



AGENDA

Planning Commission Regular Meeting

Tuesday, June 23, 2020, 6:00 pm

Evans Community Complex, City Council Chambers, 1100 37th Street

REGULAR MEETING

1. **CALL TO ORDER: 06:02 pm**

2. **ROLL CALL: 06:02 pm**

Chairman: Billy Castillo
Vice-Chairman:
Commissioners: Lyle Achziger
Dan Usery

3. **APPROVAL OF THE AGENDA: 06:03 pm**

****Motion/Vote: Motion to approve/Second. Passes unanimously.**

4. **APPROVAL OF THE MINUTES: 06:03 pm**

06/04/2020 ****Motion to approve/Vote: Motion/Second. Passes unanimously**

5. **PUBLIC HEARING: 06:03 pm**

5.A MountainTRAX Change of Zone

Tamara Such, Hunter Hoshiko, and Trevin Hogg for Applicant
Anne Best Johnson for City of Evans

06:03 pm: Staff Planner Anne Best Johnson goes over City .pptx presentation. Surrounding property and annexation status, procedure for annexation and change of zone. Acceptable to process an incoming parcel's zoning and a current parcel rezone simultaneously. Both processes are happening here as both types of parcels are part of this application.

Reviews procedure for annexation zoning and change of zone and identifies how these parcels were processed correctly: application, publishing, posting, mailings. City Council meetings that will follow this one are July 7 and 21.

7300 47th Avenue is already annexed and zoned I-2. COZ is a request to change to I-3. Parcel was annexed in with 2004 GWE annexation. 22477 WCR 33 is the parcel that is being annexed in and petitioned to be zoned I-3. Identifies the different uses possible between I-2 and I-3.

Reviews access points to the properties. Anticipated traffic was set forth in traffic impact study. Market has changed since original zoning, therefore new property owner has applied for expanded zoning appropriately. Traffic impact is appropriate. There is a Central Weld waterline in WCR 33, and there is a well and septic system on the property. If the City ever extends sewer lines and those lines are within 400 feet of property when applicant's septic fails, applicant will be required to hook into City services. Application is consistent with City's Comprehensive Plan, which indicates that this area is designated for industrial use.



Adequate City resources are available to the property; this will cause no undue strain on City resources.

Question: What is the definition of natural resource extraction?

Answer: Reads definition from Municipal Code.

Question: How big are these parcels?

Answer: Large parcel is 224 acres. Smaller one is just under 4 acres.

Question: Do the restrictions we impose in this property go with the property if it is sold?

Answer: Yes, land use approvals stay with the property.

Question: Have any objections to this application been filed?

Answer: No objections were filed on paper but staff have had conversations with several surrounding properties. Previous owner was required to pave WCR 33. That obligation stayed with this property when it was purchased. The road will have to be paved per that agreement unless applicant works out a different agreement with the City. Rather than amend the annexation agreement later, we are going to do a Development Agreement.

Question: How much land does Evans have on the south side of the river?

Answer: A lot. Most of it is zoned PUD with industrial uses within them. Water, oil and gas, gravel, etc.

06:31 pm: Hunter Hoshiko for Applicant. MountainTRAX. Purchased ARB Midstream at the end of March. We are a locally owned company, we are not from Denver or from out of State. We want to seek this zoning change in order to diversify. Our predecessor failed to diversify; crude by rail was their operation and it failed. There's quite a history with this property that came with a lot of promises.

Shows MountainTRAX in relation to the City—quite a way south. GWE came into the City in 2004, never came to fruition. In 2014, ARB came along and tried crude by rail. Never came to fruition. Now here we are, saying the same thing. We intend to open up a multi-commodity industrial park. Rail is available, and so is industrial land. We want the I-3 classification just for those couple extra industrial uses that might make our facility interesting to customers.

Shows intended ARB buildout. Shows current state of land. MountainTRAX has been discussing 6-acre lots – shows preliminary concept. Reviews comparative traffic analysis. Actual truck counts in 2020 has been 5-8 trucks per day. Neighbors have expressed concern about speed enforcement. The terminal tries to do everything in our power to ensure our drivers are driving the speed limit and not using jake brakes. Without tracking each truck vs. surrounding business traffic, it's hard to tell who is offending. City police are not staffed to monitor that road. A couple of incidents have caused issues with neighbors. We are learning as we go what is allowed.

Question: What information have you gotten when you asked about storage of different things on lots?

Answer: The answer we got was because we haven't had a site plan review yet.



Staff Answer: In industrial uses, you either have to have a site plan or a use by special review. Storage, for example, would require a site plan and we would have to look at screening and design standards.

Applicant question: As a business owner, what triggers that?

Answer: A lot of it is magnitude. We can talk about it before we go to City Council.

Applicant Clarification: The porta-potties, incidentally, were stored on property that is now in Weld County.

Question: Is it 20% storage that's allowed in industrial?

Answer: Yes, for outside storage. But we have to have screening.

Question: When was the ordinance enacted?

Answer: Do not know when the current site plan code was codified.

Discussion of criteria of site plan. Storage percentages vs. what can be stored.

Public Hearing:

Dean Ackerman, 22935 CR 33, LaSalle.

Been there almost 25 years. This is the third time we've come in here on this property for zoning. Each previous applicant has promised a lot. I feel sorry for Hunter if they inherited a problem. There are quite a few issues. I didn't call about the porta-potties. 8-inch line in the road fed with a 3-inch line will be a problem. They want this to be a 220-acre industrial park, but no one is addressing water infrastructure coming to the property. ARB wined and dined the neighbors and had meetings, then High Crush took over and said how many trucks they would be sending through.

If neighbors complain about the road, we get told to call ARB, they are supposed to do maintenance. More than 24 trucks a day are digging that hole, guaranteed. I feel sorry for these applicants. This is a good idea, but the property hasn't been managed well, and I'm not happy with ARB at all. I still wonder if ARB is involved in this. High Crush isn't there, but they paid for the tracks and the scale—that was theirs. We need an industrial park, we really do. But someone better start addressing the infrastructure. Neighbors were told crude oil, then frac sand, now there's combustible gas parked next to my house with no fire hydrant.

Evans annexes all this property, but there's no way to get down there; you can't get across the river. And you're not taking care of your own traffic flow with a restricted bridge like you have it. All the traffic gets shoved south and I'm pretty upset about that. We were sold a bill of goods before. We don't want that again. EnviroTech showed up with no warning and they're the culprits on the road who have ruined it. Tonight, as I was driving in, EnviroTech was emptying a truck right out onto the road.

We need maintenance on the road. GWE was supposed to do the road, ARB was supposed to do the road, now these guys are supposed to do the road. GWE was going to build a firehouse there because they were dealing with ethanol. We called about ARB and were told there were chemicals there. If you're going to put compressed gas on property, put it on the back of the



property. Why put it next to the road? Next to the houses? There are lots of issues here. I feel sorry for applicants. What are you going to do about the bridge? What are you doing to do to get across the river? What are you doing to do about water? This has been hanging out there undone since 2004 and the City of Evans has done no planning. They want to divide into 6-acre tracts. You don't have the water for that. A little gravel on the road would go a long way. A little maintenance would go a long way.

Pat Osieski, 23151 WCR 33, LaSalle: Don't have a problem with what MountainTRAX wants to do, it's just the bill of goods that we've been sold. I moved here just after ARB was approved so we got the wool pulled over our eyes. Found out later what had happened. The promises that were made at the time need to be enforced. They bought the property with the restriction on it to pave the road. Especially with 6-acre lots, a 3-inch water line won't give anybody enough water. We don't get sewer from the City, we get water from the water district, and we're all on septic. I live just out of the City, you own the road right out of my house. If I call in about the road, Scott would have someone come out and grade it. ARB isn't the big problem there, it's EnviroTech. If we call the Evans police, the police won't do anything. They say, *I'm not wasting my time sending officers out there.*

They promised us the road being paved. With all the traffic running up and down there at 50 mph, it should be paved. The chemical companies moving in was bad. I called the City Planner who told me there weren't any hazardous chemicals. I had to have the fire dept come out and look at it. The fire department had them build a building for containment.

This is just a new issue with a property across the street. I can't even see any of this from my house.

Public Hearing closed: **07:12 pm**

07: 12 pm: Trevin Hogg for Applicant. I am the ARB employee that came over with this new group. We have 60,000 gallons of protection water on site, which was approved by the fire chief. We paid for a 4-inch water line and worked with fire marshal. The primary fire district is LaSalle, Evans is secondary. When SmartChem built the warehouse, the fire marshal came out and inspected everything they built and the even the trucks in the middle of the field about every other week for safety and containment.

I've spoken to all the neighbors. The road has been bad in the past, but working with Scott at the City, we were able to change grading companies. The new grading company is coming out and repairing the damage done by the old one incrementally. We're working to get the road better and maintained. Thank goodness for Scott being willing to consider a new company.

Question: The State mandates that we have to fix the road? Answer: Yes. City contracts the grading company and we reimburse the City via an escrow account. By the end of 2019, I was mostly working with Scott. The road is improved now, minus EnviroTech washing their trucks out and going 90 to nothing on that road.

Anytime Mark called me about speeding, I would speak to High Crush. There was some damage to Mark's property and the owner came down from North Dakota and got it fixed.



That will continue – if I can fix something I will. I can't fix Envirotech, obviously, but any driver who comes into my facility will be strictly maintained.

Question: What is EnvironTech pumping out onto the road/

Answer: diluted mag/chloride. It makes a muddy paste on the road. They say, *Oh the neighbors will be so grateful*, but it made a mud hole in front of his place instead.

Question: So you work for MountainTRAX now?

Answer: Yes.

Question: So you're trying to solve these problems?

Answer: I've been trying to solve them for years, the road is the worst.

Question: So when we hear a person complain about a two foot hole in the road, what is that about?

Answer: Most of that was actually on our property. I just had a contractor out there to fix it.

Comment: Regarding the fire department – I agree that LaSalle will cover this area. We've looked at building a bridge across the river, but it would be tremendously expensive.

Response: Whenever I've talked to the police, it's always a manpower issue. *We only have four guys on shift, we can't send someone.* I just wanted them to drive the road once in a while during certain hours. UPS trucks will go 60 mph down that road. No signs for speed, for jake brakes. With no posted signs, it falls under "reasonable and prudent."

Question: Does the restricted bridge change your traffic?

Answer: No, all of our trucks always went to the south because that's where business is.

Tamara Such: We are not ARB. We do things above-board. We want to develop and improve the area. We intend to pave that road. Going forward we want to keep communication going. We appreciate all the comments and questions because we want to work with you. We are not our predecessors, and we are hoping people will give us a chance. I get why you're pissed off and it's really frustrating to hear that. We are going to fix this going forward.

Staff (ABJ): The purpose of the hearing tonight is not for a site-specific development plan. It is for the two motions that are in your packet: a change of zone from I2 to I3 for the parcel that is already in the City. And a change of zone on the incoming lot to I3. We appreciate surrounding property owners contacting staff. Review of the comments expressed by surrounding property owners will be made and follow up through MountainTRAX and staff will be completed.

A site plan requires notice to surrounding property owners. That process is a good opportunity to work out some of these details and how they are they going be resolved. Once MountainTRAX submits a master development plan we can talk about the road, triggering events for paving, screening, and other details.

Comment: This is my second of the three of the proposals for use of this property. Planning Commission appreciates the neighbor's comments. It's got to be frustrating for you. As far as planning, planning is exactly what we do. When we hear an applicant come in and talk about

what they want to do with their property, that's what we expect to happen. GWE – we went with it. All these promises are made, but it's a *plan*, it's not a *guarantee*. It's not a magic wand. A plan still requires follow through. Especially in a case of a company that goes bankrupt, they don't have the means to follow through on their promises. There's a not a whole lot the City can do in a situation like that. Somebody else comes along and buys the property and says, *This is what we're going to do*. The City says, *That sounds good*, and approves their plan. Or we can let the land sit empty and undeveloped. Again, these are promises. It's a plan, not a guarantee.

Now here's MountainTRAX with their own plan. I can't see how it helps at all to try to make them abide by the previous guys' plans. The City has a real interest in looking at this plan and if it has a chance of being successful, the City will want to go with it. .

It's easy to say the City should get out there and pave the road, but it's the developer who has supposed to pave the road. The developers build those roads, and then the city maintains them. That can get expensive and the City is struggling with the economy how it is to do that maintenance.

Staff Comment: Once we see the applicant's master concept plan, we can decide what will be the triggering points to fix the road, to bring in water. That type of thing.

Hopefully you gentlemen will take your concerns to the City and push them and get them addressed. I'd like to see this property do well. I'd like to see this plan succeed. I hope the third time is a charm. That's the only way everyone will be happy.

****Motion: I move to forward a recommendation of approval of the Rezoning request of 22744 WCR 33 as proposed with Conditions of Approval and Development Standards to City Council. Second. Passes unanimously.**

****Motion: I move to forward a recommendation of approval of the Rezoning request of the entire NiCon Terminal located at 7300 47th Avenue as proposed with Conditions of Approval and Development Standards to City Council. Second. Passes unanimously.**

6. OTHER ITEMS:

6.A Staff Report: 07:37 pm

07.28.2020 Agenda:

1. Planning Commission Appointment Process
2. 5-7 pm: Work Session – Planning Commission/Master Plan Steering Committee
Looking at historic land use patterns. PC can come back in August from 5-7 for part two of that discussion.
3. 7 pm: Regular Meeting -- ****Note: Different Time**
 - a. Arrowhead Change of Zone and Special Use Permit
to Outdoor Recreation Use Extensive
 - b. Minor Replat Code: In the fall of 2019, Staff showed Planning
Commission a spreadsheet of current land use code and pointed out
processes that need to be cleaned up. The first code to be amended is
Minor Replat. We will present that.



General update on Transportation master Plan. Ready to hire a consultant as soon as CDOT agreement is approved.

Received \$80k from DOLA to update Master/Comprehensive plan.

Have received five (5) applications for the open Planning Commission positions. One (1) alternate and two (2) Planning Commissioners will be appointed on July 7. July 28th will be their first hearing. They will have had an orientation with Staff before that.

DOLA may come back in August or September to do refresher.

Question: Regarding Arrowhead, do we have use of the lake?

Answer: No. We'll be building a split rail fence that will be marked with no trespassing.

Question: What happens to the park impact fees?

Answer: They go into buying and maintaining parks.

7. **ADJOURNMENT: 07:46 pm**
****Motion/Vote: Motion to adjourn/Second. Passes unanimously.**