

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Ashlyn Mathy, Planner I
Carlos Hernandez, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File Number: VA233
Project Name: 15080 W CHAPARRAL LOOP - VOU
Parcel Number: 3132002004

OWNER:	REPRESENTATIVE:
Zachary Gatti 15080 W Chaparral Loop Peyton, Colorado 80831	Zachary Gatti 15080 W Chaparral Loop Peyton, Colorado 80831

Commissioner District: 2

Planning Commission Hearing Date:	12/7/2023
Board of County Commissioners Hearing Date:	1/11/2024

EXECUTIVE SUMMARY

A request by Zachary Gatti for approval of a Variance of Use for a second detached dwelling unit on a 10.58-acre property zoned RR-5 (Residential Rural) and located in the Peyton area northeast of the intersection of Peyton Highway and Murphy Road. The proposed second dwelling is anticipated to become the primary residence. The current home will then be a dwelling for a family member and the applicant plans to rent it in the future.

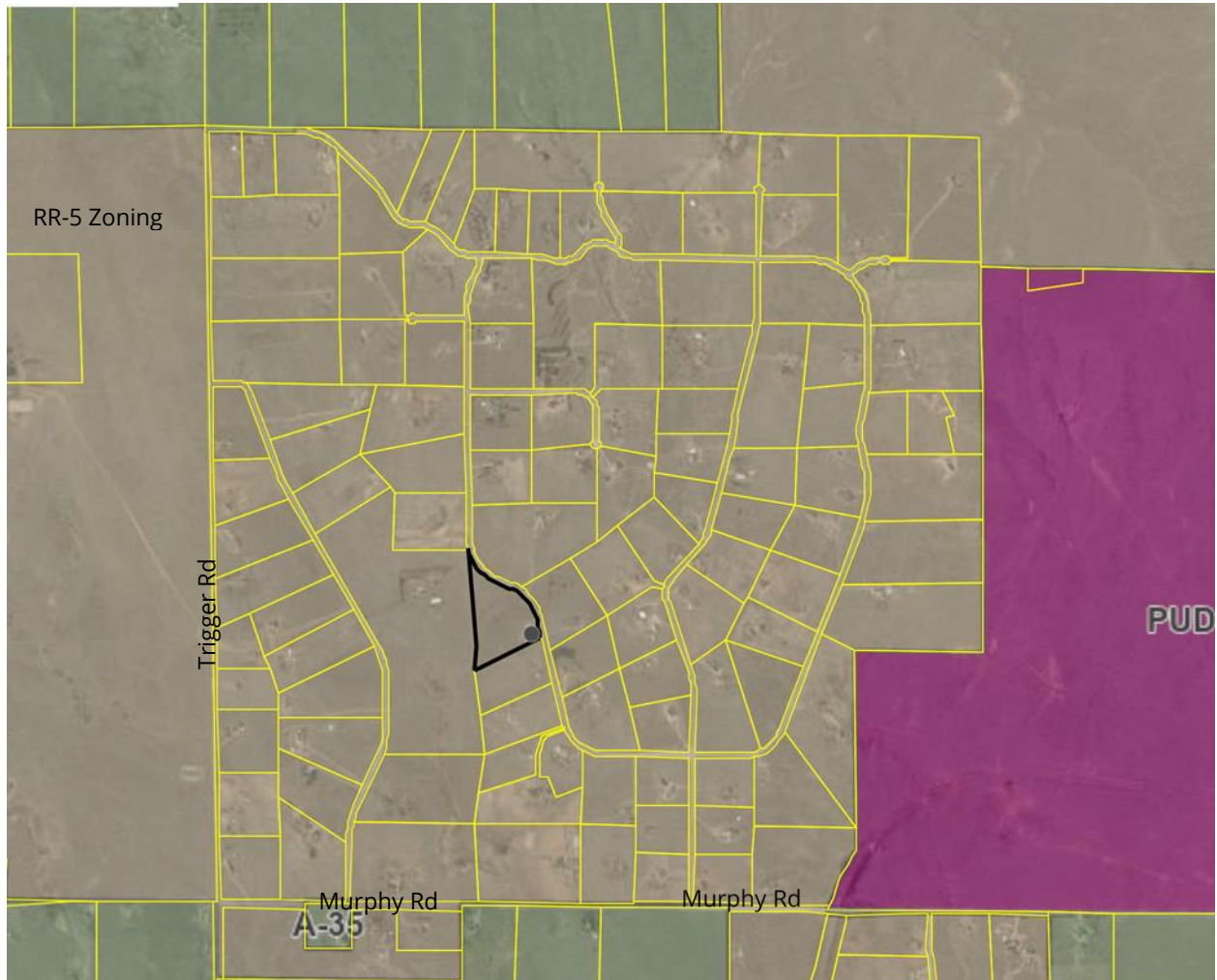
The size of the second dwelling does exceed what is allowed for accessory living quarters (1,500 sq ft). The only zoning district that allows for multiple dwellings is the A-35 zoning district. The applicant is asking to have two primary dwelling units and rent one out, which is not allowed in the RR-5 zoning district. Due to the applicant wanting the flexibility to rent the second dwelling in the future and the size of the structure, the project is not considered a caretaker's quarters or accessory living quarters and cannot be approved under Code Section 5.2.1 (Accessory Living Quarters), 5.2.14 (Caretaker's Quarters), or 5.2.22 (Dwelling, Additional). A Variance of Use, if approved, would allow for permissions similar to an additional dwelling in the A-35 district.

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CONTEXTUAL AREA MAP:



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A. WAIVERS AND AUTHORIZATION

Waiver(s): There are no waivers associated with this request.

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

B. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code (As Amended), the Planning Commission and 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.



C. LOCATION

North:	RR-5 (Residential Rural)	Single-Family Residential
South:	RR-5 (Residential Rural)	Single-Family Residential
East:	RR-5 (Residential Rural)	Single-Family Residential
West:	RR-5 (Residential Rural)	Agricultural Grazing Land

D. BACKGROUND

This property was platted with the Peyton Ranches plat, under plat number 3856 on June 11, 1972. This area and subject property were zoned RR-5 on March 24, 1999. The current property owner had an Early Assistance meeting (EA) with staff on May 2, 2023, under file number EA2332.

The Early Assistance meeting proposed a second dwelling on the property to be utilized as the primary residence. The current primary residence would be used for a family member. When that is no longer viable, the applicant would rent the secondary dwelling. Per the use table in the LDC, section 5, table 5-2, a second dwelling is not allowed. Additionally, the Code does have a specific definition or language to support a second dwelling being allowed in a residential zoning district, such as RR-5. However, accessory dwellings attached or detached are allowed per one tract, lot, or parcel. Furthermore, while accessory living quarters are allowed, they are not allowed to be rented or leased. Additional dwelling Units (ADU's) are only allowed in A-35 zoning and do not have a size limitation. Due to second dwellings and rental of additional structures not being allowed in the RR-5 zoning district, a Variance of Use application is required.

E. ANALYSIS

1. Land Development Code and Zoning Analysis

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

- Minimum zoning district area: 5 acres +
- Minimum front yard setback: 25 feet *
- Minimum side yard setback: 25 feet *
- Minimum rear yard setback: 25 feet *
- Maximum lot coverage: 25%
- Maximum height: 30 feet

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+ In the event that the land to be partitioned, platted, sold or zoned abuts a section line County Road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.

* Agricultural stands shall be setback a minimum of 35 feet from all property lines.

This project requires a Variance of Use because as the proposed use is not allowed in the zoning district. The request must meet the criteria of Section 5.3.4 (Variance of Use) of the LDC and be approved by the Board of County Commissioners.

5.2.1. Accessory Living Quarters

(A) Number of Accessory Living Quarters. Only one accessory living quarters is allowed per lot, parcel, or tract.

Dwelling, Additional — A dwelling unit, allowed in the A-35 District only, either within or added to an existing single-family detached dwelling or located as a separate accessory structure on the same lot or parcel as the principal single-family dwelling, for use as a complete, independent living facility with provisions within the dwelling unit for cooking, eating, sanitation, and sleeping. The additional dwelling shall be considered an accessory use to the principal dwelling.

RR-5, Residential Rural District. The RR-5 zoning district is a 5-acre district intended to accommodate low-density, rural, single-family residential development.

5.2.14. Caretaker's Quarters

B) Type of Structure. A caretaker's quarters may be a detached single-family dwelling, manufactured home, apartment-type unit within the principal structure, or where a post-1976 mobile home is allowed as a principal use in the zoning district, a post-1976 mobile home, or as a tiny house meeting the use specific standards found in Chapter 5 may be used as a caretaker's quarters.

(C) Occupancy Limited. A caretaker's quarters may be occupied only by a caretaker and their immediate family.



(D) Other Applicable Standards. A caretaker's quarters shall meet all standards for a principal dwelling unit of the same type and the accessory dwelling standards in this Chapter unless specifically modified by this Section.

5.2.2. Accessory Use and Structure Standards, General

(A) Accessory Use to Conform to Zoning District Standards. Unless otherwise indicated within this Code, accessory structures or uses shall conform to the development standards specified in the zoning district in which the building or use is located. The area of the accessory structure shall be included in the lot coverage calculation.

(B) Accessory Uses Do Not Include Allowed or Special Uses. Allowed uses or special use listed in any zoning district in Table 5-1 shall not be considered accessory uses, unless otherwise provided by this Code.

(C) Secondary Uses Now Considered Accessory Uses. For purposes of administration of this Code, after the effective date of adoption, those uses previously classified as Secondary Uses are now classified as Accessory Uses.

(D) Accessory Use to Be Located on Same Lot, Parcel or Tract as Principal Use. An accessory use or structure shall be located on the same lot, parcel or tract as the principal structure or use. The accessory use or structure may be located on a contiguous lot or parcel under the same ownership, upon the recording of a use or combination agreement that binds the use or structure to the lots, parcels, or tracts in common ownership.

(E) Building Permit Required. Any accessory structure exceeding 200 square feet shall obtain a building permit and comply with the Building Code, unless an agricultural structure exemption from the Building Code is granted, or when the accessory structure is to be located within the A-35 zoning district.

(F) Principal Structure Required. No building permit for construction of an accessory structure, where a building permit is required, shall be authorized prior to construction of the principal structure except in the A-35 zoning district.



(G) Accessory Uses and Structures to Meet Setbacks. Accessory uses and structures shall meet the setbacks shown in Table 5-4 and Table 5-5, and shall not be located within any easement unless specifically allowed in accordance with this Code.

(H) Accessory Uses to Meet Development Standards. Accessory uses shall meet all applicable development standards in Chapter 5 and Chapter 6.

(I) Storage Buildings as Accessory Uses. Semi-trailers with attached running gear (i.e. axles, wheels) and mobile homes shall not be used as storage buildings after the effective date of this Code, except in the A-35 Zoning District. Existing semi-trailers and mobile homes being used as storage buildings in conformance with County rules and regulations on the effective date of this Code shall be considered nonconforming uses.

(J) Structures or Uses Not Considered Accessory Uses a Violation. Any building, structure or use that does not qualify as an accessory structure or use and that is not identified as an allowed use, approved as a special use, or granted a use variance is a violation of this Code and subject to zoning enforcement.

(K) Square Footage of Residential Accessory Structure Limited. The building footprint of residential accessory structures shall not exceed the building footprint of the principal use to which they are subordinate, with the following exceptions:

- When the lot or parcel is 2.5 acres or greater, the accessory structure may be up to two (2) times the size of the building footprint of the principal use.*
- Accessory structures in the A-35 zoning district with a minimum of 35 acres are exempt from the square footage limitation.*

The RR-5 zoning district allows for one primary residence and specifically does not allow a second dwelling due to this allowing for multiple families to reside at the property, which does not fall within the zoning district's purpose. While accessory living quarters are allowed, they cannot be rented or leased. The proposed second dwelling would be larger than the ALQ's limitation and the applicant plans to rent it out.



The definition in the Code for “dwelling, additional” specifically states that this use is only allowed in the A-35 zoning district. This use would not meet the standards or requirements of caretaker’s quarters due to the proposal allowing for people other than family to rent out the additional dwelling and the structure to be rented. Within the code requirements for “caretaker’s quarters” it says the structure must meet dwelling standards outlined by chapter 5, which the proposal will not meet due to rental of an additional dwelling and or structure.

F. MASTER PLAN ANALYSIS

1. Your El Paso County Master Plan

a. Placetype Character: Large-Lot Residential

The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.

Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.

Recommended Land Uses:

Primary

- *Single-family Detached Residential (Typically 2.5-acre lots or larger)*

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Supporting

- *Parks/Open Space*
- *Commercial Retail (Limited)*
- *Commercial Service (Limited)*
- *Agriculture*

Analysis:

The proposed use would not meet the primary or supporting uses within the placetype character depicted above. While accessory living quarters are allowed in every lot, tract, or parcel, this is different due to size, in addition to the future plans of the applicant to rent out the future second dwelling, which is not allowed per the LDC.

Large-lot residential does state it supports accessory dwellings. However, this proposed use would not be categorized as an accessory living quarters or caretaker's quarters due to rental of the structure for people who would not be considered family.

b. Area of Change Designation: Minimal Change: Undeveloped

The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.

Analysis:

This area of change designation is typically characterized by a lack of development, in addition to preservation of natural areas. This property is located within the low impact wildlife potential area per EPC GIS data base. The proposed use would not alter the surrounding environment. By adding a second dwelling with future use to be rented, this would not significantly alter the character of the neighborhood.



c. **Key Area Influences:** The property is not located within a key area.

d. **Other Implications (Priority Development, Housing, etc.)**

Other implications at the subject property are not present.

2. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) 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 Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 4c of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 4c for central water providers:

The Plan identifies the current demand for Region 4b to be 507 acre-feet per year (AFY) (Figure 5.1) with a current supply of 722 AFY (Figure 5.2). The projected demand in 2040 for Region 4c is at 3,967 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 4c is at 4,826 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 1,799 AFY is anticipated for Region 4c.

Findings of sufficiency with respect to water quality, quantity, and dependability are not required with consideration of a Variance of Use.

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3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. US Fish and Wildlife Services was each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies valley fill 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

There are no hazards associated with the subject property.

2. Floodplain

The FEMA Flood Insurance Rate Map, 08041C0375G, depicts the parcel bisected in half from east to west by a floodplain, zoned A. The proposed dwelling is located north of the floodplain and is not anticipated to adversely impact the existing floodplain.

3. Drainage and Erosion

The property is located within the Upper Bracket Creek Drainage Basin (CHBR0600). Drainage and bridge fees are not assessed with Variance of Use requests if no platting action is required.

A Grading and Erosion Control plan and final drainage report were not required with this Variance of Use application since the proposed land disturbance is less than 1 acre. Per the applicant's Letter of Intent, the proposed Variance of Use application will not adversely impact adjacent properties or existing stormwater runoff patterns.

4. Transportation

The property obtains access through Chaparral Loop. Chaparral Loop is an El Paso County owned and maintained roadway classified as a rural local. The property is required to obtain driveway access permits for each driveway access. The property

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currently has one approved driveway access permit, AP23617, on file with the County. A secondary driveway access permit will be required for the proposed dwelling. The proposed site is projected to generate an average of 20 vehicle trips per day per the applicant's Letter of Intent. The property will be subject to the El Paso County Road Impact Fee program (Resolution No. 19-471), as amended.

H. SERVICES

1. Water

Water is provided by a well.

2. Sanitation

Wastewater is provided by onsite wastewater treatment systems.

3. Emergency Services

The property is within the Peyton Fire Protection District.

4. Utilities

Mountain View Electric Association, Inc.

Black Hill Energy-Aquila

5. Metropolitan Districts

No Metropolitan districts are associated with this project.

6. Parks/Trails

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

7. Schools

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

I. APPLICABLE RESOLUTIONS

See attached resolution.

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J. STATUS OF MAJOR ISSUES

There are no major issues associated with this project.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.4 of the El Paso County Land Development Code (As Amended), staff recommends the following conditions and notations:

CONDITIONS

1. Approval is limited to the use of a second dwelling, as discussed, and depicted in the applicant's Letter of Intent and site plan drawings. 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 plan shall be applied for and approved 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 their discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

NOTATIONS

1. 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.
2. 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 eight (8) adjoining property owners on November 21, 2023 for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

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M. ATTACHMENTS

Map Exhibit

Letter of Intent

Site Plan

Draft Resolution

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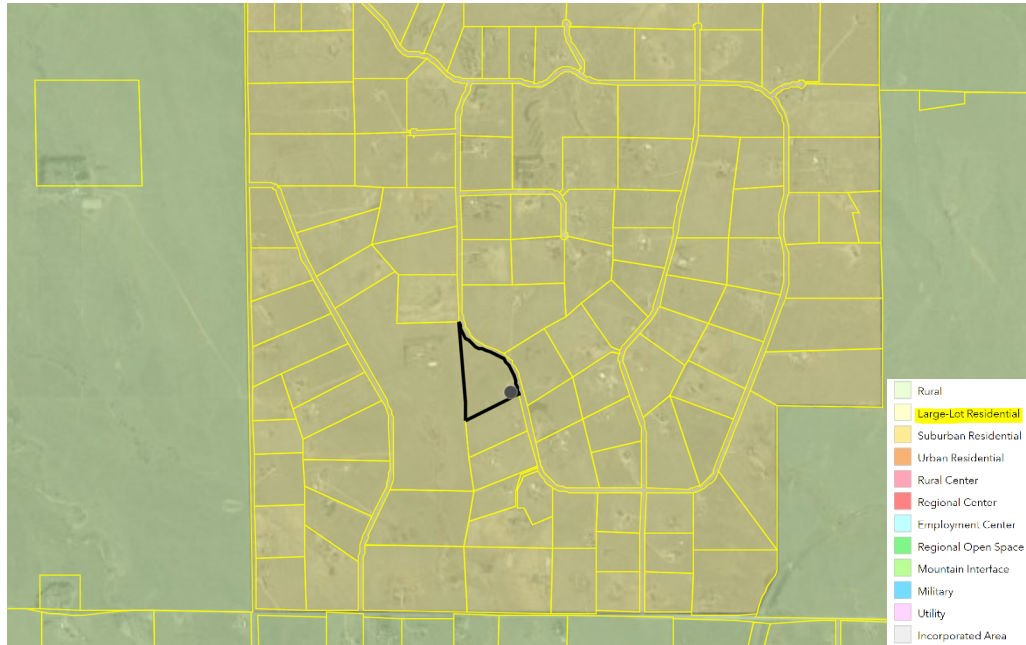


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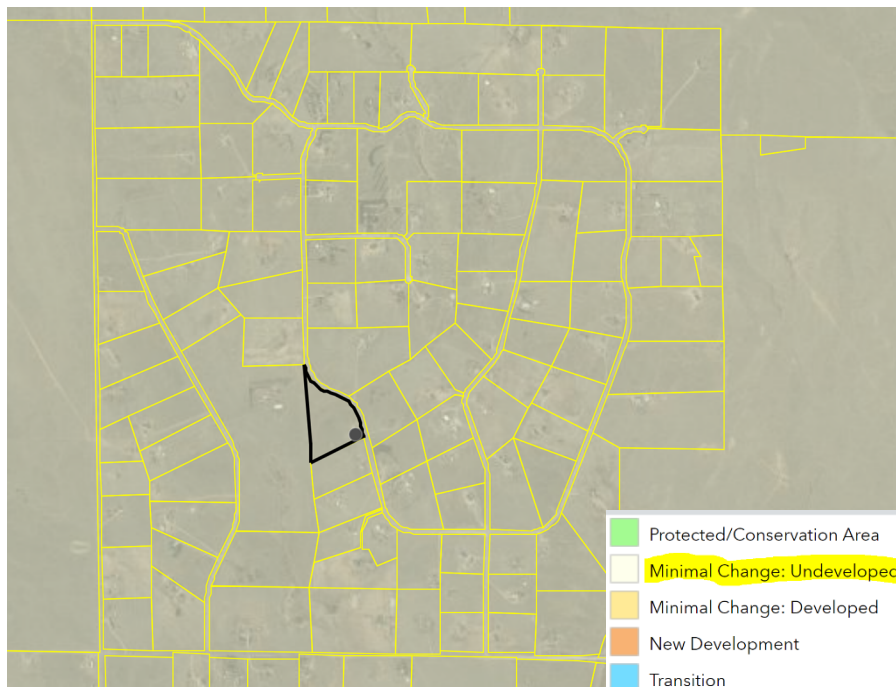
VA233

Map Exhibit

Placetype:



Area of Change:



**Gatti Second Dwelling
Variance of Use
Letter of Intent
PCD File No. VA233
05/04/2023**

Zachary & Stefanie Gatti

15080 Chaparral Loop W
Peyton, CO 80831

Planner: Zachary Gatti
15080 Chaparral Loop W
Peyton, CO 80831
719-238-2188
Zagatti2@Gmail.com

Tax Schedule No: 3132002004
Acreage: 10.58 Acres
Zoning: RR-5 (Residential Rural)
Legal Description: Lot 36 Peyton Ranches

Site Location, Size, Zoning:

Zachary and Stefanie Gatti, are respectfully submitting a variance of use application for a proposed second dwelling unit. The property is located west of Chaparral Loop West and approximately 0.8 miles south of Murphy Road. The 10.58-acre property is zoned RR-5 (Residential Rural). The proposed variance of use is compatible with the surrounding planned and existing development and is consistent with the Your El Paso Master Plan.

Background

A 964 square foot dwelling with an attached garage and septic system was constructed in 1963. The 10.89-acre parcel was created by deed is considered a legal parcel. The 1960's dwelling and parcel was purchased by September 2012 by the Gatti's, and at the time of purchase the home was uninhabitable. In the months following we rehabbed the home and converted the garage into two bedrooms and a master bath, increasing the square footage to 1,521 and turning the home from a neighborhood eyesore to one we'd be proud to live in. The proposed second dwelling would be a two story structure with a total of 2,944 sq. ft. Including the potential driveway, it would be likely to expect roughly 4,500 sq. ft of land disturbance. If allowed, we'd also plan to build a pole barn within the vicinity within the next few years, however due to budget that is not in our immediate plans.

Utilities

Mountain View Electric Association (MVEA) provides electric service and propane is provided by Glaser Gas to the existing structures. There is one permitted onsite wastewater treatment system (OWTS) onsite; for the 1960's home and there are plans

for a new one to be installed with the new structure. Water is provided by an individual onsite well (permit no. 95458). The well permit allows for the current dwelling and allows for no more than two single family homes located on a single parcel, per Upper Black Squirrel Creek Ground Water Management District rules. If the variance of use is approved, Mr. Gatti will consult and submit an OWTS application with El Paso County Health Department for the new septic system. The septic permit will be in place prior to utilizing the second dwelling unit for full-time residency. We anticipate the septic permit needing to be in place prior to initiation of the use as a notation on the BoCC Resolution.

Request & Justification:

The purpose of this application is to request approval of a variance of use to allow a second dwelling in the RR-5 zoning district. Our hope is that we can build a second dwelling which will become our primary residence, allowing our current dwelling to be used as a home to a family member that's in need. To make a long story short, Stefanie's sister recently divorced, due to financial circumstances and lack of affordable housing options, her only choice has been to continue to live with her ex-husband. Their son is set to graduate high school this month, and their living arrangement is soon to fall apart. Our plan is to allow her to live in our current home, and we would move into the new dwelling. I understand that traditionally, I would go about the process of applying for an "Accessory Living Quarters" permit, however I cannot guarantee the length of which the dwelling would be used in such fashion, and the potential need to rent in the future would be a possibility. From that understanding, and at the attempt to be forthright and honest, we are requesting a variance of use.

The pages that follow address each one of the Variance of Use criteria included within Section 5.3.4 of the El Paso County Land Development Code:

The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.

The current Land Development Code does not permit a second dwelling in any zoning district other than the multi-family zoning districts. Applicants who wish to have two dwelling units on their property have no choice but to either rezone to a multi-family zoning district or to request a variance of use. Rezoning the property to a multi-family zoning district, such as the RM-12 zoning district, is inadvisable in this situation since a residential development of up to 12 dwelling units per acre would not be compatible with the existing surrounding residential development. There are several other residential properties within the 80831 zip code which have previously received approval for a

second dwelling unit without needing to rezone their property to a multifamily zoning district. The concept of permitting and constructing a permanent second dwelling is not unique to the Black Forest and Peyton areas. There have been seven variance of use requests to allow for second dwellings approved in El Paso County in the last five years. This represents one-sixth of the total number of variances of use requests submitted to El Paso County during that time frame. This trend of constructing additional dwelling units on single family-zoned properties throughout El Paso County is likely to continue due to reduced housing stock and increased housing prices.

The County, including the appointed committee, anticipated the construction of additional dwelling units on single family-zoned properties when guiding the development of Your El Paso County Master Plan (2020). The Plan, as detailed below, recommends the County amend the Land Development Code to encourage Additional Dwelling Units in residential zoning districts as a way to alleviate the housing deficit in the region. This code-based measure has not yet been implemented, which is likely due to the continued high workload and staff turnover in the Planning Department.

The contradiction between the recently updated Master Plan and the existing Land Development Code presents a peculiar and exceptional practical difficulty for any property owner who wishes to further implement the guidance of the County's new Master Plan by constructing a second dwelling on their property in order to provide additional housing.

:

- *The variance of use is generally consistent with the applicable Master Plan;*

Please see the Master Plan analysis beginning on page 5.

- *The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;*

The property is surrounded by the RR-5 zoning district in all directions. Properties in the neighborhood are anywhere between 5 and 60 acres, with a mix of modular and stick-built homes, including 2 new stick-built homes within the near vicinity. The topography of the property divides the northern half and southern half with a creek bed below a large hill, building a new dwelling on the northern half would keep with the existing character of the neighborhood. The second dwelling is a custom home that matches the character and massing of the surrounding rural residential homes and is

not a detriment to the neighborhood. All utilities for the second dwelling will be permitted.

- *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 is a single-family dwelling being served by an individual onsite well and an onsite wastewater treatment system (OWTS). The dwelling will be constructed in compliance with all El Paso County and State air quality regulations.

- *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 dwelling is within the RR-5 zoning district. Table 5-4 of the Land Development Code identifies the density and dimensional standards of the RR-5 zoning district:*

- o Minimum lot size: 5 acres
- o Front Setback: 25 feet
- o Side Setback: 15 feet
- o Rear Setback: 25 feet
- o Maximum Height: 30 feet

The proposed dwelling would meet all setback and height requirements of the RR-5 zoning district, as depicted on the variance of use site plan. El Paso County allows for a detached “Accessory Living Quarters” within the RR-5 zoning district, but is limited to temporary, occasional stays. The variance of use need not meet the use specific standards for an “Accessory Living Quarters”, however, the current dwelling does meet all those standards included within Section 5.2.1 of the Land Development Code, with the exception of the use being limited to temporary occupancy and a slight overage of 21 square feet of the permitted 1,500 allowed for ALQ’s.

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

There are no anticipated additional off-site impacts except for a minor increase in traffic, which has been addressed by the construction of a second driveway on Chaparral Loop West. With initial review, there was a possibility of potential habitat for the Preble’s Mouse, however U.S. Fish and Wildlife has given clearance to the area.

- *The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or*

The Land Development Code requires a minimum of 2 parking spaces per dwelling. The site plan depicts 2 parking spaces within the garage with additional space within the driveway, which exceeds the parking requirement. No screening, open space, fencing, screening, or landscaping are required for single-family development, therefore, none are depicted beyond the vegetation presently onsite.

- *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.*

Water is provided by an individual onsite well and septic is provided by separate approved onsite wastewater treatment systems (OWTS). The existing dwelling currently has an approved OWTS, and the proposed dwelling would have its own. El Paso County Health Department has no issue with a second OWTS on the property, and application for approval would be required pending approval of this application. The property is within the Peyton Fire Protection District. El Paso County Sheriff's Department will respond to any emergency. Access is taken from Chaparral Loop West.

Master Plan Elements

Below is an analysis of the various El Paso County Master Plan elements.

Your El Paso County Master Plan Analysis

Chapter 1 of Your El Paso Master Plan (2021) states that the Plan is "general in nature-it cannot tackle every issue in sufficient detail to determine every type of necessary action." In addition, Chapter 1 goes on to state that the Plan "is intended to provide clearer and more coordinated policy, resulting in a document that effectively communicates County goals and identifies specific actions to achieve both County-wide and local area objectives." When taken together, these two statements suggest to the reader that the Plan may only address certain issues at a cursory level and that specific steps or actions for addressing such issues may not be offered within the Plan.

That conclusion is certainly the case in numerous instances and with regard to a variety of topical areas. However, where that is not the case is with respect to the variance of use request, as identified below.

Area of Change Analysis

The subject property is identified in the Areas of Change map within the Plan as being within the “Minimal Change: Undeveloped” area of change.

Page 21 of the Plan characterizes areas of “Minimal Change: Undeveloped” by stating:

“The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.”
(Emphasis added)

The Master Plan anticipates some redevelopment as long as the character can be maintained. As discussed above, the proposed second dwelling is in conformance with the physical attributes of the surrounding development.

Placetype Analysis

The subject property is shown on the Placetypes map of Your El Paso Master Plan as being within the Large-Lot Residential Placetype. Page 26 of the Plan identifies the following land uses as being Primary Land Uses within the Large-Lot Residential Placetype:

- Single-Family Detached Residential (typically 2.5 acre lots or larger)

In addition, the Placetype includes the following Supporting Land Uses:

- Parks/Open Space
- Commercial Retail
- Commercial Service
- Agriculture

The Large-Lot Residential Placetype is described further on page 26 as follows:

“The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments

may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas. Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.” (emphasis added)

Page 27 of the Plan identifies the Placetype Characteristics, including but not limited to the following:

“Accessory Dwelling Units (ADUs) are compatible in this placetype and should function in the context of the existing neighborhood.”

“Single-family detached homes oriented to the street.”

“Attached and detached garages and accessory buildings that reflect the architectural style and scale of the surrounding residential.”

The proposed and the existing dwelling units are oriented towards the street and also have been constructed to reflect the architectural style and scale of the surrounding area. The placetype specifically identifies accessory dwelling units as being supported within the placetype and specifically states that this use is compatible with the placetype. The proposed variance of use is in conformance with the placetype recommendations.

Housing & Communities

The Housing and Communities chapter specifically contemplates accessory dwelling units and recommends that the County can proactively promote them as a housing type (page 61):

“Allowing alternative forms of density, such as small-lot homes or accessory dwelling units (“granny flats”), would provide more attainable housing units without altering neighborhood character. Allowing accessory dwelling units (ADUs), where appropriate, would be another tool to support more affordable rents. Accessory dwelling

units can work well for people in various life stages, including students, young professionals, and empty nesters. Proactively promoting the construction of ADUs can take numerous forms including local fee waivers, pre-approved unit plans, assistance navigating the permit process, and working with local lenders to ensure construction and permanent financing is available for homeowners wishing to build ADUs.”

The following goal and strategy further supports the requested variance of use:

Goal HC3- Locate attainable housing that provides convenient access to goods, services, and employment.

• Allow accessory dwelling units (ADUs), where appropriate, as another tool to support more affordable rents and proactively promote the construction of ADUs by considering local fee waivers, pre-approved unit plans, assistance navigating the permit process, and by working with local lenders to ensure construction and permanent financing is available for homeowners wishing to build ADUs.

The Master Plan not only recommends ADUs as a supported land use, but suggests that the County should promote ADUs and provide a clear path to approval by waiving fees and ensuring the process is seamless for those who desire to construct an ADU.

The proposed variance of use is in conformance with all aspects of the Master Plan.

El Paso County Water Master Plan

The Executive Summary from the Water Master Plan (2018) states that “The Plan Water Master Plan (WMP) was developed for the Board of County Commissioners, El Paso County officials and staff, developers, citizens, and water providers within the County for the purpose of identifying and addressing water supply issues earlier in the land use entitlement process.” For that reason, water supply should be discussed even with a variance of use. This does not mean that a full water sufficiency finding should be made since sufficiency findings in El Paso County are made at either the preliminary plan or final plat stage of development, both of which are part of the subdivision stage of development, which has already taken place. It should be further noted that the Water Master Plan only contemplates centralized providers and did not provide an analysis for individual well, as is proposed here.

The subject property is located within Planning Region 4C of the Water Master Plan, pursuant to Figure 3-1 on page 25. The Plan identifies the current supply and demand forecasts at full build out (year 2060) for each of the Planning Regions. The Table indicates that the current water supplies for Region 2 amounts to 2,970 AF of water per

year with 2060 being 4,826 AF of water per year; therefore, there is projected to be a surplus supply of water for central water providers in this region of the County.

El Paso County Parks Master Plan

The El Paso County Parks Master Plan (2022) does not depict any planned or existing trails or open space on the subject property. Land dedication, or fees in lieu of land dedication are not required with a variance of use request.

Other Topical Elements of the County Master Plan

The proposed variance of use is in compliance with the other topical elements of the County Master Plan, including the Master Plan for Mineral Extraction, and the El Paso County Wildlife Habitat Maps and Descriptors.

Stormwater and Roadways

The proposed second dwelling will be built in an area to ensure that there is no negative effect on existing stormwater runoff patterns. The second dwelling would require a new driveway, and a permit has been issued for such.

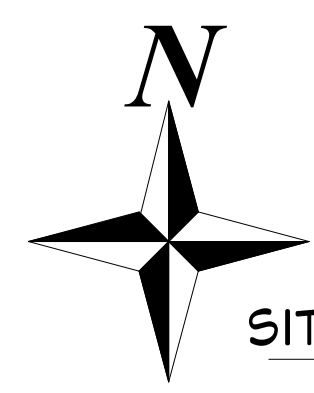
With the addition of a new driveway, traffic would not be greatly impacted with the second dwelling. Regarding vehicular traffic, the likelihood that the average daily trip end's may double from 10 to 20, but well within the scope allowed. The property is in a rural area, and within a spaced out subdivision therefore there are no major intersections, collectors, arterials or highways in the immediate area, and naturally no dangerous intersections. Any LOS on the adjacent public road will continue to be well maintained. Additionally, there wouldn't be any adverse effects toward any pedestrian or bicycle traffic, and there is nothing paved in the area including foot or bicycle paths.

D. NO TIS Required. *No TIS is required if all of the criteria are satisfied:*

- *Vehicular Traffic: (1) Daily vehicle trip-end generation is less than 100 or the peak hour trip generation is less than 10; (2) there are no additional proposed minor or major roadway intersections or major collectors, arterials, or State Highways; (3) the increase in the number of vehicular trips does not exceed the existing trip generation by more than 10 peak hour trips or 100 daily trip ends; (4) the change in the type of traffic to be generated (i.e., the addition of truck traffic) does not adversely affect the traffic currently planned for and accommodate within, and adjacent to, the property; (5) acceptable LOS on the adjacent public*

roadways, accesses, intersections will be maintained; (6) no roadway or intersection in the immediate vicinity has a history of safety or accident problems; and (7) there is no change of land use with access to a State Highway.

- *Pedestrian Traffic: Paved pedestrian facilities exist or will be constructed on, or adjacent to, the site; or, the proposed use will not generate any new pedestrian traffic.*
- *Bicycle Traffic: Paved bicycle lanes or paths exist or will be constructed on, or adjacent to, the site; or, the proposed use will not generate any new bicycle traffic.*



SITE PLAN

1" = 80'

SITE DATA:

OWNER: GATTI
 ADDRESS: 15080 W. CHAPARRAL LOOP, PEYTON, CO
 LEGAL DESCRIPTION: LOT 36 PEYTON RANCHES
 ZONING: RR-5
 LOT SIZE: 10.58 AC.
 STRUCTURE AREA: 6481 SF
 % OF LOT COVERAGE: 1.4%
 BUILDING HEIGHT: 21' (BY COUNTY STANDARDS)

TAX SCHEDULE NO. 3132002004

Engineering & Documentation
ddd services
 COMPUTER-AIDED-DESIGN
 P.O. BOX 77162
 COLO. SPRINGS, CO 80970 (719) 537-0522

Project
THE GATTI RESIDENCE
15080 W. CHAPARRAL RD

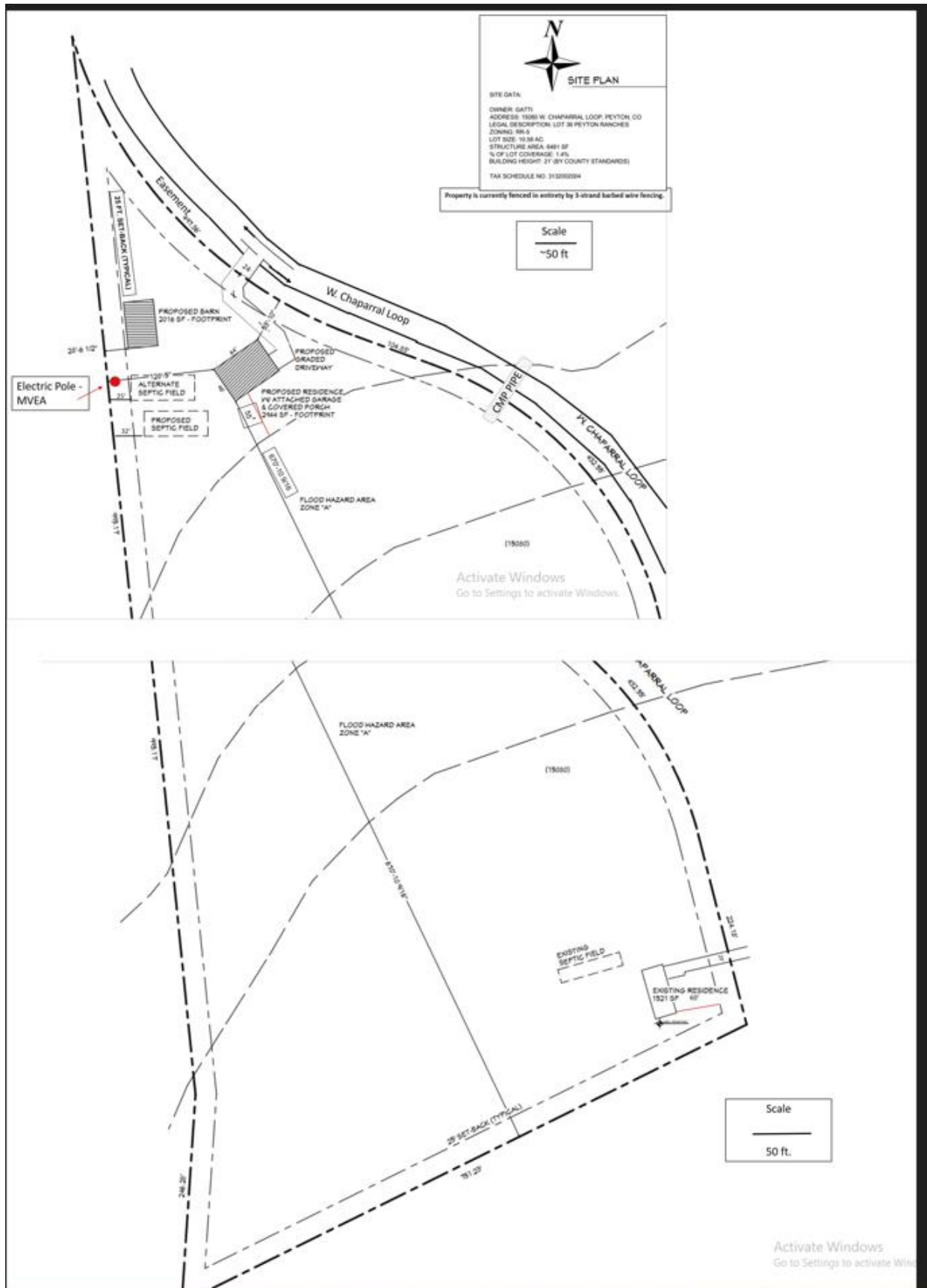
Subject
SITE PLAN

Job No.
 DDD Services
 JOBNUMBER
 Contractor

Release
 Date

Revisions	

Sheet
C1 of 6



VARIANCE OF USE (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VA233
15080 W CHAPARRAL LOOP - VOU

WHEREAS, Zach Gatti did file an application with the El Paso County Planning and Community Development Department for approval of a variance of use to allow a second dwelling within the RR-5 (Residential Rural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on December 7, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the Master Plan for the unincorporated area of the County, 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 El Paso County Planning Commission Members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission;
3. 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. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an 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. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. For the above-stated and other reasons, the proposed special use is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, as stated in Section 5.3.4.C of the El Paso County Land Development Code (2022), the Planning Commission and Board of County Commissioners may consider the following criteria in approving a variance of use:

1. The strict application of any of the provisions of the Code would result in peculiar and exceptional practical difficulties or undue hardship;
2. The variance of use is generally consistent with the applicable Master Plan;
3. 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;
4. 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;
5. The proposed use will comply with all applicable requirements of the Code and all applicable County, State, and Federal regulations except those portions varied by this action;
6. The proposed use will not adversely affect wildlife or wetlands;
7. The applicant has addressed all off-site impacts;
8. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
9. 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 El Paso County Planning Commission recommends approval of the variance of use to allow a second dwelling within the RR-5 (Residential Rural) zoning district with the following conditions and notations:

CONDITIONS

1. Approval is limited to the use of a second dwelling, as discussed, and depicted in the applicant's Letter of Intent and site plan drawings. 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 plan shall be applied for and approved 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 their discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

NOTATIONS

1. 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.
2. 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 the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

_____ seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Thomas Bailey	aye / no / abstain / absent
Sarah Brittain Jack	aye / no / abstain / absent
Jay Carlson	aye / no / abstain / absent
Becky Fuller	aye / no / abstain / absent
Brandy Merriam	aye / no / abstain / absent
Eric Moraes	aye / no / abstain / absent
Kara Offner	aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / absent
Bryce Schuettpelz	aye / no / abstain / absent
Tim Trowbridge	aye / no / abstain / absent

Christopher Whitney aye / no / abstain / absent

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

DONE THIS 7th day of December 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
_____, Chair

DATED: [Click here to enter a date.](#)

EXHIBIT A

LOT 36 PEYTON RANCHES