

RESOLUTION NO. P&D 19- 049

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO**

A RESOLUTION DENYING MAP AMENDMENT NO. 2018-009 REZONING A 1.325± ACRE PARCEL OF LAND FROM AN A-3, AGRICULTURAL (MINIMUM 1 ACRE) ZONE DISTRICT TO A B-4, COMMUNITY BUSINESS ZONE DISTRICT DESIGNATION FOR THAT PROPERTY LEGALLY DESCRIBED AS A PORTION OF PARCEL A, SUBDIVISION VARIANCE NO. 372 (PROPOSED LOT 1, JS HUNTER SUBDIVISION) LOCATED IN THE SOUTH ½ OF SECTION 24, TOWNSHIP 24 SOUTH, RANGE 67 WEST OF THE 6TH P.M., PUEBLO COUNTY, COLORADO

WHEREAS, an application for map amendment was filed by Justin T. and Sarah E. Hunter (Owners/Applicants), c/o Mr. David Lytle, Attorney at Law - Altman, Keilbach, Lytle, Parlapiano & Ware, P.C. (Representative) with the Pueblo County Planning Director to rezone a 1.325± acre parcel of land from an A-3, Agricultural (minimum 1 acre) Zone District to a B-4, Community Business Zone District in order to accommodate a commercial retail development; and

WHEREAS, the parcel subject to the map amendment request is physically addressed as 7094 State Highway 165 and is legally described within a Personal Representative's Deed recorded on December 8, 2016 as Reception No. 2055903 which reads as follows:

*Parcel A, Subdivision Variance #372, recorded July 29, 1985 in Map Book S-192
as Reception No. 778384; and*

WHEREAS, a public meeting was originally scheduled before the Pueblo County Planning Commission on February 20, 2019 and, at the request of the owners'/applicants' representative, was continued to the April 17, 2019, June 19, 2019, August 21, 2019, and October 16, 2019 public meetings; and

WHEREAS, the continuance requests were necessary in order allow the developer additional time to address issues associated with the review of the preliminary plan proposal with the Colorado Division of Water Resources and the Colorado Department of Transportation; and

WHEREAS, a public meeting was held by the Pueblo County Planning Commission on October 16, 2019, at the conclusion of which it voted to forward a recommendation of denial of Map Amendment No. 2018-009 to the Board of County Commissioners; and

WHEREAS, pursuant to Chapter 17.144, Section 060 *Hearing and Findings* of the Pueblo County Code which requires the action of the County Planning Commission contain findings of fact and statements setting forth those factors which the Planning Commission considered controlling factors in reaching its decision are as follows (with staff's comments thereafter):

A. The proposed amendment is in conformance with the Land Use Plan.

The main objective of the map amendment is to apply a commercial zone district designation to proposed Lot 1 in order to accommodate the development of a commercial retail store.

The intent of and recommendations made by Pueblo Regional Development Plan indicate "The future character of the Colorado City Developing Metro Core Area is a continuation of existing residential development patterns in a more suburban type setting with limited commercial services developed as village type commercial centers."

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The proposed creation of a new commercial lot for the development of a retail commercial store appears contradictory to the Development Plan inasmuch as the established commercial center of the Colorado City area is located approximately ¼ - ½ mile north/northeast of the proposed subdivision.

B. The change requested promotes the public necessity, health, safety, and general welfare and is consistent with good land use and zoning practice.

As previously mentioned, this map amendment request has been filed in order to develop the property commercially. The imposition of a B-4, Community Business Zone District will assure all development on the property will comply with the development standards including proper access, off-street parking, outdoor lighting, and signage.

The denial of the CDOT Variance does require the developer to install additional acceleration/deceleration lanes off of and onto Colorado State Highway No. 165 and Cibola Drive. Staff has not received any updated drawings associated with the installation of the new lanes which more than likely will require the modification of the site development as initially proposed. The absence of such technical information and the specifics associated with such could be detrimental to the public health, safety, and general welfare.

Imposing a commercial zoning designation at an intersection of two (2) heavily travelled roadways without the adequate/proper infrastructure would be inconsistent with good land use and zoning practices.

C. If the proposed change involves property bounded on one (1) or more sides by the boundary of a City or Planning or Zoning District, the matter has been referred to the Planning Commission of that City or Planning or Zoning District for its review and recommendation.

The property is not directly bounded by the City of Pueblo; therefore, the map amendment application and related submittal documents were not sent for review and comment.

WHEREAS, a public hearing, preceded by proper public notice, was originally scheduled before the Board of County Commissioners on March 14, 2019 and, at the request of the owners'/applicants' representative, was continued to the May 9, 2019, July 11, 2019, September 12, 2019, and November 14, 2019 public hearings; and

WHEREAS, the continuance requests were necessary in order allow the Pueblo County Planning Commission to make a recommendation on the proposed map amendment and to allow the developer additional time to address issues associated with the review of the preliminary plan proposal with the Colorado Division of Water Resources and the Colorado Department of Transportation; and

WHEREAS, a public hearing was held by the Board of County Commissioners on November 14, 2019 and, at which time, all those present at the hearing who desired to be heard were heard and their testimony recorded; and

WHEREAS, the Board of County Commissioners has reviewed and taken administrative notice of the recommendation of the Planning Commission and the testimony, application, evidence, documents submitted at the hearing, and the contents of the Planning Director's file; and

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WHEREAS, the Board of County Commissioners finds as follows:

- The proposed rezoning is inconsistent with the intent of and recommendations made by Pueblo Regional Development Plan. The proposed creation of a new commercial lot for the development of a retail commercial store appears contradictory to the Development Plan inasmuch as the established commercial center of the Colorado City area is located approximately ¼ - ½ mile north/northeast of the proposed subdivision
- The denial of the CDOT Variance does require the developer to install additional acceleration/deceleration lanes off of and onto Colorado State Highway No. 165 and Cibola Drive. Imposing a commercial zoning designation at an intersection of two (2) heavily travelled roadways without the adequate/proper infrastructure would be inconsistent with good land use and zoning practices.
- The property is not directly bounded by the City of Pueblo; therefore, the map amendment application and related submittal documents were not sent for review and comment.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Pueblo County, Colorado, does hereby **DENY** Map Amendment No. 2018-009 rezoning a 1.325± acre portion of Parcel A, Subdivision Variance No. 372 (proposed Lot 1, JS Hunter Subdivision) from an A-3, Agricultural (minimum 1 acre) Zone District to a B-4, Community Business Zone District in order to accommodate a commercial retail development. The Board makes the following findings in its denial:

- A. The proposed rezoning is inconsistent with the intent of and recommendations made by Pueblo Regional Development Plan. The proposed creation of a new commercial lot for the development of a retail commercial store appears contradictory to the Development Plan inasmuch as the established commercial center of the Colorado City area is located approximately ¼ - ½ mile north/northeast of the proposed subdivision
- B. The denial of the CDOT Variance does require the developer to install additional acceleration/ deceleration lanes off of and onto Colorado State Highway No. 165 and Cibola Drive. Imposing a commercial zoning designation at an intersection of two (2) heavily travelled roadways without the adequate/proper infrastructure would be inconsistent with good land use and zoning practices.
- C. The property is not directly bounded by the City of Pueblo; therefore, the map amendment application and related submittal documents were not sent for review and comment.

PASSED AND ADOPTED this 14th day of November 2019, in Pueblo County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO:**

By: _____

Garrison M. Ortiz, Chairman

ATTEST:

By: _____

Gilbert Ortiz, County Clerk