


EL PASO COUNTY
COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

FROM: John Green, Planner II
 Gilbert LaForce, PE Engineer II
 Craig Dossey, Executive Director

RE: Project File #: VA-20-002
 Project Name: The Shire at Old Ranch
 Parcel Nos.: 62230-00-058, 62230-00-059, 62230-00-060, 62230-00-061

OWNER:	REPRESENTATIVE:
Monica Phelan The Shire at Old Ranch 10755 Howells Road Colorado Springs, CO 80908	The Shire at Old Ranch Kyle Katsos

Commissioner District: 1

Planning Commission Hearing Date: 6/3/2021
 Board of County Commissioners Hearing Date 6/22/2021

EXECUTIVE SUMMARY

A request by Monica Phelan and Old Ranch Road Properties, LLC, for approval of a variance of use to allow an agriculturally related commercial business, as is further described in the letter of intent, to be known as "The Shire at Old Ranch". The four (4) parcels, totaling 20 acres, are zoned RR-5 (Rural Residential) and are located at the northeast corner of the intersection of Old Ranch Road and Howells Road and are within Section 23, Township 12 South, Range 66 West of the 6th P.M. The subject parcels are located within the Black Forest Preservation Plan (1987).

All four (4) parcels included within the request are currently developed with single-family dwellings and detached accessory structures. The applicant is proposing to repurpose

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these parcels to establish “The Shire at Old Ranch,” which is an agricultural center that will include a retail nursery, educational facilities, art exhibits, event space, and dwellings for temporary and permanent occupancy. If the variance of use is approved, the applicant will be required to submit and receive approval of a site development plan. The site development plan will need to be substantially consistent with the site plan provided with the variance of use application and provide a more detailed depiction of the proposed use, including landscaping, parking, and lighting.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Monica Phelan and Old Ranch Road Properties, LLC, for approval of a variance of use to allow an agriculturally related commercial business, as is further described in the letter of intent, to be known as “The Shire at Old Ranch”.

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: As a Regular item at the June 3, 2021 hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 6 to 0

Vote Rationale: N/A

Summary of Hearing: The PC Draft Minutes are attached.

Legal Notice: N/A

C. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code (2019), 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:	RR-5 (Residential Rural)	Single-family dwelling
South:	City of Colorado Springs	Single-family dwelling
East:	RR-5 (Residential Rural)	Single-family dwelling
West:	City of Colorado Springs	Single-family dwelling

E. BACKGROUND

The subject property consists of four (4) separate parcels (Parcel Nos. 62230-00-058, 62230-00-059, 62230-00-060, 62230-00-061). Parcel No. 6223000058 was legally created by deed on February 28, 1966 (Bk. 2119, Pg. 997). Parcel No. 62230-00-059 was legally created by deed on February 11, 1969 (Bk. 2276, Pg. 987). Parcel No. 62230-00-060 was legally created by deed on April 20, 1964 (Bk. 2007, Pg. 548). An exact creation date for Parcel No. 62230-00-061 could not be determined, however, based on county zoning records, the parcel was legally created prior to 1971.

The parcels included within the request were zoned A-5 (Agricultural) when zoning was first initiated for this area of unincorporated El Paso County on January 3, 1955, (BoCC Resolution No. 94699). Due to nomenclature changes of the Code, the A-5 zoning district has been renamed as the RR-5 (Rural Residential) zoning district.

Each parcel within the proposed Shire at Old Ranch is developed with a single-family dwelling and a detached accessory structure. The residence and accessory building located on Parcel No. 6223000058 were constructed in 1980. The residence and accessory unit located on Parcel No. 62230-00-059 were constructed

in 1959. The residence and accessory structure located on Parcel No. 62230-00-060 were constructed in 1938 and 1958, respectively. The residence and accessory structure located on Parcel No. 62230-00-061 were constructed in 1955.

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

F. ANALYSIS

1. Land Development Code Analysis

Pursuant to Table 5-1 of the El Paso County Land Development Code (2019), the proposed business is not a permitted principle use in the RR-5 (Rural Residential) zoning district. The requested use is not consistent with the character and use allowances of the RR-5 zoning district without approval of a variance of use. Specifically, the applicant is proposing to create a unique agriculturally-related commercial business with educational components, entertainment facilities, and dwellings to be occupied for both short-term and long-term occupancy. The proposed use will incorporate the following structures and uses on the parcels:

- Visitor's Center
- Retail Plant Nursery
- Café
- Indoor Gathering Space
- Energy Independent Habitations for permanent occupancy and short-term occupancy
- Health and Wellness Center
- Educational Outreach Facility and accessory support structures

The proposed hours of operation for the facility are as follows:

9:00 A.M. to 6:00 P.M. for all structures and uses except for the following:

- Cafe: 6:00 A.M. - 8:00 P.M. M-F, Sat 7:00 A.M.-8:00P.M., Sun 9:00 A.M.-8:00 P.M.
- Indoor Gathering Space: 8:00 A.M. - 10:00 P.M. 7 days/week
- Energy Independent Habitation exhibit: 9:00 A.M.-6:00 P.M.
- Retail Nursery: 9:00-6:00
Educational Outreach Facility: 8:00-5:00 M-S, Sun 10:00-5:00, same hours for playground and animal barn

- Health and Wellness: 6:00 A.M.-10:00 P.M. M-F, 8:00 A.M.-10:00 P.M. Sat.
- Wholesale Nursery: 8:00 A.M.-5:00 P.M. M-F, 8:00 A.M.-12:00 P.M. Sat.
- Equipment Barn: 8:00 A.M. -5:00 P.M. M-F, 8:00 A.M.-12:00 P.M. Sat.
- Bath House: open only to residents, 24/7

Rezoning to a traditional commercial zoning district to accommodate the proposed retail sales and event space would not allow the applicant to develop the parcels with the residential or agricultural uses as proposed. Therefore, rezoning to a different zoning district to accommodate the non-residential components of the development is not appropriate. Due to the multitude of uses proposed by the applicant, the use cannot be categorized as a permitted use under any existing zoning district within the Code and, therefore, is not allowed within any zoning district in the County. The Planning Commission and Board of County Commissioners could consider the lack of a zoning district that would accommodate the full extent of proposed use as a hardship.

The subject parcels are bordered by residential development of similar density to the north and east. Specifically, the subject parcels are adjacent to other RR-5 zoned properties. Those properties are developed with single-family dwellings on five-acre lots. Many of these rural residential lots include agriculturally related uses, such as hobby farms and personal gardens. The properties located to the south and west of the subject parcels are located within the City of Colorado Springs and are developed as high density urban residential properties, with parcels ranging in size from 8,000 square feet to two (2) acres. Pine Creek High School is located to the west and serves residents of the City of Colorado Springs as well as the residents living in the unincorporated areas of El Paso County.

The proposed use may serve as a transition between the existing urban level density south and west of the parcels and the rural residential densities found to the north and east of the subject parcels. The proposed use could serve as an alternative type of community outreach center, providing jobs, services, and entertainment to the surrounding neighborhood. The applicant's letter of intent states that the facility may be used for education and outreach efforts for the surrounding community, including outreach with Pine Creek High School students and other local entities in the surrounding neighborhood. The proposed use may enhance the character of the neighborhood by joining the existing rural community with the increasing areas of urban development as well as providing additional employment, entertainment, and educational opportunities. The

property and the proposed uses may also function as a transition between the urban development along Highway 83 and the rural residential development located north and east of the subject parcels.

Potential off-site impacts related to the proposed use may include noise, visual/aesthetics, and traffic. The applicant has submitted a traffic memo in support of the variance of use request, which indicates that no detriments to any road facilities would occur as a result of approval of the variance of use. The applicant has indicated that in order to mitigate concerns regarding noise and visual clutter, most of the facilities within the development will be centrally located in the interior of the parcels and screened with landscaping to help reduce the impact on adjacent properties. The hours of operation will also be limited in an effort to further mitigate potential noise impacts. Should the variance of use be approved, a site development plan will also need to be submitted and approved 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, water quality, and parking and lighting standards.

2. Zoning Compliance

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

- Minimum zoning district area: 5 acres
- Minimum front, side, and rear yard setback: 25 feet
- Maximum height: 40 feet

The existing dwellings and accessory structures meet the 25-foot setback from all property lines as required in the RR-5 zoning district, in addition to the maximum height and lot coverage limitations for the district. Should the special use request be approved, approval of a site development plan will be required prior to building permit issuance and initiation of 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 in Chapter 6 of the Code.

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 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 6.4.6 - *Allow for the accommodation of necessary supporting commercial uses within or in proximity to rural residential areas in a manner that preserves the rural character of these areas*

Goal 6.5 - *Encourage the preservation of agricultural uses as an important contributor to the economy and land use character of the County.*

Policy 6.5.2 - *Encourage appropriate opportunities for employment within rural areas.*

The parcels are bounded on the west and south sides by residential developments within the City of Colorado Springs with lot sizes ranging from 8,000 square feet to two (2) acres. The subject parcels are bordered on the north and east by parcels within the RR-5 (Rural Residential) zoning district consisting of single-family dwellings on five-acre parcels. As previously mentioned, the proposed use may serve as a transition between the urban level densities located southwest of the parcels and the five-acre rural residential densities located north and east of the subject parcels. While the proposed use is commercial in nature and will create an increase in traffic to the site, it is

generally compatible with the intensity of the urban level densities located within the City of Colorado Springs.

The applicant is proposing a unique use that includes several agriculturally related components, which are generally consistent with the rural nature of the surrounding parcels to the north and east of the proposed use. The proposed uses on the parcels include an event space, temporary and permanent occupancy dwellings, a wholesale nursery and related retail activities, a café, educational facilities, and art exhibits. This diverse range of uses represents a unique and innovative use of the land, while providing a buffer between high level urban densities and rural and agricultural land uses in the area, pursuant to Policy 6.1.16. Additionally, pursuant to Policy 6.4.6 and Policy 6.5, the proposed use could provide a necessary commercial service for the surrounding community and promote the preservation of agricultural areas by offering unique demonstrations and outreach opportunities to emphasize the importance of agriculture in the region. The use will also incorporate design elements to enhance and preserve the environment, such as recycling of water for irrigation and stormwater harvesting, which is consistent with Policy 6.1.16. Finally, due to the multitude of uses proposed, the unique emphasis on outreach and education, and the location of the parcels between urban development within the City of Colorado Springs and rural five-acre parcels located to the north and west of the subject parcels, the use may serve as a community center and neighborhood gathering space. As such, the proposed use may be found to enhance the sense of community within the neighborhood, pursuant to Policy 5.1.1.

The projected job creation and diversity of employment opportunities associated with the proposed use align with Policy 6.5.2, which encourages employment opportunities in rural areas of the County. Specifically, the applicant's letter of intent states that they anticipate the proposed use will create approximately 50 new jobs, which will provide employment for the local community, while still preserving the agricultural and rural character of the neighborhood. The anticipated employment opportunities will be related to retail, hospitality, agriculture, and education. The jobs created by the proposed use will provide employment opportunities for local residents, while also attracting visitors from throughout the region.

While the proposed use is rural and agricultural in nature, potential adverse impacts generated by the development also include visual impacts. As part of the application, the applicant has provided a site plan that depicts a landscaping buffer of evergreen trees along the north and east boundaries of the

development to provide screening from adjacent single-family uses. Existing landscaping located on the southern portion of the parcels provides screening from the adjacent properties within the City of Colorado Springs. Additionally, the applicants' site plan shows that the majority of the buildings associated with the use are located in the interior of the parcels, at a distance of over 300 feet from the nearest adjacent parcels. That distance provides a buffer between the activities associated with the proposed use and the adjacent residential properties. Should the variance of use to allow the agriculturally related commercial business be approved, a site development plan must be reviewed and approved prior to issuance of any building permits and initiation of the use on the parcels. Compliance with the applicable development standards, such as landscaping, parking, and ADA compliance, will be reviewed with the site development plan application.

4. Small Area Plan Analysis

Compliance with the small area plan is not listed as an applicable review criteria for a variance of use. However, for background purposes, the parcels are located within the boundaries of the Black Forest Preservation Plan (1987) and are specifically identified as being within the Briargate Transition area. The Plan identifies the subject parcels as appropriate for five to ten-acre rural densities and does not specifically identify the area for commercial uses. The Plan also indicates that the rural residential character of the area should be preserved. The proposed variance of use is not consistent with this portion of the Plan due to the proposed use including commercial and retail aspects.

The Plan includes goals and objectives which apply to the overall Plan area and not each specific sub area. Relevant goals and objectives are as follows:

Goal 2.A – *Recognize that agricultural, and other open lands are vital natural resources which should be protected from needless misuse and urban sprawl.*

Goal 4.1A – *Allow for limited commercial development which supports and enhances the Black Forest Planning Area.*

Goal 4.4 – *Maintain the scale of new commercial uses so that it is in balance with the existing uses.*

Goal 8.9 – *Support development plans which minimize the need for regrading extensive areas, and which utilize phasing and prompt*

revegetation to reduce wind and water erosion impacts on those areas which are disturbed.

The proposed use represents a unique commercial development in an area of transition between the urban density residential development located within the City of Colorado Springs south and west of subject parcels and the rural residential five-acre parcels located north and east of the subject parcels. As such, the proposed use may serve as a transition between the varying densities of the surrounding neighborhood.

The proposed use is in compliance with Goal 4.4, which recommends that the scale of commercial development match the intensity of development surrounding the parcels. The proposed use is in keeping with the rural residential densities surrounding the subject parcels, while also serving as a transition to urban densities southwest of the parcels. Additionally, the proposed use will serve as a sort of community center for the surrounding neighborhood, with educational, entertainment, and employment opportunities. While the proposed use is commercial nature, it is rural in character and enhances the character of the surrounding neighborhood, in compliance with Goal 4.1A. Finally, the purpose behind the proposed use is to provide outreach and educational opportunities to demonstrate the importance of agriculture and farming in the region. Through that outreach, the proposed use encourages preservation of open space and incorporates innovative design features, such as stormwater harvesting, to promote and showcase unique design features that can help preserve the environment, in compliance with Goal 2.A and Goal 8.9, respectively.

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. However, for background, the Water Master Plan has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

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

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

Goal 1.2 – Integrate water and land use planning.

The subject parcel is in Region 2 of the El Paso County Water Master Plan. Region 2 has a current water supply of 13,607-acre feet per year and a current demand of 7,532-acre feet per year. The 2040 water supply is projected to be 20,516-acre feet per year and the projected demand is 11,713-acre feet. The 2060 water supply is projected to be 20,756-acre feet per year, whereas the demand is anticipated to be 13,254-acre feet per year; therefore, there is projected to be a surplus supply of water for central water providers in this region of the County.

Water service for the parcels will be provided by on-site wells. Specifically, there are four (4) existing wells serving the residences on each lot, which constitute a community water system according to the comments provided by the El Paso County Division of Environmental Health. A commercial well permit from the Colorado Division of Water Resources must be obtained prior to initiation of the use demonstrating sufficient water service for the proposed development.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. Colorado Parks and Wildlife and El Paso County Community Services Department, Environmental Services Division, were sent a referral with the application and have not provided comments to date. Any comments and recommendations regarding wildlife impact will be provided at the hearing.

The Master Plan for Mineral Extraction (1996) identifies upland deposits in the area of the subject parcels. 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 conformance with 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

No hazards were identified during the review of the variance of use application which would restrict the proposed development.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. The agency was sent a referral with the application and has not provided comments to date. Comments and recommendations regarding wildlife impact will be provided at the June 3, 2021 Planning Commission application for the item. The department will also be sent a referral for the subsequent site development application, should the variance of use be approved.

3. Floodplain

The parcels is not impacted by any designated 100-year floodplain (Zone X) as indicated by FEMA Flood Insurance Rate Map panel number 08041C0507G, which has an effective dated of December 7, 2018.

4. Drainage and Erosion

The parcels are located within the Kettle Creek (FOMO3000) drainage basin, which is an unstudied basin and a part of the EPC Drainage Basin Fee program. Drainage fees are not assessed with variance of use requests.

Prior to future development, a drainage report, grading, and erosion control plan will be required with the associated site development plan. The drainage report provides hydrologic and hydraulic analysis to identify and mitigate drainage impacts to the surrounding properties.

5. Transportation

The 2016 Major Transportation Corridor Plan Update (MTCP) does not depict roadway improvement projects in the immediate vicinity of the site.

The site is accessed via Howells Road. A deviation request (PCD File No. 19-001) for access via Howells Road was approved with conditions of approval.

According to the traffic study, the site will generate an estimated 2,333 average daily trips. Off-site improvements to Howells Road and Old Ranch Road as described in the deviation request and traffic study are required with the site

development plan. All off-site improvements shall be constructed with the first phase of development. The off-site improvements include:

- a. Howells Road shall be paved from Old Ranch Road to the proposed Howells Road access.
- b. Construction of a northbound right turn lane at the access along Howells Road.
- c. Construction of an exclusive southbound right turn lane at the Howells Road and Old Ranch Road intersection.
- d. Restriping the eastbound median turn lane at the Howells Road and Old Ranch Road intersection.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471), as amended. The applicant has not requested inclusion into a public improvement district; therefore, fees shall be paid in full at the time of building permit issuance.

H. SERVICES

1. Water

Water is to be provided by a proposed on-site well. A commercial well permit may be required from the Colorado Division of Water Resources in order to operate the use as proposed.

2. Sanitation

Wastewater is to be provided by an on-site by a combination of professional engineer designed onsite wastewater treatment systems (OWTS), greywater reuse and a human waste aerobic decomposition/sterilization /fertilizer process. El Paso County Public Health has indicated that the applicant's proposed wastewater treatment system may not meet septic standards for the proposed development. As such, the applicant will be required to coordinate with El Paso County Public Health for approval of an engineered septic system that adequately serves the proposed development.

3. Emergency Services

The parcels are within the Black Forest Fire Protection District. The District was sent a referral with the application and has not provided comments to date. Any comments and recommendations received regarding fire safety will be provided at the hearing. County staff will also send a referral for the subsequent site development application, should the variance of use be approved.

4. Utilities

Electrical service is provided by Mountain View Electrical Association and natural gas service is provided by Black Hills Energy. Both agencies were sent a referral and have no outstanding comments.

5. Metropolitan Districts

The parcels are not located within a metropolitan district.

6. Parks/Trails

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

7. Schools

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

I. APPLICABLE RESOLUTIONS

Approval Page 51
Disapproval Page 52

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 agriculturally-related commercial business known as the Shire at Old Ranch as proposed and discussed in the applicant’s letter of intent. Any subsequent addition or modification to the use beyond that described in the applicant’s letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
2. A site development plan shall be applied for and approved to initiate the existing use on the site within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the PCD

Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

3. The applicant/developer and/or property owner(s) shall be required to participate in a fair and equitable manner in upgrading/construction of the surrounding roads and intersections impacted by the anticipated traffic from this development, as identified in both the approved deviation request (PCD File No. DEV-19-001) and the recommendations and conclusions section of the associated The Shire at Old Ranch traffic impact study dated September 11, 2020. A development agreement to construct these necessary off-site public improvements with the first phase of development shall be completed with the site development plan.

NOTATIONS

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

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified thirty (30) adjoining property owners on May 19, 2021, for the Board of County Commissioners meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Adjacent Property Owner Responses
Black Forest Fire Comments
PC Draft Minutes for the June 3, 2021 hearing
Planning Commission Resolution
Board of County Commissioners' Resolution

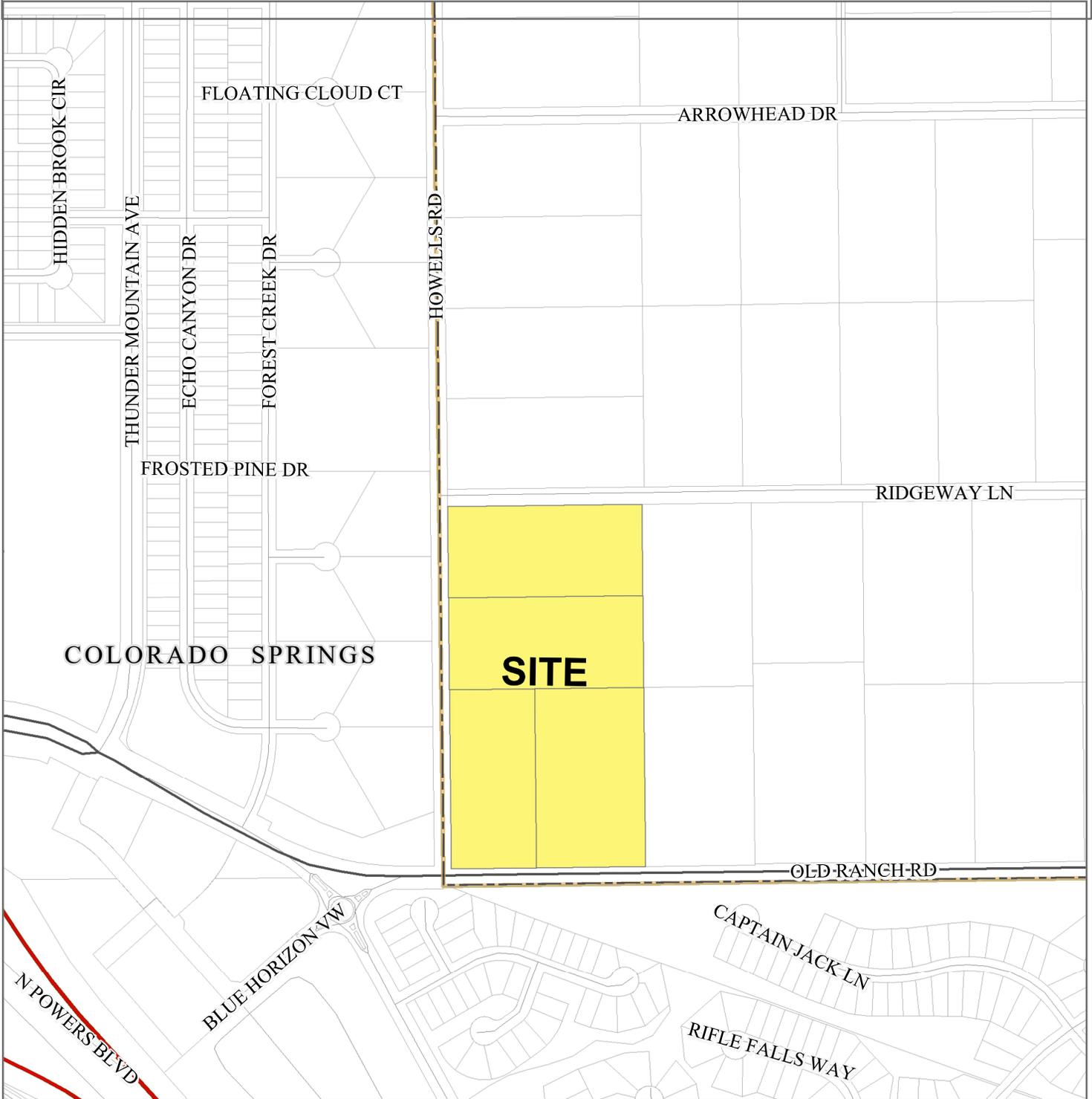
El Paso County Parcel Information

PARCEL	NAME
6223000058	PHELAN MONICA
6223000059	OLD RANCH ROAD PROPERTIES LLC
6223000060	OLD RANCH ROAD PROPERTIES LLC
6223000061	OLD RANCH ROAD PROPERTIES LLC

File Name: VA-20-002

Zone Map No. --

Date: May 14, 2021



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 16 (719) 520-6600



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Letter of Intent Revised 12/10/20

Owner/Applicant

Mark Phelan - 719.243.2678 - mark@phelangardens.com
Monica Phelan - 719.243.2677 - monica@phelangardens.com
4955 Austin Bluffs Parkway, Colorado Springs, CO, 80918

Architect

Fisher Architecture
William L. Fisher - AIA, LEED ap
PO Box 1395, Palmer Lake, CO
719-660-4356 bill@fisharch.com

Engineer

Art of Engineering
Scott Harvey - P.E.
10 Boulder Crescent, Colorado Springs, CO 80903
719-528-1557 sharvey@artofengineering.com

Site Information

10755 Howells Rd, 10655 Howells Rd,
3820 Old Ranch Rd, 3890 Old Ranch Rd.
Black Forest, CO, 80908
Site Size: 20 Acres
Current Zoning: RR-5

The Vision

We are seeking a variance of use to allow for the creation of a unique enterprise called The Shire at Old Ranch (TSOR). Our intent is to energize opportunities for positive connections between people and the natural world we share and adore. Our vision of The Shire at Old Ranch includes infrastructure to facilitate connection around the topics of agriculture, community, energy, and education.

Overview

Comprised of four 5-acre parcels (each zoned RR-5), the 20-acre site is ideally located to serve as a transition from suburban Cordera and Northfork to rural Black Forest neighborhoods. The property is bordered on three sides by Old Ranch (south), Howells (west), and Ridgeway (north). There is currently one residence and an out-building/detached garage on each of the 5-acre parcels. The land is mostly prairie with patches of shrubs and trees and small herds of antelope. The structures and facilities are described below, and locations, sizes, and types shown in Site Plan version 19.2.

The **Visitor's Center** shares the story of The Shire at Old Ranch and houses The Shire at Old Ranch's administration.

The **Plant Nursery** offers regionally appropriate plants, products, and knowledge.

The **Café** provides comfort, food, and beverage.

The **Indoor Gathering Space** hosts events and workshops to quench people's curiosity.

Energy Independent Habitations exhibits alternative building styles and houses both permanent and temporary residents.

The **Health and Wellness Space** provides holistic health products and services.

SEE (Sustainable Educational Experience 501c3) is a non-profit organization focused on educating about land stewardship, agriculture, and the arts.

Support structures including equipment barn and silos provide storage space for necessary resources.

Hours

9:00 to 6:00 for all EXCEPT

- Cafe: 6:00 A.M. - 8:00 P.M. M-F, Sa 7:00-8:00, Su 9:00-8:00
- Indoor Gathering Space: 8:00 A.M. - 10:00 P.M. 7 days/week
- Energy Independent Habitation exhibit: 9:00-6:00
- Retail Nursery: 9:00-6:00
- SEE : 8:00-5:00 M-S, Su 10:00-5:00, same hours for playground and animal barn
- Health and Wellness: 6:00-10:00 M-F, 8:00 A.M.-10:00 P.M.
- Wholesale Nursery: 8:00-5:00 M-F, 8:00-12:00 Sa
- Equipment Barn: 8:00-5:00 M-F, 8:00-12:00 Sa
- Bath House: open only to residents, 24/7

The Site

The property will feature a main-drive loop, service-drive loop (accessible only to tenants, vendors, and employees), and a network of trails. The drive and service road will be one-way loops with strategic landscape buffering. Trails will be open to neighbors and guests by day and will offer a scenic alternative for folks walking the surrounding roadways. Through intensively planted (30' wide) buffers, a moderate slope downhill to the west, and thoughtful siting of structures, our Black Forest neighbors to the east and north will have enhanced peak/foothill views with the transition to Northfork and Cordera softened. The following areas are all *PROPOSED STRUCTURES* (unless otherwise noted).

Visitor's Center

The Visitor's Center will be centrally located and serve as a resource center for both staff members and guests. The space will feature an open exhibit and learning area to showcase the design process, philosophy, both designed and natural systems, and showcase the commercial tenants who make up The Shire at Old Ranch. This space will also house The Shire at Old Ranch's (TSOR) administration.

Plant Nursery

The Plant Nursery consists of the *COOP* with attached *Retail Greenhouse*, a northern *Propagation Greenhouses*, and *Propagation Greenhouses* near the *COOP* for growing on plants to be sold in the *Retail Greenhouse*, as well as field growing operations. By nestling buildings into the topography of the site, growing structure roof lines will be held well below the perimeter landscape height and the mountain horizon line. Plant Nursery elements will utilize intensive conservation techniques including grey water recycling, drip irrigation, deep mulching, and regionally appropriate plant selection. Conservation philosophy will be evident in the thoughtful selection of native, adaptable (sustainable with 14" average rainfall), and edible plants. Field growing operations will utilize low-tunnel plastic-house and hail structures for seasonal plant protection. Water availability will be a key driver of plant inventory since quantities will be limited by current water rights and innovative water management techniques.

The Cafe will be a small, cozy, quaint space for people to enjoy food and beverages inspired by the local, seasonal produce of the site and surrounding areas. The cafe will offer grab-and-go style offerings of prepared goods and made to order beverages.

Indoor Gathering Space will serve as a community and organizational meeting space for a variety of gatherings in an open format.

SEE (Sustainable Educational Experience) is a 501c3 non-profit organization focused on offering both children and adults hands-on learning experiences relating to sustainable practices in gardening, animal and livestock care, and the arts of woodworking, metallurgy, and clay works. SEE's administrative offices will occupy the existing residence at 3820 Old Ranch Rd, located on the southwest corner of the property, with the existing detached garage serving as storage. SEE's efforts extend to other facilities including a teaching garden, animal barn, outdoor classroom, and the commercial kitchen of the Cafe.

Energy Independent Habitations will offer simple accommodations while serving as sustainable building demonstrations. The grouping would feature six structures ranging from 300-1200 square feet. We anticipate use of these structures to extend year-round.

The Yurt Area would feature four Yurts varying in size from 16' diameter to 30' diameter (1 @ 16', 2 @ 24', and 1 @ 30'). These structures would serve as housing for overnight guests in a camp setting. These facilities are clustered near the restroom facility. Anticipated stay duration for the Yurts would range from one night up to one month and be constrained to warm months (approx ½ the year).

The Health and Wellness space will feature an apothecary and private offices for alternative healthcare practitioners including massage, acupuncture, and therapy. Office spaces will be leased separately.

Support Structures will include water storage tanks, windmills, restrooms, bath/shower facilities, and an equipment barn.

Staffing/Job Creation

We project The Shire at Old Ranch will create about 50 jobs across retail, agriculture, healthcare, education, and hospitality sectors. This figure is subject to seasonal fluctuation, and we anticipate a portion of workers will reside onsite either in the existing residences, Energy Independent Habitations, or in Yurts thereby decreasing the traffic load on-site.

The Livable Landscape

More than 7 acres will be maintained as beautiful plantings, accessible by pathway, for educational and recreational use. The livable landscape will feature small sitting areas, educational signage, and featured garden vignettes, and local art throughout. The livable landscape will be designed to subsist only on rainfall, based on designs utilizing native and drought-tolerant plants.

Water Plan

The Shire at Old Ranch recognizes that water “is life” and is the most important resource to protect and conserve. Many goals and policies of El Paso County’s Water Master Plan align with The Shire at Old Ranch’s principles and intentions regarding water use and stewardship. Through careful application of freshwater, non potable water (captured and redirected precipitation), and greywater reuse (El Paso County Water Master Plan Goal 6.2, Policy 6.2.1.1, Policy 6.2.1.3, Policy 6.2.1.4), we propose to furnish enough water to meet our needs, while returning the required amount of water to the earth and aquifer. Inclusion of blackwater treatment, as well as bioswales to capture, slow, and sink water on site will serve to recharge groundwater (Policy 6.2.1.5). We anticipate sequestering all stormwater runoff generated by the site, on the site, through stormwater channeling and redirected into plants and landscape (Goal 6.2.2). Water conservation efforts on The Shire at Old Ranch are demonstrated using permaculture design, regenerative agriculture, best management practices for irrigation, and promotion of low water landscape plants (Policy 6.0.4, Policy 6.0.9). The Shire at Old Ranch’s water plan’s aspiration and implementation will be showcased in the Visitor’s Center to educate the public on innovations in water conservation (Goal 1.3, Policy 2.1.2). Permits for the existing wells will be forwarded under separate cover.

Blackwater Waste Plan

Human waste will ideally be processed through aerobic decomposition, sterilized, and utilized as fertilizer on non-food crops. Alternatively, human waste will be directed to a traditional septic system with leach fields. Available permit information for the existing systems will be forwarded under separate cover.

Traffic Plan

Traffic would access the site from Howells Rd. on the east side of the property with the center of the driveway approximately 330’ from the center of Old Ranch Rd. This access point would serve to access all of the site with the exception of existing driveways serving the residents at 10755 Howells Road, 10655 Howells Road, and 3890 Old Ranch Rd.

The main drive and service drive will consist of compacted aggregate of sufficient depth to convey heavy truck traffic. One-way drives will mitigate congestion with a central traffic circle to allow lapping during heavy use.

The northern portion of the property will be accessed internally (no access from anywhere other than Howells Rd. is projected or solicited) from the Main drive loop. Service drive access will be controlled with a gate to halt unnecessary visitor traffic to the Northern portion of the site.

Parking will be oriented nose-in along the main drive and service drive to eliminate parking lots. Dense plantings will be utilized to screen vehicles from offsite observers. The semi-permeable, crowned, compacted aggregate roadways and drives will direct stormwater runoff to bioswales where it will be slowed and sunk into the earth to recharge local aquifers.

There will be no vehicular connection between the drives of existing residences and the Main drive or Service drives serving The Shire at Old Ranch.

Hours of Operation and Seasonality of Use

The Shire at Old Ranch will be a year round, seasonal business. We anticipate peak use of the site to occur from 9am to 5pm. The seasonal nature of the business will generate higher traffic between May and August when school is not in session.

Projected Phasing Buildout

Development of The Shire at Old Ranch will proceed as dictated by: funding, SEE's 501c3 Board direction, and use/necessity. The final buildout may take anywhere from 3 to 10 years. All other buildings will be constructed as soon as funding allows and after the site infrastructure is in place.

Compliance with Variance of Use Criteria

The strict application of any of the provisions of this Code would not result in peculiar and exceptional practical difficulties or undue hardship.

Serving as a "green buffer," The Shire at Old Ranch is a transition from the City of Colorado Springs to the rural flavor of Black Forest. The support of Phelan Gardens and Earth Expressions Landscape in designing a naturescaped buffer with native, xeric, and adapted plants will enhance local biodiversity and habitat, offer an exceptional demonstration of beautiful xeriscape in Black Forest @ 7000'. Since nearly 7 acres (35% of whole site) will be maintained as naturescape, buildings are single story, and minimal earthwork will be required, the site would be easy to reclaim for future development's sake. Through careful consideration of the land and the local impact of the project, this development would serve nearby and distant inhabitants as an environmentally conscious, conservation-oriented space which emphasizes educational and environmental aims.

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.

By designing to minimize negative externalities from the outset, we have crafted a proposed use that naturally results in a supremely healthful environment at completion and throughout the construction process. By contracting with both an ecologically and environmentally savvy architect and engineer throughout site design and phased buildout, we strive to make the

construction as unobtrusive as possible for neighbors and passersby as we possibly can while continuing to develop a growing community.

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 operate in compliance with applicable county, state, and federal regulations as well as applicable development guidelines.

The proposed use will not adversely affect wildlife or wetlands

In 2015 as nearby development ramped up and hundreds of acres were scraped bare, we removed barb-wire fencing on three sides of the 20 acres to allow for the local antelope herd to safely escape the roadway. Wildlife habitat has been a focus from the beginning of this project and continues as an ever-present motivating design consideration. Our educational efforts around conservation and preservation make us a community resource on the topics of habitat, suburban encroachment, and the intersection between people and nature. Minimal generation and careful management of stormwater will mitigate negative offsite impacts to wetlands and watershed. Our development of the site will improve habitat for not only wildlife, beneficial insects such as bees and butterflies, and people.

The applicant has addressed all off-site impacts.

When designing The Shire at Old Ranch we considered impacts relating to: water, traffic, noise, light, view to Pikes Peak, views to the foothills, stormwater, fire danger, dust, and unsavory people.

With a conservation mindset and progressive water reclamation and treatment techniques, an augmented well in the Denver aquifer serving the site with approximately six acre-feet of water will not threaten water security outside of normally accepted tolerances.

Traffic will access the site via paved portion of Howells Rd. and then flow through a one-way main drive with a roundabout to facilitate freedom of movement. Parking will be nose in along the main drive to spread vehicles along the drive rather than clustering them into hard to screen parking lots. The main drive is intentionally set far away from neighbor's homes to maintain peace and quiet. A service drive controlled by an access gate will allow access for residents and employees to the northern acreage.

Sound will be attenuated onsite by locating the density of activity in the center of the site and creating heavily planted buffers.

Lighting on the site will adopt a dark-skies approach through removal of bright/unshrouded power pole mounted lights, implementation of downlighting and motion lighting, and thickly planted buffers dense with evergreens. Additionally, highlighting the intentional "dark-skies" approach in a display at the Visitor's center will offer examples for visitors to replicate at home.

Neighbor's views of Pikes Peak and the foothills will remain open by design with downward sloping topography and modest single-story structures.

Careful management of stormwater generation and runoff will stop and sink water onsite. Systems of swales, check dams, and catchment basins will slow and sink water into the highly porous sandy soil onsite.

Fire danger is a serious concern we share with our neighbors. By breaking up wooded areas with meadows and implementing good cultural practices with respect to landscape management we will mitigate wildfire danger. These cultural practices, especially pruning, will be showcased for public consumption and implementation via pedestal signs along pathways.

Dust caused by construction and traffic will be managed through phased construction, BMPs for dust control during construction, and maintenance of a rock wearing surface atop a compacted aggregate road-base.

By implementing a system of security cameras, motion lights, stringent guidelines for use of the site, and rigorous vetting of residents, we expect to maintain a level of quality-people consistent with our expectations shared with neighbor's.

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

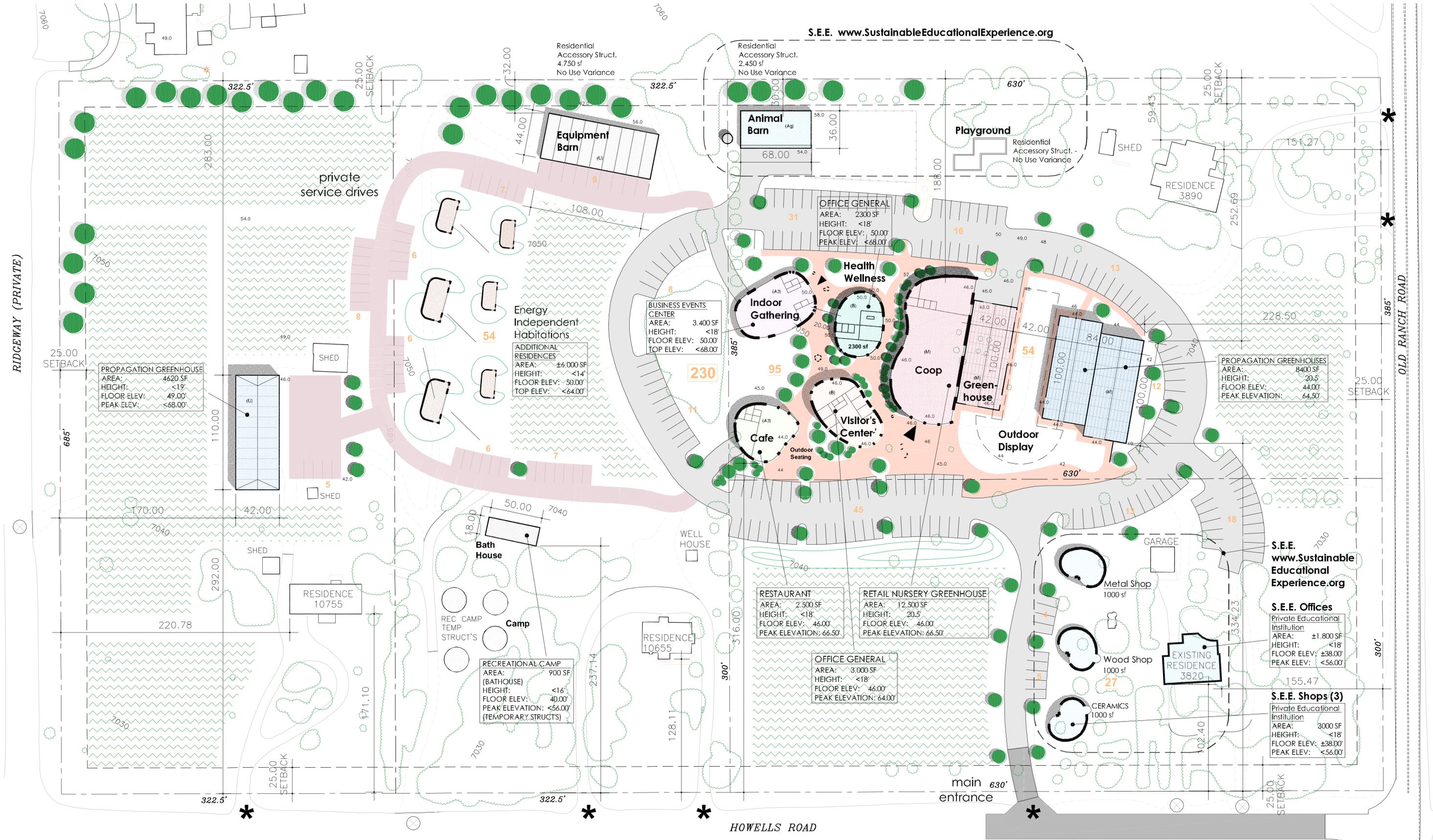
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Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

The facility is designed so that it can operate in a manner which will allow for adequate service by fire and police protection. Water and septic resources will be adequate to serve the needs of the proposed variance as designed and proposed. The site is designed to slow, stop, and sink all stormwater that falls onsite.

Public Improvement District

If allowable, a Public Improvement District will be created to defray the initial costs of infrastructure construction.



USE VARIANCE PLAN LEGEND & NOTES

- NEW ASPHALT PAVEMENT
- NEW PUBLIC ACCESS DRIVES - SEMI-PERMEABLE PAVEMENT
- WALKWAYS & SIDEWALKS

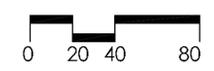
- S OUTSIDE STORAGE LOCATIONS
- CONCEPT LANDSCAPING: NEW & EXISTING
- PRIVATE SERVICE DRIVES

- X NEW & EXISTING PERMANENT ACCESS FROM STREETS & ROADS
- * NEW & EXISTING PERMANENT ACCESS FROM STREETS & ROADS

- OPEN SPACE / GROWING AREA
- NEW BUILDINGS (COLOR VARIES)
- SHED EXISTING BUILDINGS & USE

USE VARIANCE PLAN NOTES

1. ALL INFO CONCEPTUAL - FINAL IN DP.
2. EXISTING RESIDENCE ACCESS POINTS TO REMAIN U.O.N.
3. NEW BUILDING AREAS SHOWN ARE APPROXIMATE PENDING ARCHITECTURAL DESIGN & DP



As an El Paso County homeowner I would like to endorse the proposal referenced in the subject line. The thoughtfulness and effort of "The Shire at Old Ranch", to incorporate the elements that are described in their proposal is remarkable. To current, and future beneficiaries of their endeavor the Planning Commission would do a great service to "ALLOW and APPROVE" the USE and remain apprised of the endeavor to see what the future of "COMMUNITY DEVELOPMENT" can be. Thank you for your consideration and vision.

Respectfully, Marcus Katsos

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.

Ms. Krebs, I regret that I cannot be available on June 3 to comment at the hearing for the Shire. I hope this email finds you and can help in the decision-making process.

My name is Larry Stebbins, a retired teacher and public school administrator. After retirement, in 2008, I founded and ran Pikes Peak Urban Gardens, (PPUG), (2008-2019). This organization built community gardens in parks, schools and places of worship. In addition, we taught gardening classes to over 8,000. I mention this because PPUG no longer is operational. There is a void in the community, and it is amplified by Venetucci (the pumpkin farm) now operating with a limited venue.

The Shire is planning to step up to the plate and fill that void, by offering a farm-centered, destination for the young and old. Families can come and experience, first-hand, vegetable, herb and flower gardens. Classes will be offered so the visitors can take that knowledge and grow their own garden at home.

This outdoor experience is much needed in our area. The Phelan family is well known and respected in Colorado Springs. They have operated a successful garden nursery for decades and is well equipped to make the Shire equally as successful as their business.

It is without hesitation that I support this project. If I can be of any further assistance or if you have any questions. please feel free to call me

I have been on a Planning Commission in a very small town. I know that sometimes great ideas come up that may not fit exactly into the boxes of Planning and Zoning Ordinances. But, sometimes what comes to a Commission is an idea that is so creative, adds value (both financial and social), would enhance the community... that it is worth supporting. The commitment and integrity of this group of people is real and heartfelt. They have considered how this concept would enhance and effect the community around them. They have been thorough in addressing the possible impacts....from traffic, sound, lighting, visual, water, defensible space... I believe it is invaluable to protect agricultural lands within communities. It ensures a more sustainable community (providing both food and jobs) and the education that this visionary development would provide to the citizens, neighbors... will make for an even stronger community while remaining in harmony with the surrounding neighborhoods. I believe this development would enhance the values of the neighboring properties, by providing a park like amenity that invites them in. I hope you will recommend that approval of this project.

Sincerely Karen Nelson Katsos

Howdy Elena,

Appologies if that is not your name, pulling from your email address. My name is Alex Smith (not made up I swear haha) and I am emailing you to voice my support for the projects planned at the Shire near Old Ranch Rd.

Seeing something with an eye towards green life and ecological security on that side of town is a morale boost and bulwark for the Springs.

I am admittedly a friend of the Phelan family, I have found them to be honest and passionate about sustainability in horticulture, in this county. That said, nobody had to talk me into spending the last hour piecing this plee together. As a former volunteer for Pikes Peak Urban Gardens and a current Colorado Master Gardener Apprentice I have witnessed the increased interest and lack of access to excitable horticultural projects in the area. This site and mission fits the bill.

Sorry to bother, just another thumbs up for the Shire and all its potential for the Northeast End!

Good Morning,

I have been aware of Monica and Mark Phelan's plans to build a "Shire"-like ag business at Old Ranch and Holmes Roads for at least twenty years when it was still in its infancy. At the time, I was working for the Colorado State Forest Service and I was asked to provide technical assistance for windbreak design to protect and shield the animals and facilities there. I remember even now how bold and innovative it appeared at the time. One usually associates these types of businesses that incorporate community, ag, plants and education occurring in western states like Oregon or Washington State. Much has changed since then.

At one time El Paso County was a much more productive ag county including dairies, ranches, dryland farming and grassland production. Given the stupendous growth that has occurred in the past 20 years, El Paso county has slowly lost its connection to its past. A great portion of the ag community has disappeared to homes and urban sprawl. I cite the Banning Lewis Ranch development as one such egregious example.

Given the expected growth of the City of Colorado Springs, the influx of many thousands of citizens fleeing high-taxing Western states and the erosion of the nation's agricultural roots, I wholeheartedly support the variance for The Shire. I can't imagine a business more suited to this site; on the edge of Black Forest (once home to sugar beet farming and forest products!), near the expansion of the city (a great location to learn and instill plant education), and acting as an serene oasis (in a growing sea of houses). I endorse The Shire and the planned efforts that it will promulgate; education, people, animals and community. I hope you share their vision as well.

Dennis Will
Certified Forester, Certified Arborist
Resident of El Paso County since 1986
Cascade, Colorado



Black Forest Fire Rescue Protection District
11445 Teachout Road
Colorado Springs, Colorado 80908
Ph-719.495.4300
Email- firemarshal@bffire.org
Web- www.bffire.org

“Always Ready, Always Forward, Always Learning.”

Office of the Fire Marshal

May 27, 2021

Mark and Monica Phelan
4955 Austin Bluffs Parkway
Colorado Springs, Co 80918

Greetings,

Black Forest Fire Rescue Protection District has reviewed the preliminary plans for your project, Shire at Old Ranch. Our initial comments are the following.

1. We will require a stamped letter from a Colorado Licensed Fire Protection Engineer on what your plans are to provide life safety fire protection and firefighting water supplies for all structures that will be on the property according to the IFC 2015 code. The FPE may also use NFPA 1142 and NFPA 13 to facilitate the plan. Upon review of the letter the Fire District will approve or disapprove with recommendations.
2. We will require all access to the property to comply with current EPC Land Use code and current NFPA/IFC applicable commercial code for fire access and safety.

These are preliminary comments based on limited information provided. We are open to in-person meetings to discuss water and safety requirements for the District.

If any additional information is required, please contact the Fire Marshal at firemarshal@bffire.org or by phone at 719-650-2276.

Respectfully,

A handwritten signature in black ink that reads "James Rebitski". The signature is written in a cursive, flowing style.

James Rebitski
Deputy Fire Chief

2021/2

“Serving the citizens of Black Forest since 1945”

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

LONGINOS GONZALEZ, JR.
HOLLY WILLIAMS
CARRIE GEITNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, June 3, 2021
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, JOAN LUCIA-TREESE, SARAH BRITTAIN JACK

PRESENT VIA ELECTRONIC MEANS AND VOTING: GRACE BLEA- NUNEZ AND ERIC MORAES

PRESENT AND NOT VOTING: NONE

ABSENT: BECKY FULLER, TIM TROWBRIDGE, JAY CARLSON, AND THOMAS GREER

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART (VIA REMOTE ACCESS), NINA RUIZ, KARI PARSONS, GILBERT LAFORCE, DANIEL TORRES, ELENA KREBS, TRACEY GARCIA, JEFF RICE (VIA REMOTE ACCESS) AND EL PASO COUNTY ATTORNEY LORI SEAGO

OTHERS SPEAKING AT THE HEARING: DEBORAH EILAND, SEAN SPENCER, GARY MEISMAN, KYLE KATSOS, MONICA PHELAN AND SHANNON KATSOS

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, June 17, 2021 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.

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

CONSENT ITEMS

- 2. A. **Approval of the Minutes – May 20, 2021**
The minutes were unanimously approved as presented. (6-0)

- B. **SF-21-012** **PARSONS**

**FINAL PLAT
UPLAND FLATS AT WATERMARK**

A request by Feathergrass Investments, LLC, for approval of a vacation and replat of Tract DD Hannah Ridge at Feathergrass Filing No. 1 to create one (1) multi-family residential lot. The 15.39-acre property is zoned RM-30 (Residential Multi-Dwelling) and CAD-O (Commercial Airport Overlay), and is located at the northwest corner of the Marksheffel Road and Constitution Avenue intersection and is within Section 32, Township 13 South, Range 65 West of the 6th P.M. (Parcel No. 53324-04-001) (Commissioner District No. 2)

PC ACTION: LUCIA-TREESE MOVED/BRITTAIN JACK SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2B, SF-21-012, FOR A FINAL PLAT FOR UPLAND FLATS AT WATERMARK, UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-031, WITH THIRTEEN (13) CONDITIONS AND THREE (3) NOTATIONS, AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (6-0).

Regular Items

- 3. **AL-18-024** **GREEN**

**SPECIAL USE PERMIT
MEISMAN HOME & TRUCK BUSINESS**

A request by Gone Trucking, LLC, for approval of a special use to allow a contractor's equipment yard as a rural home occupation. The 40.2-acre parcel is zoned RR-5 (Residential Rural) is located immediately north of the El Paso County and Pueblo County line, approximately one-half (1/2) mile southeast of the Boca Raton Heights and Indian Village Heights intersection, and is within Section 35, Township 17 South, Range 65 West of the 6th P.M. (Parcel No. 57350-00-001) (Commissioner District No. 4)

Mr. Green gave a brief overview of the project and asked **Ms. Seago** to go over the review criteria for a special use permit. He then introduced the applicants' representative, Ms. Deborah Eiland, to give their presentation.

Mr. Green gave his full presentation to the Planning Commission. He then introduced **Daniel Torres with PCD engineering** to go over transportation issues from the staff's point of view. Their report is on the permanent file.

Mr. Moraes – Referring to the plot diagram with the parking spaces, I was counting five parking spots and one handicapped spot, does that meet the code in terms of parking spots, when he says he's going to have six employees? Five regular and one ADA, does that meet whatever the code requires? **Mr. Green** – That is correct. There will be additional review for parking and landscaping as well to ensure there will be an adequate amount of spaces.

IN FAVOR: NONE

IN OPPOSITION:

SEAN SPENCER – This is not a new request; we have been dealing with this for a few years now. The people of via casitas moved into the area because its zoned RR-5. Part of our covenant and bylaws is that there are no businesses operated in this area. Would take our neighborhood from a serene family environment that it is to an industrial environment. In addition, truck traffic will compound a already bad situation we have. I have spoken to multiple homeowners and they are really concerned about having a business operate in our community.

REBUTTAL:

Ms. Eiland – Mr. Meisman is very willing to talk to the neighbors in the subdivision and try to work out that agreement concerning the roads. He's going to live there too. He also wants to make this his home; he will have the same concerns they have.

Mr. Risley – Mr. Spencer indicated the bylaws of the HOA prohibit business activity if I understand correctly. Is that Mr. Meisman's understanding as well? Is that your understanding? **Ms. Eiland** - We have not reviewed the bylaws. Mr. Meisman's property is not within the subdivision, he is not governed by them. **Mr. Risley** – but he's intending to use the roads that are accessed his property that are maintained by the HOA, is that correct? **Ms. Eiland** – That is correct. They are not private roads; they're technically platted as public roads and that is the only access to Mr. Meisman's property. It is difficult that they are not county maintained of course. **Mr. Risley** – Obviously HOA or covenant agreements are private agreements between landowners and the HOA, so the county doesn't weigh in on those matters since they are private topics. Just to be clear this property would not be governed by that particular HOA as you just stated. **Ms. Eiland** – Yes, Mr. Chairman you are correct and what I can only say at this juncture with respect to

that is that Mr. Meisman is committed to taking care of those roads. He is committed to fixing and maintaining and if he needs to do it then he will. I can say that to you because he has relayed that to me.

Gary Meisman – I don't know who makes the ruling of who takes care of the roads but if something were to happen with the roads because of my trucks I will go and fix it. I will do the best of my ability with the equipment I have to maintain the roads. I don't have construction equipment; I have dump trucks. I will help anybody, its whatever I must do. That's my responsibility and I promise I will take care of that.

DISCUSSION: NONE

PC ACTION: BAILEY MOVED/LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF REGULAR ITEM NUMBER 3, AL-18-024, FOR A SPECIAL USE PERMIT FOR MEISMAN HOME & TRUCK BUSINESS, UTILIZING RESOLUTION PAGE NO. 39, CITING, 21-030, WITH THREE (3) CONDITIONS AND THREE (3) NOTATIONS, AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (6-0).

Mr. Bailey – I appreciate the neighbors' concerns and I just wanted to reiterate that, given the criteria on which we must judge the application, there was no reason to disapprove this request. What I have heard from both parties is that they are willing to work together. In an effort to be a good neighbor, Mr. Meisman has offered to provide money and equipment for roads that are not his by rule to maintain and seems to be acting in good faith.

4. VA-20-002 GREEN

**VARIANCE OF USE
THE SHIRE AT OLD RANCH**

A request by Monica Phelan and Old Ranch Road Properties, LLC, for approval of a variance of use to allow an agriculturally related commercial business, further described in the letter of intent, to be known as The Shire at Old Ranch. The four (4) parcels included in the request total 20-acres and are zoned RR-5 (Rural Residential) and are located at the northeast corner of the intersection of Old Ranch Road and Holmes Road and is within Section 23, Township 12 South, Range 66 West of the 6th P.M. (Parcel Nos. 62230-00-058, 62230-00-059, 62230-00-060, and 62230-00-061) (Commissioner District No. 1)

Mr. Green gave a brief overview of the project and asked **Ms. Seago** to go over the review criteria for variance of use. He then introduced the applicants, Shannon Katsos, Kyle Katsos and Monica Phelan to give their presentation.

Ms. Seago – Referring to the slide addressing the approval criteria, states she is concerned with this slide that they (the applicants) are stating that there will be no hardship. She then asked the applicant to clarify. It is a criteria to approve a variance of use that applying the code as is would result in practical difficulties or undue hardship on the property owners. The planning commission must find that in order to approve the request.

Mr. Risley – As I understand it these approval criteria may be considered. Am I understanding that those are things that may be considered and not imperative?

Ms. Seago – That is correct Mr. Chair, however I will tell you that the case law strongly suggests that in order to approve a variance something like this needs to be found.

Mr. Bailey – My understanding from reading the staff package is that the staff's recommendation was that, since we don't have a zoning district that would allow for all these uses together in an area, this can be seen as creating the undue hardship that would allow us to approve this.

Ms. Seago – I did see that recommendation in the staff report however the burden of meeting the criteria is on the applicant, not the staff and I am coming from a perspective of providing a sufficient record to protect your decision and the Board's ultimate decision from legal challenges. If we have the applicant saying there are no difficulties or hardship that creates a problem.

Kyle Katsos - The site is comprised of four five-acre parcels zoned RR-5. When we came up with this idea years ago, we looked at a multiplicity of different options. We looked at allowed uses, special uses and discovered that there was nothing that fit this or even close on one existing site. We request a variance to allow all these unique operations to coexist on a single site.

Ms. Seago – So just for clarity of the record, based on what you just said would it be fair to say that the slide in front of us contains an error and that there would in fact be a practical difficulty or undue hardship if this request were not approved?

Mr. Katsos – Absolutely

Mr. Green gave his full presentation to the Planning Commission. He then introduced **Gilbert Laforce with PCD engineering** to go over transportation issues from the staff's point of view. Their report is on the permanent file.

Mr. Moraes – Has the possibility or requirement to add a pedestrian path along Old Ranch Road been looked at or discussed if this development goes through? I noted that the Pine Creek High School and Challenger Middle School are both well within District 20's non-bussing radius. My concern is that as this area

develops in the future, however it does, it may have more students walking to school and a path or possible sidewalk may get these pedestrians off Old Ranch Road, and maybe even Howells Road, especially as this development adds the traffic the developer projects it to produce. It may be a smart part of the plan as we now have a chance when development is going on to try to connect this area to the suburban and urban developments to the west and to the south. **Mr. Laforce** – A more detailed design will occur once they submit the site plan application. These roads are currently rural roads, but there may be an opportunity to add a path in the future and we will look at that when we get the site plan. **Mr. Moraes** – I would encourage that as when I look at the new Master Plan, this area is in the large-lot placetype and there are places in the large-lot placetype description that talks about walking paths and other designated routes to provide access and extensions of connectivity when development occurs. So maybe not sidewalks but there is a priority strategy in the Master Plan to provide this kind of transportation development. I say this not to burden the developers as I think this, from what I have seen, is great for the County and great for the neighborhood. But as an interest of safety for the children as they travel to and from school, I encourage the county planners and engineers to look at possibilities to get pedestrians off the street, especially since the new Master Plan explicitly lays it out.

IN FAVOR: NONE
IN OPPOSITION: NONE
DISCUSSION: NONE

PC ACTION: BAILEY MOVED/LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF REGULAR ITEM NUMBER 4, VA-20-002 FOR VARIANCE OF USE FOR THE SHIRE AT OLD RANCH, UTILIZING RESOLUTION PAGE NO. 51, CITING, 21-032, WITH THREE (3) CONDITIONS AND THREE (3) NOTATIONS, AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (6-0).

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

VARIANCE OF USE (Approved)

Commissioner Bailey moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. VA-20-002
The Shire at Old Ranch Variance of Use**

WHEREAS, Monica Phelan and Old Ranch Road Properties, LLC, did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use to allow an agriculturally related commercial business within the RR-5 (Rural Residential) zoning district where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on June 3, 2021; and

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the application of Monica Phelan and Old Ranch Road Properties, LLC, for a variance of use within the RR-5 (Rural Residential) zoning district, to allow an agriculturally related commercial business 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 agriculturally-related commercial business known as the Shire at Old Ranch as proposed and discussed in the applicant's letter of intent. Any subsequent addition or modification to the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
2. A site development plan shall be applied for and approved to initiate the existing use on the site within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.
3. The applicant/developer and/or property owner(s) shall be required to participate in a fair and equitable manner in upgrading/construction of the surrounding roads and intersections impacted by the anticipated traffic from this development, as identified in both the approved deviation request (PCD File No. DEV-19-001) and the recommendations and conclusions section of the associated The Shire at Old Ranch traffic impact study dated September 11, 2020. A development agreement to construct these necessary off-site public improvements with the first phase of development shall be completed with the site development plan.

NOTATIONS

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

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

Commissioner Lucia-Treese seconded the adoption of the foregoing Resolution.

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

Commissioner Risley	aye
Commissioner Lucia-Treese	aye
Commissioner Bailey	aye
Commissioner Brittain Jack	aye
Commissioner Blea-Nunez	aye
Commissioner Moraes	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: June 3, 2021

Brian Risley, Chair

Legal Description - The Shire at Old Ranch

A PARCEL OF LAND LOCATED IN THE SW1/4 OF THE SW1/4 OF SEC. 23 T. 12 S., R. 69 W. OF THE 6TH P.M., EL PASO COUNTY, COLORADO

Address	Zoning	Legal Description	Parcel Number	Reception Number
3820 Old Ranch Rd.	RR-5	W 315 FT OF S2S2SW4 EX RDS SEC 23-12-66	6223000061	216003121
3890 Old Ranch Rd.	RR-5	E 385 FT OF W 715 FT OF S2S2SW4 EX S 30 FT SEC 23-12-66 19	6223000060	216003167
10655 Howells Rd.	RR-5	TRACT IN SW4SW4 SEC 23-12-66 AS FOLS, BEG ON W LN OF SD SW4 AT PT 660 FT N FROM SW COR THEREOF, TH N ON W LN 322.5 FT, E AT R/A 715 FT, S AT R/A 322.5 FT, TH W 715 FT TO POB EX W 30 FT	6223000059	216003151
10755 Howells Rd.	RR-5	TRACT IN SW4SW4 SEC 23-12-66 AS FOLS, BEG ON W LN OF SD SW4 AT PT 982.5 FT N FROM SW COR THEREOF, TH N ON W LN 322.5 FT, E AT R/A 715 FT, S AT R/A 322.5 FT, TH W 715 FT TO POB EX W 30 FT	6223000058	213027769

RESOLUTION NO. 21-

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

APPROVE VARIANCE OF USE TO PERMIT AN AGRICULTURALLY RELATED
COMMERCIAL BUSINESS (VA-20-002)

WHEREAS, Monica Phelan and Old Ranch Road Properties, LLC, did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zoning district to permit an agriculturally related commercial business 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 June 3, 2021, 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 June 22, 2021; and

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

1. That the application for the variance of use was properly submitted for consideration by the Board of County Commissioners.
2. That proper posting, publication and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted, and that all interested persons and the general public were heard at those hearings.
4. That all exhibits were received into evidence.

5. That the proposed land use does permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

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

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

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the application by Monica Phelan and Old Ranch Road Properties for a variance of use to allow an agriculturally related commercial business 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 agriculturally-related commercial business known as the Shire at Old Ranch as proposed and discussed in the applicant's letter of intent. Any subsequent addition or modification to the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
2. A site development plan shall be applied for and approved to initiate the existing use on the site within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.
3. The applicant/developer and/or property owner(s) shall be required to participate in a fair and equitable manner in upgrading/construction of the surrounding roads and intersections impacted by the anticipated traffic from this development, as identified in both the approved deviation request (PCD File No. DEV-19-001) and the recommendations and conclusions section of the associated The Shire at Old Ranch traffic impact study dated September 11, 2020. A development agreement to construct these necessary off-site public improvements with the first phase of development shall be completed with the site development plan.

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 June, 2021, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE SW1/4 OF THE SW1/4 OF SEC. 23 T. 12 S., R. 69 W. OF THE 6TH P.M., EL PASO COUNTY, COLORADO

Address	Zoning	Legal Description	Parcel Number	Reception Number
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