

**TO: El Paso County Planning Commission
Jim Egbert, Chair**

**FROM: Gabe Sevigny, Planner II
Beck Grimm, EI Engineer I
Craig Dossey, Executive Director**

**RE: Project File #: AL-18-013
Project Name: Reimers Rural Home Occupation
Parcel No.: 5205400021**

OWNER:	REPRESENTATIVE:
Randy and Elizabeth Reimers 13550 Herring Road Colorado Springs, CO 80905	Same

Commissioner District: 1

Planning Commission Hearing Date: 5/7/2019
Board of County Commissioners Hearing Date 5/28/2019

EXECUTIVE SUMMARY

A request by Randy and Elizabeth Reimers for approval of a special use to allow a contractor's equipment yard, as a rural home occupation. The 4.33 acre parcel is zoned RR-5 (Residential Rural) and is located at the northeast corner of the Herring Road and Swan Road intersection within Section 5, Township 12 South, Range 65 West of the 6th Principal Meridian, County of El Paso, State of Colorado. The property is within the boundaries of the Black Forest Preservation Plan (1987).

A contractor's equipment yard is allowed as a rural home occupation as a special use in the RR-5 (Residential Rural) zoning district under the Land Development Code (2019). The application came about through a code enforcement action, where no approved permits for a contractor's equipment yard, rural home occupation, or site development had been obtained.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Randy and Elizabeth Reimers for a special use to allow for a contractor's equipment yard as a rural home occupation, in the RR-5 (Rural Residential) zoning district.

Waiver(s)/Deviation(s): No waivers are requested with this application

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

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

Pursuant to Section 5.3.2.C of the Land Development Code, the Planning Commission and Board of County Commissioners may consider the following criteria in approving a special use:

- The special use is generally consistent with the applicable Master Plan;
- The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
- The special use will not create unmitigated traffic congestion or traffic hazards on the surrounding area, and has adequate, legal access;

- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

D. LOCATION

North:	RR-5 (Residential Rural)	Vacant
South:	RR-5 (Residential Rural)	Residential, single family dwelling
East:	RR-5 (Residential Rural)	Residential, single family dwelling
West:	RR-5 (Residential Rural)	Residential, single family dwelling

E. BACKGROUND

The parcel in question is not platted but was legally created on August 16, 1968. The parcel was initially zoned A-4 (Agricultural Farming) in September of 1965 via a County initiated zoning. Due to changes to the nomenclature of the El Paso County Land Development Code (2019), the A-4 zoning district was renamed as the RR-5 (Residential Rural) zoning district.

This application was initiated to address a code enforcement action against the property. Code Enforcement staff received complaints pertaining to a large berm and operation of an illegal contractor’s equipment yard on the property. It was determined that there was an illegal use of a contractor’s equipment yard on the subject parcel, however, the berm was not a violation of County regulations since the applicant did not disturb more than one (1) acre of land. The applicant attended an Early Assistance meeting with County staff in May of 2018 and was notified of the processes required to legalize a contractor’s equipment yard. The applicant made a formal application submittal for the required special use on July 23, 2018.

Per the applicant’s letter of intent, the family owned business has been operating in the Black Forest area for over 25 years and was relocated to their property after the Black Forest Fire. Their site plan proposes an area for parking of work-related vehicles and storage of equipment. The applicant is also proposing a new structure to store equipment, which they have stated will be an improvement to the property. The applicant’s letter of intent also states that they have seeded and landscaped the berms to provide security and privacy around their property. There are currently no new violations, or complaints, relating to the use on the property. At this time, staff has no outstanding issues with this application.

If a special use permit is approved for the rural home occupation, the applicant must also obtain approval from County staff of a site development plan.

F. ANALYSIS

1. Land Development Code Analysis

The Land Development Code (2019) defines a rural home occupation as a home occupation allowed in the A-35 (Agricultural) zoning district only and a special use in other zoning districts. It is intended to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas. A home occupation must be operated by the resident of the dwelling.

The Code lists allowed home occupations and excluded uses. A contractor's equipment yard and other small businesses which primarily serve a rural agricultural or ranching clientele are among the allowed uses. Regarding the requirement of serving a rural agricultural or ranching clientele, the Code specifically excludes any commercial uses or businesses which do not primarily serve a rural agricultural or ranching clientele.

The Code also defines a contractor's equipment yard as a service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment. A contractor's equipment yard is allowed as a home occupation under the Code.

The applicants' letter of intent states that they reside on the property. The letter also states that the contractor's equipment yard performs all lines of masonry work with a large portion of clientele within the Black Forest community. Staff recommends the use falls under the construction trade of the above definition, and primarily serves the Black Forest community which is generally rural agricultural in nature.

This type of use is subject to the general standards for a rural home occupation outlined in the Code. These standards include screening standards within Chapter 6 of the Code be met for outside storage, a maximum of two (2) employees who are not family members, not to exceed an average of 20 one-way vehicle trips per day, shall not result in any generation of solid waste, hazardous substances, or petroleum, or excessive noise, vibration, dust, glare, drainage, erosion or other environmental impacts to surrounding lot or parcel owners.

Per the applicants' letter of intent and associated site plan, they have a masonry wall that is located on the north and west property lines, as well as a proposed wood fence along the south side of the area used for the current outside storage associated with the contractor's equipment yard. However, the letter of intent also identifies that the proposed structure will meet the characteristics of the area and

that the purpose of the structure is to move outside storage and equipment into the new structure.

The applicants have also stated in their letter of intent that they have a maximum of two (2) employees that come to the site daily. The applicants also state in their letter of intent that no clients visit the site; therefore, the daily traffic trips meet the standards above. Lastly, the letter of intent states that the site is only used to store equipment and material, no work is done on the site to create any additional environmental concerns that may otherwise be commonly associated with a contractor's equipment yard.

Section 5.2.29(C)(4)(a) Rural Home Occupations as a Special Use, Special Use Approval Required, of the Land Development Code states:

“Where a special use approval is required to locate and conduct a rural home occupation, the special use may be approved administratively except where an adjacent property owner objects. In the case where a written objection is filed, the special use shall be referred to the Board of County Commissioners for consideration.”

The application was initiated with the intent of being processed administratively, however, a neighbor objection was filed, and the application was elevated by the Planning and Community Development Executive Director to public hearing.

2. Zoning Compliance

The subject parcel is zoned RR-5 (Rural Residential). The RR-5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size – 5 acres
- Minimum lot width- 200 feet
- Setbacks – front 25 feet, sides 25 feet, and rear 25 feet
- Maximum lot coverage- 25 percent
- Maximum building height – 30 feet

The parcel in question is only 4.33 acres, but was created legally prior to the subdivision regulations of July 17, 1972. All existing structures meet the current specifications listed above. There are additional requirements under the Code for outside storage. Outside storage shall be enclosed and concealed by a solid fence or wall at least six (6) feet in height or any combination of berms, shrubs, trees, fencing, or wall and must be 100 percent opaque. No outside storage should exceed the height of the fence. Any equipment or vehicles exceeding the height shall be stored in the rear one-third (1/3) of the property except when adjacent to residential zoning districts, in which case the equipment and vehicles shall be a minimum of 50 feet from the residential zoning district boundary.

An inspection was conducted at the site in July 2018. The concrete wall was already erected on the west and north property lines. Per the applicants' letter of intent and associated site plan, the applicants are proposing wood fence on the south side of the area used for the contractor's equipment yard to completely screen the area. The applicants also indicated in the letter of intent and on the site plan that there is a berm along the east property line to meet the screening requirements. Any vehicles or equipment associated with the contractor's equipment yard will be required to meet the 50 foot setback requirement.

3. Policy Plan Analysis

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:

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

Policy 7.1.4 – Accommodate home-based businesses which do not detract from the character of residential areas, do not create substantial impacts on facilities and services, and do not require the imposition of conditions of approvals difficult to enforce.

The applicants are proposing to construct a new structure within which they will house any outdoor storage and equipment. The structure is proposed to aesthetically blend in with the surrounding landscape. The applicants have already upgraded the driveway and enhanced screening of the property to be more consistent with the character of the surrounding area.

The applicants' letter of intent states that no customers visit the subject property and that they currently only have two (2) employees that come to the property five days a week to pick up vehicles and then return in the evening to drop off the vehicles.

4. Small Area Plan Analysis

The property is within the Black Forest Preservation Plan (1987). Relevant goals and policies are as follows:

Policy 1.1 – Retain the Black Forest Planning Area as primarily a rural-residential community with limit supporting commercial and industrial development.

Policy 1.6 – Allow "low impact uses" in areas designated for rural residential uses either through the Special Use review process or as a part of carefully

defined planned unit developments. Variances for low impact uses should be used sparingly and in all cases approvals should not result in a deviation from the predominantly rural-residential character of the area.

Goal 4.A – Allow for limited commercial development, which support and enhances the Black Forest Planning Area

Policy 4.6 – Encourage all new commercial development within the planning area to be compatible with the visual character of the existing uses (refer to Visual Design Recommendation Matrix of Black Forest Preservation Plan (1987)).

There are 11 subareas within the Black Forest Preservation Plan. The subject property is located within Planning Unit 1, The Timbered Area. Relevant descriptions and analysis of The Timbered Area are as follows:

P.89- Uses in this unit will be limited to low density residential or open space with the exception of the “community center” at the intersection of Shoup and Black Forest Roads and the commercial node at the intersection of Burgess and Black Forest Roads.”

The proposed use is a rural home occupation as a special use to allow a contractor’s equipment yard. The Land Development Code (2019) states:

“The intent of the more broadly defined rural home occupation is to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.”

The applicants’ letter of intent and the associated site plan indicate that they are proposing a shop that meets the characteristics of the surrounding areas, to better store equipment and vehicles. The applicants also state in their letter of intent that a “large majority of our work is done on the north end of town” serving the Black Forest community. Staff recommends that this particular contractor’s equipment yard is a low impact use due to the total area of the associated use, consistency of the proposed use with the County’s screening requirements, and the minimal amount of traffic generated by the existing/proposed use.

The subject parcel is still considered to be low density residential as the parcel is a legally created 4.33 acre parcel in the RR-5 zoning district. El Paso County considers parcels greater than 2.5 acres in size to be rural density. As stated above, the applicant is proposing to construct a new structure that should improve the visual aesthetics of the subject parcel.

5. Other Master Plan Elements

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

The Master Plan for Mineral Extraction (1996) identifies no known commercial mineral 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.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of the special use request.

2. Wildlife

The El Paso County Wildlife Descriptors Map (1996), adopted as an element of the El Paso County master plan, shows development of this area as having low potential impact to wildlife.

3. Floodplain

FEMA Flood Insurance Rate Map (FIRM) panel 08041C0320G dated 12/07/2018 shows that the property lies within Zone X, an area determined to be outside the 500 year floodplain.

4. Drainage And Erosion

The property is located within the Kettle Creek (FOMO3000) drainage basin, which is not studied. The Kettle Creek drainage basin is a fee basin; however, fees are not assessed with a special use request. No public drainage improvements will be required.

5. Transportation

The property is accessed via Herring Road. A traffic impact study was not required due to the fact that the special use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate without approval of the special use request. No public roadway improvements will be required.

H. SERVICES

1. Water

Water is provided by an individual onsite groundwater well under well permit no: 256625. The property owner shall adhere to the requirements of their well permit. If a restroom is added in the proposed structure, the applicant will be required to update their well permit.

2. Sanitation

Wastewater service is provided via an Onsite Wastewater Treatment System (OWTS). Records regarding the OWTS should be analyzed by El Paso County Public Health to determine if a Colorado Registered Professional Engineer will need to evaluate the system to assure it is adequate for the proposed use. Any evaluation must be submitted to El Paso County Public Health for review and approval in association with the required site development plan.

3. Emergency Services

The property is within the Black Forest Fire Protection District. The District was sent a referral and responded with support of the project and no additional comments.

4. Utilities

Electrical service is provided by Mountain View Electric Association (MVEA). MVEA was sent a referral and responded with no issues with the application. Natural gas service is provided by Black Hills Energy. Black Hills Energy was sent a referral but did not respond with comments.

5. Metropolitan Districts

The property is not located within a metropolitan district.

6. Parks/Trails

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

7. Schools

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

I. APPLICABLE RESOLUTIONS

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J. STATUS OF MAJOR ISSUES

There are no outstanding major issues.

K. CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.2 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

CONDITIONS

1. Approval shall be limited to a contractor's equipment yard as described and depicted in the applicants' letter of intent and site plan drawings.
2. Any subsequent addition or modification to the operation or to the facility beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to administrative review, and if it is the opinion of the Planning and Community Development Director that it constitutes a substantial increase, then such addition or modification shall be subject to review and approval by the Board of County Commissioners.
3. The proposed use shall comply with all requirements of the El Paso County Land Development Code and all County, State, and Federal regulations except those portions varied by this action.
4. The property owners shall comply and adhere to water allowances as determined by the State of Colorado and detailed in the approved well permit (No.: 256625).
5. If a restroom is planned for employee use within the proposed 70' x 100' storage structure, a new OWTS Permit will be required prior to authorization of the building permit.

NOTATIONS

1. The special 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 special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on April 18, 2019, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map

Letter of Intent
Site Plan