



Archuleta County
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MEMORANDUM

TO: Archuleta County Board of Adjustment

FROM: John C. Shepard, AICP; Planning Manager

DATE: June 21, 2016

RE: Marchand Request for Rocky Mountain Balloon Adventures Variance from Paving in the Industrial (I) zone, at 628 Cloman Blvd (PLN16-052)

EXECUTIVE SUMMARY

Michel E. Marchand, dba Rocky Mountain Balloon Adventures, has applied for Variance from Sections 27.1.7.3 and 27.1.7.4 of the Archuleta County Road and Bridge Design Standards and Section 5.4.5.4 of the Archuleta County Land Use Regulations requiring paving of access and parking, on Lot 5, Cloman Industrial Park, located at 628 Cloman Blvd, Pagosa Springs, CO.

Applicant has made a concurrent request for a Use by Right Site Plan (PLN16-051) for a new Outdoor Storage Use in the Industrial (I) zone, an Administrative approval.

REVIEW PROCEDURE

The *Archuleta County Land Use Regulations* (Section 1.2.4) provide for variance from the strict application of the regulations. The Board of Adjustment (at this time the Board of County Commissioners sits as the BOA) may grant relief if strict application of the Regulations would result in peculiar and exceptional practical difficulties, or exceptional and undue hardship. The *Archuleta County Road and Bridge Design Standards and Construction Specifications* provides in Section 27.6 for variances from design standards, with similar criteria. Variance is, essentially, a grant of authority for a property owner to use property in a manner forbidden by the regulations, and should be granted sparingly.

Public notice was published in the *Pagosa Springs Sun* prior to this hearing, posted on site, and mailed to adjacent property owners.

DISCUSSION

Applicant recently purchased a vacant lot in Cloman Industrial Park, and has submitted a Land Use Permit for Site Plan Review (an Administrative Approval by staff) for Outdoor Storage, which is a Use By Right in the Industrial (I) zone when screened. No structures are proposed on the

site at this time, only a 40'x40' gravel pad for parking trailers containing hot air balloons, screened by a 6' fence.

The *Archuleta County Community Plan's* Future Land Use Map and the Joint Town/County Planning Commission map of 2010 recognize the Cloman area west of the airport as one of the few industrial areas in the county. Adjacent property includes:

- Good Earth Meds at 600 Cloman Blvd., which is licensed for medical and retail marijuana grow and sales, and has a paved parking lot pre-dating adoption of the current Land Use Regulations.
- James Diffey has applied for Site Plan Review for SJS Holdings, to construct a new licensed marijuana grow establishment (no retail sales) as an addition to the existing warehouse at 95 Industrial Circle (to the northwest).
- Hart Construction has an un-screened contractor's yard at 783 Industrial Cir (to the northeast), which was approved in 2005 under previous regulations, with limited outside parking (10 vehicles only) on gravel.
- The adjoining lot to the east is a vacant parcel with no development approvals.
- Across the road, at 667 Cloman Blvd there is an auto body shop approved in 2006.
- 637 Cloman Blvd is a vacant parcel owned by John Tanner, currently used by a sanitation company without Land Use approval.
- 595 Cloman Blvd was approved in 2002 for inside operations only (no truck parking) by Cyr Mastercraft Concrete Contracting, LLC., with a gravel parking lot.

In the vicinity, SourceGas/Black Hills Energy recently received a Certificate of Occupancy for their new office/warehouse at the corner of Cloman Blvd and Industrial Circle. They also have applied for a Change of Use to permit Outdoor Storage screened by fences on the property lines. Doors & More, south of the Black Hills office at 510 Cloman, was approved in 1999 for a warehouse/office as a one-lot PUD with variances from paving. Tim Brown contractor's yard at 66 Industrial Circle was approved in 2013 as two RV Storage buildings with a Use by Right Site Plan—only one building was constructed (with a variance from paving), but no change of use has been approved for unscreened outdoor storage. Staff is currently working with LPEA to complete a Land Use Permit for their screened outdoor storage at 120 Industrial Circle.

Paving

Section 5.4.5.4 of the *Archuleta County Land Use Regulations* provides:

All parking areas shall be paved, with the exception of those uses which are located in the more rural areas of the County, and where the County Engineer and the Planning Department have determined that paving would be unnecessary.

Section 27.1.7.3 of the *Archuleta County Road and Bridge Design Standards and Construction Specifications* provides design standards for driveways. Section 27.1.7.3(F) requires driveways serving commercial uses *must* be designed and paved in accordance with County standards. Section 27.1.7.4 of the Road and Bridge Design Standards provides design standards for parking areas. Section 27.1.7.4(C) requires parking areas and drives for development (other than single family homes or duplexes) *must* be paved.

Cloman Blvd, and Industrial Circle within the first phase of Cloman Industrial Park, are currently gravel roads. Cloman Blvd. has increased from 532 ADT in June 2011 to 855 ADT measured in August 2015. Sec. 17.1.4.1(1)(b) of the Road & Bridge Design Standards requires new development to pave roads when the projected ADT will exceed 700. This requirement is intended to maintain compliance with EPA Air Quality standards. A new count is being conducted in 2016 to confirm the number of trips per day on Cloman Blvd.

- Good Earth Meds at 600 Cloman Blvd. has a paved parking lot.
- SJS Holdings' existing building, Hart Construction, and Doors & More (510 Cloman) were approved for gravel parking lots under previous regulations.
- On September 3, 2013, the Board of Adjustment approved variance from paving for Brown's RV Storage on Lot 29 (66 Industrial Circle).
- On July 21, 2015, this Board approved variance from paving for the new SourceGas (Black Hills) building at the corner of Cloman Blvd and Industrial Circle, with a condition to pave if Cloman Blvd is paved in the next five years.
- On December 14, 2015, this Board approved variance from paving for the existing warehouse and new cultivation facility at 95 Industrial Circle, with a condition to pave if Industrial Circle is paved within the next five years.

Reviews for both the administrative Site Plan and this Variance applications were combined. Consulting agency comments included:

- County Engineering found no engineering issues with the application. They recommend that the access be paved when Cloman Blvd is paved, that a Professional Engineer certify that improvements are built as designed, and that the driveway be designed so vehicles can turn around without backing onto Cloman Blvd. (Sec. 5.4.5.6 of the Land Use Regulations).
- Pagosa Fire Protection District Acting Chief provided a letter with the application noting no fire code restrictions from storing propane in a parked trailer (Industrial Performance Standards Sec. 5.4.2.6 for Outdoor Storage), and confirmed no objections to the site plan review.
- LPEA cautioned that there is a three-phase primary underground power line in the utility easement along Cloman Blvd.
- The Town of Pagosa Springs Planning Director expressed concerns with waiving the requirement to hard surface parking areas and access, not wanting to jeopardize federal funding to mitigate road dust.
- Projects in the Airport Influence Area are routinely forwarded to the Airport Manager for their information.

The Board of Adjustment may grant a variance if all of the standards in Section 1.2.4.4 of the Land Use Regulations are found to exist:

- a. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of these Regulations are strictly enforced.
- b. Circumstances creating the hardship were created subsequently through no fault of the appellant.

- c. That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same zoning or overlay district.
- d. That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.
- e. The variance, if granted, will not be directly contrary to the intent and purpose of these Regulations or the Community Plan.

Applicants discuss justification of their requests in their narrative (See attached):

- Cloman Blvd is not paved.
- Very few of the existing buildings have pavement.
- This is not for a commercial business, rather outside storage.
- Very little traffic on and off the property, once or twice a week.
- Little to no impact on the other properties in the area.
- Gravel to be installed per the plans attached.

RECOMMENDATION AND FINDINGS

Based on evidence provided, staff recommends the Board of Adjustment finds that:

- a. The application meets each of the standards for a grant of variance in Section 1.2.4.4(1) of the *Archuleta County Land Use Regulations*, and
- b. The application meets the standards for variance from design standards in Section 27.6 of the *Archuleta County Road and Bridge Design Standards and Construction Specifications*, and
- c. Variance is granted for the specific plans proposed by Applicant; and

That the Board of Adjustment approves the Marchand Request for Variance from Sections 27.1.7.3 and 27.1.7.4 of the *Archuleta County Road and Bridge Design Standards* and Section 5.4.5.4 of the *Archuleta County Land Use Regulations* requiring paving of access and parking, on Lot 5, Cloman Industrial Park, 628 Cloman Blvd, Pagosa Springs, CO, with the following conditions:

- 1. Should Cloman Blvd be paved within five (5) years of this approval, the site must be brought into compliance with the access and parking standards then in effect within two (2) years of paving.
- 2. The Site Plan and Drainage Plans shall be revised to keep the proposed earthen berm out of utility easements, for approval by the County Engineer.
- 3. The Site Plan shall be revised to provide a turn around without backing onto Cloman Blvd., for approval by the County Engineer.

And that the Board of Adjustment instruct staff to draft a Resolution memorializing these Findings and Conditions of Approval at the earliest public meeting.

PROPOSED MOTION

I move to approve the Marchand variance from paving, with Findings a-c and Conditions 1-3 of the staff report, and instruct staff to draft a Resolution memorializing these Findings and Conditions of Approval.

ATTACHMENTS.

Attachment 1: Area Maps

Attachment 2: Review Comments

Attachment 3: Applicant's Narrative

Attachment 4: Site Plan