

CITY PLANNING COMMISSION AGENDA

STAFF: TOM WASINGER

FILE NO(S):
CPC AP 18-00090

PROJECT: **APPEAL OF NOTICE AND ORDER TO ABATE ZONING VIOLATION**
0 DUBLIN BOULEVARD
COLORADO SPRINGS CO, 80918

APPLICANT/OWNER: **6473 VINCENT DRIVE LLC**
ROBERT MOHL
3973 THUNDERCLOUD DRIVE
COLORADO SPRINGS, CO 80920



PROJECT SUMMARY:

1. Project Description: This is a request to appeal the Notice and Order to abate the zoning code violation issued to the owner of 0 DUBLIN BOULEVARD on June 27, 2018, for violation of conversion of vacant land to a use for storage of a semi-trailer.

The property is zoned A (Agricultural) and is located near the northeast intersection of Dublin Boulevard and Vincent Frontage Road. Typically, the Agricultural zone is used as a “holding zone”

after annexation until such time the owner determines the desired use or zone for the property. However, because the property is zoned A, only uses that would be permitted are those permitted and conditional uses in the agricultural zone district.

2. Applicant's Project Statement: (FIGURE 1)
3. Community Development Department's Recommendation: Staff recommends the City Planning Commission uphold the Notice and Order and deny the appeal.

BACKGROUND:

1. Site Address: 0 DUBLIN BOULEVARD – Parcel Identification number 6317200007
2. Existing Zoning/Land Use: A – Agricultural (1.69 acres.)
3. Surrounding Zoning/Land Use:
North: C-6 (General business)
South: R1-6/HS (Single-Family Residential/Hillside Overlay)
East: PUD (Single-Family Residential)
West: PIP-2 (Planned Industrial Park)
4. Annexation: The property was annexed in 2016
5. Master Plan/Designated Master Plan Land Use: Not applicable
6. Subdivision: Not applicable. The site is unplatted with the following legal description: TRACT IN NW4NW4 SEC 17-13-66 AS FOLS, BEG AT NW COR OF SEC, TH ELY ON N SEC LN 303.06 FT FOR POB, CONT ELY 190.98 FT TO INTSEC WLY R/W LN OF AT + SF RR, TH ON A CUR TO R HAVING A C/A OF 01<30' A RAD OF 2714.29 FT AN ARC DIST OF 71.04 FT, RUN SWLY ALG SD R/W 556.2 FT, ANG R 50<33' SWLY 121.45 FT, TH ANG R 123<13' NELY 600.0 FT TO POB, EX RD, TOG W/THAT PT CONV BY REC #212713226 & PLAT #13226, EX THAT POR DESC BY REC #'S 213088314 & 213088317
7. Zoning Enforcement Action: Conversion of vacant land into a new use. Use of the vacant property to store a semi-trailer establishes the use of the property as an equipment storage yard. An Equipment storage yard is not a permitted use in the Agricultural (A) Zone District with our without a development plan.
8. Physical Characteristics: The property is 1.69 acres in size, zoned Agricultural, consisting of a vacant lot.

STAKEHOLDER PROCESS AND INVOLVEMENT:

No stakeholder process is required with the issuance of a Notice and Order to Abate. The site will be posted and postcards mailed to notify property owners located within 1000 feet of the subject property regarding the City Planning Commission hearing, posted for 10 days prior per current Code requirements.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN:

1. Timeline of the Notice and Order Issuance:
The initial complaint filed against the property alleges: that there is an abandoned commercial trailer on the lot. The complainant states this trailer was removed last year, but is back and requested to be contacted by Neighborhood Services staff.

On May 10, 2018, Neighborhood Services staff, pursuant to the complaint, conducted a site inspection in order to determine if the property violated city code. During the initial inspection, staff observed a white semi-trailer parked on the vacant lot.

On May 24, 2018, staff contacted the property owner by telephone to determine the reason for using the vacant lot to store the semi-trailer. Staff spoke to the property owner, Mr. Richard Mohl, who explained to staff that he does not have another location to store the semi-trailer and he is in the process of developing the lot. However, Mr. Mohl stated he did not have an active application or pre-application meeting with City Planning for the subject property. Staff explained to Mr. Mohl that the trailer is not be stored on the vacant lot unless there is an active application on file or he is actively in the process of working with planning staff to develop the lot.

Staff advised Mr. Mohl that additional research regarding the annexation of the property would be investigated; however, preliminary documentation is not indicating evidence for permitting the semi-trailer storage with the annexation. Staff advised Mr. Mohl, that if additional information were not found permitting the semi-trailer to remain on the property, staff would follow up with a notice and order to abate. Staff explained to Mr. Mohl that failure to comply with a notice and order to abate could result in a municipal summons to court. Staff later reviewed the annexation file and found no indication permitting the semi-trailer with the annexation of the property **(FIGURE 2)**.

On June 14, 2018, Staff conducted a site inspection of the property and photographed the violation to document the enforcement case. Staff observed the white, semi-trailer (no license plates) stored on the property **(FIGURE 3)**. Staff attempted to contact Mr. Mohl by telephone and left a message for Mr. Mohl asking for a status report about the trailer.

On June 27, 2018, Staff contacted Mr. Mohl by telephone, explained to him that storage of the semi-trailer is not legal nonconforming and a notice and order will be issued, setting a deadline of July 9, 2018, since he has not abated the violation.

Staff conducted a site inspection of the property and confirmed the semi-trailer stored on the property. Staff drafted a notice and order to abate **(FIGURE 4)**. Staff posted the property with a notice and order to abate **(FIGURE 5)**. Staff mailed a copy of the notice and order to abate to the property owner listed by the County Assessor's Office as, 6473 VINCENT DRIVE LLC, PO BOX 825, COLORADO SPRINGS, CO 80901-0825 **(FIGURE 6)**. Staff posted the property of Mr. Mohl, 3973 Thundercloud Drive, COLORADO SPRINGS, CO 80920, who is listed as the registered agent of 6473 VINCENT DRIVE LLC through the Secretary of State **(FIGURE 7)**.

On July 10, 2018 Mr. Mohl filed an appeal of the notice and order.

§7.5.1007: APPEALS: A perfected appeal shall operate as a stay of the zoning enforcement decision unless the Manager certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare or the violation is of a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site.

2. Background:

The property was unilaterally annexed by the City in 2016. This property was a single ownership enclave. The owner was very cooperative during the Vincent Road and Dublin Boulevard reconstruction. As part of that, the City agreed to move the annexation forward without the annexation petition.

The annexation did not permit the use of the property as an Equipment Storage Yard. The annexation process as an A (Agricultural) zone is only a holding zone until the owner is ready to develop the property. At the time of development, the owner will need to petition the City for a zoning that is appropriate for development at this location. At that time, a full public process is recommended to discuss potential land uses. No potential land uses are established with the recommended zoning.

Zoned Agricultural (A) only as a holding zone but all district standards apply. A (Agricultural) zone is largely a residential zone district.

The use of the property to store a semi-trailer is Equipment Storage. This use as Equipment Storage is not a permitted use in the A Agricultural zone. Use of the property is not permitted without review and approval by the City.

The following code regulations explain the reason for requiring review and approval prior to use of an undeveloped/vacant lot.

§7.5.502: DEVELOPMENT PLANS

Description And Purpose: *Each zoning district is primarily intended for a predominant type of land use or mix of land uses, with specific minimum and maximum development standards which regulate the structure height, bulk and placement on the site and the amount and location of landscaping and buffer between uses. All combinations of permitted uses and development standards in a zoning district may not be appropriate at a particular location. It is necessary to require a development plan in order to review the specific impacts of the proposed land use and site design on the adjacent properties, neighborhood, schools, parks, road systems, and existing and planned infrastructure. The proposed site design can be evaluated against all the circumstances weighing upon this individual case.*

§ 7.5.502: DEVELOPMENT PLANS: Development Plan Required: A development plan shall be required prior to the issuance of a building permit or the commencement of a new use for the following instances unless specifically exempted per subsection C of this section or waived by the Manager for:

4. The conversion of vacant land into a new use;

Staff believes the property does not qualify for an exemption as provided in section § 7.5.502.C. because none of the exceptions below are applicable.

Exceptions: A development plan shall not be required, when the following instances occur:

1. New construction or an addition to an existing detached single-family or attached two-family residential structure, accessory dwelling unit and accessory structures upon an existing platted lot;
2. Additions to an existing building that cumulatively, as of September 12, 1995, increases the gross floor area of the building less than fifty percent (50%);
3. Public parks in which a park master plan has been or will be reviewed by the City Parks, Recreation and Cultural Resources Department;
4. A federal government project when both the property and the structure will be owned, maintained and operated by the governmental entity;
5. Upon properties located within an A, R, R-1 9000, R-1 6000, or R-2 zone district, when prior to the issuance of a building permit an approved preliminary and final subdivision plat, intended for single-family or two-family residential use, has been recorded;
6. A single- and two-family residential use located within a single- and two-family residentially zoned property, upon an already platted lot, and where no development plan exists; and
7. One lot single-family residentially zoned properties located within hillside area overlay districts that were platted prior to June 7, 1996, and are not part of an existing development plan. However, prior to issuance of building permits for homes on these properties, approved hillside site plan and geologic hazard study are required.
8. Waived by the Manager. The Manager may determine that a development plan is not required based upon his finding that the project does not warrant the review and approval of a development plan.

Staff believes that use of the vacant lot for storing a semi-trailer is defined by code as an equipment storage yard.

7.2.302: DEFINITIONS OF USE TYPES

7.2.302.C.2.k

Equipment Storage Yard: Any lot, plot, parcel of land or contiguous parcels of land used for the purpose of storing operable or impounded trucks, tractors, construction equipment, agricultural implements, or similar heavy equipment with a GVWR of fifteen thousand one (15,001) pounds or more. This use shall not include vehicle dismantling or junkyards.

Staff contacted the El Paso County, Development Services Department, and obtained a copy of a 2015 notice and order issued by El Paso County Code Enforcement Officer, Gayle Jackson, notifying the property owner, 6473 VINCENT DRIVE LLC, to remove the semi-trailer from the property. This El Paso County notice of violation refutes the legal non-conformity statement made by Mr. Mohl for use of the property to store the semi-trailer.

Staff believes that the Notice and Order to Abate meets the criteria as set forth in City Code.

3. Conformance with the City Comprehensive Plan:
Not applicable to a notice and order
4. Conformance with the Area's Master Plan:
Not applicable to a notice and order

STAFF RECOMMENDATION:

CPC AP 18-00090 - APPEAL OF NOTICE AND ORDER TO ABATE SIGN CODE VIOLATION

Deny the appeal and uphold the Notice and Order to Abate violation issued against 0 DUBLIN BOULEVARD on June 27, 2018, based on the finding that the appeal does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.1. and 7.5.1007.