

**RECORD OF PROCEEDINGS
PUEBLO COUNTY PLANNING COMMISSION
WEDNESDAY, MARCH 21, 2018
COMMISSIONERS' CHAMBERS AT PUEBLO COUNTY COURTHOUSE
215 WEST 10TH STREET, PUEBLO, COLORADO**

ROLL CALL AND DECLARATION OF QUORUM

Commissioners Present: Betty Alt, Donald Bruestle, Epimenio Griego, Kiera Hatton, Judy Leonard, Roger Lowe, Philip Mancha, John Musso, and Zachary Swearingen.

Commissioners Absent: None.

Staff Present: Joan Armstrong, Director; Sandy Blanco; Dominga Jimenez-Garcia; and Gail Wallingford-Ingo.

Others Present: Marci Day, Assistant County Attorney.

Chair Hatton called the Pueblo County Planning Commission meeting to order at 5:32 p.m.

APPROVAL OF FEBRUARY 21, 2018 MINUTES

Ms. Alt moved to approve the minutes of the February 21, 2018 meeting as mailed. Mr. Griego seconded the motion. The motion carried unanimously.

APPROVAL OF MARCH 21, 2018 AGENDA

Mr. Lowe moved to approve the agenda of the March 21, 2018 meeting as mailed. Mr. Griego seconded the motion. The motion carried unanimously.

CHAIRPERSON'S REPORT

Chair Hatton reported under New Business they would have a report from Ms. Wendi Kern.

DIRECTOR'S REPORT

The Director's Report was presented by Joan Armstrong. She requested the staff reports be made a part of the record of proceedings.

- (a) Acceptance of Map Amendments and Planned Unit Developments--None.
- (b) Correspondence--Three pieces of correspondence were distributed: Addendum, dated March 19, 2018, from Gail L. Wallingford-Ingo, Planner II, updating the staff report for [Special Use Permit No. 2016-012](#); Page 7 of Exhibit "A" for Staff's Memorandum, dated March 15, 2018, from Joan Armstrong, Director, for [Text Amendment No. 2018-004](#); and an Email, dated March 20, 2018, from Robert and Janet Schenk, opposing [Text Amendment No. 2018-006](#).
- (c) Continuances--[Easement Vacation No. 2017-002](#), the applicants requested continuance to the May 16, 2018 Planning Commission meeting.
- (d) Withdrawals--None.
- (e) Board of County Commissioners' Action--Summary of actions taken on March 14, 2018.
- (f) Administrative Reviews:
- [Special Use Permit No. 2016-012](#) allows a facility, which proposes several uses-by-review in an A-1, Agricultural Zone District. Staff's reviews dated March 13, 2018 and March 19, 2018 were made a part of the record.

The Commission accepted the Administrative Review, thereby approving the continuance of this permitted use with the existing conditions of approval, other requirement, and new Directive to Staff to present a report at the May 16, 2018 Planning Commission hearing.

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- [Special Use Permit No. 2017-001](#) allows a Retail Marijuana Store in a B-4, Community Business Zone District. Staff's review dated March 15, 2018 was made a part of the record.

The Commission accepted the Administrative Review, thereby approving the continuance of this permitted use with the existing conditions of approval and notation stating it was unnecessary to schedule this permit for further review unless there was a land use violation, a complaint, or specifically requested by the Planning Commission.

Ms. Armstrong requested the Commission take action to accept the late correspondence, request for continuance, Board of County Commissioners' actions, and the administrative reviews as presented.

Ms. Alt moved to accept the late correspondence, request for continuance, Board of County Commissioners' actions, and the administrative reviews as read into the record and make the Commission's comments a part of the record of the proceedings. Mr. Lowe seconded the motion. The motion carried unanimously.

STATEMENT OF HEARING PROCEDURES BY CHAIRPERSON

Chair Hatton reported that the applicant and/or representative are called upon to speak, followed by any opposition, with the applicant having the final say.

PUBLIC HEARING

Ms. Armstrong explained there were three items on the Consent Agenda and three items on the Regular Agenda for this evening's meeting.

CONSENT ITEMS:

Mr. Lowe moved to approve the three Consent Items listed below with comments and/or conditions. Mr. Swearingen seconded the motion. The motion carried unanimously.

- [Special Use Permit No. 2010-005 4th Amendment](#), Alta Fuels, LLC requests a 4th Amendment that allows "bulk storage of gasoline and diesel" in an I-2, Light Industrial Zone District. Staff's review dated March 7, 2018 was made a part of the record.

The Commission moved to approve Special Use Permit No. 2010-005 4th Amendment with seven conditions of approval and a Directive to Staff to present a report at the March, 2019 Planning Commission hearing. Resolution No. PCPC 18-004, dated March 21, 2018, was also approved.

- [Easement Vacation No. 2018-001](#), Secure Stor, LLC, c/o David L. Gaskill requests to vacate the 20-foot public utility and drainage easement located within Parcel A of Lot Line Vacation No. 2017-026. Staff's review dated March 7, 2018 was made a part of the record.

The Commission moved to forward a recommendation of approval of Easement Vacation No. 2018-001 to the Board of County Commissioners with three comments and two conditions of approval.

- [Special Use Permit No. 2018-001](#), Commercial Construction Management, LLC, c/o Kyle Stacy requests to allow "Residences" in the B-4, Community Business Zone District for the purpose of management quarters (residence) for a mini-warehouse storage facility and office. Staff's review dated March 7, 2018 was made a part of the record.

The Commission moved to approve Special Use Permit No. 2018-001 with one condition of approval and a Directive to Staff to present a report at the March, 2019 Planning Commission hearing. Resolution No. PCPC 18-005, dated March 21, 2018, was also approved.

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REGULAR ITEMS:

Statement of Conduct and Demeanor

Chair Hatton stated in order for the business of the Commission to be conducted in the most effective and expeditious manner, it is necessary that all persons maintain a demeanor of civility toward each other. Uncivil conduct will not be tolerated. Such behavior shall constitute the forfeiture of a person's right to remain in attendance and may result in them being asked to leave the meeting by the chairperson or, upon their refusal, being escorted out of the meeting by the proper authority.

- **Text Amendment No. 2018-002**, Pueblo County Department of Planning and Development (Applicant). The Department of Planning and Development is proposing to amend the Pueblo County Code, Title 17 Land Use, Division I. Zoning, Chapter 17.120 Supplementary Regulations as it pertains to Marijuana.

Ms. Joan Armstrong, Director, Pueblo County Department of Planning and Development, summarized staff's review dated March 14, 2018. She stated for the Marijuana Establishments under Chapter 17.120.190 Marijuana Establishments, F. Performance Standards, Item No. 4 for Fencing, all outdoor cultivations shall be properly fenced. Staff proposes it be changed to read as follows: All outdoor cultivations shall be properly fenced for security with a minimum seven (7) foot chain link fence (6 foot of fabric chain link material with 1-foot security arm with barb wire or razor wire) or equivalent type of fencing for security excluding field fence or wood fence. Fencing compliance effective 1-1-2019. The second revision is under Chapter 17.120.200 Medical Marijuana Center and Retail Marijuana Store, E. Location, Item No. 1 pertaining to the distance separation of 1,000 feet from one Medical Marijuana Center or Retail Marijuana Store to another Medical Marijuana Center or Retail Marijuana Store, to be removed from the Code so the Centers and Stores can be located next to each other. There is not a distance separation. The third revision is the removal of F. which references E. as far as the location that was previously approved by a Zoning Compliance Review Marijuana for a Center or Store, noting the local licensing is removing the language. Where a premise has an approved Zoning Compliance Review Marijuana application and is licensed under Chapter 5.12 of the Pueblo County Code, the requirements of Section 17.120.200 E. shall not apply, subject to the Medical Marijuana Center or Retail Marijuana Store at the premise having been continuously licensed under Chapter 5.12, or a new application for a Medical Marijuana Center or Retail Marijuana Store is submitted to the local licensing authority within thirty (30) days of revocation, surrender or change of location of the existing license. All of that language is being removed and the only items left under E. or Section 17.120.200 are A., B., C., and D., noting D. would have eight items including: An existing licensed Medical Marijuana Center or Retail Marijuana Store is allowed to construct an addition onto the existing building and/or move into an adjoining suite pursuant to this Section or Chapter 5.12 of the Pueblo County Code.

Mr. Mancha asked Ms. Armstrong why the changes were being proposed. Ms. Armstrong replied the language is very cumbersome as far as the distance separation with the residences and non-marijuana businesses staying 2,500 feet from a store. It was cumbersome when the language was included and they have a moratorium on Marijuana Centers and Retail Stores until the end of this year. They felt it was free enterprise and could be located next to each other. Chair Hatton questioned the addition of barb and razor wire, noting they're always hearing that neighborhoods are starting to look like prisons, which is concerning. Ms. Armstrong replied it's what most of the businesses do now for the security arm to alleviate people from climbing over the fence. Chair Hatton questioned if they need to require it if they were already doing it. Ms. Day replied it's not a requirement the way it reads, noting the language states it should be properly fenced, but didn't give any guidance to what properly fenced meant. It is an example of proper fencing, but not a requirement. Ms. Armstrong stated it's a requirement, noting it should be properly fenced for security with a minimum seven (7) foot chain-link fence (6 foot of fabric chain-link material with 1-foot security arm) with the barb wire. To be specific on what they're considering a secured fence, because some people have wood fences or field fences that aren't secured, they could have some type of solid paneling that's hard to get through. This isn't what the State is requiring and isn't replicating the MED (Marijuana Enforcement Division). She didn't say the type of fabric had to be 9 gauge or 11 gauge, just chain-link. Mr. Griego questioned the barb and razor wire, noting the chain-link fence goes up to six feet and then goes at an angle. Ms. Armstrong replied yes, noting a different type of security that would prevent people from climbing over could be looked at. Mr. Mancha asked Ms. Armstrong if the changes were covered elsewhere or simply statements and functions that were no longer

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going to be part of the Code. Ms. Armstrong replied they're not part of the Code, noting this is where they would be addressed. Mr. Mancha questioned what the thinking was behind that, and asked if there was some sort of philosophy they were trying to endorse. Ms. Armstrong replied with the current language, there were very few places that stores could locate because of the distance separation. Mr. Mancha questioned if it was difficult for marijuana stores to find a place apart from each other, and Ms. Armstrong replied yes. Mr. Mancha asked how they know that. Ms. Armstrong replied they have to submit a Zoning Compliance Review Marijuana application, and if they don't meet the requirements, they can't submit it. She isn't advocating any more stores or centers coming into Pueblo County, noting it could be possible to have them in a central area like other businesses are located. Ms. Alt asked Ms. Armstrong if she had any objections from anybody who had established a store to the distance separation. Ms. Armstrong replied she didn't have any objections, noting she sent out a bulletin providing the opportunity to object.

IN FAVOR

There was nobody present to speak in favor of the text amendment.

IN OPPOSITION

There was nobody present to speak in opposition to the text amendment.

REBUTTAL

There was no rebuttal given.

Mr. Swearingen asked Ms. Armstrong what the feeling was from the people in the industry about centralizing. Ms. Armstrong replied there were people who wanted to locate across the street or within 1,000 feet from another store, but couldn't because of the distance separation, noting there's a moratorium until the end of this year. Chair Hatton stated she has concerns about the fencing and would like to alter the minimum to six (6) feet and remove the requirement for barb or razor wire. It is something that many businesses are practicing already, noting it's their job to enforce and protect their businesses. Ms. Armstrong clarified that Chair Hatton wanted to reduce it to a minimum six (6) foot chain-link fence with or without the security arm. Chair Hatton replied yes, without the security arm. Mr. Mancha asked Chair Hatton what her thinking was. Chair Hatton replied they've heard from people in Beulah and other places that they're tired of it looking like prison yards in their residential and rural neighborhoods, noting she would like to make it as minimally and visually invasive for the surrounding neighbors. She wouldn't want to live next door to razor wire. Ms. Armstrong stated it's a requirement for outdoor cultivations to be properly fenced and secured, but understands her position as far as the way it looks. Chair Hatton stated if they chose to do that, they're not stopping them.

Ms. Day stated Chair Hatton could make a motion to forward a recommendation of approval of the text amendment as suggested with the alterations bringing it from a seven (7) foot to a six (6) foot chain-link fence, removing the requirement. She apologized and misspoke earlier, noting it's a requirement and was reading about the equivalent type. As it currently reads, it's a seven (7) foot chain-link fence (6 foot of fabric chain-link material with 1-foot security arm with barb wire or razor wire) or equivalent type of fencing for security excluding field fence and wood fence. Chair Hatton's motion would be for a six (6) foot chain-link fence. She asked Chair Hatton if she wanted to keep the language "or equivalent type of fencing for security excluding field fence or wood fence" and just remove (6 foot of fabric chain-link material with 1-foot security arm with barb wire or razor wire), and Chair Hatton replied yes.

Chair Hatton closed the hearing and entered staff's comments into the record.

MOTION

Chair Hatton moved to forward a recommendation of approval of Text Amendment No. 2018-002, amending 17.120.190 F. 4, altering the fence height to six (6) feet instead of seven (7) feet and removing (6 foot of fabric chain-link material with 1-foot security arm with barb wire or razor wire), to the Board of County Commissioners. Mr. Lowe seconded the motion. The motion carried unanimously.

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- [Text Amendment No. 2018-004](#), Pueblo County Department of Planning and Development (Applicant). The Department of Planning and Development is proposing to amend the Pueblo County Code, Title 17 Land Use, Division I. Zoning, Chapter 17.119 MARIJUANA HOME GROW (NON-LICENSED GROW).

Ms. Joan Armstrong, Director, Pueblo County Department of Planning and Development, summarized staff's review dated March 15, 2018. She stated she would be referring to the Amended Memorandum dated March 21, 2018 because she added Page 7 to Exhibit A, House Bill 17-1220. This text amendment is for Chapter 17.119 Marijuana Home Grow (Non-Licensed Grow) which refers to personal grows, people with medical cards, and caregivers. The County's proposal is to limit the number of marijuana plants for non-licensed growers to be in sync with House Bill 17-1220 that was approved by the Governor on June 18, 2017, noting Exhibit A is included in Staff's Memorandum. Exhibit B of Staff's Memorandum is the proposed language. Currently, they've defined three different types of zone districts for grows. They have the agricultural zone districts, which are the A-1 and A-2, the residential zone districts which are the A-3 and A-4, and the industrial zone districts, which are the I-1, I-2, and I-3. The proposal is to remove the agricultural zone districts, A-1 and A-2, and add them to the residential zone districts. The A-1 and A-2 currently allow 36 plants, the residential zones allow 18 plants, the multi-family zones allow 12 plants, and the I-1, I-2, and I-3 allow 36 plants. They are leaving the industrial plant counts alone. The State is limiting for residential properties a maximum of 12 plants so that's what they're proposing instead of having three different types of plant counts between the A-1, A-2, A-3, A-4, and multi-family, noting they're proposing they all have 12 plants. She also added that marijuana shall not be grown outdoors, noting they have certain criteria on how it's grown. It can be grown inside the house or in an enclosed structure that's locked with four walls and a roof and includes the I-1, I-2, and I-3 Zone Districts. The zone districts identified in the text amendment, A-1 to R-8, can only have 12 plants. This is for residential property, noting it doesn't matter if they have one acre or 40 acres. If they have three people living in a house and each one is allowed six plants because of Amendment No. 64, they're still limited to 12. If they have a red card that states they can have 50 plants, they can only have 12. If they are a caregiver with 5 patients and six plants each, they can only have 12. It is replicating with the State, noting they probably have some provisions, but this is to help so that everybody is clear between law enforcement and zoning on the maximum number of plants.

IN FAVOR

Mr. Leonard DeGrado, 45493 Fields Road, Avondale, spoke in favor of the text amendment. He stated they already have laws and rules about marijuana growing and now they're going to rewrite it for Pueblo County. Chair Hatton stated it's an update to a text amendment that would put them into compliance with the State. Ms. Day stated the State limit is 12 plants so they're proposing to match the State limit. Normally, when a state has a rule about something the County is allowed to be more restrictive, but they're not allowed to be less restrictive. In this case, they made a specific exception that would normally be pre-empted. Normally, they wouldn't be allowed to have rules that were less restrictive than the State, but in this particular revision, they allowed it. The County would like to stay consistent with what the State is allowing, which is the 12 plant limit. They are just changing their Code to match the State. Mr. DeGrado asked if they would be limited to 12 plants if they had 40 acres or 300 acres, and Ms. Day replied yes.

IN OPPOSITION

There was nobody present to speak in opposition to the text amendment.

REBUTTAL

There was no rebuttal given.

Chair Hatton closed the hearing and entered staff's comments into the record.

MOTION

Ms. Leonard moved to recommend approval of Text Amendment No. 2018-004 to the Board of County Commissioners. Mr. Swearingen seconded the motion. The motion carried unanimously.

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- [Text Amendment No. 2018-006](#), Tommy G. Productions and Pueblo County Department of Planning and Development (Applicants). Tommy G. Productions and Pueblo County Department of Planning and Development are proposing to amend the Pueblo County Code, Title 17 Land Use, Division I. Zoning, Chapter 17.120 Supplementary Regulations, Section 17.120.270 Special Event.

Ms. Joan Armstrong, Director, Pueblo County Department of Planning and Development, summarized staff's review dated March 14, 2018. She stated this text amendment is on behalf of two entities, Tommy G. Productions and Pueblo County Planning and Development. Mr. Giodone submitted a letter of request, which is included in Staff's Review as Exhibit A. His request is to increase the attendance to 2,500 people from 500 before a special event permit application is required, and to remove the requirement for certified mailing to surrounding neighbors and only require regular postage. Staff's request is to remove the certified mailing to the surrounding neighbors and to only require regular postage, with documentation from the applicant that they provide maps for the people they send the mailings to, with a list of those people within 300 feet. They are removing the certified mailing because she received complaints from several people who work during the day and have to leave work early to go to the post office. They know what's going on anyway with all of the advertisements. When the Department of Planning and Development sends out letters to owners within 300 feet of a land use application, they don't send it certified mail but regular mail. They are in agreement with Mr. Giodone's request for that item. The other item is to add that a special event permit isn't required for events or gatherings conducted by a 501C tax exempt non-profit organization, governmental or quasi-governmental agencies including metropolitan districts, fire protection districts, law enforcement agencies, public school districts, etc. If the Pueblo West Metropolitan District has an event going on and has over 500 people, they would have to apply for a special event permit as it's written now. The churches, fire districts, and other non-profits would have to apply for the special event permit.

IN FAVOR

Mr. Tommy Giodone, 23344 Highway 50 East, Pueblo, spoke in favor of the text amendment. He stated he just received the staff review and would like to continue the text amendment to another meeting. He has questions and read that it was being recommended for denial. Ms. Armstrong stated she had recommended denial of the request to have the 2,500 participant count instead of the 500. Mr. Giodone asked if he would have to be within the 500. Ms. Armstrong replied yes, noting she's recommending the Planning Commission deny the 2,500 participant count and keep the 500, but recommended approval of removing the certified mailing and adding the non-profits. Mr. Giodone stated in their business they don't know if they're going to get 2,500 people or 300 people. In order for him to produce a permit to Ms. Armstrong, he has to involve the State Patrol and the Health Department. At that point in time, in order for him to get a permit, if the State Patrol tells him yes, he has to give them \$20,000. If he doesn't know if they're going to have 500 or 2,500 people, why would he give them \$20,000, noting it's a lot of paperwork.

Ms. Day stated Mr. Giodone is co-requestor of the text amendment and asked if he was requesting the text amendment be continued to next month's Planning Commission meeting. Mr. Giodone replied yes, noting he just received staff's review. Ms. Armstrong stated they were having email problems. Mr. Giodone stated he wants to make sure they're on the same page. Ms. Armstrong stated she's on her page to recommend denial, noting she feels that 2,500 people pose health and safety issues with the special event permit because he's required to have safety for the roads. That applies to everybody and not just Mr. Giodone. Ms. Day asked Ms. Armstrong as co-requestor of the text amendment, would she object to continuing it to next month's meeting, and Ms. Armstrong replied no.

IN OPPOSITION

There was nobody present to speak in opposition to the text amendment.

REBUTTAL

There was no rebuttal given.

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Chair Hatton closed the hearing and entered staff's comments into the record.

MOTION

Mr. Lowe moved to continue Text Amendment No. 2018-006 to the April 18, 2018 Planning Commission meeting. Ms. Alt seconded the motion.

Discussion occurred. Ms. Day stated they need to continue it to a date and time certain for notice requirements. The date was set for April 18, 2018 at 5:30 p.m.

After discussion the motion carried unanimously.

UNFINISHED BUSINESS

Chair Hatton stated she still wants to see movement on the Comprehensive Plan.

NEW BUSINESS

Chair Hatton stated Ms. Wendi Kern has asked for a few minutes to speak tonight regarding some violations at the State Gravel Pit.

Mr. Musso asked Chair Hatton if this was the same lady that kept them there until midnight. Chair Hatton replied yes, noting she has five minutes. Ms. Day stated Ms. Kern wants to make the Commission aware of violations at the State Pit, and not the other gravel pit that's pending litigation regarding the appeal. It is a discussion about violations at the State Pit, which is a separate special use permit.

Chair Hatton stated in prior gravel pit discussions, she was brought into question because she used her phone as a timer and people thought she might be communicating with the outside world. She isn't, noting she's using it as a timer and they're all welcome to look at her phone at the end of the meeting.

Ms. Wendi Kern, 43680 Fields Road, Avondale, distributed a packet of information. She stated the first page refers to the guidelines for approving special use permits. What she wants to bring to their attention this evening is creating a harmonious environment for public health, safety, and welfare. The second page was originally for Special Use Permit No. 709 that was opened up almost 30 years ago under Broderick & Gibbons on 36th Lane for the State Pit. It doesn't have anything to do with the State, noting they just call it that. The conditions of approval from the Planning Department talk about the harmonious environment, noting Condition No. 9 was for the time restrictions they voted on August 16, 2017. It states the timing of truck traffic may be controlled to prevent congestion, adverse noise, or safety risks. The next page depicts the original approval of the gravel pit, noting it was only approved for gravel. The next page states the gravel is only ten feet deep, but are now mining at 20 to 30 feet deep. They have been providing fill dirt for the I-25 Ilex Interchange for the past year, noting that's where the majority of the trucks come from. The life of the mine was approximately 30 years and they're approaching that. On the next page, there's a difference in the mining permitted area, which is outside of their boundaries. The map on the next page explains that, noting it depicts the actual permitted area. That is where she believes the first violation is occurring, noting they're mining outside of the permitted area. She tried to get close, but it's very large with over 1,000 acres and they hired security people. It falls to Planning and Development to look into, noting it's her first violation. Ms. Armstrong asked Ms. Kern if she had documentation of the violations. Ms. Kern replied she stood on the south perimeter hill and took pictures with a telephoto lens, but didn't know how to mark it off. As a citizen, that's not her responsibility. She believes they're mining outside of the affected area, noting they have two very large new openings. In October, 1997, the pit was cited for a violation for the time restrictions, noting it wasn't the first time and goes back to the original owners, Broderick & Gibbons. It has been an ongoing violation for many years and staff considers this alleged violation extremely serious and endangers the lives of the school children. After Valentine's Day, she was on 36th Lane counting trucks, and they're averaging trucks every two minutes. That same day there was a school shooting in Florida, noting the road in front of the school was six lanes wide. This is a two lane road with three foot ditches and water running seven months out of the year. How are they going to save their kids if they can't get their first responders in there? This is no longer considered a haul route and was never considered a haul route. The next pages are photographs of Ary Brother's trucks, noting every time she sits on 36th Lane, she logs them and has pictures that match every single one of the entries. One of the photographs depicts a gravel truck passing over the double yellow line, which is a criminal offense and a violation. On

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January 17, 2018, between 7:00 a.m. and 12:00 p.m., 124 trucks went down the road. They were averaging one truck every two minutes. She went back that night between 6:00 p.m. and 6:30 p.m., and they were still running, noting the original permit was for 30 to 40 trucks a day.

On February 14, 2018, she filed a complaint with the Division of Mining and Reclamation. She got an answer back from Mr. Elliott Russell, who is the District Manager for the Division of Mining and Reclamation. He passed on her complaint to Fremont Paving & Redi-Mix and told them he would be scheduling an inspection in 30 days, noting Mr. Ary was out there fixing all of the problems, and at the end of the 30 days, passed the inspection. She received an email from her attorney yesterday, noting Mr. Ary is suing her and has threatened another lawsuit because of miserroneous violation complaints, noting they're not miserroneous. The last photograph depicts a violation of the stormwater permit, noting there's a stormwater permit at every pit. She requested the Planning Department do a complete investigation, but didn't know if it would make a difference since the Division of Mining and Reclamation told Mr. Ary what to correct before he was inspected. This is a serious problem, noting the special use permit needs to be pulled.

Mr. Musso questioned if there was somebody Ms. Kern could talk to prior to coming before the Planning Commission. Ms. Day replied the Planning Commission has no authority as far as enforcement of zoning provisions. They bring special use permits back for administrative review and if there are issues at that time, the Commission can request a show cause hearing for the violations. The zoning enforcement is under the purview of the County and delegated to the Department of Planning and Development. Ms. Armstrong stated if there's documentation of a violation, they can bring it back to the Planning Commission. They don't enforce the roads or the trucks crossing the double yellow lines, noting they address the pit itself. The haul route isn't a designated haul route with Pueblo County. It is used as a haul route for the gravel pits and the landfill. The photographs depicted have handwritten dates and times and no photo stamps. Ms. Kern stated she didn't know how to join them together, but would sit down with anybody that wanted to see them. There is another lady that lives on 36th Lane that documented three Ary Brother's trucks on Monday, Tuesday, and Wednesday of last week during the time restrictions. There are so many trucks, noting she sat out there on a Saturday morning, and in two hours, there were 100 trucks. They even ran on Sunday morning when people were going to church. It is so dangerous, noting it's the Commission's job to approve these for the safety, health, and welfare of the community. One day when she was out there taking pictures, a truck driver stopped and told her they were going to file a class action lawsuit against her for taking pictures that could be used against them. She responded she wasn't going to use the pictures against them, but deliver them to Planning and Development and the Board of County Commissioners.

Ms. Alt stated since the special use permit was issued in 1997, they need to see it before it comes back before them. Ms. Kern stated the construction company that's putting in the highway hired the trucks and purchased the gravel from Mr. Ary, noting they circumvented the fact they're the applicant's trucks. The school doesn't want anything to do with the trucks, noting Mr. Edward Smith wrote a letter in August, 2017, that was presented to the Commission. When Broderick & Gibbons opened the pit, it was a private pit and were taking the gravel from the pit on 36th Lane to the batch plant on Santa Fe because they owned it. Through a Succession of Operator, anybody that owns a gravel company can get a health permit, stormwater permit, and put up a bond with the State of Colorado to own the pit. It went from a private pit to a public pit and now have upwards of one truck a minute running in front of a school.

REPORTS OF COMMITTEES

None.

ADJOURNMENT

There being no further business, Chair Hatton adjourned the meeting at 6: 43 p.m.

Respectfully submitted,



Joan Armstrong, Director
Department of Planning and Development

SJB