



Legislation Details (With Text)

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File created: 4/16/2021 **In control:** Board of Supervisors

On agenda: 5/4/2021 **Final action:**

Title: HEARING - To consider an appeal from the April 9, 2021 decision of the Administrative Hearing Officer in Code Enforcement case CE20-0198 (Exhibit E). The appeal is filed by Thomas Swett, attorney for property owner All About Equine, and challenges the ruling of the Hearing Officer upholding Code Enforcement determination that the gate placed by All About Equine across a non-county maintained public right-of-way requires a permit under El Dorado County Code section 130.30.030.

Planning and Building Department recommending the Board:
 1) Find that the gates in question are in violation of County Code Section 130.30.030; and
 2) Deny the appeal and uphold the decision of the Hearing Officer.

Sponsors:

Indexes:

Code sections:

Attachments: 1. A CE20-0198 Notice to Correct, 2. B County code 130.30.0900 - Gates, 3. C Hearing Binder, 4. D Hearing Officer Decision, 5. E Appeal to BOS, 6. F Respondents Brief, 7. G Petitioners Response to Respondent's Brief, 8. H Respondent's Reply Brief, 9. I Respondent's Exhibit F Site Map

Date	Ver.	Action By	Action	Result
5/4/2021	1	Board of Supervisors	Continued	Pass

HEARING - To consider an appeal from the April 9, 2021 decision of the Administrative Hearing Officer in Code Enforcement case CE20-0198 (Exhibit E). The appeal is filed by Thomas Swett, attorney for property owner All About Equine, and challenges the ruling of the Hearing Officer upholding Code Enforcement determination that the gate placed by All About Equine across a non-county maintained public right-of-way requires a permit under El Dorado County Code section 130.30.030.

Planning and Building Department recommending the Board:
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 2) Deny the appeal and uphold the decision of the Hearing Officer.

DISCUSSION / BACKGROUND

Code Enforcement Officer Todd Young conducted a site visit on 4/30/2020 and determined that a gate had been placed across a non-county maintained public right-of-way in violation of County Ordinance 130.30.070 Gates. A Notice to Correct was sent to the property owner on 5/5/2020 (Exhibit A). The owner's representative, Thomas Swett, requested an Administrative Hearing on 5/13/2020. With COVID-19 protocols in place, staff contacted the owner in a letter dated 5/20/2020 advising that hearings were postponed until further notice. On 7/2/2020, Mr. Swett informed the Code Enforcement Division that he was now the representative for the property owner and the primary contact for this case. He requested a Notice of Compliance be recorded, arguing the correction notice was "erroneously issued and should be rescinded." On 9/16/2020, he sent another communication requesting a Notice of Compliance. On November 3, 2020, a meeting was held with

Planning staff to discuss the zoning and options, no resolution was determined. On 2/17/2021, staff contacted Mr. Swett to schedule the Administrative Hearing to be held on 3/10/2021. The hearing was held on 3/10/21, whereby both sides agreed the facts were essentially undisputed, but did not agree with the interpretation of the ordinance language. An agreement was reached between Mr. Swett and Roger Runkle, County Counsel, with concurrence with the Hearing Officer, to provide their briefs (Exhibits F, G, H) to the Hearing Officer at a date/time they would determine between them, and upon review of both the Hearing Officer would render his decision (Exhibit D). The Hearing Officer, William M. Wright, ruled there was a violation to County Code Section 130.30.030 and upheld the County's interpretation of the ordinance language.

ALTERNATIVES

After reviewing the documentation and hearing arguments from the Appellant's attorney, Mr. Swett, and Roger Runkle, County Counsel, the Board may:

- 1) Uphold the Hearing Officer's decision and deny the appeal, agreeing the placement of the gate in the public right-of-way is a violation of County Code 130.30.030 and requires a permit to remain, or must be removed.
- 2) Deny the Hearing Officer's decision, uphold the appeal, agreeing with the Appellant's argument that they have the right to place a gate at this location without County oversight.

CAO RECOMMENDATION / COMMENTS

Make findings and deny the appeal as recommended.

FINANCIAL IMPACT

When an Administrative Hearing is requested, a fee of \$200 is collected from the Appellant. If the Board chooses to uphold the appeal, they may also direct a refund be issued to the Appellant in the amount of \$200.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Good Governance and Public Safety

CONTACT

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Planning and Building Department