is almost entirely encompassed within a 4’ existing barb wire fence, except along Maine Lane. On the south side of the property, there is a 30’ utility easement owned by the Quail Brush Creek Subdivision HOA, between the single-family residences and the subject site, which is used as part of the subdivisions’ trail system. The residences along the south boundary all have a 6’ cedar privacy fence along the utility easement.

Pursuant to Section 6.2.2(D)(2) of the Code, a buffer is required when use-to-use compatibility is a concern and between non-residential and residential zoning district. The Code requires a minimum 15’ foot deep buffer and minimum number of trees be planted for every 25 feet of common lot, in addition to the installation of an opaque fence or wall. In accordance to the Code, *“the minimum number of trees in the buffer shall be one tree for every 25 feet of common lot, parcel, or tract line. A minimum of ½ of the trees shall be evergreen trees.”* The Applicant proposes to install 15 Austrian Pines at a minimum height of 10’ along the southern property boundary in accordance with the Site Plan. This is in addition to the 11 existing deciduous trees (crabapple and cottonwood trees) and 1 existing pine tree, for a total of 27 trees. The Austrian Pines can grow up to a height of 50–60’ with a spread of 20–40’ at maturity and will provide sufficient screening of the subject site from the single-family residences to south. This live buffer will be permanent.

As part of the Quail Brush Creek Subdivision Annexation approved by the City of Colorado Spring in 2007 and the approval of the Concept and Development Plans Amendment in 2014, it was determined by the City that the 6’ cedar fence along the north boundary of the residential lots in addition to the 30’ utility easement was sufficient buffering between City and County properties. Therefore, the Applicant requests that the required 6’ opaque fencing along the south boundary not be required to be installed. The installation of another 6’ opaque fence between the uses will provide for an unappealing and potentially unsafe environment for trail users.

Water/Wastewater

Water is provided to the site by an individual well. A copy of the well permit issued for the site in April 1983 has been provided. The Applicant has submitted water quality testing through the County Health Department. Results were not received prior to submittal of this application. Upon receipt, results will be submitted to the County. Water use on the property is for the office use and irrigation of the tree nursery. The irrigation system was installed by the previous by the wholesale nursery business approximately 12 years ago. The Applicant is proposing to place two (2) existing 32' X 8' tanks along the north property boundary, adjacent to the storage trailers and tree nursely outside of the setbacks. These tanks will be used when necessary for water storage and used for tree irrigation. Water to fill the tank will be from the existing well and will only be used during years of significant drought.

Sanitation is provided on the site by an on-site wastewater system.

Drainage and Erosion

The site is located in the Sand Creek drainage basin. No additional grading or site development is proposed as this time. The Final Drainage Report prepared by Drexel, Barrell, & Co. dated September 30, 2017, indicates that "The change in zoning use of the property, will not adversely affect surrounding or downstream developments."

PROJECT JUSTIFICATION

A. Variance of Use

To approve a variance of use, the following conditions shall exist:

- 1. 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 this area and County.**

Response: The proposed uses is compatible with the surrounding area and uses to the north, east and west. It is not detrimental to the surrounding area nor the future development of the area. There is no indication that it detrimental to the health, safety or welfare of the inhabitants of this area or County.

The reason for this Variance of Use application is a result of a complaint expressing opposition to this use adjacent to residential development. Mountain Splendor Services is a small local business serving the Colorado Springs area that provides professional landscape services to commercial business and residential developments in the area.

There is a legal term called "Coming to the Nuisance". This terminology is defined as "*Individuals who have knowledge of a foreseeable nuisance in an area, but still choose to build, operate a business, or reside in that area may not be entitled to relief from the nuisance.*"

Mountain Splendor Services has been operating on-site prior to the construction of the residential house to the immediate south and southwest. Homeowners were aware or should have been made aware by the developer of the existing use on the subject site and in the immediate area prior to construction of new homes. Choosing to construct a home next to a non-residential use, should not put unnecessary burden and hardship on existing non-residential use(s).

During the City of Colorado Springs review of the Quail Brush Creek Subdivision, it was noted that most of the County neighborhood residents enjoy using their property for home occupations and businesses and keep horses and other animals. The Subdivision was slightly modified along its westerly boundary during the review process to increase setbacks to conform to rural densities of the surrounding area. However, along the property boundary that adjoins both the subject site and the Quail Brush Creek Subdivision, the 30' utility easement was anticipated to provide sufficient buffering between uses along with the installation of a 6' cedar privacy fence.

Values of these residences should not be affected due to the continued use of the existing use.

2. 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.

Response: The proposed use meets the County Standards for air, water, odor or noise. Hours of operation during peak-season is 7:00 am to 5:30 pm and off-season is 7:30 am to 5:30 pm. Most noise from this use occurs in the morning hours when crews gathering landscape materials and equipment for off-site jobs and again towards the end of the day when equipment is being returned on-site. There is minimal disturbance or noise during the day time hours. Aside from the occasional diesel odor from landscape equipment, there is minimal odor. For dust control, roto-millings is done on the parking and drive areas, as the rest of the property is either grass or trees. Mountain Splendor Services tries to minimize any dust as a result of its operation.

3. The propose use will not adversely affect property values in the immediate area;

Response: The proposed use does not adversely affect the property values in the immediate area. Similar landscape type small businesses are located in the immediate area and are adjacent to residential neighborhoods. Letters of support have been provided in support of this business and for the continued operation of this use on-site. Mountain Splendor Services has been a respectable neighbor.

4. The proposed use will comply with all requirements of this Code and all County, State, and federal regulations except those portions varied by this action;

Response: The proposed use will comply with all County, State and Federal regulations as deemed necessary.

5. The proposed use will not adversely affect wildlife and wetlands;

Response: The proposed use will not adversely affect wildlife and wetlands. The marsh area along the east portion of the property is and has been undisturbed by this use. This area has been delineated on the site plan.

6. The applicant has addressed all off-site impacts;

Response: Off-site impacts have been addressed to the maximum extent possible.

7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping;

Response: The site plan provides graphically depicts the limits of the existing operation. Adequate parking for employees and landscape equipment has been provided. The Applicant will install 21 Austrian Pines, in addition to the existing evergreen and deciduous trees along the southern property boundary as required by the County Landscape Code to provide required buffer between the residential houses to the south.

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; and

Response: Water is provided by an existing well and there is on-site wastewater system. The site falls under the Falcon Fire Protection District. Police protection is provided by the Sheriff Department. Maine Lane is a private unpaved road that serves approximately nine (9) parcels.

9. The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property.

Response: As a result of a Notice of Violation that was issued, the Applicant is requesting approval of a Variance of Use to continue to operate the landscape business and auxiliary landscape contractor yard on site. The Applicant understands that a Variance process is not intended to remove all practical difficulties or hardship for the reasonable use of the property. The grant of variance is purposed to address peculiar and exceptional practical difficulties or undue hardship caused by strict compliance of the Code. The inability to continue operation of this landscape business and auxiliary landscape contractor yard at this location will cause significant undue financial hardship to this small local business.

Green Thumb

COMMERCIAL GROUNDS MAINTENANCE, INC.
7209 QUAIL BRUSH CREEK DRIVE COLORADO SPRINGS, CO 80923
(719) 632-5184 FAX (719) 494-0521
greenthumb7209@msn.com
www.greenthumbsince1976.com

To whom it may concern:

Dan Combs (Mountain Splendor) operating at 7205 Maine Lane has maintained the same operation since buying the property. He is running a landscape/nursery out of the location. This operation is the same as it was before him back to 2000. It is located on a private road (Maine Lane). Green Thumb Commercial Grounds Maintenance Inc. (7209 Quail Brush Creek Dr, directly to the west) has no issues with the operation nor has seen any changes in what is being done on this property. If I can be of any further assistance please contact me at (719) 632 -5184.

Sincerely,



Jason Gingerich
Green Thumb Commercial Grounds Maintenance Inc.



7215 Maine Lane
Colorado Springs, CO 80923
(719) 591-8151
(719) 591-7446 (fax)

Mailing Address
P.O. Box 303
Larkspur, CO 80118

10/14/17

To Whom It May Concern:

Mountain Splendor Services, Inc. has been operating a landscape/nursery business from the property at 7205 Maine Lane since owner Dan Combs purchased the property two years ago.

We have no issues with Mountain Splendor's business operation. In fact, Dan has taken it upon himself to ensure that Maine Lane is maintained at his own expense.

We support a variance for Mountain Splendor Services/Dan Combs. Feel free to contact us if you have any questions.

Sincerely,

Pam and Leon Mazanec
Owners
Hydro Turf, Inc.

Philip B. Ciborowski
7385 California Dr.
Colorado Springs, CO 80923

8 November 2017

RE: Mt. Splendor Variance

To Whom It May Concern,

I recently received a letter in the mail concerning a variance for Mt. Splendor to operate a service establishment on their property which is in an Agricultural Zone.

My question is - why is a variance needed at all? I am their neighbor that lives directly ~~west~~ ^{east} of this property and we share a fence line that goes the length of their property. I can tell you that we have never had any noise issues or neighbor issues with this property- they have been the perfect neighbors. This property was previously owned by a service yard and again they were the perfect neighbors.

I would recommend that this variance be granted or better yet that it not be considered at all. If you have any questions for me please feel free to call me on my cell phone-719-650-1328.

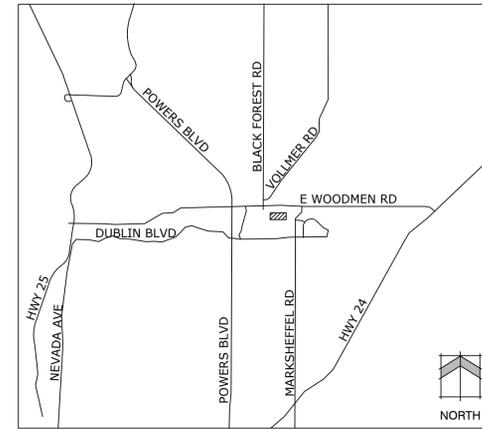
Sincerely,

Philip B. Ciborowski

MOUNTAIN SPLENDOR SERVICES, INC.

EL PASO COUNTY, STATE OF COLORADO
VARIANCE OF USE

VICINITY MAP



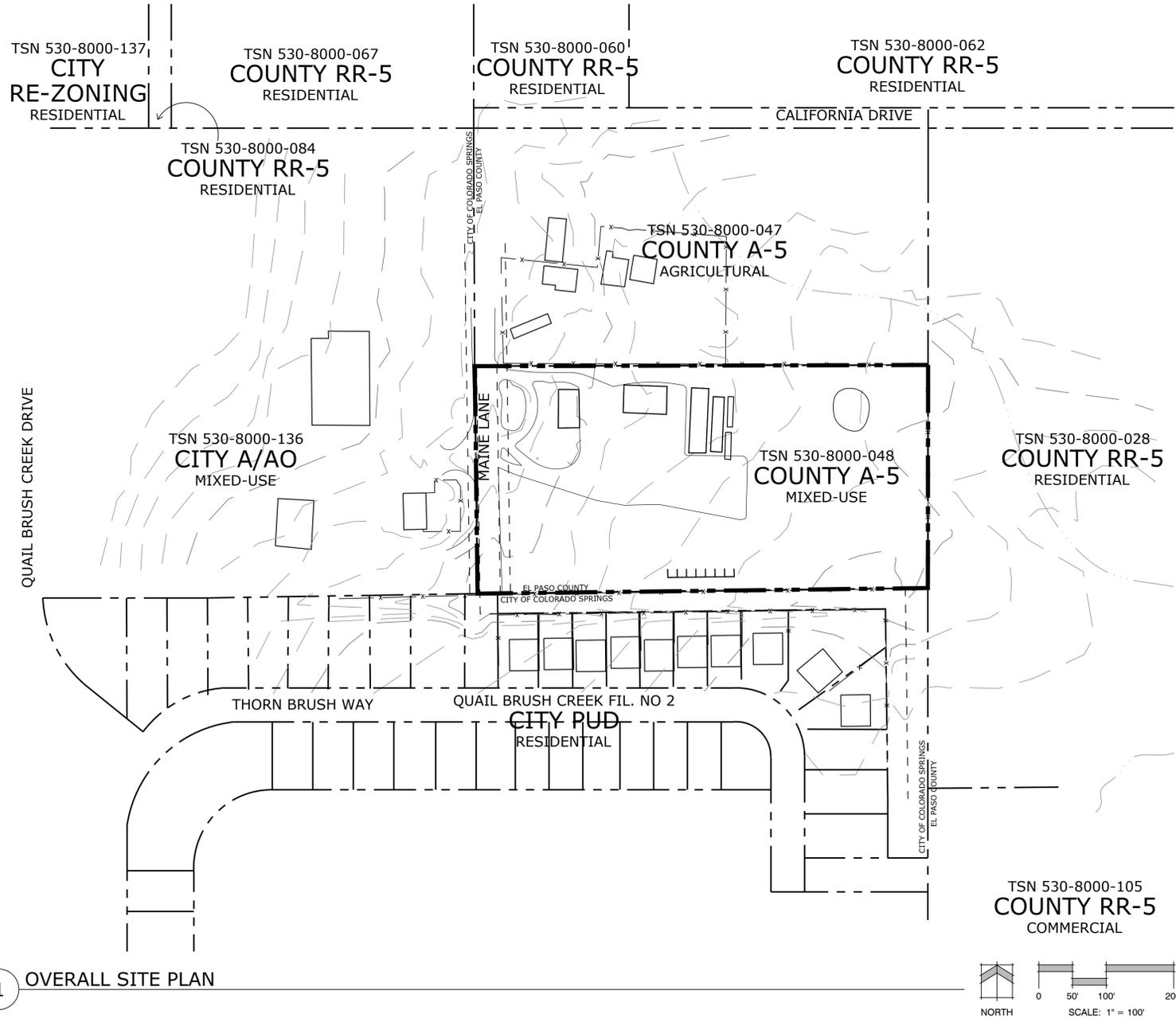
Land Planning
Landscape
Architecture
Urban Design

N.E.S. Inc.
619 N. Cascade Avenue, Suite 200
Colorado Springs, CO 80903

Tel. 719.471.0073
Fax 719.471.0267

www.nescolorado.com

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1 OVERALL SITE PLAN

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.

NOTES

1. FLOODPLAIN STATEMENT: THIS SITE, 7205 MAINE LANE IS NOT WITHIN A DESIGNATED F.E.M.A. FLOODPLAIN AS DETERMINED BY THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER (08041C0537F), EFFECTIVE (03/17), (1997).
2. THE PARTIES RESPONSIBLE FOR THIS PLAN HAVE FAMILIARIZED THEMSELVES WITH ALL CURRENT ACCESSIBILITY CRITERIA AND SPECIFICATIONS AND THE PROPOSED PLAN REFLECTS ALL SITE ELEMENTS REQUIRED BY THE APPLICABLE ADA DESIGN STANDARDS AND GUIDELINES AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF JUSTICE. APPROVAL OF THIS PLAN BY THE CITY OF COLORADO SPRINGS DOES NOT ASSURE COMPLIANCE WITH THE ADA OR ANY OTHER FEDERAL OR STATE ACCESSIBILITY LAWS OR ANY REGULATIONS OR GUIDELINES ENACTED OR PROMULGATED UNDER OR WITH RESPECT TO SUCH LAWS. SOLE RESPONSIBILITY FOR COMPLIANCE WITH FEDERAL AND STATE ACCESSIBILITY LAWS LIES WITH THE PROPERTY OWNER.
3. ANY STORAGE ITEM(S) OR VEHICLE(S) OVER THE FENCE HEIGHT WILL BE KEPT A MINIMUM OF 50' FROM THE RESIDENTIAL DISTRICT.
4. (1) ACCESSIBLE VAN PARKING SPOT HAS BEEN DESIGNATED ADJACENT TO OFFICE/RESIDENCE BUILDING.

SITE DATA

| | |
|---------------------------|--|
| OWNER: | DANIEL COMBS 7205 MAINE LANE COLORADO SPRINGS, CO 80923 |
| Tax ID Number: | 5308000048 |
| Current Zoning: | AGRICULTURAL |
| Acreage: | 5.10 AC (222,249 sqft) |
| Building Height: | 30' |
| Building Area: | Residence - 1,440 sqft Shed 1 - 2,400 sqft Shed 2 - 2,400 sqft Total Building Area - 6,240 sqft |
| Building Setbacks: | -North 25' -West 25' -South 25' -East 25' |
| Landscape Buffer: | -South 20' |
| Lot Coverage | -(%) building 3% |
| | -(%) impervious 3% |

SHEET INDEX

| | |
|---------------|-----------|
| Sheet 1 of 2: | Cover |
| Sheet 2 of 2: | Site Plan |

MOUNTAIN SPLENDOR SERVICES, INC.

MAINE LANE VARIANCE OF USE

7205 MAINE LANE
COLORADO SPRINGS, CO 80923

DATE: 10/20/2017
PROJECT MGR: T. BAXTER
PREPARED BY: M. SWIFT

VARIANCE OF USE

| DATE | BY | DESCRIPTION |
|------------|----|----------------------|
| 12/11/2017 | MS | REVISED PER COMMENTS |
| 02/09/2018 | MS | REVISED PER COMMENTS |
| | | |
| | | |

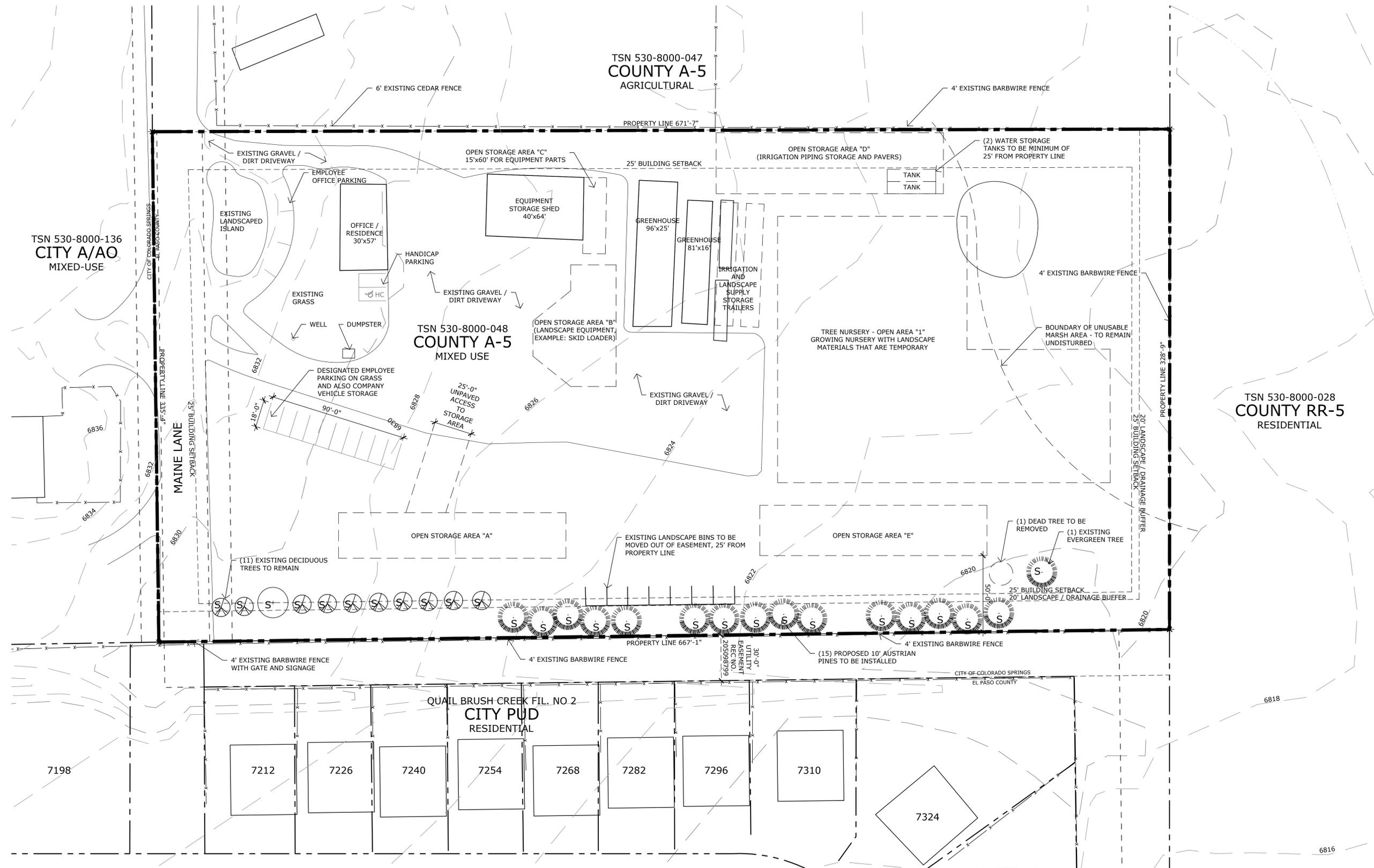
COVER NOTES AND DETAILS

1

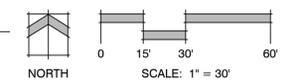
1 OF 2

MOUNTAIN SPLENDOR SERVICES, INC.

EL PASO COUNTY, STATE OF COLORADO
VARIANCE OF USE



1 OVERALL SITE PLAN



Land Planning
Landscape
Architecture
Urban Design

NES

N.E.S. Inc.
619 N. Cascade Avenue, Suite 200
Colorado Springs, CO 80903

Tel. 719.471.0073
Fax 719.471.0267

www.nescolorado.com

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MOUNTAIN SPLENDOR SERVICES, INC.

MAINE LANE
VARIANCE OF USE

7205 MAINE LANE
COLORADO SPRINGS, CO 80923

| | |
|-----------------------|------------------------|
| DATE: 10/20/2017 | PROJECT MGR: T. BAXTER |
| PREPARED BY: M. SWIFT | |

VARIANCE OF USE

| DATE | BY | DESCRIPTION |
|------------|----|----------------------|
| 12/11/2017 | MS | REVISED PER COMMENTS |
| 02/09/2018 | MS | REVISED PER COMMENTS |

SITE PLAN

2

2 OF 2

40 \\Mountain Splendor Services, Inc\Maine Lane Use Variance\Drawings\Planning\Development\Maine Lane Use Variance\0218_2018.dwg [Print] 2/8/2018 11:37:04 AM msawt

COMMISSIONERS:
 MARK WALLER (CHAIR)
 LONGINOS GONZALEZ, JR. (VICE-CHAIR)

HOLLY WILLIAMS
 STAN VANDERWERF
 CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

To: Board of County Commissioners
 Mark Waller, Chair

From: Gabe Sevigny, Planner II
 Mindy Madden, Code Enforcement Supervisor
 Craig Dossey, Executive Director

Re: VA-17-010 -- Mountain Splendor Services Contractor Equipment
 Yard (Parcel No. 53080-00-048)

Subject: Revocation of a variance of use pursuant to Section
 5.3.4(G) of the El Paso County Land Development Code
 (2019)

| OWNER: | REPRESENTATIVE: |
|--|--|
| Dan Combs 7205 Maine Lane Colorado Springs, CO 80923 | Dan Combs 7205 Maine Lane Colorado Springs, CO 80923 |

Commissioner District: 2

| | |
|---|-----------|
| Board of County Commissioners' Hearing Date | 9/10/2019 |
|---|-----------|

Executive Summary

A request by the Planning and Community Development Department (PCD) to revoke approval of a variance of use for a contractor's equipment yard pursuant to Section 5.3.4 (G) of the El Paso County Land Development Code (2019). The applicant has failed to obtain building permits within sixty (60) days as required by Condition No. 2 of the variance of use approval (VA-17-010). The five (5) acre property is zoned A-5 (Agricultural) and is located approximately one-half (1/2) mile southeast of the Woodmen Road and Black Forest Road intersection. Daniel Combs received approval for a variance of use to allow for a



contractor's equipment yard, Mountain Splendor Services, in the A-5 zoning district on February 27, 2018, due to a complaint against the property submitted to Code Enforcement on March 24, 2017, of a residence being converted into an office. The investigation at that time determined there was a contractor's equipment yard in operation without obtaining the appropriate approvals. Approval of the variance of use included multiple conditions of approval. Specifically, Condition of Approval No. 2, which has not been complied with to date, states:

"Within 60 days from the date of approval, the applicant shall submit all necessary applications for each structure located on this property to Pikes Peak Regional Building Department."

Due to the owner's failure to comply with the conditions of approval, staff recommends that Section 5.3.4(G) of the Land Development Code should apply. Section 5.3.4(G) states the following:

"The violation of any applicable requirement or standard of this Code, or of any condition, safeguard or commitments of record of the variance of use permit shall constitute sufficient grounds for suspension or revocation of the variance of use permit by the BoCC, subject to the requirements of Chapter 11."

The BoCC may revoke a variance of use approval if all conditions of approval are not met. The Planning and Community Development Department is requesting the variance of use approval be revoked for failure to comply with Condition of Approval No. 2.

Background

Daniel Combs received approval on February 27, 2018, for a variance of use to allow a contractor's equipment yard, Mountain Splendor Services, in the A-5 zoning district. The County was made aware of the illegal use as a result of a Code Enforcement complaint that was made against the property, which was submitted on March 24, 2017. The complaint stated that a residence had been converted to an office. The investigation at that time determined there was a contractor's equipment yard in operation without obtaining the appropriate approvals. After approval of the variance of use, the applicant satisfied Condition of Approval No. 1 by applying and receiving approval of a site development plan (PPR-18-017), however, the applicant has failed to obtain building permits from Pikes Peak Regional Building Depart (PPRBD).

Another complaint was received on April 25, 2019, after approval of the variance of use, that the property owner was storing equipment and materials in a location not designated as outside storage on the approved Site Development Plan and that building permits had not been obtained for the structures on the property as required by Condition of Approval No. 2 on the variance of use.

PCD staff spoke to the property owner regarding the violations on May 2, 2019. The property owner stated he would move the materials located in the unapproved location, but that PPRBD told him he did not need building permits for the structures onsite. PCD staff informed the property owner that the information received from PPRBD was that building permits were required. Staff confirmed with PPRBD again on July 17, 2019, that building permits were required and that a letter had not been issued for this property stating otherwise.

A notice of violation was sent to the property owner on May 30, 2019, after the property owner failed to correct the violations identified on his property. On June 17, 2019, Code Enforcement was able to confirm that the property owner removed the materials from the prohibited area, but did not apply for building permits for the structures on the property. As a result of this inspection, an executive determination was issued on June 17, 2019 by the PCD Director after the property owner failed to bring the property into compliance within the fourteen (14) days provided for on the notice of violation.

A request for an appeal of the executive determination was not received within ten (10) days of the date of the executive determination. The PCD Director's decision to issue an executive determination is now final and the Office of the County Attorney is authorized to pursue litigation. In addition to pursuing legal action, the Land Development Code provides another option when a violation of a development application approval has occurred. Section 11.3.2 (B) of the Land Development Code states:

“If an alleged violator is in violation of the terms and conditions of a development application approval or development permit that was issued by the PCD without review by the Planning Commission or the BoCC, the PCD Director may revoke the development permit or development application approval. Notice of the revocation may be sent via first class mail to the property owners mailing address as listed in the records of the Assessor's Office and to the mailing address of the property if one exists. Appeals of revocations may be taken to the BoCC pursuant to the procedures set forth in the Procedures Manual.”

Recommendation:

The owner has had 20 months to obtain building permits from PPRBD and bring the subject property into conformance with the conditions of approval for the variance. For this reason, staff recommends revocation of the variance of use approval as permitted in Section 11.3.2 (B) of the Land Development Code rather than pursuing legal action to remedy the violation.

If the Board of County Commissioners revokes the variance of use approval, the applicant may submit a new variance of use application if he chooses to continue the operations onsite. If the request to revoke the variance of use is authorized, the Office of the County Attorney may proceed with litigation. The zoning violation file will not be closed unless the applicant obtains the necessary building permits and applies for a variance of use or the commercial operation is discontinued on the property.

Attachments:

Vicinity map

Resolution No. 18-079

Board of County Commissioners Resolution Revoking the Special Use

Vicinity Map





RESOLUTION NO. 18-079

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
(VA-17-010)

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 February 6, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use VA-17-010; and

WHEREAS, a public hearing was held by this Board on February 27, 2018; 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:

CONDITIONS

1. Within 60 days from the date of approval, the applicant shall submit a site development plan for review and approval by the Planning and Community Development Department. The site development plan shall provide a detailed depiction of existing and proposed structures and improved surfaces associated with the approved variance of use permit.
2. Within 60 days from the date of approval, the applicant shall submit all necessary applications for building permitting for each structure located on this property to Pikes Peak Regional Building Department.
3. In lieu of a 6' opaque privacy fence, the applicants will plant within 120 days fifteen (15) 10' tall Austrian pines along the southern property boundary as visual screening.
4. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
5. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all State and Federal regulations related to the storage of such fluids.
6. Security lighting shall be limited to that in existence at the time of approval of the variance of use. No additional lighting, excluding standard wall-mounted entryway lighting, shall be installed without prior approval by the Board of County Commissioners of an amended variance of use application.

The due dates may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to obtain the approval listed above.

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 27th day of February, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: Charles D. Roerman
County Clerk & Recorder

The seal of El Paso County, Colorado, is circular with a double-line border. The outer ring contains the text "EL PASO COUNTY, COLORADO" at the top and "1875" at the bottom. The inner circle features a central emblem, likely the state seal of Colorado, surrounded by the words "SEAL OF EL PASO COUNTY" and "COLORADO".

By: [Signature]
President

EXHIBIT A

THE SOUTH HALF OF THE NORTHEAST QUARTER 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.

RESOLUTION NO. 19-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVE REVOCATION OF A VARIANCE OF USE PURSUANT TO SECTION 5.3.4 (G) OF THE EL PASO COUNTY LAND DEVELOPMENT CODE WITHIN THE A-5 (AGRICULTURAL) ZONE DISTRICT (VA-17-010).

WHEREAS, Daniel Combs did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use for a contractor's equipment yard on a 5 acre lot within the A-5 (Agricultural) Zone District; and

WHEREAS, the Board of County Commissioners approved the variance of use request on February 27, 2018 with 6 conditions and 3 notations attached hereto as Exhibit B; and

WHEREAS, Daniel Combs has not complied with the conditions of approval for the variance of use; and

WHEREAS, the Planning and Community Development Department has requested revocation of the variance of use approval pursuant to Section 5.3.4 (G) of the El Paso County Land Development Code for noncompliance; and

WHEREAS, a public hearing was held by this Board on August 27, 2019; and

WHEREAS, based on the evidence, testimony, exhibits, comments of the El Paso County Planning and Community Development Department, comments of public officials and agencies, and comments from all interested parties, this Board finds as follows:

1. The variance of use for a contractor's equipment yard on a 5 acre lot within the A-5 (Agricultural) Zone District shall be revoked.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of El Paso County, Colorado, hereby revokes approval for a variance of use for Daniel Combs to allow a contractor's equipment yard on a 5 acre lot within the A-5 (Agricultural) Zone District for property located within the unincorporated area of El Paso County more particularly described in Exhibit A, which is attached hereto and incorporated by reference;

DONE THIS 27th day of August, 2019 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

Resolution No. 17-
Exhibit A

SE4SW4 EX S 30.0 FT THEREOF DEDICATED AS A R/W FOR COUNTY RD