

July 15, 2022

El Paso County Board of Adjustments

Re: Steve Rael Jr. RV/Trailer Storage Variance Request **Opposition Letter**
18220 State Highway 83, Colorado Springs – BOA 226

Dear Mr. Chairman and other Members of the Board,

My home and property are directly adjacent to the RV and Trailer Storage business. This business is in violation of numerous sections of the El Paso County Land Development Code:

- Operating this business without a Special Use Permit
- RV/Trailer Storage does not meet the setback or screening requirements

There have been a large number of RVs and Trailers including a semi- truck Trailer parked and stored about 3-5-feet (some even closer) off of my east property fence line for the last 10-15 years (See Exhibits A, B, C).

- The County was made aware of this issue in October, 2018 after an initial complaint was filed
- Mr. Rael has been aware of the 50-foot setback requirement since early 2019 (See Exhibit D1 and D2)
- However, it has taken over 3 years to finally get to this point where he has submitted this variance request and it now comes to this Board for review.

Based on the Letter of Intent and site map that Mr. Rael has submitted and in reviewing the variance criteria:

- Mr. Rael has **not demonstrated** any peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the property
- Mr. Rael has **not shown** exceptional narrowness, shallowness or shape of the property or exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property
- Mr. Rael has **not demonstrated** that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property
- Mr. Rael has **not provided** relevant or compelling rationale to justify a setback variance
 - Mr. Rael states that he cannot comply with the 50-foot setback requirement in the current location of the RVs and Trailers since it's between a fence and an existing roadway
 - Mr. Rael **has neglected** to mention that there are numerous other reasonable options on his 40-acre property where the current RV/Trailer Storage can be relocated and meet setback requirements
 - The Letter of Intent states that the Storage area is on less than 2% of his overall land which allows for numerous opportunities to meet the setback requirements (See Exhibit I)
 - It should be noted the **Board voted for disapproval of BOA-22-004** at the June 22, 2022 meeting because the applicant had another alternative to relocate the proposed home and meet setback requirements even though 95% of his 5.41-acre property has 30 degrees or greater slopes (See Exhibit G). This is quite unlike Mr. Rael's 40-acres of relatively flat and open property.

During the course of the past 3+ years, several members of the County Staff have provided comments to Mr. Rael:

- Highly discouraging him from making a request for a setback variance because the provision is put in place to mitigate the impacts of his home occupation on the surrounding property owners (See Exhibit E)
- They don't anticipate that the Planning Commission or the Board of County Commissioners would be receptive to that waiver because, in a recent work session, home occupations were discussed and the need to appropriately mitigate and screen were topics supported by the board (See Exhibit E)
- Even the engineer that Mr. Rael is working with told me in a phone conversation in early August, 2021 that he had previously suggested to Mr. Rael that he simply relocate the Storage area because of the opposition he was facing

Regarding the 50-foot setback requirement as set forth in the Code and as it relates to Mr. Rael's rationale in his interpretation of the requirement:

- Mr. Rael states he is asking for a variance to 30-feet because:
 - There is a no build area located on my property opposite the existing Storage area
 - The closest home (presumably mine) to the proposed setback would be an average distance of 320-feet, more than a football field away
 - Views from the existing homes are to the west and not the east where the RV/Trailer Storage is currently located in relation to their homes
 - Completely false as noted in the Supporting Detail and Context attached
 - There are several rows of trees, which separate the neighboring homes from the existing RV/Trailer Storage, providing natural screening
 - Completely false and noted in the Supporting Detail and Context attached

In my review of the Code, especially the portions related to Variances to Physical Requirements, Special Use, and Outside Storage and Work Areas Allowed:

- I have been **unable to find anywhere** that says that setback is a minimum of 50-feet from all property lines
 - EXCEPT in situations where the outside Storage and parking is directly adjacent to a no build area;
 - EXCEPT in situations where the outside Storage and parking is a certain distance from the closest home;
 - EXCEPT if the views from the existing homes don't face the outside Storage and parking; or
 - EXCEPT in situations that where trees provide natural screening

After reviewing all of the documentation I received as a result of submitting a CORA request, it is clear to me that Mr. Rael's reluctance to relocate this RV/Trailer Storage to another "less than 2%" area on his 40-acre property is based:

- More on his **personal preference and convenience** vs. legitimate topographical or other variance criteria concerns.
 - In fact, in early versions of Mr. Rael's Special Use Permit LOIs starting in February, 2019, he stated:
 - that he wanted to "respect the folks that utilize the horse barn"
 - that he "does not want to denigrate the beauty of the property"
 - that he wanted to respect and preserve his personal property view of the Front Range and,
 - that he wanted to preserve his personal view from his home and front porch (See Exhibit D2).

I have attached Supporting Detail and Context information that supports my opposition and is in response to the rationale and statements outlined in the Letter of Intent, some of which are inaccurate and/or misleading.

In summary:

- Mr. Rael has not met the variance criteria to justify approval of the variance request
- Mr. Rael's stated rationale related to setback requirements is not valid in considering a setback variance
- Mr. Rael has not sufficiently demonstrated that there is nowhere else on his 40-acre property where he can carve out less than a 2% area to relocate the RV/Trailer Storage to meet the 50-foot setback requirement

Therefore, I respectfully ask you to vote for disapproval to this variance request. Thank you for your time and consideration.

Sincerely,

Jill Fowler, Canterbury Lot 123
2585 Mohawk Way, Monument, CO 80132
719-660-4349

Supporting Detail and Context in Response to Letter of Intent

Mr. Rael claims there are steep grades on his 40-acre property, but even without a topographical map, one can simply look at the property and clearly see that the majority of the property is relatively flat and open (See Exhibits F1, F2 and F3).

- It certainly does not have the type of steep slopes or topographical concerns that were reviewed in the June 22 Board of Adjustment meeting for the variance requests submitted at that time
- In fact, the Board voted for disapproval of BOA-22-004 because the applicant had other alternatives to relocate the proposed home and meet setback requirements even though 95% of his property has 30 degrees or greater slopes. (See Exhibit G)

In his Letter of Intent, Mr. Rael also speaks to narrow land strips and drainage areas. However:

- RV/Trailers are currently located on what is presumably one of those narrow land strips that he is referring to and that hasn't prevented him from parking the RVs/Trailers there all these years
- There are ample areas on the 40-acre property that would not be considered narrow land strips
- There are large open areas where there are no drainage channels depicted on the site map
 - On a side note, Mr. Rael has a couple boats, a pop-up camper, a camper shell, an enclosed work Trailer and some other items parked on the property line adjacent to Lot 120 and directly in an area clearly shown as a drainage area on the site map (See Exhibit H)

Based on the above, it doesn't appear he is overly concerned about the current Storage being at least partially on a drainage channel or on a narrow land strip. (See Exhibit I for some, but not all, possible alternatives to store the RVs/Trailers and meet the 50-foot setback requirement.)

Mr. Rael also states in his Letter of Intent:

- There is pastureland that can't be destroyed, as it is utilized to feed the horses
 - That rationale doesn't appear to meet the variance criteria because:
 - it doesn't speak to the exceptional narrowness, shallowness or shape of the property
 - nor does it speak to exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property

However, a couple thoughts on this point anyway:

1. As a 20+ year former horse owner, I can confidently say that the property is over-grazed, is quite weedy and cannot sustain 100% feeding of the horses that are grazing on his property
2. According to Mr. Rael, the RV/Trailer Storage takes up less than 2% of the property
3. That said, there are other options on his 40-acres to graze the horses and relocate the RV/Trailer Storage business while meeting the 50-foot setback requirement

Mr. Rael also cites security and financial considerations in his Letter of Intent, but I don't believe those things constitute hardships under the variance criteria. But even if they were:

- I would think any expenditures related to this business would be considered a business expense for tax purposes, assuming he has been filing tax returns for this business income
- As a reminder, Mr. Rael has been operating and growing this business for 10-15 years. Even though he's been in violation of the Code the entire time (knowingly since early 2019), he has been earning income and financially benefiting and there have been no penalties or fines assessed over the years

I don't know how the estimated future costs of \$150,000 was determined, but the costs speak to improvements that have not ever been made in the current storage location.

- For example, the RVs/Trailers have been parked on the ungraded dry brush, grass, and weeds for all of these years and there is no parking gravel which is one of the improvements he states he will need to make (See Exhibits A, B and C)
- In addition, other areas on the property where the RV/Trailer Storage could potentially be relocated are not any more uneven or sloped nor do they have much different terrain than where the current RV/Trailer Storage is located
- There are even options to relocate the RV/Trailer Storage along other portions of the existing access road thus avoiding additional expenditure for that (See Exhibit I).
- Also, there currently is no fencing or screening around the Storage area as required by the Code, so fencing is a cost that will need to be incurred regardless of where the Storage is located on the property should he ultimately gain approval to continue to operate this business through a Special Use Permit.

The Letter of Intent refers to the fact that Mr. Rael is retired and on a fixed income and that this small RV/Trailer location provides additional monthly income for his living expenses:

- I am retired and live on a fixed income as well
- I have consulted with a seasoned real estate professional who has confirmed that this Storage area is devaluating mine and my neighbors' property
- My home and property are my most significant asset and I can't afford to have my property value reduced due to having this RV/Trailer Storage parked along my property line

In all of these years, and being fully aware of his neighbor's opposition, Mr. Rael hasn't made one good faith effort to address any concerns or move the RVs/Trailers off of my property line while he goes through the process of obtaining approvals. Instead, he has done nothing in the interim but drag his feet (3+ years) in order to get this situation resolved and operate within the Code. He has essentially chosen to continue to flaunt the violations in my face, and, for that matter, in the face of the County as well – all for his benefit and financial gain.

In fact, he demonstrated a cavalier attitude in response to my concerns in an email in April, 2019 (See Exhibit J).

- Contrary to his statement in that email, his situation with the school is hardly similar to what I have been facing as it is not directly on his property line nor is it directly across from his residence. In addition, the school wasn't built without approval.

Inaccurate and Misleading Statements

1. Contrary to Mr. Rael's statement that "views from the existing homes are to the west, not the east, where the RV/Trailer Storage is currently located":
 - a. My view is compromised from **EVERY SINGLE** one of my 14 east facing windows (See Exhibits K1, K2, K3 and K4. Due to space limitations, I included pictures from 3 of the 14 east facing windows. Exhibit K2 is at the most southern end of my home and K4 is at the most northern end of my home. Views from the rest of the 14 windows are similar as my entire home faces east)
 - b. And, while there are trees on my property, they hardly provide the "natural screening" as Mr. Rael states. (See Exhibits K2, K3 and K4)
2. Mr. Rael states that there is a large barn located on the northern portion of this property. He also states that horse trailers, trucks, and cars park in that northern location throughout the week.
 - a. While there is a riding arena and a round pen on the northern portion of his property (based on the site map), the barn, horse trailers, trucks and cars that park there are not on his property
 - b. Rather all of that is on the barn property to the north (See Exhibit I)

3. Mr. Rael states that the surrounding neighbors also have their personal RVs, trailers, boats, cars, trucks, etc. parked on their lots, which can be seen from the existing RV/Trailer Storage area:
 - a. This is an absurd and ridiculous comparison for obvious reasons
 - b. Other than the barn property to the north, whose owner Mr. Rael may have some sort of financial arrangement with for grazing horses and allowing riding and events in the arena on his property,
 - i. I only see one surrounding neighbor who has an RV parked outside and visible
 - ii. **None** of the neighbors directly adjacent to the RV Storage have any RVs/Trailers/Boats, etc. parked
 - iii. In any event, we are on 5-acre horse properties, and it would be reasonable for any of us to park a personal RV, trailer, boat, car or truck on our property
 - iv. That being said, none of us is running an RV Storage business on our properties without approval and in violation of the Code
 - v. And, what could be parked has never been excessive, is not an eyesore, is not parked directly on property lines, and doesn't devalue neighboring properties

EXHIBITS



EXHIBIT A – Aerial View July, 2021



EXHIBIT B – Partial Fence line View



EXHIBIT C – Close Ups

Letter of Intent

* Steve R Rael Jr. 18220 State Hwy. 83, Colorado Springs. CO 80908

(719)-339-0836

* Current zoning RR5, site location west side of property line estimated 18,000 square feet for annual storage consisting of; Boat and Trailer, Utility Trailers, RV s and Horse Trailers

* Storage area will not have external lighting, no storm fencing, no additional roads

* Requesting waiver of 50 feet from eastern property line to park RV units

* No zoning changing requested

* Estimated land requirement 18,000 square feet

* No residential units nor dwelling units required in this project

* This project requires no commercial nor industrial sites

* Project required estimated 18,000 square feet of 40.2 total acre personal property

* Maximum (42) unit parking spots requested

* Typical unit 30 feet length, 8 feet wide, 10 feet high

* No recreational facilities required

* No construction required

I believe you mean western property line
Also a waiver of setback would require a Board of Adjustment Hearing.

Over 5,000 sf must meet the screening standards of Chapter 6 of the El Paso County Land Development Code.

Discuss the anticipated daily traffic generated with the proposed use.

* Project completion achieved

* No sewer nor water requirements requested, no dumping station nor washing station will be installed

* No landscaping will be required nor needed

Screening is required per section 5.2.29.B.5.a.

* Access location is current drive way used for residences and barn traffic

* Apart from estimated 18,000 square feet, remaining 40.2 acre is set aside as open space

Typo

* (42) Spot designation is the (Maximum) number of parking spots established by Steve Rael Jr. for following reasons:

1 Respect for my neighbors located to the west in Canterbury Development

2 Respect for the folks that utilize the horse barn. I do not want to denigrate the beauty the property

3 Respect and Personal preservation of my personal property view of the Front Range and personal view from home and front porch

2/18/19

PCD
Project
Manager

Letter of Intent: I see that you have removed the request for waiver of the 50' setback from property line for the storage area. However, that area is still shown the same on the site plan (right up next to the property line.) If you keep the storage there, you need to request the waiver but we do not anticipate that the Planning Commission or the Board of County Commissioners would be receptive to that waiver because, in a recent work session, home occupations were discussed and the need to appropriately mitigate and screen were topics supported by the Board.

5/13/2020
4:09:05 PM

PCD
Project
Manager

The letter of intent indicated that you wish to request a waiver for the 50' setback from property lines for outside storage associated with a home occupation. We highly discourage you from making that request because that provision is put in place to mitigate the impacts of your home occupation on the surrounding property owners. We do not anticipate that the Planning Commission or the Board of County Commissioners would be receptive to that waiver because, in a recent work session, home occupations were discussed and the need to appropriately mitigate and screen were topics supported by the Board.

10/2/2019
12:27:50
PM

If you wish to remove that request, please revise the letter of intent to remove the waiver request.

Additionally, please revise the letter of intent to describe how you comply with the special use approval criteria from the Land Development Code (see attached).

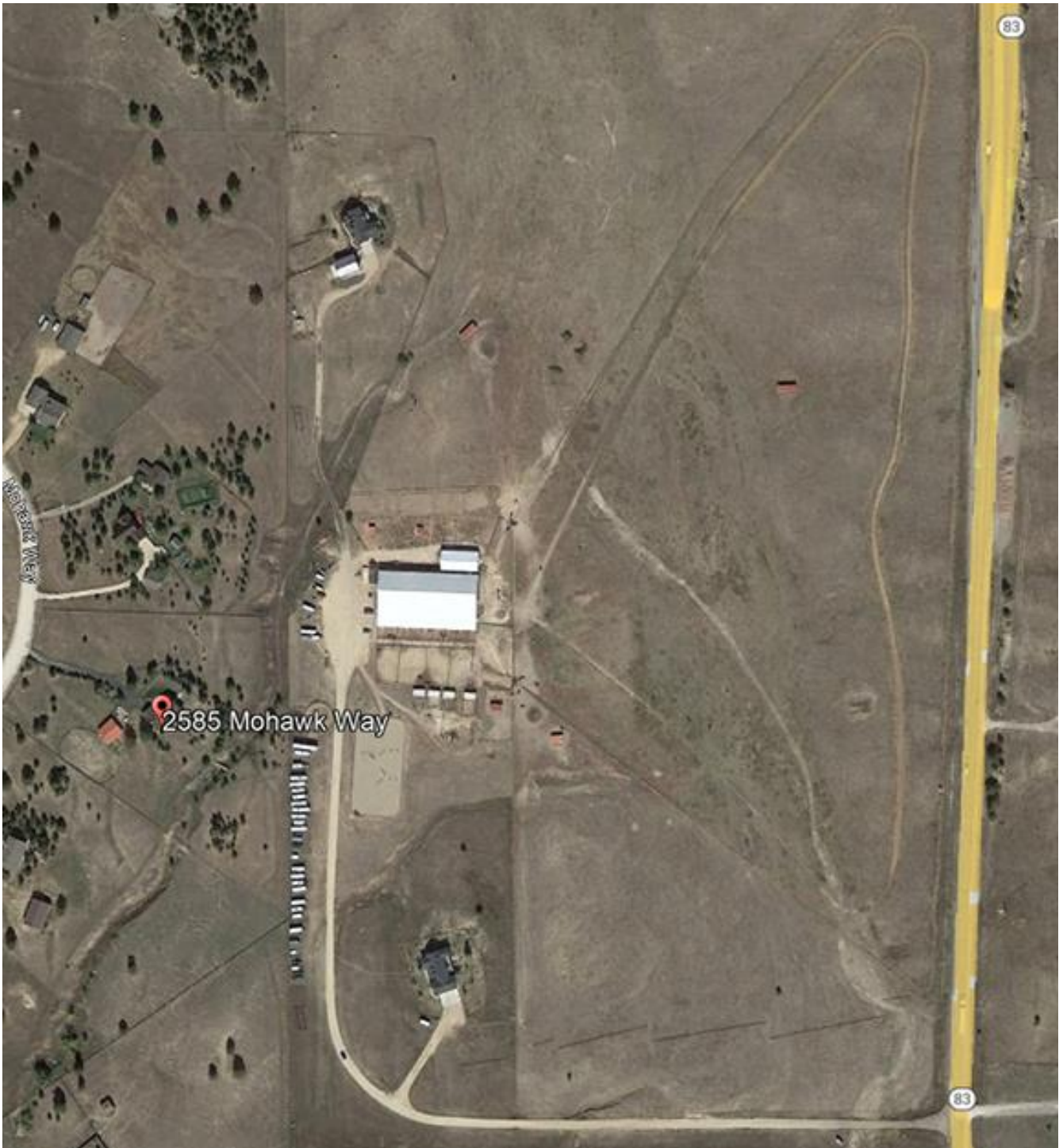


EXHIBIT F1– Google Maps Aerial View of Topography



EXHIBIT F2 – Road View of Southern part of property (no steep slopes)



EXHIBIT F3 – Road View of Property (no steep slopes)

BOA-22-004—Ground Level View - 225 Northfield Rd -- Reduce Setback Denied

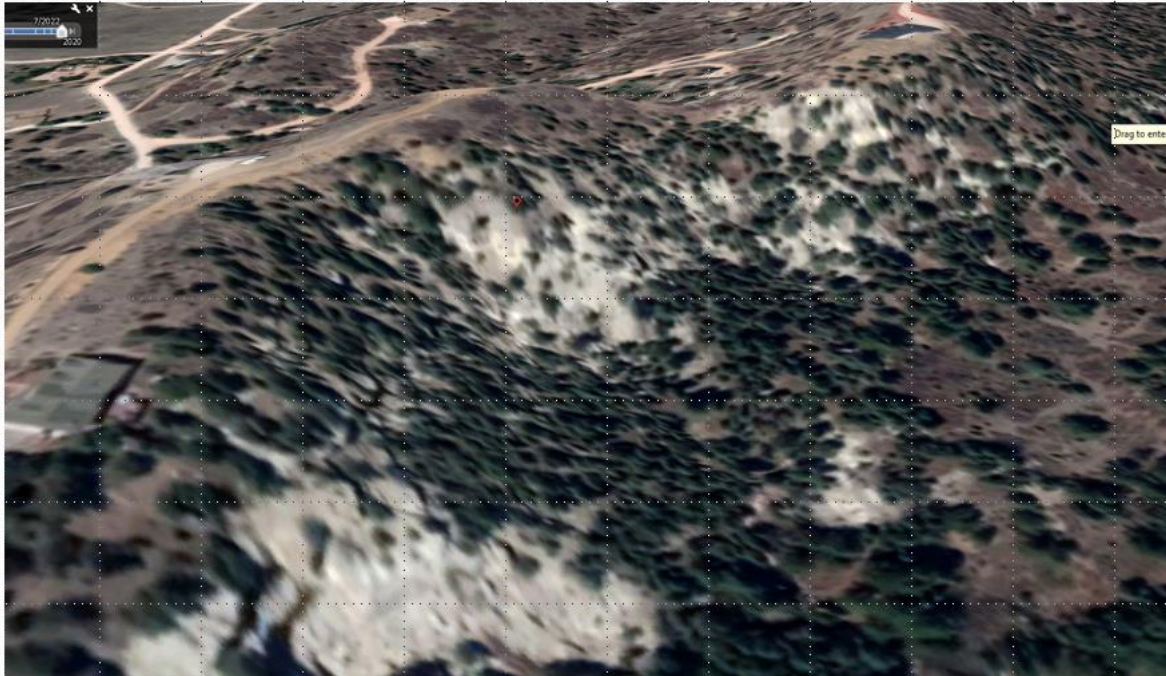


EXHIBIT G— Google Earth View of Denied Variance Request even with 30 degrees or greater slope over 95% of the property



EXHIBIT H – Red Circled Drainage Area as depicted on site map

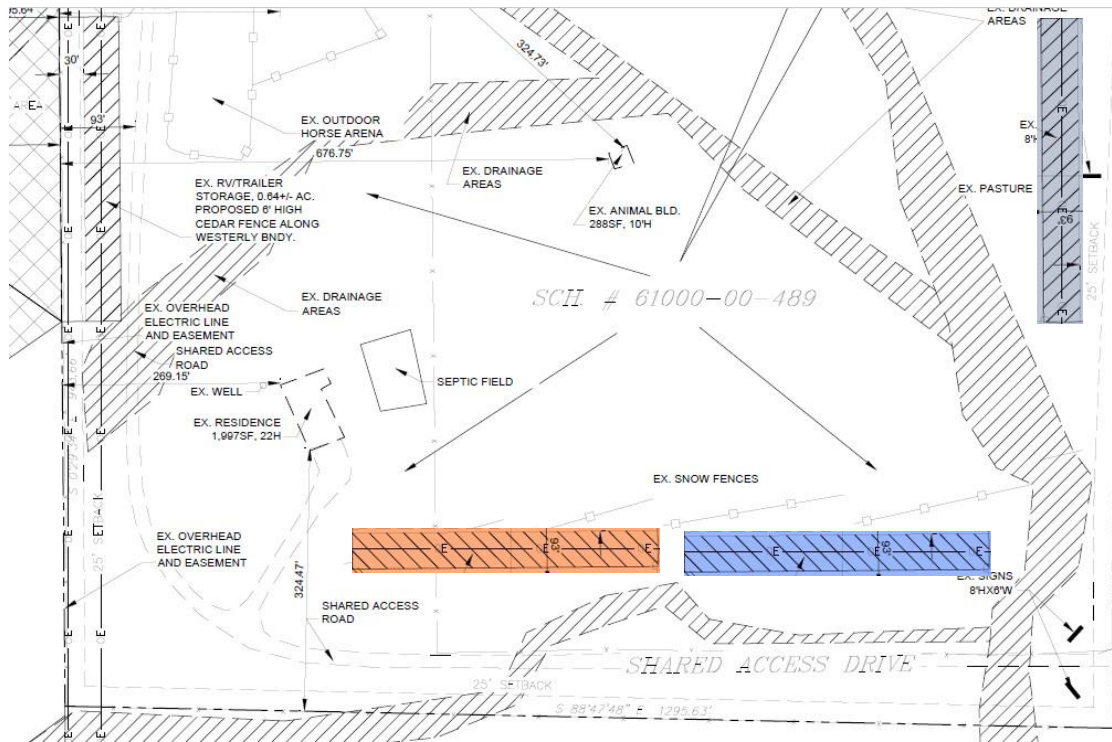
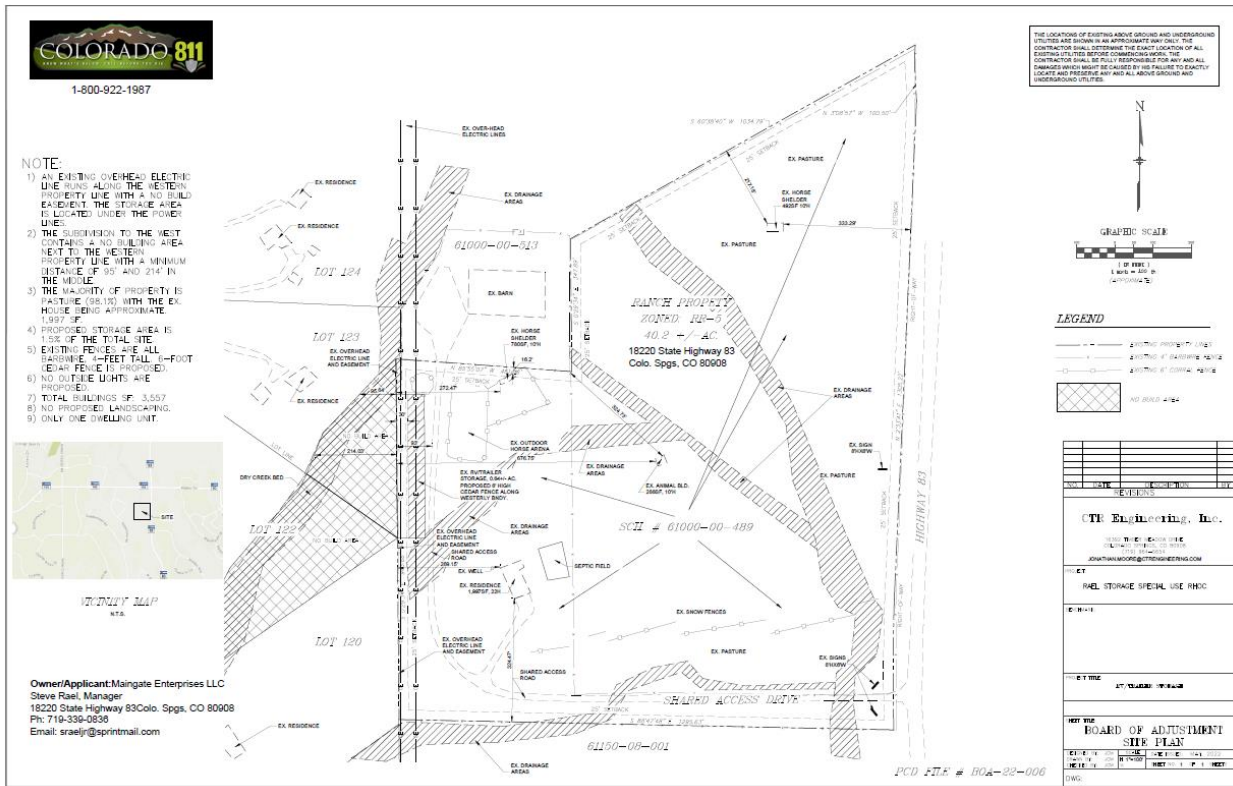


EXHIBIT I – Site Map on top as Submitted by Rael and bottom with three possible areas (there are more) where the Storage area can be relocated and meet setback requirements. Note: none of these options interfere or are impacted by drainage areas or topographical challenges. In addition, two of the options are along the existing access road.

Re: RV storage parking

From: "Steve R. Rael Jr." <sraeljr@sprintmail.com>
To: Jill Fowler
Cc: Rael Jr Steve <sraeljr@sprintmail.com>
Subject: Re: RV storage parking
Date: Apr 15, 2019 5:25 PM

Jill - I do not intend to add additional Storage spots. The project is for the current storage location and parking spots.

I regret your feeling. We are facing identical circumstances with the new High School project directly across our entire eastern property line. This is progress and unfortunately nothing stays the same.

Regards,

Steve R. Rael Jr.

MainGate Enterprises, LLC. Steve R. Rael Jr, / Owner 18220 State Highway 83
Colorado Springs, Colorado 80908
sraeljr@sprintmail.com
Bus: 719-339-0836

-----Original Message-----

>From: Jill Fowler <jillfowler@earthlink.net>
>Sent: Apr 14, 2019 10:26 AM
>To: sraeljr@sprintmail.com
>Subject: RV storage parking

>

>

>Steve,

>I received your letter about the proposal for RV storage parking. If I am understanding what you are saying, you are proposing to add even more storage parking than what you have been doing for years. My property is taking the bulk of the hit to property values since the majority of your current and proposed parking is entirely in view from every east window in my home.

>

>I met you or someone years ago and whoever that was apologized for having a few horse trailers parked along my property line at that time. You or whoever that was also said it was temporary parking and that the trailers would be parked along highway 105 as a permanent solution. That never happened and instead the number parked grew and you added semi's, RVs, and other trailers. It has turned



EXHIBIT K1 – East Facing View of my Home – Every one of my east-facing windows have similar views as seen in the following pictures. 8 windows on the main living level and 6 windows in the finished walk-out basement.



EXHIBIT K2 – East Kitchen Sink Window



EXHIBIT K3 – East Kitchen Patio Door/Deck



EXHIBIT K4 – East Master Bedroom Window (one of two)