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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
Mark Waller, Chair

FROM: Ryan Howser, Planner I
Steve Kuehster, PE Engineer III
Craig Dossey, Executive Director

RE: Project File #: VA-20-003
Project Name: 11955 Falcon Hwy Event Center
Parcel No.: 43180-00-028

| OWNER: | REPRESENTATIVE: |
|---|---|
| David & Cynthia Smallidge 11955 Falcon Highway Peyton, CO 80831 | David & Cynthia Smallidge 11955 Falcon Highway Peyton, CO 80831 |

Commissioner District: 2

| | |
|--|------------|
| Planning Commission Hearing Date: | 12/3/2020 |
| Board of County Commissioners Hearing Date | 12/22/2020 |

EXECUTIVE SUMMARY

A request by David & Cynthia Smallidge for approval of a variance of use to allow a business event center. The 41.92-acre property is zoned RR-5 (Residential Rural) and is located at the southeast corner of the Meridian Road and Falcon Highway intersection and is within Section 18, Township 13 South, Range 64 West of the 6th P.M. The property is included within the Falcon/Peyton Small Area Master Plan (2008).

The property is currently used for single-family residential purposes. The applicant is requesting approval to use approximately 9,000 square feet of the 41.92-acre parcel for a business event center. The site plan and letter of intent submitted in association with



the variance of use depicts and describes the activities and intensity of the use. Initiation of the use would require construction of a 2,400 square foot, single-story structure to host the use and result in site disturbance associated with parking and landscaping. The applicant proposes to use the property for private events consisting of up to 75 people, operating up to three (3) days per week during summer weekends not to extend past 10:00 PM.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by David & Cynthia Smallidge for the approval of a variance of use to allow a business event center in the RR-5 (Residential Rural) zoning district.

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.

B. PLANNING COMMISSION SUMMARY

Request Heard: Agendized as a Consent item, pulled to be heard as Regular at the December 3, 2020 hearing.

Recommendation: Approval based on recommended conditions and notations with a revision to Condition #5 to state events shall be limited to Fridays, Saturdays, and Sundays and federal holidays and that all events shall conclude by 10 p.m.

Waiver Recommendation: N/A

Vote: 8 to 0

Vote Rationale: N/A

Summary of Hearing: The applicants were represented at the hearing. Draft PC minutes are attached.

Legal Notice: N/A

C. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code, the 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.

D. LOCATION

| | | | |
|--------|--------------------------------|--|--|
| North: | PUD (Planned Unit Development) | Residential/ RR-5 (Residential Rural) | Falcon Elementary School of Technology |
| South: | RR-5 (Residential Rural) | Residential | |
| East: | RR-5 (Residential Rural) | Residential | |
| West: | RR-5 (Residential Rural) | Residential | |

E. BACKGROUND

The 41.92-acre property was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this area of unincorporated El Paso County (BoCC Resolution No. 434870). Due to changes in the nomenclature of the Code, the A-4 zoning district was renamed as the RR-5 (Residential Rural) zoning district. The 41.92-acre property is considered a legal division of land; the property is unplatted and was created by warranty deed on December 6, 1994. Parcels over 35 acres in size are not included within the El Paso County subdivision definition and are, therefore, not subject to the County subdivision standards. The existing single-family detached residence was constructed in 1995 and is expected to remain on the property.

On November 12, 2019, a new well permit was obtained for this property to support both the existing single-family residence and the proposed business event center (Permit No. 315720). Wastewater service will be provided by a new onsite wastewater treatment system (OWTS) adequately sized to support the events. The El Paso County Public Health Department will need to review and permit the new OWTS. The OWTS will need to be installed prior to the certificate of occupancy.

Significant portions of the property are located within floodplains designated A and AE; however, all proposed development will be located outside the floodplain.

The applicant is requesting approval to use approximately 9,000 square feet of the 41.92-acre parcel for a business event center for private events consisting of up to 75 people and may operate up to three (3) days per week, limited to weekends primarily during the summer months. The use would include construction of a 2,400 square foot building to host the events.

If the variance of use request is approved, the applicant will be required to submit and receive approval of a site development plan prior to initiating any land disturbing activities on the property. The site development plan will need to be substantially consistent with the concept plan provided with the variance of use application and provide a more detailed depiction of the proposed use, including landscaping, parking, and lighting.

F. ANALYSIS

1. Land Development Code Analysis

The El Paso County Land Development Code (2019) does not allow business event centers in the RR-5 (Residential Rural) zoning district. The requested use is not consistent with the RR-5 zoning district without approval of a variance of use.

The Land Development Code (2019) defines “Business Event Center” as:

“A for-profit business whose purpose is to provide a place for people to assemble for events in the nature of, but not limited to, recreational, social, cultural, political, or educational purposes.”

A business event center is allowed by special use in the A-35 (Agricultural), A-5 (Agricultural), F-5 (Forestry and Recreation), C-1 (Commercial), and C-2 (Commercial) zoning districts, and as a permitted use in the CC (Commercial Community), CR (Commercial Regional), CS (Commercial Service), and M (Industrial) zoning districts. The property is not expected to be utilized for agricultural purposes and there are no forests located in the proximity of the property; therefore, rezoning to an agricultural or forestry designation is not considered appropriate at this time. Additionally, these zoning districts do not allow for a business event center as a use by right, but instead require special use approval. Due to the lack of availability of central services necessary for

most commercial and industrial uses, rezoning to a higher intensity commercial or industrial zoning district is not considered appropriate at this time.

The property is surrounded primarily by rural residential uses with an elementary school immediately to the north and is located approximately one (1) mile east of the Falcon town center. Due to the proximity to rural residential and commercial uses, this property may be deemed suitable for a mix of rural residential and low intensity commercial uses which are consistent in character with the other uses and structures in the area. In addition, staff recommends that the proposed use will help emphasize the natural environment in the area and act as a buffer between the higher intensity commercial uses along US Highway 24 and the rural residential uses to the south and east.

Potential impacts related to the proposed use could include visual, noise, traffic, and drainage. The applicant is proposing to construct a 2,400 square foot building to host the business event center use. The new structure will be designed to resemble a barn in order to help maintain aesthetic compatibility with the surrounding rural residential properties. The applicant will be required to provide landscaping to screen the use from adjacent properties. Preliminary landscaping has been provided with this proposal; however, screening conditions will be considered with review of the associated site development plan, which is required to initiate the use.

The use is proposed to occur both indoors and outdoors; however, any aspects of the use that may generate noise, such as music, dancing, and announcing, will strictly occur within the proposed building. Additionally, the site plan submitted shows a proposed building setback of approximately 131 feet from the east property line and approximately 161 feet from the north property line, with south and west building setbacks of nearly 1,000 feet. The nearest residential structure is located approximately 350 feet from the proposed new structure. The applicant's letter of intent states that the events are proposed to be limited to weekends and will not extend past 10:00 PM. Noise related impacts are anticipated to be mitigated due to the additional setback as well as programming of the events.

The applicant proposes to use the property for private events consisting of up to 75 people and may operate up to three (3) days per week during summer weekends. Since operations will not be year-round, and are not proposed to occur every day, traffic impacts for this use will be limited.

Construction of the proposed business event center and associated driveway are anticipated to have a minimal impact on existing drainage facilities. Any potential impacts to drainage facilities will be considered with review of the associated site development plan.

Should the variance of use be approved, approval of a site development plan will be required in order to initiate the use. 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, and parking and lighting standards.

2. Zoning Compliance

The RR-5 (Residential Rural) zoning district density and dimensional standards are as follows:

- Minimum lot size: 5 acres
- Minimum width (at front setback line): 200 feet
- Minimum front, side, and rear yard setback: 25 feet
- Maximum lot coverage: 25 percent
- Maximum height: 30 feet

The existing residential structure meets the 25-foot setback from all property lines and is under 30 feet in height. The applicant has provided a site plan indicating the location of the proposed business event center and the associated 2,400 square foot accessory structure. The proposed site plan complies with the RR-5 zoning district density and dimensional standards. The proposed accessory structure is proposed to be 25 feet in height. The applicant is not proposing any setback encroachments or dimensional variances.

Should the variance of use request be approved, approval of a site development plan will be required prior to initiating the use. The site development plan review will include confirmation that all site improvements (existing and proposed) will comply with the dimensional standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Code. If approved, contingent on subsequent approval of the site development plan and issuance of building permit for the accessory structure, the building footprint total (for the purposes of calculating overall lot coverage) for all of the structures on the property would be approximately 0.2% of the total lot area.

3. Policy Plan Analysis

Consistency with the El Paso County Policy Plan (1998) is not a required review criterion for a variance of use request. For background, the El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County master plan.

Relevant policies are as follows:

Policy 2.1.11 – Encourage approaches to natural system preservation and protection which also accommodate reasonable development opportunities.

Policy 2.3.1 – Preserve significant natural landscapes and features.

Policy 2.3.5 – Encourage the use of innovative siting and design techniques to identify, enhance, and, where appropriate, incorporate and protect significant natural features and waterways.

Policy 5.1.1 – Encourage economic development that enhances a sense of community, provides vigor to the economy and considers the environment while contributing to the overall health of the County.

Policy 6.1.1 – Allow for a balance of mutually supporting interdependent land uses, including employment, housing and services in the more urban and urbanizing areas of the County.

Policy 6.1.16 – Allow for new and innovative concepts in land use design and planning if it can be demonstrated that off-site impacts will not be increased and the health, safety and welfare of property owners and residents will be protected.

Policy 11.4.1 – Strongly discourage land use development from locating in designated floodplains.

The subject property is zoned RR-5 (Residential Rural) and is surrounded by properties zoned RR-5 to the south, east, and west and a residential subdivision zoned PUD to the north. Parcels adjacent to the subject property range in size. To the north are two residential lots of approximately 12,000 square feet in size, a 14.48-acre open space tract, and a 39.37-acre school site. To the east is a 49-

acre residential property. To the south is an 18.96-acre residential property. To the west is a 7.55-acre residential property and a 4.34-acre residential property.

The proposed use complements the rural character of the area and preserves the unique geographic features located on the site. The proposal will avoid development within the floodplain in order to preserve the sensitive natural features located on the property. The business event center use is proposed to utilize approximately 0.4% percent of the overall site, leaving approximately 32 acres preserved and undeveloped.

This area of the County is urbanizing. This property is located in close proximity to the City of Colorado Springs incorporated boundary and is within one mile of the Falcon town center and US Highway 24. Properties to the north are developing or have recently redeveloped in a suburban residential manner, while properties to the south and east of the subject property retain their rural residential character. As a result, the proposed use provides a balance, which mutually supports the burgeoning commercial and suburban interests as well as the existing rural uses.

The applicant is proposing to reside in the existing residence while operating the business event center. Allowing the business event center to proceed with the single-family residence on the same property would be an innovative strategy to support the transitional nature of the area without exposing the area to the inevitable compatibility issues and negative impacts that could have otherwise occurred had a rezoning been sought by the applicant instead of the proposed variance of use. The variance of use application is not proposed to have significant off-site impacts. Floodplain and drainageways are proposed to be avoided and traffic generated by the use is not proposed to significantly impact transportation facilities. As described in the Land Development Code section of this report above, the applicant has proposed methods and techniques for mitigating off-site impacts. County review and administrative approval of a site development plan will be required to help ensure that adequate buffers, setbacks, and screening are implemented to further mitigate any potential impacts to the surrounding area.

4. Small Area Plan Analysis

The property is within the Falcon/Peyton Small Area Master Plan (2008). Consistency with the Plan is not a required review criterion for a variance of use request. For background, relevant policies are as follows:

Policy 3.1.1 – Provide a balance of land uses that respects existing and historical patterns while providing opportunities for future residents and businesses.

Policy 3.1.3 – Preserve the core rural character of the area.

Policy 3.8.1 – Preserve important natural features that are critical to the function of natural systems such as watersheds and wildlife corridors.

The property is located within one mile of the Falcon town center, which is designated as a “Potential Node and Corridor of Activity” within the Plan. While not located within the node, the proximity to the node encourages the use of the property as a transition between the higher intensity activity corridor and nearby rural residential uses. This approach respects the current rural nature of the area while also providing opportunities for future growth and development in the area.

The proposed use complements the rural nature of the site. The applicant is proposing to construct the building to resemble a barn in order to maintain an aesthetic compatible with the surrounding rural residential properties. Development will preserve and emphasize the unique geographic features on the site by avoiding development within the floodplain; this will preserve the sensitive natural waterway located on the property and mitigate impacts to natural features.

5. 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. 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.

Goal 4.3 – *Collaborate with the State and other stakeholders to extend the economic life of the Denver Basin aquifers.*

Policy 4.3.6 – *Encourage well monitoring throughout the County, with an emphasis on the Denver Basin aquifer fringe areas.*

The property is located within Planning Region 4c of the Plan and is not located within an estimated area of development. Region 4c includes a portion of the Upper Black Squirrel Creek Basin. The Region is identified as potentially having issues regarding long term sustainable draw from the Denver Basin aquifer. The Plan identifies the current demands for Region 4c to be 2,970 AFY (Figure 5.1) with the projected need in 2040 at 3,967 AFY (Figure 5.2) and at build-out in 2060 at 4,826 AFY (Figure 5.3). Region 4c currently has 2,970 AFY in supplies, which means by 2060 there is anticipated to be a deficiency of 1,799 AFY (Table 5-2).

The applicant has obtained a new well permit in order to ensure that an adequate supply of water is available for the proposed use and that the proposed use will be limited on the amount of water that can be withdrawn from the aquifer.

The well permit limits production from the Denver Aquifer to 1 acre-foot per year and includes provisions requiring well monitoring and installation of a totalizing flow meter to limit withdrawal from the nonrenewable source. The use of groundwater is managed by the Upper Black Squirrel Creek Ground Water Management District, which may establish additional restrictions on the use of the groundwater. The District was sent a referral and did not have any comments but supported the requirements of the applicant's well permit.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcel as having a low to moderate wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies coal 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, no severed mineral rights exist.

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

Please see the Transportation Section below for information regarding conformance with the 2016 Major Transportation Corridor Plan (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The property contains areas located within the floodplain. The applicant is proposing to leave the floodplain area undisturbed. Please see the Floodplain section below for additional detail.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcel as having a low to moderate wildlife impact potential. El Paso County Conservation District and the El Paso County Community Services Department, Environmental Division, were each sent referrals and have no outstanding comments.

3. Floodplain

As indicated on FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0561G, the property has a flood zone, but the proposed business event center and existing development are proposed to be located entirely outside of the flood hazard zone.

4. Drainage and Erosion

Construction of the proposed business event center and associated driveway will cause less than one acre of disturbance and, therefore, will not require the submittal of a drainage report and are anticipated to have a minimal effect on existing drainage facilities.

5. Transportation

The proposed business event center will generate less traffic than the 100 daily trips required for submittal of a traffic study. The applicant has indicated that the use will not generate more than 70 daily trips. Prior to issuance of a certificate of occupancy, the applicant will be required to make improvements to the driveway entrance to Falcon Highway in order to meet current driveway standards. The 2016 Major Transportation Corridor Plan (MTCP) identifies that Falcon Highway is anticipated to be a 2 lane Minor Arterial in the 2040 projections requiring an additional 20' of ROW; and an additional 40 foot of preservation is shown for the 2060 plan to accommodate a 4 lane arterial. ROW dedication would only be required with a subdivision request. A condition of approval will be placed on the variance of use to have all structures set back 60' from the property line adjacent to Falcon Highway.

The site is subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

H. SERVICES

1. Water

Water is provided by an existing permitted well (Permit No. 315720). The well is approved for a commercial business in addition to the existing single-family residence.

2. Sanitation

Wastewater service will be provided by a new onsite wastewater treatment system (OWTS). Permitting of the new OWTS shall be coordinated with El Paso County Public Health and will need to be installed prior to the County authorizing issuance of the certificate of occupancy.

3. Emergency Services

The property is within the Falcon Fire Protection District. The District was sent a referral and has no outstanding comments.

4. Utilities

Electrical service is provided by Mountain View Electric Association (MVEA) and natural gas services is provided by Colorado Springs Utilities (CSU). MVEA and CSU were both sent referrals and have no outstanding comments.

5. Metropolitan Districts

The property is 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) does not identify any park lands or trails on the property.

7. Schools

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

I. APPLICABLE RESOLUTIONS

See attached Resolution.

J. STATUS OF MAJOR ISSUES

There are no major issues.

K. 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 use of a business event center, as discussed and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or modification to the operation or facility beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to review and approval of a new variance of use request.
2. Prior to building permit authorization or initiation of the use, the applicant shall apply for and receive approval of a commercial site development plan.
3. Prior to building permit authorization or initiation of the use, the applicant shall apply for and receive approval of a commercial driveway access permit.
4. Events held at the business event center shall be limited in occupancy to no more than 75 people at any given time. If the total number of daily trips to and from the property exceeds 70, the use shall be subject to review and approval of a new variance of use request.
5. Events shall be limited to Fridays, Saturdays, Sundays, and federal holidays, and all events shall cease prior to 10:00 PM. Outdoor activities shall be limited to seating. All functions of the business event center use that generate excessive noise or odors must occur indoors.
6. Prior to building permit authorization, the applicant shall provide the Planning and Community Development Department a copy of an approved septic permit for the business event center use and the existing residential use.
7. All structures on the property shall be set back a minimum of sixty (60) feet from the north property line adjacent to Falcon Highway.

NOTATIONS

1. The 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 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 use shall be deemed abandoned and of no further force and effect.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified ten (10) adjoining property owners on November 16, 2020, for the Board of County Commissioners meeting. Responses received to date are attached; others may be provided at the hearing.

M. ATTACHMENTS

- Vicinity Map
- Letter of Intent
- Site Plan
- Landscape Plan
- Well Permit
- Adjacent Property Owner Responses
- Planning Commission Draft Minutes
- Planning Commission Resolution
- Board of County Commissioners' Resolution

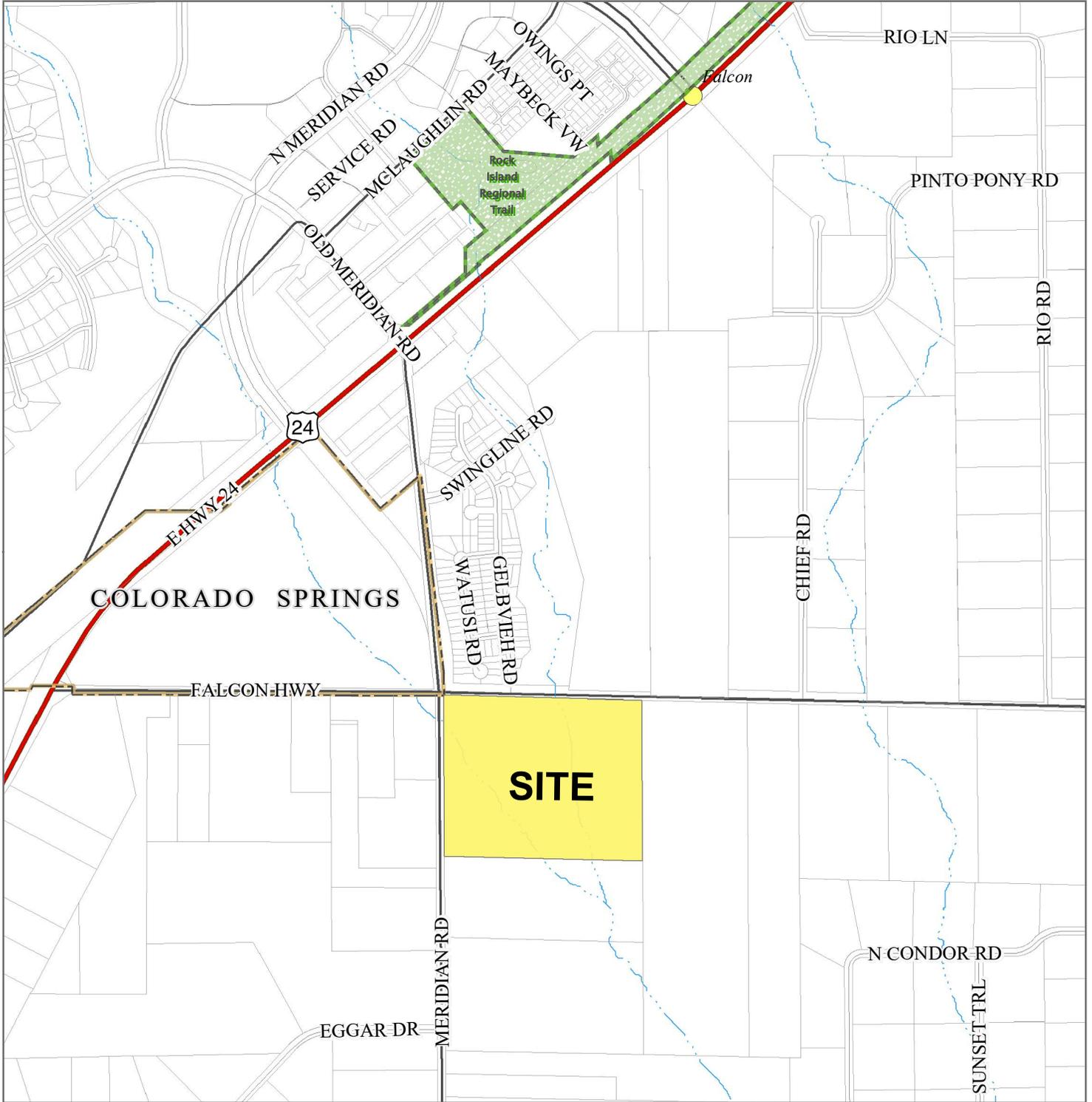
El Paso County Parcel Information

File Name: VA-20-003

| PARCEL | NAME |
|------------|-------------------|
| 4318000028 | SMALLIDGE DAVID S |

Zone Map No. --

Date: November 12, 2020



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



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October 26, 2020

Ryan Howser
El Paso County Planning and Community Development
2880 International Circle
Colorado Springs, CO 80910

RE: Letter of Intent - Variance of Use Application for a Proposed Community Building at
6275 N. Meridian Road, Peyton, CO 80831
Parcel No. 4318000028
David and Cindy Smallidge

Dear Mr. Howser,

Mr. and Mrs. Smallidge own the property at the referenced address. They have hired DKHorn Engineering & Design, Inc. as a consultant for their proposed project, which will be discussed later in this letter. Refer to contact information below.

Site Information:

This site consists of 41.92-acres and is zoned RR-5 (Residential Rural). It is located at the southeast corner of Meridian Road and Falcon Hwy, approximately 1 mile east of Hwy 24. The properties surrounding the site are also in residential rural districts. Falcon Elementary School lies directly across Falcon Hwy to the north of the site. A single-family residence lies east of the site more than 200 feet from the property line. The homes south and west of the site lie on 30-acre parcels. Refer to the Vicinity Map and Aerial Proximity Map attached in Exhibits A and B, respectively. The structures existing on the site include a 2600-sf single-family home, agricultural barn and storage structure, and horse arena as well as gravel/asphalt driveway providing access from Falcon Hwy. These structures lie within the northeast corner of the parcel.

Request:

The request is for Variance of Use to allow a Community Building on site. The Smallidge's would like to construct a 60' x 40' Gambrel Style building north of the home and arena. This Community Building will be metal building construction with height at the peak of approximately 25'-6". The entire 2400-sf building will be used for the purpose of private events 1-3 days per week. The building will encompass two handicap-accessible restrooms, a small bar area and a small stage. The remaining interior space (approximately 1778 square feet) will be open for seating and can be used as a dance floor.

There will be no food preparation performed on site. Food and beverages will be provided by catering services. Caterers and other vendors will park on the paved driveway just north of the house.



Access:

Access will be provided by a driveway from Falcon Hwy in the same location as the existing access. The first 50' (minimum) will be paved as required by El Paso County. This access will be used by guests, vendors, and caterers as well as the Smallidges, who reside on the site.

Justification for Request:

Per El Paso County Use and Dimensional Standards Section 5.3.4(C) the following criteria may be considered for 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 property will be screened by current opaque rustic fencing as well as proposed split rail fencing. In addition, landscape mounds containing bushes, plants and boulders will be located around the corners of the building and parking area. Several trees and shrubs will screen the north and east property lines. The house to the east is also screened by a full size semi-trailer which has been there for over 10 years;
- The proposed use will be able to meet air, water, odor and 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 El Paso County, Colorado Land Development Code Use and Dimensional Standards – Chapter 5-Page 146 Effective 01/09/2018
- 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.

These criteria are addressed as follows:

- The request is to construct a Community Building for a business that will hold small community events. The proposed location is 1 mile east of Hwy 24 where several businesses are currently operating: A Recreational Vehicle dealership (which can be seen from this proposed location), a Campground across from that business, an Automotive Repair facility as well as a Gas Station/Convenience Store. This location is much quieter with a beautiful view of Pikes Peak looking over the pasture and the Wetlands to the west. There is much less traffic along Falcon Hwy so it is safer for vehicles to enter and exit this property than it would be along Hwy 24. Location is a prime reason that people choose a venue. There is simply no commercial real estate located along Hwy 24 intersections that can provide this view of the environment along



with the peaceful atmosphere that surrounds this property. This project will comply with all the standards and intent of the Code with a Variance of Use. Rezoning is not a viable option because of the limited availability of utilities. Since the County cannot support Rezoning to a commercial designation on well and septic, this location has received a new well permit allowing use of the existing well for the proposed building. Additionally, a new, separate, commercial septic system will also be installed to meet the needs of this project. There is a demand for this type of venue and it will generate tax revenue for the County.

- The proposed use is compatible with the surrounding area and harmonious with the character of neighboring rural structures. The venue will be constructed to aesthetically resemble a barn, which will fit in well with the surrounding rural residential parcels. In addition to aesthetics, the proposed venue will not adversely affect the health, safety, or welfare of surrounding property owners.
- There will not be any activities within or around the venue that would result in air or water contamination, odor, or noise. The venue will be used both inside as well as outside primarily during summer weekends and will not extend later than 10:00 pm. Music, dancing, announcing, etc. will be strictly indoors. Outdoor activities will be limited to seating. The anticipated maximum number of guests at any event held on site is between 50 and 75 people. There will be no more than 70 trips (35 vehicles into and out of the site) per event. Refer to the Aerial Proximity Map in Exhibit B. The proposed venue is not located closer than 300' to any of the surrounding residences or facilities. In addition, the venue will be used on weekends and no later than 10:00 pm. Therefore, noise should not be an issue.

Refer to the FEMA Firmette map in Exhibit C. Although there are areas of the site that lie within a flood zone (Zone A), the area in which the proposed venue and parking lot will be located is outside the flood zone in the Upland area on the northeast corner of the parcel.

- The proposed use will comply with all applicable requirements within this Code as well as State and Federal regulations that apply.
- The proposed use will not adversely affect wildlife or wetlands. An existing drainage ditch conveys stormwater across the site from a culvert beneath Falcon Hwy to a small dam on the property adjacent to the south. A small pond exists near the northwest corner of this site, which also discharges to the offsite dam via another small ditch. Both waterways lie within Flood Zone A. Refer to Exhibit C. Neither of these waterways will be affected by the proposed venue. The venue as will lie in the northeast area of the site and the existing driveway will be utilized as described above. No land or vegetation south or west of the driveway will be disturbed. The area north and east of the driveway that will be disturbed currently has no trees or wetlands – just grasses and native ground cover. Therefore, all construction and use of the proposed venue will take place out of wetland areas and will not adversely affect wildlife.



The Owner's will ensure that all trash and debris resulting from any event are collected and disposed of properly. Similarly, during construction the Contractor will practice standard construction erosion & sediment control measures as well as on-site waste management during construction.

- There are no known off-site impacts. As discussed above, due to the rural nature of the area surrounding neighbors will not be impacted.
- The site plan includes adequate parking and traffic circulation as well as appropriate landscaping. A parking lot will be provided to include one handicap accessible space and 23 regular parking spaces. Per the El Paso County Land Use Code Table 6-2, the required number of parking spaces for an "Auditorium or similar place of Public Assembly" is one per 100-square feet of floor area. The open/seating space consists of approximately 1778 square feet, which results in 18 minimum required parking spaces. Therefore, the proposed parking lot will be more than adequate to accommodate the facility's needs. The Owners have hired CS Apex Landscape Design to prepare a landscape plan to comply with El Paso County requirements.
- An onsite wastewater treatment system (OTWS) has been designed (by others) to accommodate the wastewater demand resulting from the venue. Water will be adequately provided from existing on-site source. The area around the new structure will be graded to properly drain stormwater away from the building. As mentioned above, stormwater management practices will be utilized to prevent erosion or sediment issues. First responders will have clear access to the proposed venue as well as other existing structures on site.

Thank You for your time and consideration. Please feel free to contact me with any questions.

A handwritten signature in blue ink that reads "Darlene K. Horn". The signature is fluid and cursive, with a long, sweeping underline.

Darlene K. Horn, P.E.
President

Owner/Applicant

David and Cindy Smallidge
11955 Falcon Hwy
Peyton, Colorado 80831-8161
719-351-3570
Movnon7@hotmail.com



Consultant

Darlene K. Horn, P.E.
DKHorn Engineering & Design, Inc.
1910 Aspen Circle
Pueblo, Colorado 81006
719-696-8274
darlene@dkheng.com

ADJOINING OWNERSHIP WITHIN 500'

| NUMBER | PARCEL # | LAND USE | ZONE | OWNER | MAILING ADDRESS |
|--------|-------------|--------------------------------|---------|-----------------------------|--|
| 1 | 5312400017 | A.G. GRAZING LAND | R/CR SS | MOODY, BRIAN | 8605 EXPLORER DR |
| 2 | 4307304055 | SINGLE FAMILY RESIDENCE | PUD | EPHRON, JOEY | 6540 WATUSI RD. |
| 3 | 43070304056 | SINGLE FAMILY RESIDENCE | PUD | MILE HIGH CAPITAL GROUP LTD | PO BOX 18486 CO SPRINGS, CO 80935 |
| 4 | 43070304057 | SINGLE FAMILY RESIDENCE | PUD | BAUER, CARLA | 2530 WATUSI RD. |
| 5 | 4307304058 | SINGLE FAMILY RESIDENCE | PUD | CASTRO, DAVID | 6528 WATUSI RD. |
| 6 | 4307304059 | SINGLE FAMILY RESIDENCE | PUD | McPEEK, CASEY | 6518 WATUSI RD. |
| 7 | 4307304060 | SINGLE FAMILY RESIDENCE | PUD | MANNING RAYMOND | 6516 WATUSI RD. |
| 8 | 4307304061 | SINGLE FAMILY RESIDENCE | PUD | LAVINE, MICHAEL | 6506 WATUSI RD. |
| 9 | 4307304062 | SINGLE FAMILY RESIDENCE | PUD | WILSTEAD, IAN | 6504 WATUSI RD |
| 10 | 4307306012 | SINGLE FAMILY RESIDENCE | PUD | INHABIT THAT LLC | 5860 BIG CANON DR ENGLEWOOD, CO. 80111 |
| 11 | 4307306013 | SINGLE FAMILY RESIDENCE | PUD | DAVIS, TYLER | 6522 GELBVIEWH RD. |
| 12 | 4307304070 | SINGLE FAMILY RESIDENCE | PUD | HOFFMAN, JEREMY | 11815 SHORTHORN RD. |
| 13 | 4307304069 | SINGLE FAMILY RESIDENCE | PUD | N/A | N/A |
| 14 | 4307304068 | SINGLE FAMILY RESIDENCE | PUD | CABONILAS, ALAN | 11845 SHORTHORN RD. |
| 15 | 4307304067 | SINGLE FAMILY RESIDENCE | PUD | LEFEBVRE, PATRICIA | 11855 SHORTHORN RD. |
| 16 | 4307304066 | SINGLE FAMILY RESIDENCE | PUD | HANCOCK, RANDAL | 6512 GELBVIEWH RD. |
| 17 | 4307304065 | SINGLE FAMILY RESIDENCE | PUD | FRITZA, COLE | 6510 GELBVIEWH RD. |
| 18 | 4307304064 | SINGLE FAMILY RESIDENCE | PUD | INHABIT THAT LLC | 5860 BIG CANON DR |
| 19 | 4307304063 | SINGLE FAMILY RESIDENCE | PUD | INHABIT THAT LLC | 5860 BIG CANON DR. |
| 20 | 430730512 | COUNTY | PUD | EL PASO COUNTY | 200 S CASCADE AVE STE 150 |
| 21 | N/A | POLITICAL SUBDIVISION | RR-5 | FALCON SCHOOL D49 | 10850 E WOODMEN RD. |
| 22 | N/A | RELIGIOUS WORSHIP | RR-5 | DIocese OF COLORADO SPRINGS | 228 N CASCADE AVE |
| 23 | 5313000002 | SINGLE FAMILY RESIDENCE | RR-5 | RICHARDSON DORVILLE | 11735 FALCON HWY |
| 24 | 5313000046 | SINGLE FAMILY RESIDENCE | RR-5 | LAZOR, STEVENS | 13975 E US HWY 24 |
| 25 | 5313000119 | SINGLE FAMILY RESIDENCE | RR-5 | REVOK LIVING | 4544 CLARK FORK PL |
| 26 | 5313000089 | SINGLE FAMILY RESIDENCE | RR-5 | FINLEY, WENDY | 3 CERRO CIR, LAMY NM, 87540 |
| 27 | 5313001012 | SINGLE FAMILY RESIDENCE | RR-5 | HATHAWAY, THOMAS | 6150 N MERIDIAN RD. |
| 28 | 4318004001 | SINGLE FAMILY RESIDENCE | RR-5 | SEIBEL, JEREMIAH | 6155 N MERIDIAN RD |
| 29 | N/A | RES LAND NOT INTEGRAL TO AG OP | RR-5 | SHIRLEY JOHNSON | 11545 FALCON HWY |

ADJOINING SITE INFORMATION

PROJECT NUMBER: 2024-0004
 DRAWN BY:
 CHECKED BY:
 DATE:
 ISSUE RECORD:

COMMUNITY BUILDING (NON-PROFIT EVENT VENUE)
 6725 N MERIDIAN RD, PEYTON, CO 80831
 Owners: David and Cindy Snalldge

STATUS: **CONCEPTUAL**
 NOT FOR CONSTRUCTION

1910 ASPEN CIRCLE
 PUEBLO, CO 81006
 TEL 719.886.8274
 DARLENE@DKHARRIS.COM





1910 ASPEN CIRCLE
PUERCO, CO 81006
TEL 719.698.8274
DARLENE@DKHORN.COM

OWNERS: David and Cindy Smalldge
6275 N MERIDIAN RD, PEYTON, CO 80831

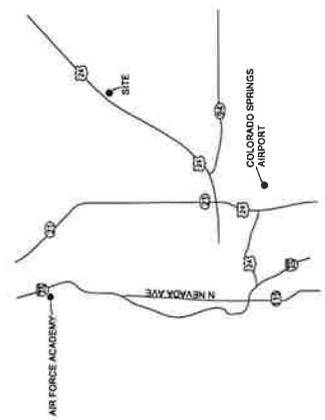
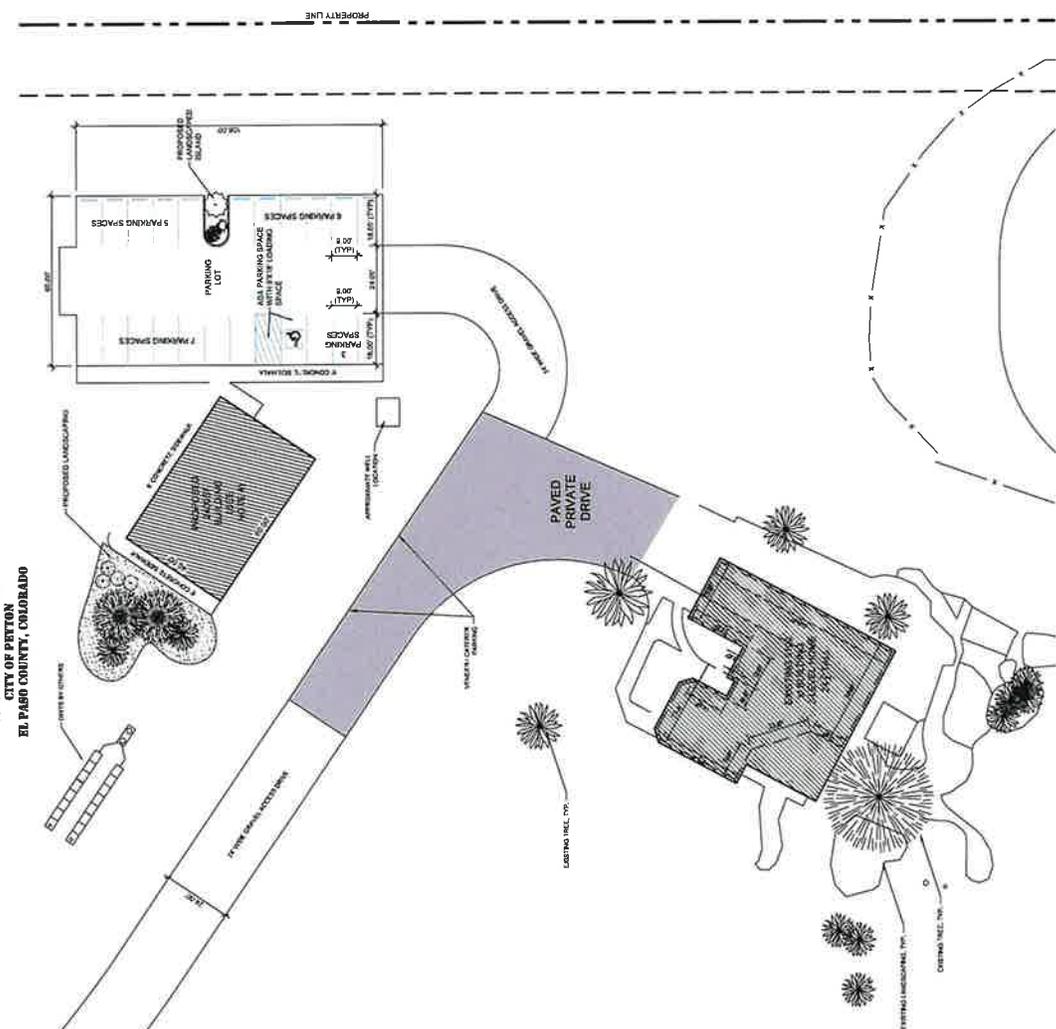
**COMMUNITY BUILDING
(NON-PROFIT EVENT VENUE)**

PROJECT NUMBER: 20240001A
DRAWN BY: [REDACTED]
CHECKED BY: [REDACTED]
DATE: [REDACTED]
ISSUE RECORD:

STAMP:
**CONCEPTUAL
NOT FOR
CONSTRUCTION**

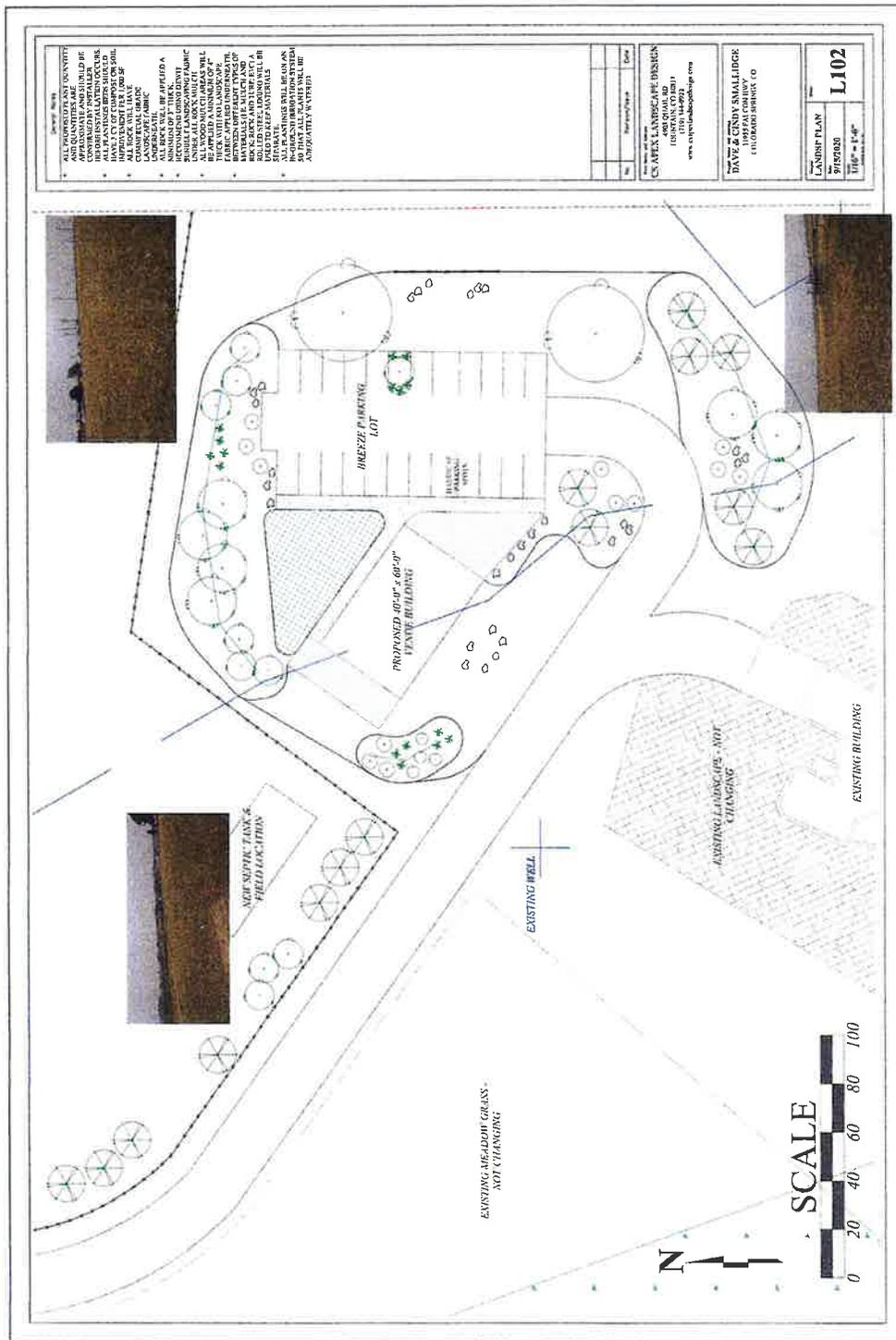
ELOT PLAN
C3

**WEDDING VENUE
FOR DAVID AND CINDY SMALLIDGE**
6275 N. MERIDIAN ROAD
CITY OF PEYTON
EL PASO COUNTY, COLORADO



PLAN ENLARGEMENT
SCALE: 1/8" = 1'-0"

- SITE NOTES:**
1. NO MORE THAN ONE (1) ACRE OF DISTURBANCE IS ALLOWED FOR THE CONSTRUCTION OF THE BUILDING, PARKING LOT, ACCESS DRIVE, AND LANDSCAPING.
 2. NO MORE THAN 150 VEHICLES (INCLUDING SHUTTLES) ARE ALLOWED TO BE STORED ON THE SITE AT ANY ONE TIME.
 3. THE ACCESS ROAD SHALL BE USED TO BE PAVED FOR A MINIMUM DISTANCE OF 50 FEET FROM FALCON HIGHWAY.
 4. THE BUILDING SHALL BE CONSTRUCTED AS A COMMERCIAL STRUCTURE PROPOSED TO BE USED AS A PRIVATE EVENT CENTER AND THEREFORE SUBJECT TO THE EL PASO COMMUNITY DEVELOPMENT DEPARTMENT'S REGULATIONS.
 5. EXISTING AND BARRIERS SHALL BE MAINTAINED ON SITE.
 6. THERE ARE NO KNOWN UTILITIES ON SITE.





ORIGINAL PERMIT APPLICANT(S)

CYNTHIA SMALLIDGE
 DAVID SMALLIDGE

APPROVED WELL LOCATION

Water Division: 2 Water District: 10
 Designated Basin: UPPER BLACK SQUIRREL CREEK
 Management District: UPPER BLACK SQUIRREL
 County: EL PASO
 Parcel Name: N/A
 Physical Address: N/A

UTM COORDINATES (Meters, Zone:13, NAD83)

Easting: 534356.5 Northing: 4308499.4

PERMIT TO USE AN EXISTING WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT
CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not ensure that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-90-105 for a change/increase of use of a well constructed under permit no. 186541, in a on a tract of land of 42 acres in a portion of the NW1/4 of Section 18, Township 13 South, Range 64 West of the Sixth P.M., El Paso County, more particularly described on attached Exhibit A, for one well to be used in one commercial business described as an events center, and domestic purposes inside 1 single family dwelling, the watering of the owner's own large non-commercial domestic animals and 11,000 square feet of lawn and garden irrigation. The business must meet the qualifications as described in CRS 37-90-105(1)(c)(II). Use of this well in a commercial business having another small capacity commercial well is prohibited unless a new permit to use this well is granted.
- 4) Issuance of this permit cancels permit no. 186541.
- 5) The pumping rate of this well shall not exceed 15 GPM.
- 6) The annual withdrawal of ground water from this well shall not exceed 1 acre-foot.
- 7) Production is limited to the Denver aquifer.
- 8) This well shall have been constructed within 300 feet of the location specified on this permit.
- 9) A totalizing flow meter must be installed on this well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (recorded at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District and the Division of Water Resources upon request.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within the Upper Black Squirrel Creek Ground Water Management District where local District Rules apply which may further limit the withdrawal and use of designated ground water as authorized under this permit.

Issued By SHANNON PORTER

Date Issued: 11/12/2019

Expiration Date: N/A

COLORADO DIVISION OF WATER RESOURCES
DEPARTMENT OF NATURAL RESOURCES
1313 SHERMAN ST, RM 821, DENVER, CO 80203
Main: (303) 888-3581 dwrpermits@state.co.us

GENERAL PURPOSE

Water Well Permit Application

Review instructions on reverse side prior to completing form.
The form must be computer generated, typed or in black or blue ink.

1. Applicant Information
Name of applicant
David and Cynthia Smallidge

Mailing address
11955 Falcon Hwy
City: Peyton State: CO Zip code: 80831
Telephone # (area code & number): 719-660-3522 E-mail (online filing required): david.smallidge@gmail.com

2. Type Of Application (check applicable boxes)
 Construct new well Use existing well
 Replace existing well Change or increase use
 Change source (aquifer) Reapplication (expired permit)
 COGCC Well Other:

3. Refer To (if applicable)
Well permit #: 186541 Water Court case #
Designated Basin Determination # Well name or #

4. Location Of Proposed Well
County: El Paso Range: NW 1/4 of the NW 1/4
Section: 18 Township: 13.0 N or S Range: 64.0 E or W Principal Meridian
Distance of well from section lines (section lines are typically not property lines)
FL from: N S E W
For replacement wells only - distance and direction from old well to new well
feet direction
Well location address (include City, State, Zip) Check if well address is same as in item 1

Optional: GPS well location information in UTM format You must check GPS unit for required settings as follows:
Format must be UTM
 Zone 12 or Zone 13
Units must be Meters
Datum must be NAD83
Unit must be set to true north
Was GPS unit checked for above? YES Remember to set Datum to NAD83

5. Parcel On Which Well Will Be Located (PLEASE ATTACH A CURRENT DEED FOR THE SUBJECT PARCEL)
A. Legal Description (may be provided as an attachment):
Current Deed Attached
B. # of acres in parcel: 42 C. Owner: David and Cynthia Smallidge
D. Will this be the only well on this parcel? YES NO (If no list other wells)
E. State Parcel ID# (optional):

Office Use Only

185 12

RECEIVED Form GWS-45 (07/2013)

SEP 25 2019

WATER RESOURCES
STATE ENGINEER
COLO

6. Use Of Well (check applicable boxes)
Attach a detailed description of uses applied for.
 Industrial Dewatering System
 Municipal Geothermal (production or reinjection)
 Irrigation Other (describe): 2400sqft Event Center
 Commercial + Domestic

7. Well Data (proposed)
Maximum pumping rate: 10 gpm Annual amount to be withdrawn: 1 acre-feet
Total depth: 287 feet Aquifer: Denver

8. Land On Which Ground Water Will Be Used
Legal Description of Land (may be provided as an attachment):
Current Legal Description Attached
(If used for crop irrigation, attach a scaled map that shows irrigated area)
A. # Acres B. Owner
C. List any other wells or water rights used on this land:

9. Proposed Well Driller License #(optional):
10. Sign or Entered Name Of Applicant(s) Or Authorized Agent
The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104 (13)(a). I have read the statements herein, know the contents thereof and state that they are true to my knowledge.
Sign or enter name(s) of person(s) submitting application: David Smallidge Date (mm/dd/yyyy): 10-9-2019
If signing print name and title: David and Cynthia Smallidge

Office Use Only
USGS map name DWR map no. Surface elev.
Receipt area only
AQUAMAP Transaction #: 3693990
WE Date: 9/25/2019 3:08 12 PM
WR Transaction Total: \$100.00
CWCB CHECK #1001 \$100.00
TOPO
MYLAR
SBS
DIV 2 WD 10 BA 04 MD 12

COMMERCIAL SMALL CAPACITY WELL WATER USE BREAKDOWN WORKSHEET
 (For Wells Located Within Designated Groundwater Basins)

Name and Type of Business Still Waters Ranch LLC - Events Center
 (water used for 2 Bathrooms and a small kitchen)

1. Is this application for a new well?

Yes
 No

If no, is this application for a change of use for an existing permitted well?

Yes
 No

Permit Number of well (if applicable) 186541

For wells used prior to May 8, 1972 see form GWS-12 Registration of Existing Well for further information.

2. Type of disposal system:

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Septic tank/absorption leach field |
| <input type="checkbox"/> | Central System (district name:) |
| <input type="checkbox"/> | Vault (location sewage hauled to:) |
| <input type="checkbox"/> | Other (attach copy of engineering design) |

3. Water Demand Calculations (for average factors for water demand see below)

Employees

| Number of Employees | X | Number of Gallons per Employee per Day | X | Number of Days Employee Works per Year | = | Gallons per Year |
|---------------------|---|--|---|--|---|------------------|
| <u>2</u> | X | <u>5</u> | X | <u>144</u> | = | <u>1440</u> |

A

Customers

| Number of Customers per Day | X | Number of Gallons per Customer | X | Number of Days Business is Open per Year | = | Gallons per Year |
|-----------------------------|---|--------------------------------|---|--|---|------------------|
| <u>75</u> | X | <u>3</u> | X | <u>144</u> | = | <u>32400</u> |

B

Outside

| Square Feet of Irrigated Landscape | X | Number of Gallons per square foot per day | X | Number of Days landscape is irrigated | = | Gallons per Year |
|------------------------------------|---|---|---|---------------------------------------|---|------------------|
| <u>0</u> | X | <u>0</u> | X | <u>0</u> | = | <u>0</u> |

C

Other Uses - Provide breakdowns for all other substantial water usage (i.e. veterinary clinic, green houses, etc.)

| Type of Use | X | Gallons per Use per Day | X | Days per Year | = | Gallons per Year |
|-------------|---|-------------------------|---|---------------|---|------------------|
| <u>0</u> | X | <u>0</u> | X | <u>0</u> | = | <u>0</u> |

D

Total amount of water required: 33,840 gallons per year
 (A+B+C+D)

0.10 acre-ft per year
 (1 acre-ft = 325,851 gallons)

For all small capacity commercial wells:

1. The pumping rate shall not exceed 50 gallons per minute and may be further limited by Water Management District Rules.

General Guidelines for Water Demand in Gallons per Day

- Day Workers at Offices - 15 gallons/person/day
- Food Service Establishments (with toilet and kitchen wastes) - 10 gallons/patron/day
- Churches (does not include food service) - 5 gallons/seat/day
- Overnight Lodging - 50 gallons/customer/day
- Landscape Irrigation - 45 gallons/1,000 square feet/day
- On-Site Proprietor of Overnight Lodging (i.e. on-site owner of a Bed & Breakfast) - 80 gallons/person/day

Additional water demand figures may be obtained from a private water consultant or from a technical reference on this subject.

From: [Brent Neiser](#)
To: [Tracey Garcia](#)
Cc: [Brent Neiser](#)
Subject: VA-20-003 -- Smallidge Objection to Variance of Use
Date: Sunday, November 29, 2020 5:37:42 PM

CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.

Dear El Paso Planning and County Commissioners,

Our LLC -- Inhabit That, LLC owns nine paired homes (duplexes) (plus one in progress right now) in the [Falcon Vista subdivision](#) in Falcon serving 18 families. Three duplexes are within the direct visual and audible range of the Property in question seeking a Variance. Several more are just a few homes away.

From 2008-2020 my wife and I, without partners, built 11 paired homes in that subdivision which had uninhabitable properties (unfinished and unsafe). We bought three of these from a bank foreclosure department and rehabbed all of them within one year. All these problems that blighted this part of EL Paso County was due to improper and incomplete building by the developer, Rick Dryer, who defrauded investors including my wife and me. Mr. Dryer, the developer with Mile High Capital is serving a 132 year prison sentence for his misdeeds. See reference articles: [The Hijacking of Mile High Capital Group - Realty Times](#) [Fraud Talk: Colorado Man Sentenced In Ponzi Scheme Case](#) <https://www.denverpost.com/2008/06/26/heed-tale-of-gurus-slime-trail/>

Despite losing over \$200,000 from Mr. Dryer's company, we have invested over \$2,000,000 in bringing this development back to life providing rental and ownership possibilities to scores of El Paso County families since 2008 many are military service members and their families or veterans. This includes the creation of a LID for which we pay nearly \$1100 extra on our county property tax bills for each parcel (20 units for 20 years). We are net investors in the growth, housing affordability, tax base, and safety of El Paso County without handouts, through our risk capital.

This variance request is a drastic change to the rural and residential life setting now enjoyed at Falcon Vista, WE OBJECT TO IT.

The property is downstream from the runoff at Falcon Vista and has two watershed wetlands going through it. Where on the property is this event center planned and where will parking be placed? The land appears to be sub-optimal for this proposed development and purpose. We strongly recommend that the owners buy another piece of land that is already properly zoned for this purpose on more established traffic thoroughfares.

I am open to testyfying.

Sincerely,

Brent Neiser,
Managing Director and Partner
InHabit That, LLC

5860 Big Canon Drive
Greenwood Village, CO 80111

--

303-918-2760
BrentNeiser@gmail.com

COMMISSIONERS:
MARK WALLER (CHAIR)
LONGINOS GONZALEZ, JR. (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, December 3, 2020
El Paso County Planning and Community Development Department
200 S. Cascade Ave – Centennial Hall Hearing Room
Colorado Springs, Colorado

REGULAR HEARING
1:00 p.m.

PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, SARAH BRITTAIN JACK, TIM TROWBRIDGE, JAY CARLSON, BECKY FULLER, AND MORAES

PRESENT VIA ELECTRONIC MEANS AND VOTING: GRACE BLEA-NUNEZ AND THOMAS GREER

PRESENT AND NOT VOTING: NONE

ABSENT: JAY CARLSON AND JOAN LUCIA-TREESE

STAFF PRESENT: CRAIG DOSSEY, NINA RUIZ, RYAN HOWSER, LINDSAY DARDEN (VIA REMOTE ACCESS), DANIEL TORRES, EL PASO COUNTY ATTORNEY COLE EMMONS

OTHERS SPEAKING AT THE HEARING: KEVIN CURRY, JON ROMERO, DAVID AND CINDY SMALLIDGE, BRENT NEISER, DAVID WHITEHEAD, DANIEL COMBS

Report Items

1. A. Report Items -- Planning and Community Development Department – Mr. Dossey -- The following information was discussed:

- a) The next scheduled Planning Commission meeting is for **Thursday, December 17, 2020 at 1:00 p.m.**

- b) **Mr. Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.
- c) **Mr. Dossey** also gave the November Total Single Family Building Permits numbers. He further gave major development application numbers for the PCD department for the year. The numbers are at all time highs.
- d) **Mr. Dossey** gave a report on the Master Plan process and timeline. The draft plan is still in review by staff.

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

2. Pulled Consent Items to Regular

A. Approval of the Minutes – November 19, 2020

The minutes were unanimously approved as presented. (8-0)

B. PUDSP-20-004

HOWSER

**PLANNED UNIT DEVELOPMENT/PRELIMINARY PLAN
THE ESTATES AT ROLLING HILLS FILING NO. 2**

A request by Meridian Ranch Investments, Inc., for approval of a map amendment (rezoning) from a conceptual PUD (Planned Unit Development) to a site-specific PUD (Planned Unit Development) and approval of a preliminary plan for 98 single-family residential lots. The 117.21-acre property is located west of Eastonville Road at the easternmost terminus of Rex Road and within Sections 19 and 20, Township 12 South, Range 64 West of the 6th P.M. (Parcel No.42000-00-407) (Commissioner District No. 2)

Mr. Trowbridge requested it be pulled to review the deviations and the ECM modifications. An abbreviated presentation to address these concerns will be done. **Mr. Curry** would also like to offer opposition, attending remotely.

Mr. Ryan Howser and **Mr. Daniel Torres** gave the presentation on behalf of PCD planning and engineering staff.

Mr. Trowbridge – When is the extension of Rex Road projected to be developed? **Mr. Torres** – It’s a minor arterial roadway in the 2040 MTCP. As these developments come in, it will continue to be extended first to Eastonville, but ultimately to Highway 24. The traffic studies that were collected support the collector roadway. If the County feels it necessary, the County could upgrade.

Mr. Trowbridge – I have an issue with the cul de sac extension being 50% greater than allowed. I understand that the fire department signed off on it, but that is still a concern. **Mr. Torres** – We only support it because the fire department gave their approval.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Curry - My concern is for the future. At some point, the road will need to be built out to the full standard and it will be the county's responsibility to do that. If the final plat is approved after 1 January, then no problem - the fees will have been paid to the County to pay for that expansion. But if the final plat is approved before the end of the year, the fees go to the Metro District, which means the County would have to build out the road without having been paid for it. A simple condition stating the final plat cannot be approved in 2020 solves the issue - it lets the application proceed exactly as submitted and ensures the County is paid for the work it will eventually have to do at some point in the future. **Mr. Torres** – It is staff's opinion that the application meets the criteria. There is an IGA between Woodmen Road Metro District and County in place to ensure that developers within the district pay their fair and equitable share of the regional roads. **Mr. Dossey** – In regard to the scenario where a developer would construct half of a principal arterial, we do that because we can't legally require them to build a road that exceeds the impact of their development. Fees that could be collected could pay for this section of road does not add up. It would be a drop in a bucket of what is required to construct that road.

Mr. Moraes – What was it their (Meridian Ranch) responsibility to go to the Rex Road boundary when they started building that out? **Mr. Torres** – They will be constructing Rex Road. The buildout to the south is comprised of three filings. It's currently a stub out but will be constructed in Filing 3.

DISCUSSION:

Mr. Emmons – It looks like the applicant is available online as well if they want to speak. I want to underscore what Mr. Dossey said. So, what you have before you is a PUD and preliminary plan. The PUD is a negotiation between the applicant and the County. In straight zoning, there isn't much flexibility, but in a PUD there is more flexibility. They could ask for dedication of ROW or more open space. However, the County has to be careful of what they want. The development will come with impacts, so the County makes exactions that are in proportion to the development. The impacts from the traffic to Rex Road would not be proportional if the requirement was to build the full road out, so therefore the deviation must be approved. As far as the fees, my understanding is that this is an IGA that was entered into by the

City of Colorado Springs and Woodmen Road Metro District. There is \$17 million that the County will put into the developments, so therefore the those are paid pack through road impact funds. If this final plat gets approved after the first of the year, then the County has to pay those impact funds to the metro district. I would recommend against placing a condition on as Mr. Curry stated.

Mr. Jon Romero, NES, wanted to speak on behalf of the applicants. We wanted to reiterate the improvements that will be completed during the three filings. We echo what the County spoke on and agree with their presentation.

PC ACTION: MORAES MOVED/BRITAIN JACK SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, PUDSP-20-004, FOR A PLANNED UNIT DEVELOPMENT AND PRELIMINARY PLAN FOR THE ESTATES AT ROLLING HILLS FILING NO. 2, UTILIZING RESOLUTION PAGE NOS. 29 AND 25, CITING 20-055 WITH SIX (6) CONDITIONS AND SIX (6) NOTATIONS, AND FIVE (5) MODIFICATIONS 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 UNANIMOUSLY (8-0).

C. PUD-20-003

DARDEN

**PLANNED UNIT DEVELOPMENT
ROLLING THUNDER BUSINESS PARK PUD AMENDMENT**

A request by Brewing Ground Investments for approval of a map amendment (rezoning) from PUD (Planned Unit Development) to PUD (Planned Unit Development) to amend those permitted uses in the industrial portion of the PUD. The 12.36 acre property is located at the southeast corner of the East Woodmen Road and Golden Sage Road intersection and within Section 11, Township 13 South, Range 65 West of the 6th P.M. (Parcel Nos. 53111-01-001, 53111-01-002, 53111-01-003, 53111-01-004, 53111-01-005, 53111-01-006, 53111-01-007, 53111-01-008, 53111-01-014, 53111-01-013, 53111-01-012, 53111-01-011, 53111-01-015) (Commissioner District No. 2)

PC ACTION: FULLER MOVED/BAILEY SECONDED APPROVAL OF CONSENT ITEM 2C FOR PUD-20-003 FOR A PLANNED UNIT DEVELOPMENT FOR ROLLING THUNDER BUSINESS PARK PUD AMENDMENT UTILIZING RESOLUTION PAGE NO. 29, CITING 20-056, WITH SEVEN (7) CONDITIONS, AND SEVEN (7) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY

COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

D. SF-19-010

RUIZ

**FINAL PLAT
MAYBERRY, COLORADO SPRINGS FILING NO. 2**

A request by Colorado Springs Mayberry, LLC, for approval of a final plat to create three (3) commercial lots. The 38.89 acre property is zoned CS (Commercial Service) and is located south of Highway 94, approximately 1.3 miles west of the Highway 94 and North Ellicott Highway intersection and within Section 14, Township 14, Range 63 West of the 6th P.M. (Parcel No. 34000-00-440) (Commissioner District No. 4)

PC ACTION: BAILEY MOVED/MORAES SECONDED APPROVAL OF CONSENT ITEM 2D FOR SF-19-010 FOR A FINAL PLAT FOR MAYBERRY, COLORADO SPRINGS FILING NO. 2, UTILIZING RESOLUTION PAGE NO. 19, CITING 20-057, WITH ELEVEN (11) 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 UNANIMOUSLY (8-0).

E. VA-20-003

HOWSER

**VARIANCE OF USE
11955 FALCON HWY EVENT CENTER**

A request by David & Cynthia Smallidge for approval of a variance of use for a business event center. The 41.92-acre property is zoned RR-5 (Residential Rural) and is located at the southeast corner of the Meridian Road and Falcon Highway intersection and within Section 18, Township 13 South, Range 64 West of the 6th P.M. (Parcel No. 43180-00-028) (Commissioner District No. 2)

It was requested by an adjacent property owner to pull the item and heard as a Regular item. **Mr. Trowbridge** also wanted the item pulled and heard as Regular.

Mr. Howser gave a brief overview and asked **Mr. Emmons** to go over the review criteria for a variance of use.

Mr. Emmons – A variance of use is a zoning action. You will look at a proposed use that is not allowed in a particular zoning district, so it doesn't comply with master plan components. You have to look at why or why not you

are allowing this use when otherwise not allowed. You are dealing with trying to mitigate the impacts to a surrounding area giving you greater flexibility in denying it or imposing additional conditions that would further address the impacts to the surrounding area.

Mr. Howser then introduced the applicants, **Mr. and Mrs. Smallidge**, to go over their presentation.

Mr. Trowbridge – I am familiar with this area. (Went over familiar businesses in the area for identification purposes)

Ms. Jack – Did you speak with school District 49 to see if they had any concerns? **Ms. Smallidge** -- We did not speak with them, but they did receive a letter.

Mr. Trowbridge – Do you have a diagram of your plans? Could staff bring up the layout of the lot to show the building layout? My question is more about the orientation of the site and why you chose to bring traffic in. Why did you not put it closer to the highway to keep from visual impact to the other neighbors? **Ms. Smallidge** – The other property owners can't even see this area where the parking will be located. **Mr. Smallidge** – The septic location also had a part to play in the decision of where to locate the building.

Ms. Fuller – Did you look at rezoning to A-35 instead of the variance? I don't see this as a hardship to say you can't find another piece of land. Does this stay with the land forever? **Mr. Smallidge** – We got permission to use our existing well to go to the other building. **Mr. Howser** – The use allows the use as a business event center, up to 75 people. A for profit business whose purpose is to provide a place for people to assemble for events in the nature of, but not limited to, recreational, social, cultural, political uses. Looking at the surrounding zoning, it's primarily RR-5 with a small lot subdivision. Commercial didn't appear to be a viable option to match the surrounding area.

Mr. Moraes – Twice you said 75-80 people, but please realize the condition states no more than 75 people along with other conditions.

Mr. Howser gave his full presentation to the Planning Commission.

Mr. Trowbridge – Could you point out the elementary school? (**Mr. Howser** showed on map) So this would be directly across from the school? **Mr. Howser** – That is correct.

Mr. Risley -- It states three-days a week, so who decides what days that is? I think it could use some clarification. **Mr. Howser** – It states three days, so

it's not determined specific days. We could clarify further in the condition, maybe say holidays and weekends.

Mr. Torres gave his engineering report/findings.

Mr. Bailey – Is the driveway across from the entrance to the school? **Mr. Smallidge** – Yes, it is.

Mr. Howser – We could modify Condition #5 to say that it is limited to weekends and holidays.

Mr. Emmons – The other thing you do is name the days that the use will be in place. **Mr. Risley** – Or if we do specify holidays state that it say federal holidays.

Mr. Trowbridge – Condition 1 says limited use applicable to the applicants' letter of intent. If there is a conflict, which trumps which, the LOI or the conditions? **Mr. Emmons** – The conditions would trump the letter of intent.

Ms. Fuller – Does a variance stay with the property or just with these owners? **Mr. Howser** – it would run with the property, but there is a condition to say if the use is abandoned for two years, it reverts back to the regular zoning.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Brent Neiser – I am owner of 11 properties in the area. I am not the original developer, but I was one of several investors. I would like to see them find another piece of property that is zoned commercial. I imagine that there will be alcohol served at their events, I'm concerned about people leaving at 10 p.m. and driving intoxicated.

Ms. Smallidge – We are okay with the 75 people and only having events on Saturday and Sunday. **Mr. Smallidge** – We will be contracting with reputable vendors who will take responsibility for any alcohol-related issues that may occur.

Ms. Fuller – I don't see a big deal with it just saying weekends and not specifying particular dates. I don't see this as a big impact to the area; I will be in favor of this project.

Mr. Trowbridge – I agree with Ms. Fuller's comments. I don't think the school traffic will complicate this operation because generally they will be different times.

Mr. Moraes – I look at this large piece of property, and if we said no they could come back and rezone and get a special use in place. They aren't putting a large industrial use on the property. I feel it is in character with the surrounding area.

Mr. Bailey – I agree with all the comments. I think the trend will work away from the rural and go more urban. Rezoning to A-35 doesn't usually happen, it usually goes to smaller density. I think this is a good area and I will be in support of this.

Mr. Risley – I appreciate that the owners went through the appropriate channels to do this correctly. There are other large-scale structures already in the area, but you did this through the County. There is also a lot of commercial development already in the area. Condition 5 will be limited to Saturdays and Sundays and will commence at 10 p.m.

Ms. Brittain Jack – I thought it was suggested to include holidays and Fridays. Does the applicant want to change that?

Ms. Blea-Nunez – Think of it as a business. You could very well have some weddings that want to occur on Fridays and Mondays. I think you should go broader.

Ms. Smallidge – Friday noon to Sunday at 10 p.m. and 8 a.m. to 10 p.m. on federal holidays

Mr. Dossey – My suggestion would be to not say hours of the day and just say days of the week and federal holidays, with the exception of conclusion at 10 p.m.

Mr. Risley – So I understand the condition now should be "shall be limited to Fridays, Saturdays, and Sundays and federal holidays and all events shall conclude by 10 p.m.

PC ACTION: BRITTAIN JACK MOVED/TROWBRIDGE SECONDED APPROVAL OF CONSENT ITEM 2E FOR VA-20-003 FOR A VARIANCE OF USE FOR 11955 FALCON HIGHWAY EVENT CENTER, UTILIZING RESOLUTION PAGE NO. 19, CITING 20-058, WITH SEVEN (7) CONDITIONS, AND THREE (3) NOTATIONS, WITH A CHANGE TO CONDITION NUMBER 5 AS STATED BY MR. RISLEY ABOVE, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

**VARIANCE OF USE
MOUNTAIN SPLENDOR, 2020 APPLICATION**

A request by Daniel Combs for approval of a variance of use for a contractor equipment yard. The variance of use was previously approved on February 27, 2018 and then revoked on September 10, 2019 due to noncompliance. The five (5) acre property is zoned A-5 (Agricultural) and is located on the west side of Main Lane, approximately 0.3 miles south of Woodmen Road and within Section 8, Township 13, Range 65 West of the 6th P.M. (Parcel No. 53080-00-048) (Commissioner District No. 2)

Mr. Greer left the hearing, there is still a quorum of seven voting members.

Ms. Ruiz gave a brief overview of the project and asked **Mr. Emmons** to go over the review criteria for a variance of use. She then asked the applicants' representative, **Mr. David Whitehead**, to give their presentation.

Ms. Ruiz then gave her full presentation, **Mr. Torres** gave his engineering report/findings, and they answered questions from the Planning Commission.

Mr. Trowbridge – Could you review the adjacent properties to the north? It appears there are already three other landscaping businesses in the area. **Ms. Ruiz** – Yes, that is correct. It's definitely a transition area. We are seeing some urban development applications coming in.

Ms. Fuller – Are the other three equipment yards like this one? **Ms. Ruiz** – There is outside storage according to the aerial.

Ms. Fuller – Why was this completely ignored and why are we looking at this two years later? I'd like to have that conversation.

Mr. Bailey – I understand that most of the conditions have been addressed even though it was revoked, is that correct? **Ms. Ruiz** – yes, that is correct. They have planted trees and filed the appropriate permits.

IN FAVOR: NONE

IN OPPOSITION:

Ms. Cathy Bell – (provided handouts prior to hearing) – This neighborhood should not have commercial business right next door to residential. His property is very loud, an eye sore, and trees that he planted does nothing for screening. He should have

never received a variance in the first place, and then he ignored it all, and now wants it all again. The pole barn that he finally got permitted is permitted as a commercial garage that he wants to use for his business. I don't think his business can meet noise and dust control. It's not safe with a barbed wire fence next to where children ride bikes. (showing pics to PC and public).

Mr. Trowbridge – Could you identify where your property is located in comparison to the subject property? **Ms. Bell** – I took these pictures from the walking trail, not from my property. (showed maps of 2015 and 2017).

The applicants' representative had an opportunity for rebuttal. **Mr. Whitehead** stated that the caller's view is sees the northwest portion of the site. The fence was supposed to be constructed further out which would have added to the visual impact. The owner struggles with trespassing, people cut the fence and use his property as a cut through. To the east across the open space, there are other landscaping businesses. To the west, there are two more landscaping businesses. To date, we have met all the conditions and have a building permit.

Ms. Fuller – Could you address why those conditions were never met two years ago? **Mr. Combs** – When we applied for this two years ago, we got the approval, got the package and said here you go. We had stipulations that storage tanks be removed. The tanks are 15,000 gallon tanks. They've since been sold and moved. I buy semi-truck loads of compost and rock. We stored that material in bulk around the property. I had to get structural engineers involved in the building design. That took months to get stamped trusses. I bring trucks in, I have material hauled in, and equipment is on site that I use for the business. I'm not a contractor, I'm a landscaper. The complaint of scrap pipe is a recycling area. I haul a semi load of that off once a year.

Ms. Fuller – Are you willing to actually fence this area or are you wanting just the trees be considered your screening? **Mr. Combs** – I'm not trying to get around anything. The reason that NES filed to get the trees as opposed to a fence, you have 6 ft fence on two sides as an unlit area. The town is crowding around us. I'm not opposed to a fence. If it has to be a fence, I'll do it. I met the criteria; I planted trees. I don't want it to look industrial. I think the trees offer a different look. **Ms. Fuller** – I think a fence would mitigate the visual impacts.

Mr. Moraes – Could you please show the pictures of the trees? (shown) Are these the pine trees that were approved? **Mr. Combs** – yes, I planted 15 trees about 4 years ago. **Mr. Moraes** – The trees don't screen much. I can look right through and see everything. You say that people keeping cutting your fence, wouldn't make sense to construct a solid fence that would be more secure? **Mr. Combs** – I think it was built in 1972, and never had a problem. Six months ago, people started going through my property. They were trespassing. **Mr. Moraes** – To me, it would make more sense to have the solid fence, and it's a liability to have people on your property if

they get hurt. As for having 2 six-foot fencing on two sides and it being unlit, that's not really your problem. I don't think the trees are doing what was intended, and they won't for 5, 10 or more years. **Mr. Combs** – I am agreeable to putting a fence up.

Mr. Bailey – We need to remember that the trees are there in lieu of a 6 ft privacy fence. A fence won't offer any more screening. The developer of Quail Bush decided to put their fence on the wrong side and didn't offer the buffer that they should have initially. I do think that you made a good faith effort to finally comply. Unfortunately, lots look like this more and more, with houses butting right against other properties.

Ms. Ruiz – Our experience has been that when you have a dark narrow area fenced on either side, the area is not properly maintained, items begin to be illegally dumped, and it becomes a favorite location for unsavory activities. Regarding the outside storage and visual clutter, maybe instead of doing a solid fence along the property boundary, they fence the open storage areas A and E that would screen the immediate view of the neighbors. From a planning perspective, if there is an additional condition recommended that we'd offer this as an alternative to one large solid fence.

Mr. Trowbridge – If a fence were erected a fence where the barbed wire is, I don't think that would be visually appealing. I would point out that the County Commissioners approved the trees along with the Planning Commission. I would not be in favor of a tall privacy fence where the barbed wire fence is currently located. I like **Ms. Ruiz's** idea of fencing those storage areas.

Mr. Moraes – You've seen my correspondence with Ms. Ruiz in your packet. It was only after I saw the pictures from the opposition that I saw that the trees did nothing to screen.

Ms. Brittain Jack – The homeowners knew what they were facing when they built there. This was in existence long before they build.

Ms. Fuller – I would agree with that. A lot of homeowners build and think an area will stay open space. These houses did encroach, but the use is much more intense than it was when your brother had this property. There is an obligation to make it less horrible visually.

Mr. Combs – I don't think a 6-foot fence around the storage areas will work, but maybe more trees. I am a good neighbor; I maintain Maine Lane for all the residents. I don't want to create a force within the property.

Mr. Bailey – I think we might be overstating the nature of that trail. People tend to walk there and if they have to look at a contractor's equipment yard, they've made that choice.

Ms. Brittain Jack – There is three or four letters from businesses on that road complimenting Mr. Combs for maintaining that road and being a good neighbor.

Ms. Fuller – How big are the lots of the other landscaping businesses? **Mr. Whitehead** – They are approximately 3-4 acres. There's one that is 10 acres.

Mr. Moraes – If the general feeling is that we want him to put in more trees, then we should take a break to see how we need to word that to get the intent. If we don't want to change it, then we press on. **Mr. Bailey** – I am happy with what was approved before and what is being requested at this time. **Ms. Fuller** – I believe Mr. Combs will do what he says and continue to be a good neighbor. **Mr. Moraes** – I'm good with whatever the consensus is.

Mr. Trowbridge – I am somewhat sympathetic to the applicant of not understanding what was expected before, but I hope he recognizes that it is his responsibility to understand all the conditions that are before him. I've heard enough here today to move forward with this.

Mr. Risley – You have stated on record that you will continue to be a good neighbor and that you will adhere to the requirements set forth.

PC ACTION: BAILEY MOVED/MORAES SECONDED FOR APPROVAL REGULAR ITEM NUMBER 3, VA-19-008, FOR A VARIANCE OF USE FOR MOUNTAIN SPLENDOR, UTILIZING RESOLUTION PAGE NO. 51, CITING 20-059, WITH THREE (3) CONDITIONS, THREE (3) NOTATIONS, AND ONE (1) WAIVER, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0)

- 4. El Paso County Master Plan – Information Update – No Action Needed – Mr. Dossey** gave an update of the Master Plan during report items. No further information provided.

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.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

VARIANCE OF USE (Approved)

Commissioner Brittain Jack moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

**RESOLUTION NO. VA-20-003
11955 Falcon Highway Event Center**

WHEREAS, David and Cynthia Smallidge did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zoning district to permit a business event center where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on December 3, 2020; 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 David and Cynthia Smallidge for a variance of use within the RR-5 (Residential Rural) zoning district to permit a business event center at 11955 Falcon Highway where such is not a permitted use 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 use of a business event center, as discussed and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or

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

2. Prior to building permit authorization or initiation of the use, the applicant shall apply for and receive approval of a commercial site development plan.
3. Prior to building permit authorization or initiation of the use, the applicant shall apply for and receive approval of a commercial driveway access permit.
4. Events held at the business event center shall be limited in occupancy to no more than 75 people at any given time. If the total number of daily trips to and from the property exceeds 70, the use shall be subject to review and approval of a new variance of use request.
5. Events shall be limited to Fridays, Saturdays, Sundays, and federal holidays, and all events shall cease prior to 10:00 PM. Outdoor activities shall be limited to seating. All functions of the business event center use that generate excessive noise or odors must occur indoors.
6. Prior to building permit authorization, the applicant shall provide the Planning and Community Development Department a copy of an approved septic permit for the business event center use and the existing residential use.
7. All structures on the property shall be set back a minimum of sixty (60) feet from the north property line adjacent to Falcon Highway.

NOTATIONS

1. The 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 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 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 Brittain Jack | aye |
| Commissioner Trowbridge | aye |
| Commissioner Risley | aye |
| Commissioner Bailey | aye |
| Commissioner Blea-Nunez | aye |
| Commissioner Fuller | aye |
| Commissioner Moraes | aye |
| Commissioner Greer | aye |

The Resolution was adopted by a vote of 8 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: December 3, 2020

Brian Risley, Chair

EXHIBIT A

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 18; THENCE ALONG THE WEST LINE OF SAID SECTION 18, THE BEARING OF WHICH IS ASSUMED TO BE S 0 DEGREES 00 MINUTES 00 SECONDS E, 30.01 FEET; THENCE DEPARTING SAID WEST LINE S 88 DEGREES 11 MINUTES 43 SECONDS E, 30.01 FEET TO THE POINT OF BEGINNING FOR THE TRACT OF LAND HEREIN DESCRIBED; THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF THE FALCON HIGHWAY AND PARALLEL TO THE NORTH LINE OF SAID SECTION 18, S 88 DEGREES 11 MINUTES 43 SECONDS E 1455.00 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE AND PARALLEL WITH THE WEST LINE OF SAID SECTION 18, S 0 DEGREES 00 MINUTES 00 SECONDS E, 1185.94 FEET; THENCE N 83 DEGREES 11 MINUTES 43 SECONDS W, 1455.00 FEET TO THE EAST RIGHT OF WAY LINE OF MERIDIAN ROAD, THENCE ALONG SAID RIGHT OF WAY N 0 DEGREES 00 MINUTES 00 SECONDS E, 1185.94 FEET TO THE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO

RESOLUTION NO. 20-

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

APPROVE VARIANCE OF USE TO PERMIT A BUSINESS EVENT CENTER AT
11955 FALCON HIGHWAY (VA-20-003)

WHEREAS, David and Cynthia Smallidge did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zoning district to permit a business event center 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 December 3, 2020, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use for a business event center; and

WHEREAS, a public hearing was held by this Board on December 22, 2020; 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 David and Cynthia Smallidge for a variance of use to allow a business event center within the RR-5 (Residential Rural) zoning district 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 use of a business event center, as discussed and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or modification to the operation or facility beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to review and approval of a new variance of use request.
2. Prior to building permit authorization or initiation of the use, the applicant shall apply for and receive approval of a commercial site development plan.
3. Prior to building permit authorization or initiation of the use, the applicant shall apply for and receive approval of a commercial driveway access permit.
4. Events held at the business event center shall be limited in occupancy to no more than 75 people at any given time. If the total number of daily trips to and from the property exceeds 70, the use shall be subject to review and approval of a new variance of use request.
5. Events shall be limited to Fridays, Saturdays, Sundays, and federal holidays, and all events shall cease prior to 10:00 PM. Outdoor activities shall be limited to seating. All functions of the business event center use that generate excessive noise or odors must occur indoors.
6. Prior to building permit authorization, the applicant shall provide the Planning and Community Development Department a copy of an approved septic permit for the business event center use and the existing residential use.
7. All structures on the property shall be set back a minimum of sixty (60) feet from the north property line adjacent to Falcon Highway.

NOTATIONS

1. The 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 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 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 22nd day of December, 2020, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 18; THENCE ALONG THE WEST LINE OF SAID SECTION 18, THE BEARING OF WHICH IS ASSUMED TO BE S 0 DEGREES 00 MINUTES 00 SECONDS E, 30.01 FEET; THENCE DEPARTING SAID WEST LINE S 88 DEGREES 11 MINUTES 43 SECONDS E, 30.01 FEET TO THE POINT OF BEGINNING FOR THE TRACT OF LAND HEREIN DESCRIBED; THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF THE FALCON HIGHWAY AND PARALLEL TO THE NORTH LINE OF SAID SECTION 18, S 88 DEGREES 11 MINUTES 43 SECONDS E 1455.00 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE AND PARALLEL WITH THE WEST LINE OF SAID SECTION 18, S 0 DEGREES 00 MINUTES 00 SECONDS E, 1185.94 FEET; THENCE N 83 DEGREES 11 MINUTES 43 SECONDS W, 1455.00 FEET TO THE EAST RIGHT OF WAY LINE OF MERIDIAN ROAD, THENCE ALONG SAID RIGHT OF WAY N 0 DEGREES 00 MINUTES 00 SECONDS E, 1185.94 FEET TO THE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO