

RESOLUTION

RE: APPROVE SITE SPECIFIC DEVELOPMENT PLAN AND USE BY SPECIAL REVIEW PERMIT, USR18-0072, FOR A USE PERMITTED AS A USE BY RIGHT, ACCESSORY USE OR USE BY SPECIAL REVIEW IN THE COMMERCIAL OR INDUSTRIAL ZONE DISTRICTS (LANDSCAPE CONSTRUCTION AND MAINTENANCE BUSINESS), AND MORE THAN ONE CONEX CONTAINER UTILIZED FOR SECURE STORAGE, PROVIDED THAT THE PROPERTY IS NOT A LOT IN AN APPROVED OR RECORDED SUBDIVISION PLAT OR PART OF A MAP OR PLAN FILED PRIOR TO ADOPTION OF ANY REGULATIONS CONTROLLING SUBDIVISIONS IN THE A (AGRICULTURAL) ZONE DISTRICT – STEVEN AND CARIE WINTER, C/O CARTERS LAWN CARE, INC.

WHEREAS, the Board of County Commissioners of Weld County, Colorado, pursuant to Colorado statute and the Weld County Home Rule Charter, is vested with the authority of administering the affairs of Weld County, Colorado, and

WHEREAS, the Board of County Commissioners held a public hearing on the 21st day of November, 2018, at the hour of 10:00 a.m., in the Chambers of the Board, for the purpose of hearing the application of Steven and Carie Winter 9370 CR 70 Windsor, CO 80550, c/o Carters Lawn Care, Inc., 652 Wind River Ct. Windsor, CO 80550, for a Site Specific Development Plan and Use by Special Review Permit, USR18-0072, for a Use permitted as a Use by Right, Accessory Use or Use by Special Review in the Commercial or Industrial Zone Districts (landscape construction and maintenance business), and more than one conex container utilized for secure storage, provided that the property is not a lot in an approved or recorded subdivision plat or part of a map or plan filed prior to adoption of any regulations controlling subdivisions in the A (Agricultural) Zone District, on the following described real estate, being more particularly described as follows:

Lot A of Recorded Exemption, RE-2206; being part of the NW1/4 of Section 15, Township 6 North, Range 67 West of the 6th P.M., Weld County, Colorado

WHEREAS, the Board heard all of the testimony and statements of those present and deemed it appropriate to continue the matter to December 12, 2018, at 10:00 a.m., to allow the applicant the opportunity to present their application to a full quorum of the Board, and

WHEREAS, at said hearing on December 12, 2018, the applicant was present, and

WHEREAS, Section 23-2-230 of the Weld County Code provides standards for review of said Use by Special Review Permit, and

WHEREAS, the Board of County Commissioners heard all of the testimony and statements of those present, studied the request of the applicant and the recommendation of the Weld County Planning Commission and all of the exhibits and evidence presented in this matter and, having been fully informed, finds that this request shall be approved for the following reasons:

1. The submitted materials are in compliance with the application requirements of Section 23-2-260 of the Weld County Code.

CC: PL(KO/TA), PW(EP), EH(BF),
CA(BC).APPL/APPL REP
02/13/19

2018-3627
PL2608

2. It is the opinion of the Board of County Commissioners that the applicant has shown compliance with Section 23-2-230.B of the Weld County Code as follows:
 - A. Section 23-2-230.B.1 -- The proposed use is consistent with Chapter 22 and any other applicable Code provisions or ordinances in effect.
 - 1) Section 22-2-20.G (A.Goal 7) states: "*County land use regulations should protect the individual property owner's right to request a land use change.*"
 - 2) Section 22-2-20.G.2 (A.Policy 7.2) states: "*Conversion of agricultural land to nonurban residential, commercial and industrial uses should be accommodated when the subject site is in an area that can support such development, and should attempt to be compatible with the region.*" The landscape, construction and maintenance business was not a part of the violation concerning derelict vehicles, and the use pre-exists the adjacent residential development. Further, despite the referral from the Town of Windsor that states the use is not compatible with its Land Use Plan, the Board finds the lawn maintenance and shrub/tree trimming business use is compatible with the agricultural and residential uses in the area.
 - 3) Section 22-2-20.H (A.Goal 8) states: "*Ensure that adequate services and facilities are currently available or reasonably obtainable to accommodate the requested new land use change for more intensive development.*" This business is located in proximity to the market that it serves, and it is adjacent to other agricultural property. There are existing services available, which have been in use on the site, sewer close to the property that could be accessed in the future, if needed, and roadways are adequate for the use.
 - B. Section 23-2-230.B.2 -- The proposed use is consistent with the intent of the A (Agricultural) Zone District. No "Prime" agricultural land is being taken out of production, there are no adverse impacts to agriculture, and the proposed low-impact business promotes agriculture in the area. Therefore, it is compatible with the A (Agricultural) Zone District
 - C. Section 23-2-230.B.3 -- The uses, which will be permitted, will be compatible with the existing surrounding land uses. The use is existing and has been compatible and will continue into the future. The lawn maintenance and shrub/tree trimming business is compatible with surrounding residential areas, has limited employees, and there are no on-site maintenance activities. The residential noise standard, lighting, and portable toilets must be screening from adjacent residential uses.
 - D. Section 23-2-230.B.4 -- The uses which will be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by Chapter 22

of the Weld County Code, and any other applicable code provisions or ordinances in effect, or the adopted Master Plans of affected municipalities. Despite the referral from the Town of Windsor that states the use is not compatible with its Land Use Plan, the use predates the Coordinated Planning Agreement (CPA) with the Town of Windsor and adjacent residential development. Windsor's referral comments were considered and the applicant did meet with the Town of Windsor and chose to develop within the County and not pursue annexation. Adherence to the CPA standards and criteria have been addressed within the Conditions of Approval and Development Standards (access, traffic, noises, lighting, screening).

- E. Section 23-2-230.B.5 -- The site does not lie within any Overlay Districts.
- F. Section 23-2-230.B.6 -- The applicant has demonstrated a diligent effort to conserve prime agricultural land in the locational decision for the proposed use. The business is located in proximity to the market that it serves, and it is adjacent to agricultural property. There is no agricultural production on the site and has not occurred for some time.
- G. Section 23-2-230.B.7 -- The Design Standards (Section 23-2-240, Weld County Code), Operation Standards (Section 23-2-250, Weld County Code), Conditions of Approval, and Development Standards (noise, screening, lighting, traffic, access, disposal of wastes, etc.) ensure that there are adequate provisions for the protection of the health, safety, and welfare of the inhabitants of the neighborhood and County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Weld County, Colorado, that the application of Steven and Carie Winter, c/o Carters Lawn Care, Inc., for a Site Specific Development Plan and Use by Special Review Permit, USR18-0072, for a Use permitted as a Use by Right, Accessory Use or Use by Special Review in the Commercial or Industrial Zone Districts (landscape construction and maintenance business), and more than one conex container utilized for secure storage, provided that the property is not a lot in an approved or recorded subdivision plat or part of a map or plan filed prior to adoption of any regulations controlling subdivisions in the A (Agricultural) Zone District, on the parcel of land described above be, and hereby is, granted subject to the following conditions:

- 1. Prior to recording the USR map:
 - A. The applicant shall submit a recorded copy of any agreement signed by all of the owners of the property crossed by the access. The access shall be for ingress, egress, utilities and shall be referenced on the USR map by the Weld County Clerk and Recorder's Reception number.
 - B. The applicant shall submit building permits for the conex containers located on the property.

- C. The map shall be amended to delineate the following:
- 1) All sheets of the map shall be labeled USR18-0072.
 - 2) The attached Development Standards.
 - 3) The map shall be prepared per Section 23-2-260.D of the Weld County Code.
 - 4) The applicant shall delineate the trash collection areas. Section 23-3-350.H of the Weld County Code addresses the issue of trash collection areas.
 - 5) If applicable, signs shall be shown on the map and shall adhere to Chapter 23, Article IV, Division 2 and Appendices 23-C, 23-D and 23-E of the Weld County Code.
 - 6) County Road 70 is a paved road and is designated on the Weld County Functional Classification Map as a collector road which requires 80 feet of right-of-way at full buildout. The applicant shall delineate on the site plan the future and existing right-of-way. All setbacks shall be measured from the edge of future right-of-way. This road is maintained by Weld County.
 - 7) The applicant shall show and label the approved access locations, approved access width and the appropriate turning radii (60') on the site plan. The applicant must obtain an access permit in the approved location(s) prior to construction. The western-most access will be closed.
 - 8) The applicant shall show the drainage flow arrows.
 - 9) The applicant shall show and label the parking and traffic circulation flow arrows showing how the traffic moves around the property.
 - 10) The applicant shall show and label all structures on the property.
 - 11) The applicant shall show the approved Landscape and Screening.
 - 12) The applicant shall show and label the employee and equipment parking and storage areas.
2. Prior to construction:
- A. If more than one (1) acre is to be disturbed, a Weld County Grading Permit will be required.

3. Upon completion of Condition of Approval #1 above, the applicant shall submit one (1) paper copy or one (1) electronic copy (.pdf) of the map for preliminary approval to the Weld County Department of Planning Services. Upon approval of the map the applicant shall submit a Mylar map along with all other documentation required as Conditions of Approval. The Mylar map shall be recorded in the office of the Weld County Clerk and Recorder by the Department of Planning Services. The map shall be prepared in accordance with the requirements of Section 23-2-260.D of the Weld County Code. The Mylar map and additional requirements shall be submitted within one hundred twenty (120) days from the date of the Board of County Commissioners Resolution. The applicant shall be responsible for paying the recording fee.
4. In accordance with Weld County Code Ordinance #2012-3, approved April 30, 2012, should the map not be recorded within the required one hundred twenty (120) days from the date of the Board of County Commissioners Resolution, a \$50.00 recording continuance charge shall be added for each additional three (3) month period.
5. The Department of Planning Services respectfully requests a digital copy of this Use by Special Review, as appropriate. Acceptable format is a projected ESRI shapefile (.shp, .shx, .dbf, .prj) with a defined coordinate system (i.e., NAD 1983 UTM Zone 13N, WGS 1984, NAD 1983 HARN StatePlane Colorado North FIPS 0501 (US Feet)...etc.). This digital file may be sent to maps@co.weld.co.us.
6. The Use by Special Review activity shall not occur, nor shall any building or electrical permits be issued on the property, until the Use by Special Review map is ready to be recorded in the office of the Weld County Clerk and Recorder or the applicant has been approved for an early release agreement.

The above and foregoing Resolution was, on motion duly made and seconded, adopted
by the following vote on the 12th day of December, A.D., 2018.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST: *Asther G. Hesick*
Weld County Clerk to the Board

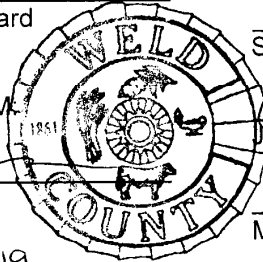
Steve Moreno
Steve Moreno, Chair

BY: *Bethany Ford*
Deputy Clerk to the Board

Barbara Kirkmeyer
Barbara Kirkmeyer, Pro-Tem

S. P. Conway
Sean P. Conway

APPROVED AS TO FORM
[Signature]
County Attorney



Julie A. Cozad
Julie A. Cozad

Mike Freeman
Mike Freeman

Date of signature: 2-13-19

**SITE SPECIFIC DEVELOPMENT PLAN
USE BY SPECIAL REVIEW PERMIT
DEVELOPMENT STANDARDS
STEVEN AND CARIE WINTER,
C/O CARTERS LAWN CARE, INC.
USR18-0072**

1. A Site Specific Development Plan and Use by Special Review Permit, USR18-0072, is for a Use permitted as a Use by Right, Accessory Use, or Use by Special Review in the Commercial or Industrial Zone Districts (landscape construction and maintenance business) and more than one conex container utilized for secure storage, provided that the property is not a lot in an approved or recorded subdivision plat or lots part of a map or plan filed prior to adoption of any regulations controlling subdivisions in the A (Agricultural) Zone District, subject to the Development Standards stated hereon.
2. Approval of this plan may create a vested property right pursuant to Section 23-8-10 of the Weld County Code.
3. The hours of operation are 8:00 a.m. to 5:00 p.m., Monday thru Friday, and 8:00 a.m. to Noon on Saturday.
4. The number of employees shall be limited to twelve (12) onsite at any one time.
5. The parking area on the site shall be maintained.
6. All signs shall adhere to Chapter 23, Article IV, Division 2 and Appendices 23-C, 23-D and 23-E of the Weld County Code.
7. Landscaping and screening on the site, including trees and berming from the nearest residence shall be maintained.
8. Lighting shall be maintained in accordance with the Weld County Code and adhere to the Lighting standards in the Windsor Coordinated Planning Agreement.
9. The property owner or operator shall be responsible for controlling noxious weeds on the site, pursuant to Chapter 15, Articles I and II, of the Weld County Code.
10. The access on the site shall be maintained to mitigate any impacts to the public road, including damages and/or off-site tracking.
11. There shall be no parking or staging of vehicles on public roads. On-site parking shall be utilized.
12. Any work that may occupy and/or encroach upon any County rights-of-way or easement shall acquire an approved Right-of-Way Use Permit prior to commencement.
13. The historical flow patterns and runoff amounts on the site will be maintained.

14. All liquid and solid wastes (as defined in the Solid Wastes Disposal Sites and Facilities Act, C.R.S. §30-20-100.5) shall be stored and removed for final disposal in a manner that protects against surface and groundwater contamination.
15. No permanent disposal of wastes shall be permitted at this site. This is not meant to include those wastes specifically excluded from the definition of a solid waste in the Solid Wastes Disposal Sites and Facilities Act, C.R.S. §30-20-100.5.
16. Waste materials shall be handled, stored, and disposed of in a manner that controls fugitive dust, fugitive particulate emissions, blowing debris, and other potential nuisance conditions. The facility shall operate in accordance with Chapter 14, Article I, of the Weld County Code.
17. Fugitive dust should attempt to be confined on the property. Uses on the property should comply with the Colorado Air Quality Commission's air quality regulations.
18. The facility shall adhere to the composting regulations for conditional exempt compost operations as outlined in the Solid Wastes Disposal Sites and Facilities Act, C.R.S. §30-20-100.5, as applicable.
19. For employees or contractors on site for less than two (2) consecutive hours a day, and two (2) or less full-time employees on site, portable toilets and bottled water are acceptable. Records of maintenance and proper disposal for portable toilets shall be retained on a quarterly basis and available for review by the Weld County Department of Public Health and Environment. Portable toilets shall be serviced by a cleaner licensed in Weld County and shall contain hand sanitizers. Any portable toilets shall be screened and not visible from adjacent residences.
20. If the existing septic system is utilized for business use, the septic system shall be reviewed by a Colorado Registered Professional Engineer. The review shall consist of observation of the system and a technical review describing the system's ability to handle the proposed hydraulic load. The review shall be submitted to the Environmental Health Services Division of the Weld County Department of Public Health and Environment. In the event the system is found to be inadequately sized or constructed, the system shall be brought into compliance with current regulations.
21. This facility shall adhere to the maximum permissible noise levels allowed in the Residential Zone as delineated in C.R.S. §25-12-103.
22. All pesticides, fertilizer, and other potentially hazardous chemicals must be handled in a safe manner in accordance with product labeling and in a manner, that minimizes the release of hazardous air pollutants (HAPs) and volatile organic compounds (VOCs). All chemicals must be stored securely, on an impervious surface, and in accordance with manufacturers' recommendations.
23. The operation shall comply with all applicable rules and regulations of state and federal agencies and the Weld County Code.

24. Sources of light shall be shielded so that light rays will not shine directly onto adjacent properties where such would cause a nuisance or interfere with the use on the adjacent properties in accordance with the plan. Neither the direct, nor reflected, light from any light source may create a traffic hazard to operators of motor vehicles on public or private streets. No colored lights may be used which may be confused with, or construed as, traffic control devices.
25. A building permit may be required, per Section 29-3-10 of the Weld County Code. Currently, the following have been adopted by Weld County: 2012 International Codes, 2006 International Energy Code, and 2017 National Electrical Code. A building permit application must be completed and two complete sets of engineered plans bearing the wet stamp of a Colorado registered architect or engineer must be submitted for review. A Geotechnical Engineering Report performed by a registered State of Colorado engineer shall be required or an Open Hole Inspection.
26. Necessary personnel from the Weld County Departments of Planning Services, Public Works and Public Health and Environment shall be granted access onto the property at any reasonable time in order to ensure the activities carried out on the property comply with the Conditions of Approval and Development Standards stated herein and all applicable Weld County regulations.
27. The Use by Special Review area shall be limited to the plans shown hereon and governed by the foregoing standards and all applicable Weld County regulations. Substantial changes from the plans or Development Standards, as shown or stated, shall require the approval of an amendment of the Permit by the Weld County Board of County Commissioners before such changes from the plans or Development Standards are permitted. Any other changes shall be filed in the office of the Department of Planning Services.
28. The property owner or operator shall be responsible for complying with all of the foregoing Development Standards. Noncompliance with any of the foregoing Development Standards may be reason for revocation of the Permit by the Board of County Commissioners.
29. RIGHT TO EXTRACT MINERAL RESOURCES STATEMENT: Weld County has some of the most abundant mineral resources, including, but not limited to, sand and gravel, oil, natural gas, and coal. Under title 34 of the Colorado Revised Statutes, minerals are vital resources because the state's commercial mineral deposits are essential to the state's economy; (b) the populous counties of the state face a critical shortage of such deposits; and (c) such deposits should be extracted according to a rational plan, calculated to avoid waste of such deposits and cause the least practicable disruption of the ecology and quality of life of the citizens of the populous counties of the state. Mineral resource locations are widespread throughout the County and person moving into these areas must recognize the various impacts associated with this development. Often times, mineral resource sites are fixed to their geographical and geophysical locations. Moreover, these resources are protected property rights and mineral owners should be afforded the opportunity to extract the mineral resource.

DEVELOPMENT STANDARDS (USR18-0072) – STEVEN AND CARIE WINTER, C/O
CARTERS LAWN CARE, INC.
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30. The Weld County Right to Farm Statement, as it appears in Section 22-2-20.J.2 of the Weld County Code, shall be placed on the map and recognized at all times.
