

# PLANNING & ZONING COMMISSION

## REGULAR MEETING

TUESDAY, OCTOBER 1, 2024

1. The meeting was called to order in the Cortez City Council Chambers at 6:30 p.m., and opened with the Pledge of Allegiance. Roll Call was taken and the following Commissioners were present: Chairperson Robert Rime, Vice Chairperson Katrina Weiss, Commissioner Bob Bright, Commissioner Nina Thao, and Commissioner Emily Waldron. Staff present included: Community and Economic Development Director Rachael Marchbanks, Contract City Planner Nancy Dossdall, City Attorney Patrick Coleman, Public Works Secretary Karie Beougher, IT Technician Aaron Holleman, Public Works Director Brian Peckins, Public Works Project Manager Keith Moore, Paralegal-City Attorney/Community and Economic Development Lydia Regalado, Officer Brady Veach, and Deputy City Clerk Cheryl Lindquist. There were thirty-two (32) people present in the audience.

Commissioner Weiss moved that the agenda of October 1, 2024 be approved. Commissioner Waldron seconded the motion and the vote was as follows:

Bright	Thao	Waldron	Weiss	Rime
Yes	Yes	Yes	Yes	Yes

2. Approval of the Regular Meeting Minutes of July 2, 2024.

Commissioner Bright moved that the minutes for July 2, 2024 be approved. Commissioner Thao seconded the motion and the vote was as follows:

Bright	Thao	Waldron	Weiss	Rime
Yes	Yes	Present*	Yes	Yes

\*Commissioner Waldron was absent for the July 2, 2024 meeting.

### 3. PUBLIC PARTICIPATION:

- Charles Jeter spoke of questions on procedure process concerning LUC 5.07(j) involving legal non-conforming use.
- City Attorney Coleman reminded the Commissioners this is a Quasi-judicial hearing pertaining only to the information received tonight and not anything from previous meetings.

### 4. PUBLIC HEARINGS:

- a. Contract City Planner Dossdall presented Resolution No. 6, Series 2024. An application

for a conditional use permit and site plan review on an approximately 10-acre parcel, zoned Commercial, located at 1050 Lebanon Road for log home manufacturing, storage of wildland firefighting equipment, and firewood processing, submitted by Anthony Moore and Mary Lancaster dba Independent Log Company. Director of Community and Economic Development Marchbanks discussed the history of code enforcement on this property. She stated there were calls of hazardous materials and illegal dumping on the property, but no violations were found. There has been a courtesy notice as well as a code violation for weeds, unlicensed vehicles, and open storage that most has been addressed at the property. City Attorney Coleman explained the code enforcement process of courtesy notice, violation notice, and if not satisfied, a summons will be served which did not happen in this case.

Planner Dosdall reviewed the site plan by discussing the proposed buffer locations, drainage, and use locations. She pointed out a utility easement along the southern property line for the sanitation company that must remain free and clear of obstructions. Planner Dosdall explained that wood manufacturing requires a conditional use permit in the commercial zone. Firewood storage is not listed in the City's Land Use Code, but is being labeled as an accessory use to the main use for this project. The terms of "Open Storage" and "Storage" are not defined in the code, so Planner Dosdall is finding it difficult to determine where the firewood storage falls in this case. Planner Dosdall presented the criteria for the conditional use:

- (1) The proposed conditional use is compatible with adjacent existing uses and other allowed uses in the zoning district. Such compatibility shall be expressed in terms of appearance, architectural scale and features, site design and scope, landscaping, as well as the control of adverse impacts including noise, vibration, smoke, fumes, gas, dust, odor, lighting, glare, traffic circulation, parking, or other undesirable or hazardous conditions.
- (2) The proposed conditional use has incorporated design features sufficient to protect adjacent uses including but not limited to: service areas, pedestrian and vehicular circulation, safety provisions, access ways to and from the site, buffering, fencing and site building placement.
- (3) All proposed accessory uses must demonstrate that they are necessary and desirable. All proposed accessory uses shall comply with the requirements of subsections(f)(1) and (f)(2) of this section of the Land Use Code. Undesirable impacts created by these uses shall be controlled or eliminated.
- (4) Adequate public services (such as: streets, off-street parking, pedestrian facilities, water, sewer, gas, electricity, police and fire protection) must be available without the reduction of services to other existing uses.
- (5) Provisions for proper maintenance of the building, parking and loading areas, drives, lighting, signs, landscaping, etc. shall be provided.

- (6) The proposed conditional use shall conform to adopted plans, hours of operation, policies and requirements for parking and loading, signs, highway access, and all other applicable regulations of the City's Land Use Code and other applicable regulations.

Areas of concern, per Planner Dosdall, are the residential properties that share a property line with the applicants and the area bordering Carpenter Natural Trail. Planner Dosdall discussed the requirements for the access driveway. She asked the Commissioners to consider the open storage concerns, landscaping and buffering.

The applicants were then invited to make their presentation. Shelly Dackonish, Attorney with DuffordWaldeck, representing Anthony Moore and Mary Lancaster, introduced herself. She thanked the Commissioners for giving them the opportunity to present this very important proposal. She then stated her clients ask for the recusal of Commissioner Emily Waldron due to past statements she has made. Attorney Coleman explained there are no rulings for Planning Commission established for recusal. Commissioner Waldron made a statement explaining that when the hearing for the re-zone was heard last year she was not on the Commission and made comments as a private citizen based on previous Commissions she had been on in another jurisdiction. She stated that she is not a property owner near the applicants and is simply a citizen volunteering her time and she is openly evaluating this project unbiased and will not recuse herself. Attorney Dackonish thanked her and then presented a power point program on behalf of Independent Log. Anthony Moore and Mary Lancaster spoke on how the question of open storage has put his project on hold for four years. Anthony Moore explained how they use the logs and how much is used as firewood. They manufacture the firewood to prevent fire hazards as opposed to throwing into a pile as garbage. Every part of the log is used and sold. He stated adding a fence would hamper the flow of wildlife and cause more trouble and harm for the wildlife. He asked the Commission to consider the open storage issue. All is sold as their business, including the sawdust. Nothing is ever left at the end of the season. He stated that they do not work on the property very much since they are out firefighting most of the year. Historically, there are not more than a maximum of three log homes produced in a year. Anthony Moore proceeded to talk about how the firefighting is top priority. He is top of the order in this area to be called out for fires. He added that he is not ever going to sell the property, whether approved or not approved. He said he plans on leaving the property to his children.

The Public Hearing was opened with twelve people from the public speaking both for and against the project. Some feel it is an excellent business, and stated they have heard good things about Anthony and Mary, but some feel that it is not the right location for the proposed use. Attorney Dackonish rebutted some remarks on how the business is compatible with the code and compatible with the area. She answered public questions and concerns by stating how you can't see the property from the Carpenter Natural Trail except at the entrance to the trail. Truck traffic will be minimal. Drainage flows away from subject property because it sits higher than the trail. Hours of operation are 7:00 a.m. – 7:00 p.m., except if there is a fire emergency. She further stated this application is not the same as the re-zoning application, and should not be compared to that case. Anthony Moore and Mary Lancaster spoke on how the 30 feet to the north is all they are proposing as a buffer area.

They are not going to plant trees due to the water situation in Cortez. Drainage is not a problem on the subject property. Planner Dosdall brought to the applicant's attention that they did propose a 30-foot wide buffer on the northeastern side of the property with a drainage swell along the eastern and northern property boundaries for drainage on the site plan. The applicants denied the buffer was in their plan and stated it should be removed. Attorney Coleman explained that they could present an amended/revised site plan for the City Council meeting. He reminded Commissioners that there are six criteria to be met for the decision to approve or deny the recommendation. Mary Lancaster announced they, as the applicants, want to amend the site plan and take out the 75-foot buffer plus remove the text that says "30-foot wide buffer". Attorney Coleman stated the applicants are saying they want to amend the site plan for the City Council meeting. The Public Hearing was closed. A five-minute recess was called at 9:10 p.m.. The meeting resumed at 9:15 p.m., with Commissioner Bright questioning condition "h", from LUC Sec. 5.07(j), regarding open storage. Is firewood a material or commodity in light of testimony received? It was debated if the firewood is a commodity or a by-product and if it is being stored at all. The applicants feel the firewood will only be on the property temporarily until sold, so it will not be stored. They also stated that the Land Use Code allows log home manufacturing, with a Conditional Use Permit and the wood is a factor in the manufacturing so why is the Commission questioning one of the components of the approved code. She remarked every part of a log is still a log. After discussion about the conditions of the Conditional Use Permit it was agreed upon by the Commission to remove the following conditions:

- f. The application shall be revised to meet all mitigations as suggested by the Parks and Recreation Department.
- g. The driveway entrance and employee parking areas shall be surfaced in accordance with LUC 5.02(j)(4) and 5.02(f)(2)
- h. Fencing or other screening measure for the outdoor storage shall be proposed.

Staff is recommending to the Cortez City Council for approval of the requested conditional use permit for the property located at 1050 Lebanon Road with the below revised conditions.

Commissioner Waldron made a motion that the Planning and Zoning Commission approve P&Z Resolution No. 6, Series 2024, including the amendments made to the site plan during tonight's meeting by the applicants to remove the 75-foot buffer plus remove the text that states "30-foot wide buffer on the east side of the property" recommending that City Council approve the requested Conditional Use Permit and Site Plan Review for property located at 1050 Lebanon Rd, Cortez, as submitted by Anthony Moore and Mary Lancaster, with the following revised conditions:

- a. All requirements of utility providers, City departments, CDOT and affected districts must be satisfied, as outlined in adopted City Codes and other regulatory documents. Specifically, all public improvements shall comply with the minimum requirements of the 2009 City of Cortez Construction Design Standards and Specifications.
- b. The applicant shall meet all requirements of the Cortez Sanitation District Regarding protection of the manholes and existing sewer line being careful to coordinate if paving is required.

- c. The address shall be clearly marked for emergency response.
- d. The applicant shall comply with the submitted project narrative at all times.
- e. The application shall be revised to meet all requirements of the City Engineer.

Commissioner Weiss seconded the motion and the vote follows:

Bright	Thao	Waldron	Weiss	Rime
Yes	Yes	Yes	Yes	Yes

Motion carried and will be heard by City Council on November 12, 2024 at 7:30 p.m.

After the vote to approve, the applicants made a request to remove the buffer area from the site plan and stated that the site plan we were using was not the correct site plan. Applicants were instructed to get the correct site plan to planning for review before they can go to City Council.

- 5. UNFINISHED BUSINESS: none
- 6. NEW BUSINESS: none
- 7. OTHER ITEMS OF BUSINESS:
  - a. Building permits for July, August, September 2024.

The motion to adjourn was made by Commissioner Weiss and seconded by Commissioner Waldron and the vote was as follows:

Bright	Thao	Waldron	Weiss	Rime
Yes	Yes	Yes	Yes	Yes


The meeting adjourned at 10:00 p.m.

PLANNING & ZONING COMMISSION



Robert Rime, Chairperson

ATTEST:

  
Cheryl Lindquist, Deputy City Clerk