

Les Gruen



Cactus Creek Ranch Variance of Use - Letter of Intent

Please schedule a phone conference to discuss clarification on several of the criteria. I would like to provide advice and examples to help strengthen the proposal.

Summary

This variance of use request seeks to reinstate a variance of use to allow a *vehicle repair garage* in an A-5 zone. The original variance was issued for a period of 10 years and the owner neglected to apply for a renewal in a timely manner. In order to provide flexibility to accommodate future tenants, the owner is also requesting a variance of use for a *truck and recreational vehicle repair garage* in the event services are expanded beyond classic car restoration on the site. There are a total of fourteen (14) dwelling units on the property that were originally occupied exclusively by ranch hands. Over time, some of these dwelling units ended up being occupied by individuals that had a tenuous relationship with (or even no relationship to) the Cactus Creek Ranch Property. The variance of use request also seeks to legitimize the ability of the owner to rent existing dwelling units on the property.

Earlier this year a Notice of Violation (NOV) was issued for the subject property that was triggered by complaints received from a former tenant and a neighbor. The NOV identified a variety of uses that were allegedly not permitted and/or required special use approval. In addition, a variance of use for a vehicle repair garage that was approved in 2005 (VA-05-005) which was granted for 10 years had expired and the applicant neglected to re-apply for an extension in a timely manner.

Subsequent research by the planning staff determined that many of the uses flagged in the NOV were approved uses under a special use permit issued by the BOCC in 1984 (AL-84-31). A copy of the letter of intent that accompanied the special use application is included with this submittal. In it the petitioner requests permission to operate a commercial stable on the property. For the past 35 years a variety of equestrian related events have regularly taken place at the Cactus Creek ranch. Activities authorized by the special use permit have operated continuously since that time. These activities include breeding, raising

and training of horses; training of students in horsemanship; purchases and sales of horses and horse shows.

The NOV identifies several uses that are not allowed uses:

- A hotel is not an allowed use.
There is no hotel on the property. There is a sign that advertises a "Horse Motel" – which is meant to indicate boarding of horses on a short-term basis is available.
- An indoor amusement center is not an allowed use.
An indoor arena that hosts equestrian related events has been operating since the special use approval in 1984. Activities taking place within this facility are consistent with those defined as an indoor amusement center by the LDC.
- An outdoor amusement center requires a special use and approved site development plan.
The special use approval granted in 1984 allowed for equestrian related uses to take place in various outdoor riding arenas located throughout the property. These were shown on the original site plan and are also shown on the site plan that accompanies this submittal.
- A business event center requires special use approval and approved site development plan.
Activities authorized by the 1984 special use approval include, " a for-profit business whose purpose is to provide a place for people to assemble for events...." – which is the definition of a business event center in the LDC.
- A rodeo requires special use approval and approved site development plan.
The LDC defines rodeo as, "a public performance which includes bronco riding, calf roping, steer wrestling, bull riding or other related events." These activities have taken place on the property consistently since the 1984 special use approval was granted. However, it appears that rodeo as a special use was not specifically called out in 1984 even though the use was explicitly contemplated in the letter of intent submitted by the petitioner.
- The vehicle repair garage and dwelling units as uses the NOV identifies as not allowed in the A-5 zone are addressed below.

Two items identified in the NOV remain unresolved. First, the applicant seeks a *permanent* variance of use that would forever legitimize the vehicle repair garage. After the initial variance of use for a vehicle repair garage was approved in 2005, a 9,600 square foot facility was subsequently constructed to house the Corvette Center, a classic car sales and restoration facility that relocated from Motor City. The owner plans to retire in the near future and would like to sell his business. It is possible a buyer may wish to work on more than just automobiles, which is why this request also seeks approval for use of this facility as a truck and recreational vehicle repair garage.

A-5

Secondly, there are several residential dwellings on the property that are not allowed as accessory uses in an A-2 zone. These dwelling units have been occupied continuously for many years. Initially the properties were occupied by individuals employed as ranch hands, but over the years as some of these dwelling units became vacant and were rented to individuals with no employment relationship. (For example, some of these dwelling units have been rented to individuals that board horses on the subject property.) Over the past 35 years, perhaps due to a lack of any institutional memory, many of the dwelling units on the property have become rental units. Property rentals have become an important source of both labor on the ranch and income so the owners seek to continue these uses in the future.

The Trip Generation Technical Memorandum that accompanies this submittal identifies 13, rather than 14 dwelling units on the subject property. The discrepancy is because the transportation consultant is treating the Veterinary Services and Apartment Building as a commercial building whereas the building is treated as a dwelling unit, designated as Building R-9, in the site plan.

This application formally requests that the variance of use granted for the vehicle repair garage be extended permanently and expanded to allow for truck and recreational vehicle garage use, as well. The applicant also requests that any residential dwelling unit can be rented to either ranch hands or any other tenant as a part of this variance of use request.

Background

Originally known as Bara Farm, the subject property was developed in the 1980s as a horse farm/equestrian center. A range of equestrian related uses was permitted under a special use permit approved in 1984. A copy of the Letter of Intent that accompanied the special use request in 1984 is included as part of this application. The request sought to formalize uses that were taking place on the property, which included:

“...the breeding, raising and training of horses, and the training of students in horsemanship and equitation from time to time. Also from time to time, purchases and sales will be made as is customary at all ranches. It is also contemplated that there will be horse shows from time to time, at which show horses will be displayed and judged.”

The Letter of Intent goes on to describe the various structures on the property that accommodate the foregoing uses as well as anticipated on-site employees.

Bara Farm was subsequently purchased by Luis Praxmarer in September, 1996 and renamed Five Star Ranch and Equestrian Center. Five Star Ranch and Equestrian Center was sold to Ric Noring in December 2004.

In 2006, Mr. Noring constructed the Corvette Center, a classic car restoration business that he operated, on a 4-acre parcel located on the southeastern edge of the property. Mr. Noring continued to operate the equestrian elements of the Five Star Ranch and Equestrian Center. The uses on this property under Mr. Noring's ownership have remained unchanged from the uses authorized by the 1984 special use permit (except for the Corvette Center that was authorized by a variance of use granted in 2005).

On June 5, 2020 Luis Praxmarer (the previous owner) reacquired ownership of the property from Ric Noring. Prior to Mr. Praxmarer reacquiring ownership, El Paso County Code Enforcement officials had

notified the prior owner concerning land use violations on the property. The prior owner (Mr. Noring) had never adequately addressed the outstanding issues that were identified.

An Early Assistance meeting between Urban Strategies and El Paso County staff was held on July 16, 2020. By the time of this meeting, staff had determined equestrian related uses on the property that had been flagged in the NOV had, in fact, been approved in the 1984 Special Use permit.

The expired variance of use for the Corvette Center and any violations related to non-conforming dwelling units on the property remained unresolved. Staff recommended the most efficient way to remedy any on-going violations would be through a Variance of Use request – even though there were no guarantees such a request would be approved.

Request and Justification

The Corvette Center was initially occupied in January 2007 pursuant to a Variance of Use (VA-05-005) granted in August 2005. This variance was, “limited to ten (10) years after which time the structure will either be removed, the applicant will re-apply for and obtain an extension of the Variance of Use, or the applicant will convert the structure back to an accessory building.”

The former owner neglected to re-apply for an extension of the Variance of Use. The current owner wishes to re-apply for a *permanent* Variance of Use allowing for this existing building. This building represents a significant private investment and it would be unfortunate if the building had to be removed or converted to a less efficient use because of the negligence of the former owner in not re-applying for an extension.

Considering the location just south of a large racetrack, it makes sense for a low impact automotive use to operate in this particular location. A traffic memorandum that is included as part of this application concludes the Corvette Center generates very little traffic and has no adverse impact on surrounding properties. The parcel is screened from

view and provides sufficient parking/storage for vehicles that are being serviced.

It is likely the owner of the Corvette Center will be retiring in the near future and will want to sell his business. A new owner is expected to operate a similar type of business. The Corvette Center is categorized as a "Vehicle Repair Garage" with respect to LDC definitions. The applicant requests a variance for this use as well as a closely associated "Truck and Recreational Vehicle Repair Garage" use in order that any future operation is less likely to have any compliance issues.

There are several dwelling units scattered throughout the property and identified on the site plan as Buildings R1-R14. They range from old ranch houses to trailers to dwelling units attached to barns, which have been on the property and occupied since Luis Praxmarer purchased the property in 1996 (with the exception of two double wide mobile homes that were permitted and located near the northern boundary of the parcel in 1999).

These dwelling units have been continuously occupied (except for vacancies between occupants) during the time Mr. Praxmarer and Mr. Noring have owned the property. The Ranch depends on the income and/or labor derived from occupants.

While currently zoned A-5, this property was zoned A-1 at the time of its special use approval. A-1 zoning, now obsolete, allowed:

"Single family dwelling(s) or mobile home(s) for person(s) principally employed at or engaged in the operation of the farm ranch, dairy or fur farm. The total number of residences on a farm, ranch, dairy or fur farm shall not exceed one (1) unit per five (5) acres."

Under the foregoing criteria, and considering the subject property is 95.143 acres, a total of 19 dwelling units should be permitted as a legal non-conforming use to be occupied by people principally employed at or engaged in the operation of the Five Star Ranch and Equestrian Center. The number of dwelling units occupied on the property is substantially less than the 19 units allowed under the LDC.

Clarify whether the units were originally established for ranch hands and continued to function as such. The nonconforming use would only include these if they had continued to function as ranch hand houses.

While most tenants have historically been principally employed or engaged in the operation of the Ranch, in some cases property has been rented to tenants with no working connection to the Ranch. This variance of use includes a request that there be no restriction on the owner with respect to whom residential dwelling units are rented.

Water Neither well permit indicates water is allowed for a commercial business. Clarify what the existing well permits allow for and how you intend to proceed with the State to get the designation changed

There are two permitted wells that serve the property, one of which is active. Copies of well permits (#49722 and #83533-F) are included as part of this application.

Event Parking and Trailer Storage

The Cactus Creek Site Plan identifies four separate areas that have been designated for event/guest parking and for the storage of horse trailers. Trailer storage is designated for the parking areas shown adjacent to the northern and southern property boundaries. Event/guest parking is in the two parking areas located in the interior of the property. The northern and southern horse trailer storage lots are estimated to accommodate up to 60 and 30 trailers, respectively. The eastern event/guest parking lot can hold 20 horse trailers and the central lot can hold 5 trailers and an additional 5 or 6 cars. Parking and storage capacity within these designated lots far exceeds the demand for these uses even on busy days.

Cars or horse trailers connected with event parking as well as vehicles connected with the vehicle repair garage are screened from view by fencing on the eastern border of the property.

Variance of Use

The El Paso County Land Development Code allows the BoCC to grant a variance of use considering the following criteria:

All points of justification below will also need to address potential impacts of introducing large trucks and RVs onto the property.

The well will need to be updated with the State outside of EPC prior to site development plan approval but not necessarily before hearing for variance of use. Might be beneficial to update this section to indicate that a new well permit will be needed and that you have begun the process. This can be a lengthy process so you should get it started soon.

The BOCC does not generally consider financial hardship as valid justification. The dwelling units are not legally nonconforming (because they have not consistently been for use by persons principally employed by the ranch).

- The strict application of any of the provision of the LDC would result in peculiar and exceptional practical difficulties or undue hardship.

With respect to this application, the vehicle repair garage and to the extent any of the dwelling units on the property are not viewed to house "persons principally employed at or engaged in the operation" of the ranch, we believe the strict application of the LDC would result in undue hardship to the owner of this property. Significant investment would be lost in the event the vehicle repair garage could no longer operate. Lost revenue and/or ranch hand labor caused by not being able to utilize on-site housing would likewise pose significant 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;

Explanation of how is needed.

The proposed uses are 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 or County.

- The proposed use will be able to meet air, water, odor or noise standards established by County, State and federal regulations except those portions varied by this action;

The uses are existing. Do they not currently meet standards? Based on well permits provided, vehicle repair garage does not appear to have water use rights

The proposed uses will meet air, water, odor and noise standards established by County, State and federal regulations.

- The proposed use will not adversely affect wildlife or wetlands;

The proposed uses will not adversely affect wildlife or wetlands.

- The applicant has addressed all off-site impacts;

Explanation of how is necessary. This is a developed site and the uses are exiting.

Traffic study indicates off-site improvements may be necessary. Have these been addressed? What about noise, visual impacts, etc?

Parking areas on the plan do not indicate number of spaces. Please review the parking restrictions in Sec. 6.2.5 of the LDC and ensure that all uses on the site that have been discussed in this letter have adequate parking facilities.

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

The site plan for the proposed variance of use provides adequate parking, traffic circulation, open space, fencing screening and landscaping and evidenced by the operation of this facility of many years.

No landscaping or screening measures have been provided for this site. At a minimum, the commercial uses should be screened from residential uses on and off the property.

- 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.

Sewer, water, storm water drainage, fire protection, police protection and roads are all available and adequate to serve the needs of the proposed variance of use as designed and proposed. Nothing changes from past uses.

For all of the foregoing reasons, this application meets the criteria necessary for the BoCC to approve a Variance of Use. The applicant respectfully requests a permanent Variance of Use be granted for the vehicle repair garage and truck and recreational vehicle repair garage. The applicant also respectfully requests Variance of Use be granted for all fourteen (14) of the dwelling units on the property not currently occupied as an allowed use.

Sincerely,

Needs an explanation of the services available to the site and how they will be adequate to serve the site.