



City of  
**Evans, Colorado**

**MINUTES**  
**EVANS PLANNING COMMISSION**  
Regular Meeting  
January 8, 2013 – 7:00 p.m.

**CALL TO ORDER**

Chairperson Bisel called the meeting to order at 7:00 p.m.

**ROLL CALL**

Present: Chairperson Bisel, Commissioner Numoto, Commissioner Grigson, and Commissioner Phillips

Absent: Vice Chairperson Brothe

**APPROVAL OF MINUTES**

Commissioner Phillips motioned, seconded by Commissioner Numoto to approve the December 11, 2012, Minutes as presented. Motion passed with all voting in favor thereof.

**APPROVAL OF AGENDA**

The Agenda was approved with a condition that Agenda Item C having an address correction to 708 31<sup>st</sup> Street.

**AGENDA ITEMS**

**a. Adoption of Resolution No. PC01-2013 - A Resolution Making A Recommendation Regarding Conformity Of The Highway 85 Corridor Urban Renewal Plan And The 2010 Evans Comprehensive Plan**

Malcolm Murray, Land Use Attorney for the City of Evans, came forth to explain the process of the Urban Renewal Plan. He briefly went over the blight study. City Council will be considering the adoption of the Urban Renewal Plan next week. In the Urban Renewal Law, there is a requirement that an urban renewal plan must be adopted and the Planning Commission must review it to make sure it is in conformity with the Comprehensive Plan.

Ms. Trent, Community & Economic Director, spoke about the adoption of the resolution. She gave the background on the access control issues for 42<sup>nd</sup>, 37<sup>th</sup>, & 31 streets. Colorado Department of Transportation became concerned about safety issues. The City has since been working on putting in cul-de-sacs to help with this issue. In 2002, City Council adopted the Highway 85 Corridor Master Plan. Code 19.62 was adopted 2005. There is a moratorium in place for land use and development processes in the Highway 85 Corridor currently. In addition, the City has been working with cities from Brighton to Wyoming down the 85 corridor. Grants have been applied for and we want to make changes that will be sustainable. The Evans Redevelopment Agency was first formed in 2009, but the first phase of the plan is to be adopted tonight. Ms. Trent stated it is staff's recommendation to approve the Resolution.

Economic Development has been part of the City's Strategic Operations planning as well as the Comprehensive Plan. Goal 3 of the Comprehensive Plan outlines Economic Development opportunities. The stated goal is to provide employment along with commercial opportunities and upgrade the image and viability of the Highway 85 Corridor. Ms. Trent asked for questions from the Planning Commission and there were none.

Chairman Bisel asked the Commissioners for a Motion to either approve or deny the Resolution. Commissioner Phillips moved to adopt the Resolution, with Commissioner Grigson seconding, and all voting in favor thereof.

**b. Public Hearing —Resolution No. xx-2013 – Variance Request to Section 19.62.140.B of the Evans Municipal Code for Hours of Operation in the Highway 85 Overlay District - 708 31<sup>st</sup> Street, Evans, Colorado - (Gazelle Trucking Hours of Operation)**

Ms. Trent went over Municipal Code 19.62 and how it deals with the Highway 85 Overlay District. Normally variances are heard by the Zoning Board of Appeals, but this section of the Code asks for Planning Commission's approval. Ms. Trent showed the Aerial Maps, along with the Future Land Use Map, and the Zoning Map which shows said property as C-3 or High Intensity Commercial zoning. Highway 85 is a vital concern to the City. Ms. Trent referred to the earlier item and the information presented on the history of plans along the Highway 85 Corridor as well as the current moratorium on land use planning.

The applicant's site plan, variance and special review application was received on the same day as the moratorium went in to effect on December 5, 2012. Ms. Trent stated the revised site plan must be submitted by January 18, 2013 to keep business open or the City will revoke the business license. Background on the site and the variance request includes the following:

Hazardous materials are trucked in to the business throughout the day. The Fire Code states that in order to have a 24 hour operation when dealing with hazardous materials there must be on site supervision at all times. Even if the trucks are empty, they are still considered hazardous. This would require security onsite 24 hours a day. Section 19.62 of the City Code doesn't allow hours of operation between 10:00 p.m. and 6:00 a.m. This is why the applicant is applying for the variance. Staff is recommending denial based on the findings in the staff report: the variance criteria cannot be met and the hours would not meet the intent and purpose in the Code.

Ms. Trent asked for questions from the Planning Commission. There were none.

Chairperson Bisel asked for applicant to come forward.

Cathy Mathis, 444 Mountain Ave, Berthoud, CO, a representative for Gazelle came forth. Ms. Mathis Indicated Gazelle Trucking will make it architecturally friendly to that area and it would be a good addition to Evans businesses. Gazelle Transportation ships crude oil and there is no anticipation of a lot of traffic and noise shouldn't be an issue. Drivers will only be there for 15 to 20 minutes at a time and then leave the location. There will not be an abundance of overnight activity. Ms. Mathis stated that she believes it improves the number 6 criteria of the Comprehensive Plan, that Gazelle plans to stay in Evans long-term and Ms. Mathis states this will increase property values. Gazelle will be improving safety by fencing and enclosing the area, as well as eliminating multiple access points, and adding sidewalks. Since Gazelle will not function the same as other 24 hour operations they are respectfully requesting approval to City Council.

Ms. Trent said the site plan could not be part of the criteria that Planning Commission could consider because it is a separate process.

Ron Lallo, President & CEO of Gazelle Transportation came forward. He gave the background on Gazelle. They started business 20 years ago and stated they are second to none in safety. Mr. Lallo feels that Gazelle will be a responsible partner to the Evans community. He indicated they are

not a typical oil field company. They are looking at making a long-term commitment to Evans and requests approval.

Lee Johnson, 4662 W 23<sup>rd</sup> St, Greeley, CO, came forward and stated he feels the City should approve the variance.

Tom Hamblen, 1995 42<sup>nd</sup> St, Evans, CO disagrees with staff's comments and recommendation. He feels Gazelle is a first class operation that should be allowed in Evans. He stated that Evans will never be a fancy, nice town, so we should let businesses in. He thinks this a giant step for Evans and we should work with it. He feels that the town is not working with people well.

The owner of First Class Truck & Auto, 3725 W Service Rd, Evans, Timothy Schoneck, who is also a resident of Evans and lives at 3420 Reisling Ct, Evans, CO feels that allowing Gazelle would benefit Evans by giving it a stepping stone for other commercial/industrial businesses. He said that corner has been a mess for years and Gazelle has made it better with their presence.

Fran Hudgin, past President of the Evans Chamber of Commerce came forth. She believes Gazelle should come in and boost the economy for Evans.

Josh Mullins, owner of LugNut Auto, in Evans, CO came forth to speak in favor of Gazelle and wants approval because it will be a nice addition to Evans.

Mark Riedel, 919 36<sup>th</sup> St, Evans, CO came forward and stated that non-conforming properties will be taken over by commercial properties and wants the variance approved.

There were no more that came forth to speak in favor of the issue.

Chairman Bisel asked if there was anyone in the audience that wanted to come forward and speak that was not in favor of the issue. There were no comments.

Chairman Bisel then closed the public hearing.

Commissioner Phillips tried asking a question and Ms. Trent informed the Commission that no more information can be asked once the hearing is closed, unless it is something to clarify from earlier. Chairman Bisel asked the Commissioners if they felt it met the criteria. Commissioner Phillips said according to Code, it does not. Commissioner Grigson also indicated

that it does not fit the Code. Chairman Bisel said he can't find a way to approve it currently. Based on Code and criteria outlined there is no way to approve it.

Chairman Bisel asked for a Motion either approving or denying approval on the variance concerning Gazelle Transportations hours of operation.

Commission Phillips made a Motion to deny the variance with Commissioner Grigson seconding. Motion carried unanimously.

There will be a Public Hearing in front of City Council on February 5, 2013 at 7:30 p.m.

**c. Public Hearing – Resolution No. xx-2013 - Use by Special Review – Auto Repair in the C-3 Zoning District – 708 31<sup>st</sup> Street (Gazelle Trucking Repair Shop)**

Ms. Trent gave the staff update on the repair shop. Gazelle's repair shop will only be for their use and not a public repair shop. Ms. Trent read the Code for the criteria, 19.44. Currently none of the employees of Gazelle are Evans residents and the repair shop would not be bringing in any additional tax revenue. There could be a possible property tax increase, if the site plan is approved. The two main concerns are the noise of the repair shop and the compatibility of the use with the residential uses immediately adjacent. The site plan, if completed, will be required to meet Code.

Ms. Trent informed the Planning Commission of some conditions they could place if the USR were to be approved. The recommended conditions are: the site plan must be approved, the hours must be between 8:00 a.m and 6:00 p.m., there must be no outdoor storage; and should any of these conditions be violated, the business will be shut down and the USR revoked.

Ms. Trent asked for questions from the Planning Commission. There were none.

Chairman Bisel asked if the applicant, or any of its representatives, wanted to come forth regarding the repair shop. Brett Peyton, attorney for Gazelle, came forth. Mr. Payton stated that it is Gazelle's intention to improve Evans and by denying the hours of operation, this will be harder to accomplish.

No one else came forward.

Mr. Phillips asked what the potential of extending hours from 6:00 a.m.-10:00 p.m. instead of 8: a.m.-6:00 p.m.

At that time, Ron Lallo, President & CEO of Gazelle came forward. He stated they maintain all their own vehicles so having the repair shop is vital. All traffic will be on the property and it shouldn't impact traffic. Mr. Lallo felt that there would be very little disturbance from the repair shop; mostly be conducting oil changes, tire repair and limited repair. He also stated that their customers require a 24 hour operation. Mr. Lallo said at this time the most important item is to get the 24 hour operation in place.

Bisel asked if there were any more questions or people that wanted to come forward. There were none.

Chairman Bisel closed the public hearing.

Chairperson Bisel thought it might be an issue to revisit in 6 months or so to see how it was going. Commissioner Numoto agreed that he could support a one year approval to see how it would affect the neighborhood. Commissioners Grigson and Phillips felt there should be an approval for one year and then revisit it. Chairperson Bisel feels this would be good addition to the City with the condition that it will be temporary

Chairman Bisel asked for a Motion on approval or denial of the repair shop for Gazelle Transportation.

Commissioner Phillips made a Motion to approve the repair shop with the condition that it would be a one- year temporary approval for the USR and the hours of operation will be 6:00 a.m. to 10:00 p.m. Commissioner Grigson seconded with all voting in favor thereof.

**d. Public Hearing – Resolution No xx-2013 - Use by Special Review - Outdoor Storage on Property Zoned I-1 - 1461 43rd Street in Evans Colorado – (Alpha and Omega Storage II)**

Chairperson Bisel opened the Public Hearing. Ms. Trent went over the location of the property and showed various maps. The applicant had been here in 2011 on a connected property to apply for a USR to use that site for 50% outdoor storage. It was approved. Since that time, the City has approved a subdivision process, combining the two properties. The code requires a primary use on site before allowing outside storage. The applicant currently meets that standard in the code. The site under consideration is zoned I-1. The code regarding outdoor storage pertains to the percentage of land that can be used as outdoor storage. When property is zoned on I-1, the code allows 10% of the land to be used as outdoor storage. I-2 zoned property is allowed 20% outdoor storage use

and I-3 tops out at 30%. Ms. Trent explained that the piece of land is visible from all around based on topography. There is nothing that can screen it, due to the way the land slopes. Ms. Trent showed many photos of the property from different angles. It is currently not in compliance and has 50% is outdoor storage used for oil and energy products.

On a related issue, the City has sent out letters to all the industrial owners asking them to comply with the outdoor storage code, cover the storage indoors or get a USR from the City.

Staff recommended denial of the USR. That will require the owner to come into compliance with the Code. Ms. Trent read the criteria to the Planning Commission. She pointed out that the property owner could lose the tenant if this USR is not approved. Approving this use doesn't provide any additional property tax or revenue sales tax. The only way to mitigate this would be with construction of berm and or fence, which both would be in violation of the City Code.

Ms. Trent reminded the Planning Commission that an approval or denial of this USR will set the precedent for future land owners. Ms. Trent then asked if there were any questions for staff. There were none.

Rudy Vanderwal, owner of 1461 43<sup>rd</sup> St, Evans, CO, came forward. Mr. Vanderwal chose Evans back in 2005 because they were most amiable versus other jurisdictions. This property was designed to be a site for outside storage. Mr. Vanderwal feels that if they are denied this USR, it will turn around what they've been doing for 7 years. This would affect 57 employees. Rudy wants to be in compliance and be cooperative with the City. They have complied with landscaping code and thinks as it grows in it will help shield it.

Mr. Vanderwal asked for any questions. Commissioner Phillips wanted to know if a temporary pole barn or temporary fabricated structure would cover the outside storage. Ms. Trent let the Planning Commission know that would not allowed by the Code.

Chairman Bisel asked if there was anyone else that would like to address to approve the USR.

Danny Pearson manages the facility for Cimarron and lives at 2712 Monterey Bay, Evans, CO. Cimarron has been in the Greeley area since the 1980s. Around 2005, Cimarron moved from Greeley to Evans. Cimarron would have to move if this USR is not approved. He asked if there were any questions. There were none.

Josh Mullins, Lug Nut Auto, came forward and said he wants the USR approved.

Sheeree Martin, representing her son-in-law, Andrew Martin, came for a different issue, but after listening wanted to speak on this USR issue. She felt that staff was more concerned about sales tax then letting businesses have a chance. She felt that we should not have denied Gazelle either.

Tom Hamblen, 1995 42<sup>nd</sup> St, said that appears that over the last several years the City Code has been amended so much that it becomes too restrictive for businesses to operate. Mr. Hamblen feels that we should loosen our hold on the businesses and allow more so they will stay in the City. He is asking that you look at the positive side of keeping these businesses.

Chairman Bisel asked if there were any others in favor. None showing. Chairman Bisel asked if there was anyone in the audience that would like to come forth and speak in opposition of the approval of the USR. None showing.

Ms. Trent indicated that the Planning Commission could place conditions on USR (ex. berms, screening, fences.) This will be significant on this site due to the slope of the land. Planning Commission could also put in a temporary USR for 6 months to a year and revisit.

Chairperson Bisel closed the public hearing.

Commissioner Phillips stated that the applicant should have asked for permission before putting outside storage there. Chairperson Bisel said he is in support of the businesses, but if there is an approval we will need to look at all the others that come through the same way. Commissioner Phillips would like a temporary approval of the USR. Commissioner Numoto agrees with the temporary approval of the USR. Chairperson Bisel asked for a Motion approving or disapproving a temporary one year USR 50% outside storage.

Commissioner Phillips motioned approval of the USR with the condition that it be for one year. Commissioner Grigson seconded with the same condition. Mr. Vanderwal asked for more than one year. He would prefer it to be either a 2 or 3 year temporary USR. Commissioner Phillips asked if staff objected to the longer USR, and they did not. Commissioner Phillips moved to amend the recommendation for approval with conditions to 2 years, and Commissioner Grigson amended the seconding. Motion carried unanimously.

**AUDIENCE PARTICIPATION:**

Sheeree Martin, representative on behalf of her son-in-law Andrew Martin, 1522 38<sup>th</sup> St, came forth to speak on a matter regarding Public Works. Ms. Martin spoke to Larry McQueen, Earl Smith, and Cameron Parrot at the end of last year (2012). She stated that a blonde lady gave her a copy of the Code regarding sewer lines. Mr. McQueen went out to the property in mid-November and put a camera in the manhole. She called the City and spoke to Larry McQueen. He brought a mirror for her to show the manhole. Ms. Martin then had Benjamin Franklin Plumbing go and put camera in. According to the plumbers the main line is backed up. She has put about \$1000 into this and wants an answer from the City. Ms. Martin plans on being back here for the City Council meeting on January 13, 2013. Planning Commission recommended staff forward this information to the Public Works Director.

Josh Mullens from Lugnut Auto asked about a sidewalk being added by 35<sup>th</sup> Ave and 37<sup>th</sup> St. Planning Commissioner recommended we forward this to the City Engineer.

**GENERAL DISCUSSION:**

Ms. Trent gave a staff update. She handed out the Building & Neighborhood Services annual report for 2012 and went over the highlights.

Chairperson Bisel asked about the site plan for Family Dollar and wanted to know if it was contingent upon updating their current facility. Ms. Trent said that Family Dollar had said their intention was to keep the other store open as well and that the code enforcement issues on one parcel were separate from the new construction.

Ms. Trent said we will have our regular meetings in February and March. There will be an extra meeting on March 5 that will be joint with City Council, and an extra meeting in April for code amendments.

Chairperson Bisel asked about the temporary sign for Sunrise Clinic. Ms. Trent informed the commissioners that the kiosk sign was removed some time back and there was a verbal agreement with the City regarding approval of a temporary sign. It is temporary because it doesn't meet the Code. When the second phase of the Wayfinding Signage begins, the temporary sign will go away.

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**ADJOURNMENT:**

Chairperson Bisel adjourned the meeting at 9:10p.m.