

EL PASO COUNTY



COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
 Stan VanderWerf, Chair

FROM: John Green, Planner II
 Lupe Packman, PE Engineer I
 Craig Dossey, Executive Director

RE: Project File #: VA-21-003
 Project Name: 3475 Mulberry Variance of Use Renewal
 Parcel No.: 13000-00-469

| OWNER: | REPRESENTATIVE: |
|---|-----------------|
| Mulberry Ridge, LLC 5025 Brady Road Colorado Springs, CO 80915 | N/A |

Commissioner District: 4

| | |
|--|------------|
| Planning Commission Hearing Date: | 10/7/2021 |
| Board of County Commissioners Hearing Date | 10/26/2021 |

EXECUTIVE SUMMARY

A request by Mulberry Ridge, LLC, for approval of a variance of use for an observatory and related facilities. The 35.48-acre property is zoned A-35 (Agricultural) and is located one mile west of North Yoder Road, and immediately northeast of the intersection of Mulberry Road and Big Springs Road and is within Section 14, Township 13 South, Range 61 West of the 6th P.M.

The parcel is currently developed with a modular headquarter building, a detached garage, and one self-contained telescope facility located on a concrete pad. The use was previously approved by a variance of use on July 27, 2000 and then renewed again

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on February 17, 2011. The 2011 variance included a condition of approval with an expiration of December 31, 2019. The applicant is requesting approval of a variance of use without expiration to allow the continuation of the observatory and the expansion of the facility to include the addition of four (4) telescopes on the site.

REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Mulberry Ridge, LLC, for approval of a variance of use to allow an observatory and related facilities.

Waiver(s)/Deviation(s): There are no waivers or deviations associated with this request.

Authorization to Sign: There are no documents associated with this application that require signing.

A. PLANNING COMMISSION SUMMARY

Request Heard: As a Consent item at the October 7, 2021 hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 9 - 0

Vote Rationale: N/A

Summary of Hearing: The October 7, 2021 PC Draft Minutes are attached.

Legal Notice: N/A

B. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code (2019), the Planning Commission and Board of County Commissioners may consider the following criteria in approving a variance of use:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;
- The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;

- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

C. LOCATION

| | | |
|--------|---------------------|------------------------|
| North: | A-35 (Agricultural) | Single-family dwelling |
| South: | A-35 (Agricultural) | Vacant |
| East: | A-35 (Agricultural) | Single-family dwelling |
| West: | A-35 (Agricultural) | Single-family dwelling |

D. BACKGROUND

The 35.48-acre parcel was legally created by deed on August 27, 1999. The parcel was zoned A-35 (Agricultural) when zoning was first initiated for this area of unincorporated El Paso County on March 24, 1999 (BoCC Resolution No. 99-101).

The subject property is developed with a modular structure that was originally built as a single-family dwelling and a detached garage. The dwelling and detached garage were constructed in 1998.

On July 27, 2000, the BoCC approved a variance of use on the property to allow an observatory (PCD File No. #VA-00-017). That original variance expired after five (5) years. The applicant then applied for renewal of the previous variance in 2010. That application was approved on February 17, 2011 (PCD File No. #VA-10-003). The 2011 variance of use expired on December 31, 2019. The applicant has requested approval of a variance of use without expiration.

If the variance of use is approved, the applicant will be required to submit and receive approval of a site development plan to expand the number of telescopes on the property. The site development plan will need to be substantially consistent with the site plan provided with the variance of use application and provide a more detailed depiction of the proposed use, including landscaping, and parking, building elevations, and lighting.

E. ANALYSIS

1. Land Development Code Analysis

The applicant is proposing to renew the previous approval of the observatory use on the property and expand the use to accommodate up to four (4) additional telescopes and support facilities. The telescopes will be housed in self-contained structures on the property. The applicant is proposing two additional out-buildings and four metal storage containers will be added to the facility for support of the equipment. The observatory is a critical component of the operations supporting the United States Space Command.

The proposed observatory is not a permitted principle use in the A-35 (Agricultural) zoning district pursuant to Table 5-1 of the El Paso County Land Development Code (2019). The proposed observatory will incorporate the following structures and uses on the parcel:

- Existing 1,728 square foot headquarter building;
- Existing 720 square-foot detached garage for storage of support equipment;
- Two additional out-buildings for telescope support and maintenance;
- One existing telescope located on a concrete pad;
- One proposed 1,056 square-foot telescope operations center; and
- Up to four additional telescopes located in self-contained facilities in the same general area as the existing buildings.

An observatory is not an identified allowed or special use within any of the County's existing zoning districts or in the current Land Development Code. As such, the lack of an available zoning district for locating the proposed use could be considered a hardship.

Potential off-site impacts related to the proposed use are anticipated to be negligible. Specifically, the applicant has indicated that while hours of operation at the facility vary and may occur at all hours of the day, the increase in telescopes will not result in an increase of support staff. Most of the telescopes can be operated remotely and do not require staff support. Improvements to the existing facilities, such as installation of ADA accessible ramps, are not anticipated to cause any adverse impacts on surrounding properties. The existing telescope operation has been in continuous operation for 21 years and has not been the subject of any code enforcement actions or documented neighbor complaints during that time frame.

Should the variance of use be approved, approval of a site development plan will be required in order to initiate the proposed expansion of the existing facilities. County review and administrative approval of a site development plan will help

ensure that adequate buffers, setbacks, and screening are implemented to further mitigate any potential impacts to the surrounding area. The site development plan review will also include compliance with all applicable aspects of the Land Development Code and the Engineering Criteria Manual, including but not limited to grading and erosion control, water quality, parking, and lighting standards.

2. Zoning Compliance

The A-35 (Agricultural) zoning district density and dimensional standards are as follows:

- Minimum zoning district area: 35 acres
- Minimum front, side, and rear yard setback: 25 feet
- Maximum height: 30 feet

The existing dwelling and accessory structures meet the 25-foot setback from all property lines, the maximum height, and lot coverage limitations as required in the A-35 zoning district. Should the variance of use request be approved, approval of a site development plan will be required prior to building permit issuance and expansion of the use. The site development plan review will include confirmation that all site improvements (existing and proposed) comply with the dimensional standards included in Chapter 5 as well as the Development Standards in Chapter 6 of the Code.

3. Analysis of Your El Paso Master Plan

Consistency with Your El Paso County Master Plan (2021) is not a required review criterion under the current (2019) version of the Land Development Code for a variance of use request. However, for informational purposes, Your El Paso Master Plan (2021) establishes the vision for the County's future based on the needs of the current population and anticipated growth and provides strategies needed to achieve that vision as growth and change occur. The Plan is comprehensive both in scale and scope, influencing the entire County with recommendations related to a range of topics. In addition, Your El Paso Master Plan is intended to promote the community's vision, goals, objectives, and policies; establish a process for orderly growth and development; address both current and long-term needs; and provide for a balance between the natural and built environment.

The following is an analysis of the Plan as it applies to the application being considered with a specific focus on Chapter 3, Land Use, including identifying Key Area influences and the applicable Areas of Change and Placetype

designations as well as the applicable Core Principles, Goals, Objectives, and Specific Strategies of the Action Matrix included in Chapter 14, which is the Implementation chapter of the Plan.

i. Area of Change Designation: Minimal Change: Undeveloped

A description of the Minimal Change: Undeveloped area states:

“The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other buildout sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.”

Analysis:

Approval of the variance of use will allow for two (2) additional out-buildings for telescope support and maintenance; one existing telescope located on a concrete pad; one proposed 1,056 square-foot telescope operations center; and up to four (4) additional telescopes located in self-contained facilities in the same general area as the existing buildings. The majority, approximately 75 percent of the area, of the 35-acre parcel will remain undeveloped.

ii. Placetype Designation: Rural Area

The Character description for the Rural placetype states:

“The Rural placetype comprises ranchland, farms, and other agricultural uses. The primary land use in this placetype is agriculture however residential uses such as farm homesteads and estate residential are allowed as support uses. Residential lot development within the Rural placetype typically cover 35 acres or more per two units with the minimum lot area consisting of 5-acres per unit. The Rural place-type covers most of the eastern half of the County.

Rural areas typically rely on well and septic and parcels for residential development tend to be substantial in size. Rural areas are remotely located and distant from high activity areas or dense suburban or urban places, making access to regional transportation routes, such as Highway 24 and Highway 94, vital to the quality of life for rural community residents.

The agricultural lands that Rural areas contain represent a valuable economic resource and unique lifestyle that should be preserved. The Rural

placetype includes agricultural lands which represent a valuable economic resource and allow for a unique lifestyle that should be preserved. As growth occurs, some Rural areas may develop and transition to another placetype, however leapfrog development should be prohibited in order to prevent the premature development of Rural lands and preserve contiguity of the Rural placetype.”

Recommended Land Uses:

Primary

- Agriculture
- Parks/Open Space
- Farm/Homestead Residential

Supporting

- Estate Residential
- Institutional

Analysis:

The property included within this variance of use request is located within the Rural Areas Key Area. As discussed in the placetype analysis below, the proposed variance of use complies with the character attributes and recommended land use for the Rural placetype. The Land Development Code Analysis section of the report discusses compliance with the established rural residential character of the surrounding development. The variance of use will result in most of the 35-acre parcel remaining undeveloped. A supporting land use is “Institutional”. The Code defines “Institutional Use” as:

“A general term meant to encompass a variety of public and quasi-public uses such as educational facilities, religious institutions, hospitals, libraries, cemeteries and various governmental facilities.”

Per the applicant’s Letter of Intent “The observatory locate on the property is a critical component of operations supporting the United States Space Command.” Therefore, the proposed use may be considered a governmental support facility. The observatory is considered an institutional use.

iii. Core Principles, Goals, Objectives, and Specific Strategies

Land Use (LU) Core Principle: “Manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.”

- *Goal LU1:* “Ensure compatibility with established character and infrastructure capacity.”
- *Objective LU3-1:* “Development should be consistent with the allowable land uses set forth in the placetypes first and second to their built form guidelines.”
- *Specific Strategy:* “The Minimal Change: Undeveloped areas should experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character.”
- *Goal LU3:* “Encourage a range of development types to support a variety of land uses.”
- *Objective LU3-2:* “The agricultural lands within the Rural placetype represent a valuable economic resource and unique lifestyle that should be preserved.”

As discussed above, an Institutional use is specifically included as a supporting land use within the Rural Placetype. Additionally, the proposed variance of use will result in the majority of the parcel remaining undeveloped, thereby preserving the rural character of the area.

4. Water Master Plan Analysis

Consistency with the El Paso County Water Master Plan (2018) is not a required review criterion for a variance of use request. However, for background, the Water Master Plan has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.

Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.

Goal 1.2 – Integrate water and land use planning.

The subject parcel is in Region 6 of the El Paso County Water Master Plan. Region 6 has a current central water supply of 1360-acre feet per year and a current demand of 1360-acre feet per year. The 2040 water supply is projected to be 1360-acre feet per year and the projected demand is 1782-acre feet. The 2060 water supply is projected to be 1360-acre feet per year, whereas the demand is anticipated to be 2,167-acre feet per year; therefore, there is projected to be a deficient supply of water for central water providers in this region of the County.

Water service for the parcels will continue to be provided by an existing well. The proposed expansion of the use on the property will not result in increased staffing and is, therefore, not anticipated to negatively impact water supplies on the property or in the region.

5. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low to moderate wildlife impact potential. El Paso County Community Services Department, Environmental Services Division, was sent a referral for the project and indicated that wildlife impacts associated with the use would be negligible.

The Master Plan for Mineral Extraction (1996) identifies sand, gravel, and silt-clay deposits in the area of the subject parcel. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, severed mineral rights exist. The mineral rights owner has been notified of the application and hearing date.

Please see the Parks section below for information regarding conformance with The El Paso County Parks Master Plan (2013).

Please see the Transportation section below for information regarding conformance with the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP).

F. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified during the review of the variance of use application which would restrict continued use or expansion of the facility.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcel as having a low wildlife impact potential. The El Paso County Community Services Department, Environmental Services Division, was sent a referral with the application and indicated that potential impact to wildlife with the proposed use would be minimal. The department will also be sent a referral for the subsequent site development application, should the variance of use be approved.

3. Floodplain

The parcel is outside the 500-year floodplain (Zone X) as indicated by FEMA Flood Insurance Rate Map panel number 08041C0650G, which has an effective date of December 7, 2018.

4. Drainage and Erosion

The parcel is located within two drainage basins, Upper Pond Creek (HOPO0600) to the west and Rush (HOPO0800) to the east. Both drainage basins are unstudied and do not have associated drainage or bridge fees. A drainage report was not required for the proposed variance of use and drainage fees are not assessed with variance of use applications.

5. Transportation

The site takes access from Mulberry Road, which is owned and maintained by El Paso County. The applicant estimates there will be 60 ADT during the 4-month construction period and then no more than 15 vehicles on an intermittent basis.

The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvement projects in the immediate vicinity of the site.

The request is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471), as amended. Road impact fees will be determined at the site development plan stage of development.

G. SERVICES

1. Water

Water will continue to be provided by an existing onsite well (Permit No. # 216921). The proposed expansion of use on the property will not result in increased water demand for the facilities since the change is not proposed to result in an increase in staffing.

2. Sanitation

Wastewater is provided by an existing onsite wastewater treatment system (Permit No. # On0000533).

3. Emergency Services

The parcels are within the Tri-County Fire Protection District. The District was sent a referral with the application and has no outstanding comments.

4. Utilities

Electrical service is provided by Mountain View Electrical Association and natural gas service is provided by Black Hills Energy.

5. Metropolitan Districts

The parcels are not located within a metropolitan district.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a variance of use application. The El Paso County Parks Master Plan (2013) indicates that there are no existing or proposed trails or parks located in close proximity to the subject parcels.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a variance of use application.

H. APPLICABLE RESOLUTIONS

See attached Resolution

I. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

J. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.4 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

CONDITIONS

1. Approval is limited to the observatory and accessory structures as proposed and discussed in the applicant's letter of intent. Any subsequent addition or modification to the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
2. A site development plan shall be applied for and approved within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the Planning and Community Development Department Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

NOTATIONS

1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

K. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on September 16, 2021, for the Board of County Commissioners meeting. Responses will be provided at the hearing.

L. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
October 7, 2021 PC Draft Minutes
Planning Commission Resolution
Board of County Commissioners' Resolution

El Paso County Parcel Information

| PARCEL | NAME |
|------------|--------------------|
| 1300000469 | MULBERRY RIDGE LLC |

File Name: VA-21-003

Zone Map No. --

Date: September 17, 2021



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
13 (719) 520-6600



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**LETTER OF INTENT – RENEWAL OF VARIANCE OF USE
3745 MULBERRY ROAD, YODER, COLORADO
August 10, 2021**

OWNER:

Mulberry Ridge LLC
5025 Brady Rd.
Colorado Springs, Colo. 80915
Ph. 443-253-6811

APPLICANT:

Chris Richardson, CMG Corp.
6615 Vincent Dr.
Colorado Springs, Colo. 80918
Ph. 719-492-5076

LOCATION:

3475 Mulberry Rd.
Yoder, Colo. 80864

SIZE OF THE PROPERTY: 35.45 acres

ZONING: A-35 agricultural

REQUEST: This application is a request to renew a previously approved Variance of Use for an observatory and related facilities on the Property, and to expand the variance to add up to four additional telescopes and their supporting facilities on the Property. The observatory located on the Property is a critical component of operations supporting the United States Space Command. The term requested for the renewed Variance of Use is for the duration of the current government contract, which is 9 years.

JUSTIFICATION: The original Variance of Use was approved by the Board of County Commissioners in 2000 under VA-00-017 for a 5-year period. The Variance of Use was renewed in February 2011 under VA-10-003, which expired in December 2019 at the same time the prior operator’s government contract to operate the telescope for Space Command expired. The current government contractor, L3 Harris, assumed the contract in January 2021 for a 9-year term. In order to continue the critical operations for Space Command performed on the Property, the Property owner must obtain the renewal and enlargement of the existing Variance of Use. It is believed the justification for prior approval and renewal of the existing Variance of Use was due to the exceptional circumstances of supporting our local military installations in the performance of their work to keep our country and those of our allies safe. The rural location of the Property, with no light

pollution, along with the large size of the Property and its relatively close proximity to the military installations, makes the location ideal for an observatory supporting Space Command.

The applicant seeks renewal of the Variance of Use and to add up to four (4) additional telescopes and related facilities for the new government contractor operating the telescope facility for Space Command. The observatory is a critical part of Space Command’s mission to defend space on behalf of our country and its allies. The telescopes will be used for the viewing of stars and celestial bodies during the day and night. Much of the facility’s operation will take place remotely.

This facility has been in continuous operation for 21 years without any complaints from neighbors. The facility generates minimal traffic. Other than the developed area of the Property (approximately 3 acres), the rest of the Property remains undeveloped and is undisturbed rangeland that is available for migration and use by wildlife. The Property is not accessible to the public.

The hours of operation of the facility vary. The work done at the facility occurs day and night, and is predominantly operated remotely. Employees of the government contractor operating the facility will be present on site when needed for repairs, maintenance, and operation. No noise is created by the facility because all equipment is located inside buildings.

EXISTING/PROPOSED FACILITIES, STRUCTURES, ROADS, ETC.: The existing facility is located in the northern part of the Property and is reached by an interior improved gravel road from Mulberry Road. The existing telescope and all facilities are contained within a locked gate and a high chain link fence. In addition to the existing telescope, there is a one-story modular building, garage, communications tower and related utilities facilities currently located on the Property.

The existing road will be expanded and form a loop to serve the new facilities that are graphically shown on the Site Plan accompanying this Letter of Intent. The existing modular building will be improved with a handicap ramp on the west and north side to allow improved access from the gravel parking lot on the west of the facilities site. New underground electric and telecommunications lines will be installed to serve the existing and new facilities constructed on the Property. As shown in the Site Plan, there will be up to four additional telescopes of various sizes installed on the Property in a number of new structures. Two rectangular buildings to house the required technology for the telescopes will be installed next to the telescopes, along with an additional electrical transformer and power distribution panel. All new facilities will be surrounded by a chain link fence and will be safely secured by the government contractor operating this facility for Space Command.

Like the Property, the surrounding neighborhood is zoned A-35 and the adjacent parcels contain single family homes. The applicant received no responses from neighbors in opposition to this renewal application after



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sending the adjacent property owner notification letter. To the applicant’s knowledge, no neighbor has ever complained about the facility in the 21 years it has existed on the Property.

Traffic Impact:

Based on Average Daily Trips (ADT) defined as one vehicle visiting the site equaling two trips, during construction of the new facilities, there will be at most 60 trips per day. After construction, normal operations will have no more than 30 trips per day. The applicant estimates there will be construction traffic for 4 months and then normal daily operations of no more than 15 vehicles at the site on an intermittent basis.

CRITERIA FOR APPROVAL: This application complies with all criteria for renewal of an existing Variance of Use under Section 5.3.4 of the Land Development Code (“Code”), as follows.

1. *The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.*

The A-35 zoning on the Property does not allow commercial use; however, the Variance of Use for this military observatory has been in effect for 21 years on the Property without complaint. Strict application of the Code to now prohibit the use of this Property for an observatory under the existing Variance of Use would result in exceptional practical difficulties because the observatory would have to be relocated to a similarly situated location (e.g., dark skies, rural) elsewhere. While the applicant seeks an enlargement of the telescope facility as part of this renewal application, the use of the Property to aid the United States Space Command in its mission to protect our country and its allies prevails over the strict application of the A-35 zoning restrictions.

2. *The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety or welfare of the inhabitants of the area and County.*

As stated above, this Space Command facility has existed on the Property for over two decades. The rest of the Property (approximately 32 acres of the 35-acre parcel) that is not within the improved area where the telescopes are located is natural rangeland, which is characteristic of the surrounding area. Any future development of the area must take this secure military support facility into account. Given the facility’s longevity on this Property, it is proven there is no detriment to the health, safety or welfare of the area inhabitants or the County.

3. *The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project.*

The existing observatory has been used for the viewing of the stars and celestial bodies during the day and night. As much of the operation of this facility will take place remotely, there will be minimal human intrusion on the Property. No additional site lighting will be installed due to the need for reduced light pollution for the telescopes. There is no noise as all activities are conducted inside buildings. Water use will be minimal as no personnel live on site. The only water use will be for restrooms. The construction and use of this facility will meet all air, water, noise and odor standards established by the County and other government authorities.

4. The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action.

The use of this Property as an observatory in support of military space operations for the past 21 years without complaint shows that the Variance of Use, as renewed, will continue in compliance with all applicable County and other governmental regulations. The new facilities will be constructed in compliance with all County, State and federal regulations.

5. The proposed use will not adversely affect wildlife or wetlands.

There are no wetlands on the Property. Other than the approximately 3-acre site where the observatory is located, the rest of the 35-acre Property is fenced by barbed wire and remains in native grass and shrubs. The area for the new telescopes and related facilities will be fenced with a chain link fence with the existing improvements and will not impact wildlife.

6. The applicant has addressed all off-site impacts.

There will be limited off-site impacts. The new buildings will nominally increase the impervious surface of the Property, but not so significantly as to have storm water runoff emanate off the Property. The roads will remain gravel surfaced.

7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening and landscaping.

There will not be increased traffic or use of the facility by more than the current number of personnel who are on site intermittently. Landscaping consists of trees around the main buildings. The existing parking area will not be enlarged. The road is an existing, well maintained gravel driveway with a concrete entrance, a culvert under the entrance, and steel gates securing the Property. The existing gravel road will be extended to create a loop road around the new facilities. The entire improved area will be surrounded by a chain link fence and monitored with security equipment. The rest of the Property will remain as natural rangeland.

8. *Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.*

As there are no plans for an increase in personnel at the facility than currently exists, there will be no change to sewer, water, storm water drainage, fire and police protection than what currently exists. The existing well and septic will not be modified because the number of personnel on site on an intermittent basis will not change from current use. The new facilities create a small footprint and will not adversely affect the storm water runoff. There will be an additional gravel road constructed that will encircle the new facilities. To aid police and fire protection services, the applicant has obtained from the County enumerations department individual addresses for each of the observatories, as shown on the Site Plan.

9. *The variance of use is in compliance with the County Master Plan, including the Policy Plan and the Water Master Plan.*

A. Your El Paso Plan: The County recently adopted a new master plan as a comprehensive planning guide for future development and land use in El Paso County. The *Your El Paso Master Plan* contains the following Key Area Core Principle in Chapter 3, Land Use, and underlying Goal 6.1, both of which support the use of this Property to sustain our military installations, in particular, the United States Space Command:

Military Installations Core Principle: Foster effective working relationships with military installations to support planning efforts and mutual success.

Goal 6.1 - Support compatible land uses within and in close proximity to bases and associated facilities.

B. Policy Plan. An element of the Master Plan is the Policy Plan, which establishes goals and policies in connection with approval of new development in the County. Section 7.0 of the Policy Plan provides for planning for special and unique land uses. This application is subject to the following Issues, Goals and Policies:

ISSUE 7.1 Effectively Plan for Special and Unique Land Uses

Goal 7.1 *Reasonably accommodate unique and special uses which provide value to the greater community and which can be made consistent with surrounding uses.*

Policy 7.1.2 *Consider the future combined impact of potential additional land use requests when considering individual applications for special or unique land uses.*

ISSUE 7.2 Plan for Institutional Uses

Goal 7.2 Promote comprehensive planning for major institutional land uses.

Policy 7.2.3 Allow for the reasonable accommodation of neighborhood-scale institutional uses in all areas of the County.

The military is a significant factor in our region’s economy and well-being. The renewal of the Variance of Use on the Property and the expansion of use on a pre-existing site that has been successful for both the military and the rural area in which the Property is located, as shown by no neighbor complaints in 21 years and no desire by the military to relocate the observatory, provides substantial value to our community.

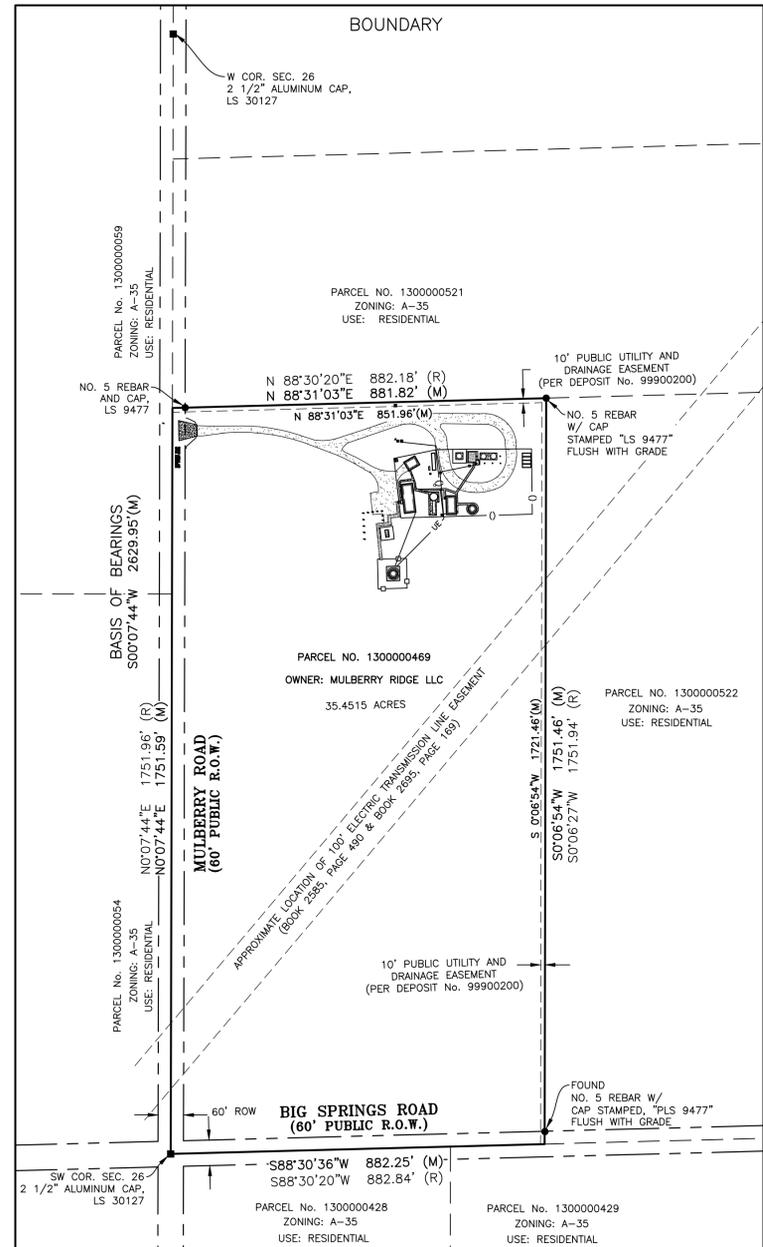
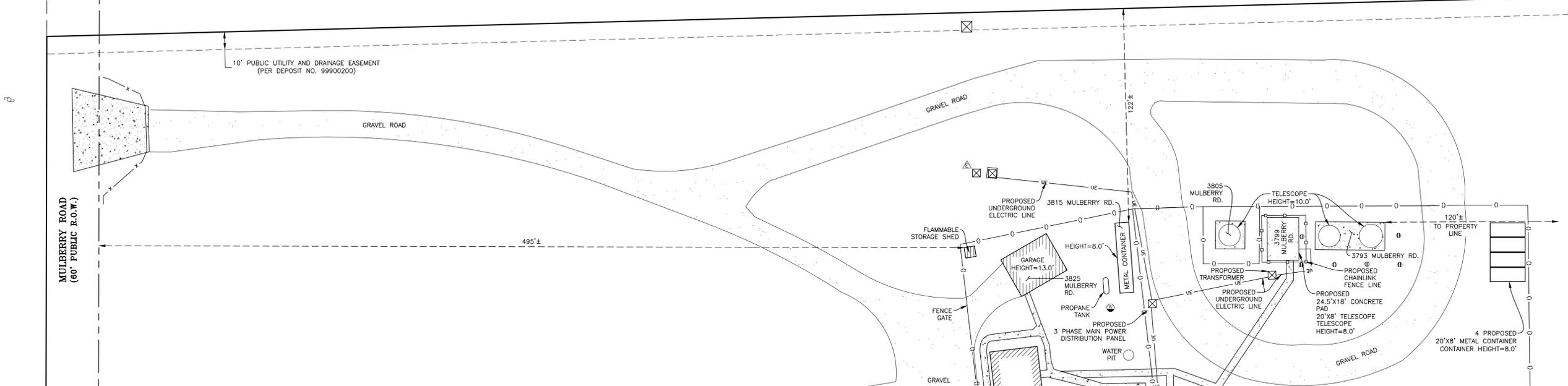
C. Water Master Plan. This application meets the following goals of the Water Master Plan:

Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.

Goal 6.1.2 – Promote water conservation.

Approval of the renewal of the Variance of Use and the expansion of the facilities at the same site promotes water conservation (e.g., a new site would require a duplicate well and septic system) and ensures there are additional water resources available to the County for other development. The Property already has a well and septic system. Use of the Property (and associated water use) by personnel will remain intermittent as in the past.

IMPROVEMENTS



PROPERTY DESCRIPTION (PER Rec. No. 99112613):

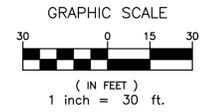
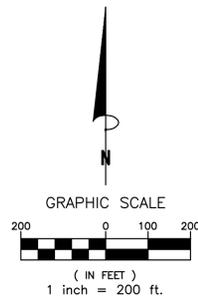
A tract of land in the west 1/2 of Section 26, Township 13 South, Range 61 West of the 6th P.M., in El Paso County, Colorado, more particularly described as follows:

Beginning at the Southwest corner of Section 26 at the intersection of Big Springs Road and Mulberry Road; thence North 0°07'44" East along Mulberry Road, 1751.96 feet; thence leaving said road, North 88°30'20" East, 882.18 feet; thence South 0°06'27" West, 1751.94 feet to a point on Big Springs Road; thence South 88°30'21" West, along said road, 882.84 feet to the point of beginning.

NOTES:

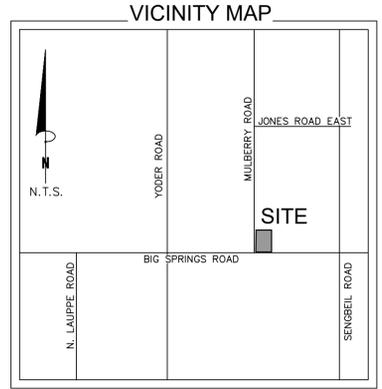
- Basis of Bearings is the west line of the southwest quarter of Section 26, Township 13 South, Range 61 West of the 6th P.M., monumented at the West Quarter Corner by a 2 1/2" aluminum cap stamped, "LS 30127" and at the Southwest Quarter Corner by a 2 1/2" aluminum cap stamped, "LS 30127" flush with grade with a measured bearing of N 0°07'44"E, for a distance of 2629.95 feet.
- Any underground utilities shown have been located from field survey information. The surveyor makes no guarantee that the underground utilities shown are in the exact location indicated although he does state that they are located as accurately as possible from the information available. This surveyor has not physically located the underground utilities.
- Easements and public documents shown or noted on this survey were examined as to location and purpose and were not examined as to restrictions, exclusions, conditions, obligations, terms, or as to the right to grant the same.
- A 10 foot wide easement to El Paso Mutual Telephone Company exists 5 feet inside the west fence line, as recorded in Book 2881 at Page 690.
- The linear units used in this drawing are U.S. Survey Feet.
- The improvements shown hereon are as of the date of field work, September 22, 2020.

- A. Zoning: A-35
- B. Setbacks:
Front: 25 feet
Side: 25 feet
Rear: 25 feet
- C. Existing and proposed uses: Federal government testing of a telescope and associated products.



LEGEND

| | |
|-------|---------------------------|
| ■ | FOUND MONUMENT (ALIUQUOT) |
| ● | FOUND MONUMENT (AS NOTED) |
| ⊙ | WATER WELL |
| ⊠ | ELECTRIC METER |
| ⊞ | ELECTRIC TRANSFORMER |
| ⊙ | POST |
| ⊙ | BOLLARD |
| —○—○— | CHAIN LINK FENCE |
| —x—x— | BARB WIRE FENCE |
| ▭ | CONCRETE AREA |
| ▭ | PROPOSED CONCRETE AREA |



| No. | Revisions | Description | By | Date |
|-----|-----------------|-------------|-----|------------|
| 3 | Client Comments | | NSG | 08/04/2021 |
| 2 | Client Comments | | AMF | 05/05/2021 |
| 1 | Client Comments | | CME | 04/08/2021 |

Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

VARIANCE OF USE SITE PLAN MAP
 A PORTION OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 13 SOUTH, RANGE 61 WEST, OF THE 6TH P.M., CITY OF YODER, EL PASO COUNTY, COLORADO

Project **210122**
 Drawn By: NJM
 Checked By: SLM
 Date: 03/16/2021
 Sheet 1 of 1

COMMISSIONERS:
STAN VANDERWERF (CHAIR)
CAMI BREMER (VICE-CHAIR)

LONGINOS GONZALEZ, JR.
HOLLY WILLIAMS
CARRIE GEITNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, October 7, 2021
El Paso County Planning and Community Development Department
2880 International Circle, Colorado Springs, Colorado 80910

REGULAR HEARING
9:00 a.m.

PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, BECKY FULLER, JOAN LUCIA-TREESE, JAY CARLSON, ERIC MORAES, BRANDY MERRIAM, TIM TROWBRIDGE, AND SARAH BRITTAIN JACK

PRESENT VIA ELECTRONIC MEANS AND VOTING: NONE

PRESENT AND NOT VOTING: BRYCE SCHUETTPELZ

ABSENT: GRACE BLEA-NUNEZ

STAFF PRESENT: NINA RUIZ, DANIEL TORRES, CARLOS HERNANDEZ (VIA REMOTE ACCESS), LUPE PACKMAN, GILBERT LAFORCE, JOHN GREEN, RYAN HOWSER, KARI PARSONS, ELENA KREBS, EL PASO COUNTY ENGINEER JENNIFER IRVINE, AND EL PASO COUNTY ATTORNEYS LORI SEAGO AND MARY RITCHIE

OTHERS SPEAKING AT THE HEARING: DANNY MIENTKA, DAVID WHITEHEAD, JIM HOULK, HEATHER DILLARD, VICTORIA CHAVEZ (CDOT), AND DAVID SPRAGUE (CDOT)

Report Items

1. A. Report Items -- Planning and Community Development Department -- Ms. Ruiz -- The following information was discussed:

- a) The next scheduled Planning Commission meeting is for **Tuesday, November 2, 2021 at 9:00 a.m.****

- b) **Ms. Ruiz** gave an update on the year-to-date building permits and also provided an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting. Mr. Dossey will be presenting the end of the year report at the next scheduled hearing.
- c) **Mr. Trowbridge** provided an update on the revisions to the Planning Commission Bylaws. He will be sitting down with **Ms. Seago** to finalize changes.

B. Public Input on Items Not Listed on the Agenda – NONE

2. CONSENT ITEMS

A. Approval of the Minutes – September 2, 2021

The minutes were unanimously approved as presented. (9-0)

B. SF-21-013

HOWSER

**VACATION AND REPLAT
BRIDLE BIT RANCH FILING NO. 1A**

A request by Nicole Telle for approval of a vacation and replat of one (1) single-family residential lot into two (2) single-family residential lots. The 10.12-acre property is zoned RR-5 (Residential Rural) and is located on the west side of Bridle Bit Road, approximately one mile east of the Shoup Road and Highway 83 intersection and within Section 10, Township 12 South, Range 66 West of the 6th P.M. (Parcel No. 62100-01-011) (Commissioner District No. 1)

Ms. Fuller – Is the second well permit approved?

Ms. Seago – I defer to the applicant as we don't typically deal with wells. They are required to get the well permit, but we do not monitor what they have or do.

Mr. Whitehead – The well permit cannot be applied for until the property is divided because we are only allowed one well permit per property. We are prepared to do that, and at the same time the findings did tell us we need to reapply for a well permit on the existing well because of the adjudication from the court.

PC ACTION: FULLER MOVED/LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2B, SF-21-013, FOR A VACATION AND REPLAT FOR BRIDLE BIT RANCH FILING NO. 1A, UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-056, WITH NINE (9) CONDITIONS AND FOUR (4) NOTATIONS, WITH A FINDING OF

WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

C. SF-20-025

HOWSER

**FINAL PLAT
SPACE VILLAGE APARTMENTS FILING NO. 1**

A request by Bridle Dale, LLC, for approval of a final plat to create one (1) 0.63-acre commercial lot. The property is zoned CC (Commercial Community) and is located on the south side of Space Village Avenue, approximately 785 feet east of the intersection of Space Village Avenue and Peterson Boulevard and is within Section 17, Township 14 South, Range 65 West of the 6th P.M. (Parcel No. 54170-00-019) (Commissioner District No. 4)

PC ACTION: FULLER MOVED/ LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2C, SF-20-025, FOR A FINAL PLAT FOR SPACE VILLAGE APARTMENTS FILING NO. 1, UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-057, WITH TWELVE (12) CONDITIONS AND TWO (2) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

D. SF-20-015

PARSONS

**FINAL PLAT
STERLING RANCH FILING NO. 2**

A request by SR Land, LLC, Morley Bentley, LLC, Trader Vics, LP, 8335 Vollmer Road, LLC, and Challenger Communities, LLC for approval of a final plat to create 49 single-family residential lots and eleven (11) tracts. The 49.54-acre property is zoned RS-5000 (Residential Suburban) and is located west of Dines Ranch Road, at the northeast corner of the Vollmer Road and Tahiti Drive intersection and is within Sections 32 and 33, Township 12 South, and Section 4, Township 13 South, Range 65 West of the 6th P.M. (Parcel Nos. 52000-00-231, 52000-00-364, 52330-00-013, 52324-00-004, 53000-00-173, and 53000-00-222) (Commissioner District No. 2)

PC ACTION: BAILEY MOVED/BRITAIN JACK SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2D, SF-20-015, FOR A FINAL PLAT FOR STERLING RANCH FILING NO. 2, UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-055, WITH EIGHTEEN (18) CONDITIONS AND ONE (1) NOTATION, WITH A FINDING OF WATER

SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

E. MS-21-003

GREEN

**MINOR SUBDIVISION
RAPSON SUBDIVISION**

A request by Andrea and William Rapson for approval of a minor subdivision to create two (2) single-family residential lots. The 19.6-acre property is zoned RR-5 (Residential Rural) and is located southeast of the intersection of Hardy Road and Black Squirrel Road, approximately one mile north of Hodgen Road and is within Section 14, Township 11, Range 65 West of the 6th P.M. (Parcel No. 51140-00-007) (Commissioner District No. 1)

PC ACTION: TROWBRIDGE MOVED/MORAES SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2E, MS-21-003, FOR A MINOR SUBDIVISION FOR RAPSON SUBDIVISION, UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-053, WITH NINE (9) CONDITIONS AND TWO (2) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

F. VA-21-003

GREEN

**VARIANCE OF USE
3475 MULBERRY VARIANCE OF USE**

A request by Mulberry Ridge, LLC, for approval of a variance of use for an observatory and related facilities. The 35.48 acre property is zoned A-35 (Agricultural) and is located one mile west of North Yoder Road, and immediately northeast of the intersection of Mulberry Road and Big Springs Road, and is within Section 26, Township 13, Range 61 West of the 6th P.M. (Parcel No. 13000-00-469) (Commissioner District No. 4)

Mr. Bailey – Could you clarify why there is a deadline on this and not an indefinite approval?

Mr. Green – In the 2011 approval of the variance of use that condition was placed then, it wouldn't be a standard practice today, so that is why there are

renewals for the 2000 variance and the 2011 variance. Our standard practice now would not have those time clauses unless it is a very unique situation.

Mr. Bailey – What we're asked to approve today would be an indefinite approval for this variance of use?

Mr. Green – Correct.

Ms. Fuller – I appreciate the change has been made in the county to make these indefinite approvals. It is good public policy.

PC ACTION: CARLSON MOVED/TROWBRIDGE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2F, VA-21-003, FOR A VARIANCE OF USE FOR 3475 MULBERRY VARIANCE OF USE, UTILIZING RESOLUTION PAGE NO. 51, CITING, 21-058, WITH SEVEN (7) CONDITIONS AND THREE (3) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

Regular Items

3. SP-20-011

PARSONS

PRELIMINARY PLAN CROSSROADS AT MEADOWBROOK MIXED USE

A request by Colorado Springs Equities, LLC, for approval of a preliminary plan to create one (1) multi-dwelling lot, and ten (10) commercial lots. The 29.04-acre parcel is zoned RM-30 (Residential Multi-Dwelling) and CR (Commercial Regional) and is located at the northwest corner of the Meadowbrook Parkway and Highway 24 intersection and is within Section 8, Township, 14 South, Range 65 West of the 6th P.M. (Parcel No. 54080-07-005) (Commissioner District No. 2).

Ms. Parsons gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for a Preliminary Plan, **Ms. Parsons** then introduced the applicant, **Danny Mientka** to present the overall concept for the area, to be followed by the applicant's representative **Jim Houlk**, with **Kimley-Horn** for the site specific presentation. **Mr. Mientka and Mr. Houlk's** presentations are part of the permanent file.

Ms. Merriam – I know the traffic can be dangerous, especially during the winter. You're adding the additional families, and you're putting a place where children will want to go across the highway, but I don't see any consideration for a pedestrian bridge on either direction. What is the consideration on that?

Mr. Mientka – We had a very exhaustive traffic analysis for all these developments, and it looked at each one of these and how they interfaced with one another. We agreed with that study and our discussions with the city, the county and cdot on a

number of improvements that will be made incrementally as these developments come online. There is actually a lot of public improvements that come about these developments as they start to develop. Traffic signals, sidewalks, ADA accessibility, extended turn lanes, off ramps, it is quite extensive.

Ms. Merriam – An area that is similar is the MLK bypass on Chelton, and they had to create a pedestrian bridge for the boys and girls club across the street. That isn't nearly as large as this development. The other question was that it will be quite a mall complex, and in the report, it had sit down restaurants at 8000 square feet and the fast food was at 11 square feet. I'm assuming that is a total, not that the fast food is bigger than the sit down, am I correct?

Mr. Mientka – That may very well be a typo.

Mr. Moraes – You've talked about the housing shortage that is in the area, have you thought about using some of that retail space and going vertical by putting apartments or lofts on top of the development. Has that been thought here?

Mr. Mientka – We are restricted within the Crossroads North of course due to the accident protection zone with the airport. We can't do any residential within that Crossroads North. We're looking at extraordinary densities within Reagan, I see this as infill and we're going to get more mileage off the road and utility network that exists, and then we're upgrading the utilities. This land is finally in front of you because it took all of the time to aggregate the scale large enough to meet that lift on the utilities. Density is the name of the game.

Mr. Moraes – I would think that you would maximize density when you start going into the third dimension. I think that is something for people to think about as we continue to develop the county. I would encourage if it is feasible to underground all that detention because I have been in communities where the detention areas are used as open space and park space and eventually it becomes somebody's problem to clean it up as water from wherever starts to fill that area and it becomes a swampy mess.

Mr. Mientka then introduced Jim Houlk with Kimley-Horn to provide the site specific presentation.

Mr. Carlson – It looked like the airport is requiring the multifamily folks to sign an acknowledgement that they are in a noisy airport zone, did they require of that of development no. 4? **Mr. Houlk** – Yes they did.

Ms. Parsons gave a brief presentation to the Planning Commission. Her report is on the permanent file.

Ms. Merriam – If appropriate for the area, at what stage would a pedestrian bridge be developed?

Ms. Irvine – Typically when you look at a pedestrian bridge, you're looking at more of a generation thing, pedestrian generation. We would look at the kind of pedestrian traffic. What I would say about this area is that it is likely to continue development. There is a long range planning document for US HWY 24 that the county developed with CDOT and the City of Colorado Springs, at this time it has not identified a pedestrian bridge in this area. There are other locations where that pedestrian access is more appropriate.

Ms. Merriam – You're doing something completely different. The historic reference doesn't seem to be relevant to this particular case, because I want the success of the development and I can see this as one of the shortfalls.

Ms. Irvine – Those pedestrian bridges are typically done with CDOT because it is a state highway, so it isn't something that is done with this type of development that you see in front of you. **Ms. Merriam** – Is it a public partnership that can be utilized with some of the big box stores? **Ms. Irvine** – It could be down the road. I think what we will see here is those connectivity's at the larger intersections down the road.

Mr. Moraes – How old is that US 24 plan?

Ms. Irvine – I want to say it was adopted in 2019. **Mr. Moraes** – So before multifamily housing was even a thought in this area. **Ms. Irvine** – No, we knew this type of redevelopment was coming in this area. Those are the type of things from a long range planning standpoint, we look at the highest and best use, so those kinds of developments were already planned for this area. **Mr. Moraes** – I see this plan as developing multifamily and not having access to the sports complex across the highway, without using a car.

Ms. Ruiz – I just want to remind the planning commission that the rezoning has already gone through and is in place today. With that rezoning they did prepare a traffic study. **Mr. Moraes** – Did the traffic study include pedestrians? **Ms. Ruiz** – I haven't viewed the traffic study myself, but what is for discussion today is the specific layout and not the land uses. So, if the traffic study doesn't call for improvements and our county engineer has identified at this time there are also no improvements for a pedestrian bridge, it would be inappropriate for us to have that discussion.

Mr. Moraes – The rezoning was the use of the area. When we get to the preliminary plan, that's solving all the other issues that come with it. **Ms. Ruiz** – Those improvements that have been identified in the reports prepared by the appropriate professional that says roadway improvements might be necessary and so on, that is correct. **Mr. Moraes** – For vehicular traffic.

Ms. Parsons – I mentioned that Meadowbrook Parkway would be extended when the development to the west occurs, Meadowbrook Parkway will then be further developed to the interchange with sidewalks. People will have the ability to walk that area by utilizing the pedestrian bridge or at grade pedestrian crossing, and when

Reagan Ranch develops in the city there are requirements to have those sidewalks meeting the ADA standards throughout the development. You're talking about a multiyear project to achieve the goal, but you will have that pedestrian connectivity to the sports complex when all the developments are on the ground.

Ms. Fuller – I think we are a little bit off topic as far as the pedestrian bridge. This part of the county is car dependent. My suggestion would be to accept the traffic study as it is and move on.

Mr. Carlson – I agree.

Note for the record: The Chair called a short recess at 10:20. The hearing reconvened at 10:30. Quorum is still place.

IN FAVOR: NONE

IN OPPOSITION:

Ms. Dillard – The parking issue is a concerning. I would like to know how the noise and parking issues will be resolved on Boreal Drive.

Ms. Parsons – The Boreal Street is in the residential development across from this proposed preliminary plan, and yes I can assure the Planning Commission that the LDC does require the development to house its parking on its own lot, so there isn't going to be any street parking

DISCUSSION: NONE

PC ACTION: BAILEY MOVED/CARLSON SECONDED FOR RECOMMENDED APPROVAL OF REGULAR ITEM NUMBER 3, SP-20-011, FOR A PRELIMINARY PLAN FOR CROSSROADS AT MEADOWBROOK MIXED USE, UTILIZING RESOLUTION PAGE NO. 25, CITING, 21-054, WITH SIX (6) CONDITIONS, THREE (3) NOTATIONS AND ONE (1) WAIVER, WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

4. AMP-21-001

CHAVEZ/IRVINE

**CO 83 ACCESS CONTROL PLAN
INFORMATIONAL PURPOSES ONLY – NO ACTION NEEDED**

The Colorado Department of Transportation (CDOT), City of Colorado Springs (COS), and El Paso County collaborated to develop an Access Control Plan (ACP) for CO 83 between Powers Boulevard (CO21) and County Line Road (Palmer Divide Road) or 9.85 miles. An ACP is a long-range plan for ultimate access conditions that address

existing spacing deficiencies, improves mobility and enhances safety. The CDOT presentation is part of the permanent record.

Mr. Carlson – You mentioned that there were 75 private entrances notified. How were those people notified?

Mr. Sprague – We mailed a postcard to all the properties and advertise in four of the local newspapers in the area, and reached out to the homeowners associations in the area and provide them with the information to share with their residents.

Mr. Carlson – There are a lot of properties that will lose access to the highway. Were those people notified they were going to lose access? **Mr. Sprague** – They were invited to the meetings. **Mr. Carlson** - What would trigger closing off those access points to the individual properties and who would determine that? **Mr. Sprague** –First of all we had over a hundred individuals that visited the website and only 44 that left comments, meaning a lot of individuals did visit the meeting. In terms of closing access nothing happens to their property. 95% of these driveways will never change they will remain full movement access to the highway. If they are redeveloped at the time of the design, it would be addressed. Properties can never have their driveways closed.

PC ACTION: NO ACTION NEEDED; ITEM IS FOR INFORMATIONAL PURPOSES ONLY.

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.)

VARIANCE OF USE (Approved)

Commissioner Carlson moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. VA-21-003
3475 MULBERRY VARIANCE OF USE RENEWAL**

WHEREAS, Mulberry Ridge, LLC did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the A-35 (Agricultural) zone district to allow use for an observatory and related facilities where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on October 7, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the Planning Commission Members during the hearing, this Commission finds as follows:

1. That the application was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. That all exhibits were received into evidence.
5. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That the proposed variance of use conforms to Chapter 5, Use and Dimensional Standards, Section 5.3.4, Variance of Use, of the El Paso County Zoning Resolutions.

7. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County, and

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Planning Commission considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or Federal regulations during construction and upon completion of the project;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED that the application of Mulberry Ridge, LLC, for a variance of use within the A-35 (Agricultural) zoning district allow use for an observatory and related facilities for the following described unincorporated area of El Paso County be approved:

AND BE IT FURTHER RESOLVED that the Planning Commission recommends the following condition(s) and notation(s) shall be placed upon this recommendation:

CONDITIONS

1. Approval is limited to the observatory and accessory structures as proposed and discussed in the applicant's letter of intent. Any subsequent addition or modification to

the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.

2. A site development plan shall be applied for and approved within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the Planning and Community Development Department Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

NOTATIONS

1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

AND BE IT FURTHER RESOLVED that this Resolution and recommendations be forwarded to the El Paso County Board of County Commissioners for its consideration.

Commissioner Trowbridge seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

| | |
|----------------------------|-----|
| Commissioner Risley | aye |
| Commissioner Lucia-Treese | aye |
| Commissioner Bailey | aye |
| Commissioner Brittain Jack | aye |
| Commissioner Carlson | aye |
| Commissioner Trowbridge | aye |
| Commissioner Moraes | aye |
| Commissioner Fuller | aye |
| Commissioner Merriam | aye |

The Resolution was adopted by a vote of 9 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: October 7, 2021

Brian Risley, Chair

EXHIBIT A

Property Description (PER Rec. No. 99112613)

A tract of land in the West ½ of section 26, township 13 South, Range 61 West of the 6th P.M. in El Paso County, Colorado, mor particularly described as follows:

Beginning at the Southwest corner of section 26 at the intersection of Big Springs Road and Mulberry Road; thence North 0°07'44" East along Mulberry Road, 1,751.96 feet;
Thence leaving said road, North 88°30'20' East, 882.18 feet;
Thence South 0°06'27", 1,1751.96 feet to a point on Big Springs road;
Thence South 88°30'21" West, along said road, 882.84 feet to the point of the beginning.

RESOLUTION NO. 21-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVE VARIANCE OF 3475 MULBERRY VARIANCE OF USE RENEWAL
VA-21-003

WHEREAS, Mulberry Ridge, LLC did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the A-35 (Agricultural) zoning district to allow use for an observatory and related facilities where such is not permitted for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by this reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on October 7, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use; and

WHEREAS, a public hearing was held by this Board on October 26, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, recommendations of the El Paso County Planning Commission, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the County Commissioners during the hearing, this Board finds as follows:

1. That the application for the variance of use was properly submitted for consideration by the Board of County Commissioners.
2. That proper posting, publication and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted, and that all interested persons and the general public were heard at those hearings.
4. That all exhibits were received into evidence.
5. That the proposed land use does permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.

6. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Board of County Commissioners considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or Federal regulations during construction and upon completion of the project;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State, and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed Variance of Use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the application by Mulberry Ridge, LLC for a variance of use to allow an observatory and related facilities where such is not a permitted use for the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by this reference;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Approval is limited to the observatory and accessory structures as proposed and discussed in the applicant's letter of intent. Any subsequent addition or modification to the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
2. A site development plan shall be applied for and approved within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the Planning and Community Development Department Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval

NOTATIONS

1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 26th day of October 2021, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
County Clerk & Recorder

By: _____
Chair

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