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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

**FROM: Kari Parsons, PM/Planner II  
Gilbert LaForce, PE Engineer II  
Craig Dossey, Executive Director**

**RE: Project File #: VA-16-001  
Project Name: Beauperthuy Variance  
Parcel Nos.: 63262-06-008, 63262-06-009, 63262-06-010, 63262-06-011,  
63262-06-012**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Gabe and Trisha Beauperthuy 4125 Orchid Street Colorado Springs, CO 80917	Dave Gorman 1903 Lelaray Street, Suite 200 Colorado Springs, CO 80909

**Commissioner District: 1**

<b>Planning Commission Hearing Date:</b>	<b>4/3/2018</b>
<b>Board of County Commissioners Hearing Date</b>	<b>4/24/2018</b>

### EXECUTIVE SUMMARY

A request by Gabe and Trisha Beauperthuy for approval of a variance of use for a contractor's equipment yard and outside storage. The 0.94 acre property is zoned RM-30 (Residential Multi-Dwelling) and is located at the northeast corner of Orchid Street and Lotus Street, east of Austin Bluffs Parkway. The parcels are part of an unincorporated County enclave within the incorporated boundaries of the City of Colorado Springs. The properties are not located within a small area plan area. The applicants live in a single-family home, built in 1961(63262-06-019), adjacent to the five (5) subject properties which they purchased in 2001. The applicants purchased the subject properties (63262-06-008, 63262-06-009, 63262-06-010, 63262-06-011, 63262-06-012) adjacent to their home in 2008. The combined subject properties include an existing garage which is thought to have



been erected sometime in 1961, and five (5) semi-truck trailers utilized for storage of materials which have been determined to be legal non-conforming. The request for approval of a contractor's equipment yard with outside storage is the result of a 2016 code enforcement complaint. The applicants are not proposing to remove the semi-trailers utilized for storage and the existing garage which have been determined to be legal-nonconforming at the time of the code enforcement violation. No new structures are proposed. The subject property is a dry-use and is not proposed to be served by a well or on-site wastewater treatment system. The applicants are requesting a variance of use instead of a map amendment (rezoning) due to inadequate services being available to support many of the allowed uses within each of the County's commercial zoning districts.

#### **A. REQUEST/WAIVERS/AUTHORIZATION**

**Request:** A request by Gabe and Trisha Beauperthuy for approval of a variance of use for a contractor's equipment yard.

**Waiver(s):** The applicants are requesting approval of a waiver of Section 6.2.2 Landscape Requirements of the Land Development Code (2017) requiring roadway landscaping, and internal landscaping where a commercial use is immediately adjacent to a residentially zoned parcel.

The subject parcels are not served by a well or central services; therefore, water will not be available for irrigation of landscaping. The opaque fencing requirement is not anticipated to provide screening to adjacent residential properties due to the topography of the area. The adjacent duplex development to the south within the City of Colorado Springs is at a higher elevation than the subject properties; therefore, fencing will not fully screen the contractor's equipment yard from view. There is an un-stabilized channel adjacent to the subject properties that may preclude development immediately adjacent to the south and east. The property to the west is vacant.

**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**

In approving a variance of use, the following criteria may be considered:

- 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:	RM-30 (Residential Multi-Dwelling)	Vacant
South:	RM-30 (Residential Multi-Dwelling)	Vacant
East:	RM-30 (Residential Multi-Dwelling)	Vacant
West:	RM-30 (Residential Multi-Dwelling)	Vacant

**E. BACKGROUND**

The five (5) parcels are within the Park Vista Addition Subdivision, which was recorded on July 13th, 1955, prior to adoption of the subdivision regulations by the El Paso County Board of County Commissioners on July 17, 1972. There is an existing garage on the property which is believed to have been erected in the 1960's at or near the same time as when the residence on the adjacent property, now owned by the applicant, was constructed. The zoning of the area occurred in 1967 after subdivision.

The Colorado Springs city limits are within 200 feet of the subject properties both to the west and south. Contractors equipment yard and associated outside storage is an allowed use in the Industrial (I-3) zoning district and a special use in the commercial zoning districts. The applicants are requesting a variance of use instead of a map amendment (rezoning) due to inadequate services being available to support many of the allowed uses within the County's commercial and industrial zoning districts. Should the variance of use request be approved, a commercial site development plan will be required.

## **F. ANALYSIS**

### **1. Land Development Code Analysis**

The properties are currently zoned RM-30 (Residential Multi-Dwelling). The RM-30 zoning district is urban residential in nature. This area of the County has remained mostly undeveloped since the time of zoning due to a lack of extension of central services. A variance has been approved in the area. Variance of use (VA-02-017) included outside storage, and is located within 300 feet east of the subject properties. This use is still in operation.

The surrounding parcels that are within unincorporated El Paso County to the north, south, east and west, with exception to the applicants' home, have not been developed and remain vacant and could remain that way for some time, which, again, is likely due to a lack of central services and because of the existing floodplain. This area of unincorporated El Paso County is an enclave within the City of Colorado Springs. Development within the City of Colorado Springs surrounding the County enclave consists of high density residential development to the north, south, and west. The applicant does not desire annexation of the properties into the City of Colorado Springs; therefore, connecting to central water and sanitation for a commercial use is not likely to occur.

### **2. Zoning Compliance**

The property is within the RM-30 (Residential Multi-Dwelling) zoning district, which does not include contractor's equipment yard and outside storage as allowed uses. Only if the variance of use and a commercial site development plan are approved will the proposed use be in compliance with the current RM-30 zoning.

### **3. Policy Plan Analysis**

Consistency with the El Paso County Policy Plan (1998) is not a required review criteria for a variance of use request. For background, the Policy Plan 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 3.1.7*** Carefully analyze each new development's proposed use of water.

***Policy 6.1.10*** Ensure that new development will not create a disproportionately high demand on public services and facilities by virtue of its location, design or timing.

***Policy 6.2.12*** Ensure that proposed zone changes and/or use variances in established neighborhoods are of compatible scale and physical character.

***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.

As stated above, the properties are currently zoned RM-30 (Residential Multi-Dwelling). The average size of platted lots within the Park Vista Addition Subdivision is approximately 7,200 square feet (SF). The lack of central services and the minimal lot size create onsite wastewater treatment constraints which has deterred permanent development in the area for decades. The requested variance of use for the contractors equipment yard and outside storage does not require water usage or the extension and provision of any additional utilities.

The proposed contractors equipment yard and outside storage uses are not allowed uses, as stated above; however, the uses are generally consistent with other uses that have been occurring for decades in the unincorporated enclave area. Properties within the incorporated area of the City of Colorado Springs are served by central water and are generally developing as multi-family residential, which is generally incompatible with the applicants' proposed uses as well as the other uses located within the County enclave.

Although consistency with the Plan is not a requirement for a variance of use, the proposed use could be found to be consistent with some of the above listed policies identified in the Plan.

#### **4. Small Area Plan Analysis**

The property is not located within the boundaries of a small area plan.

#### **5. Other Master Plan Elements**

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

The Master Plan for Mineral Extraction (1996) identifies potential upland deposits in the area of the subject property. A mineral rights certification was prepared by the applicants indicating that, upon researching the records with El Paso County, no severed mineral rights exist.

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

A portion of the property is within the FEMA Floodplain. Please see Section 3 of this report below.

### **2. Wildlife**

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

### **3. Floodplain**

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0538F and as amended by the FEMA approved Letter of Map Revision (LOMR) case number 07-08-0414P, effective date January 16, 2008, shows the majority of the site lies within the 100-year floodplain Zone AE (base flood elevation is determined). Development is not being proposed within the floodplain. Future development of the portion of the property within the 100-year floodplain will require approval by the Floodplain Administrator. The Floodplain Administrator will be sent a referral with the site development plan.

### **4. Drainage And Erosion**

The property is located within the Templeton Gap drainage basin (FOMO1200), which is included in the Drainage Basin Fee Program; however, drainage and bridge fees are not assessed with variance of use requests. A drainage letter was submitted with the concurrent commercial site plan request. The drainage letter identified two proposed permanent rock check structures to be added at the south side of the property to capture any sediment laden runoff. An approved drainage letter will be required with the subsequent commercial site development plan application.

### **5. Transportation**

The property is accessed via an existing driveway along Orchid Street. Section 6.2.5.C.2.iii of the Code requires paving of the first 50 feet of the existing driveway. A traffic impact study was not required and the County Road Impact Fee does not apply to this request because the variance of use is not expected to generate 100 more daily vehicle trips than the property would be expected to generate without the variance of use request being approved.

## **H. SERVICES**

### **1. Water**

The subject property is not served by a central water service provider or a groundwater well. The applicants are not proposing to extend central water service to the properties or to install a groundwater well. The applicants' home, located adjacent to the subject property, is served by a groundwater well.

### **2. Sanitation**

The property is not served by a central wastewater service provider or an onsite wastewater treatment system (OWTS). The applicants are not proposing to extend central wastewater service to the properties or to install an OWTS. The applicants' home, located adjacent to the subject property, is served by an OWTS.

### **3. Emergency Services**

The site is not located within the boundaries of a fire district. Properties that are not within a fire protection district fall under the protection of the El Paso County Fire Marshal. The El Paso County Sheriff's Office would coordinate with other emergency responders pursuant to mutual aid agreements to provide services to the site in the event of an emergency.

### **4. Utilities**

No electrical or gas services are provided to the site, nor anticipated to be provided if the proposed use is approved. Electrical and gas services are available to the site and could be provided by Colorado Spring Utilities.

### **5. Metropolitan Districts**

The property is not within a metropolitan district.

### **6. Parks/Trails**

There are no planned parks/trails on the subject parcel. No park fees or land dedication in lieu of fees are required for this application

### **7. Schools**

The property is located within School District No. 11. No school fees or land dedication in lieu of fees are required with this application.

## **I. APPLICABLE RESOLUTIONS**

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Disapproval        Page 52

## **J. STATUS OF MAJOR ISSUES**

There are no major outstanding 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 5.3.4 of the El Paso County Land Development Code (2018), staff recommends the following conditions and notations:

### **CONDITIONS**

1. Any subsequent addition or modification to the operation or facility beyond that described in the applicants' 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 Department Director that it constitutes a substantial change, then such addition or modification shall be subject to review and approval by the Board of County Commissioners.
2. The applicants shall seek approval from the Planning and Community Development Department of a commercial 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.
4. Road impact fees shall be paid at the time of approval of each site development plan for uses that will cumulatively generate 100 more daily vehicle trips.

**L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 11 adjoining property owners on March 14, 2018, for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

**M. ATTACHMENTS**

Vicinity Map

Letter of Intent

Site Plan

Zoning Map

Floodplain Map

# El Paso County Parcel Information

File Name: VA-16-006

PARCEL	NAME
6326206009	BEAUPERTHUY GABRIEL
6326206012	BEAUPERTHUY GABRIEL
6326206011	BEAUPERTHUY GABRIEL
6326206010	BEAUPERTHUY GABRIEL
6326206008	BEAUPERTHUY GABRIEL

Zone Map No: --

Date: March 14, 2018

ADDRESS	CITY	STATE
4125 ORCHID ST	COLORADO SPRINGS	CO
4125 ORCHID ST	COLORADO SPRINGS	CO
4125 ORCHID ST	COLORADO SPRINGS	CO
4125 ORCHID ST	COLORADO SPRINGS	CO
4125 ORCHID ST	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80917	4911
80917	4911
80917	4911
80917	4911
80917	4911



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



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VA-16-6  
RECEIVED VERSION

MAR 05 2018 3

March 1, 2018

**LETTER OF INTENT for  
Beauperthuy Property Variance of Use (EA16-018)  
Parcel No.'s 6326206008, 6326206009, 6326206010, 6326206011, 6326206012**

**PROPERTY OWNERS:** Gabriel Beauperthuy and Trisha Beauperthuy, 4125 Orchid Street, Colorado Springs, CO 80917, 719-439-9035.

**APPLICANT AND CONSULTANT:** M.V.E., Inc., 1903 Lelaray Street, Suite 200, Colorado Springs, CO 80909, David Gorman 719-635-5736.

**SITE LOCATION, SIZE AND ZONING:** The site consists of Lot 7 through 11, Block 6, Park Vista Addition in El Paso County, as recorded in Plat Book U Page 69, under reception number 019967823 of the records of the county. The overall subdivision, of which the subject lots are a part, was recorded in 1955 and platted 70.3 acres totally contained within El Paso County. Since this time, some of the original lots in the general area have been annexed into the City of Colorado Springs and replatted into different subdivisions and lot configurations.

The addresses for the lots contained in the site are 4105 and 4115 Orchid Street, 118 and 120 Lotus Street, and 1102 Lily Place. The total area of all five lots is 0.94± acres. The site is located in the Northwest one-quarter of Section 26, Township 13 South, Range 66 West of the 6<sup>th</sup> P.M. In El Paso County, Colorado. The site is located at the northeast portion of the intersection of Orchid and Lotus Streets, east of Academy Boulevard, south of Austin Bluffs Parkway, and north of N. Carefree Circle.

The zone of the site is RM-30 (Residential Multi Dwelling). The Beauperthuy's (owner's) residence at 4125 Orchid Street (RM-30 zone, Single Family use) borders the site all along the northeast side. Orchid Street is located on the northwest side of the site and serves as access to the site as well as the owner's residence. The properties directly adjacent to the site are zoned for multi-family and all of them are vacant use. The vacant lots of Block 5, Park Vista Addition (RM-30 zone) are adjacent on the west side of Orchid Street, as is Tract A, Park Haven Village Filing No. 2 (R5 City zone, Open Space use). Lotus Street right-of-way is adjacent to the south side of the site and is unimproved County right-of-way. This right-of-way currently contains a portion of the Templeton Gap Floodway. The lots of Block 8, Park Vista Addition (RM-30 zone, Vacant use) are south of Lotus Street. Lily Place is adjacent on the southeast side of the site and is unimproved El Paso County right-of-way. This right-of-way also contains a portion of the Templeton Gap Floodway with vacant RM-30 lots of Block 7 Park Vista Addition lying to the southeast.

**REQUEST AND JUSTIFICATION:** The request is for a Variance of Use to allow a Contractor's Equipment Yard and Outside Storage on the property, which is in the RM-30 Zone. The owners

*Engineers • Surveyors*  
1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736  
Fax 719-635-5450 • e-mail [mve@mvecivil.com](mailto:mve@mvecivil.com)

reside in the neighboring single family residential property at 4125 Orchid Street which is not a part of this variance application. The residence was constructed in 1961, is served by individual well and septic system, and was purchased by the owners in 2001. The residence is adjacent to the northeast boundary of the subject site. The subject site, consisting of Lots 7 through 11, was purchased by the owners in 2008. The portion of the site known as Lot 10 (4105 Orchid Street) contains an existing garage/utility building, which was constructed in 1970. The site, especially Lot 10, has been used continuously for many years as indoor (garage Building) and outdoor storage of materials by the previous and current owners. The owner has used the remainder of the site for storage of trailers, vehicles and materials since 2005 in connection with their landscaping and snow removal business.

The subject property is devoid of permanent structures, except for Lot 10, as mentioned above. The perimeter of the site, except the northwest side that borders the owner's residence, is enclosed with a 6 foot high chain link fence with gate access to Lot 10 (4105 Orchid Street) and Lot 11 (4115 Orchid Street). The perimeter of Lot 10 is also totally enclosed in chain link fencing. There are semi trailers present on Lots 7 and Lot 11 which have been determined by Code Enforcement to be legal non-conforming on the site. The chain link fencing around the site will be converted to 7 ft high wood picket fencing to provide opaque privacy screening.

The proposed variance is to allow the site continued use as contractor's yard and outdoor storage in connection with the owner's landscaping and snow removal business. There is also a tenant that uses the Lot 10 area for contractor's yard and outdoor storage. The proposed variance is appropriate for the site due to location and nature of the surrounding neighborhood. The site and immediate surrounding area is properly viewed as a County enclave within the City of Colorado Springs corporate limits. Although zoned multi-family, the older homes in the area historically have had a rural residential character with associated uses such as outdoor storage. Recent annexations and development indicate that the area is in transition and would appear to be subject to future annexation, just as recent City developments have encroached on the existing single family/rural residential nature of the neighborhood.

The north side of the site is completely screened by the owner's residence, which has a 6' opaque fence along the north side, east side and part of the west side. The residence lot also contains a significant amount of mature landscaping with tall trees and full foliage. The south and east sides of the site will be screened with a combination of wood picket opaque fencing and trees along the south and east perimeter. Some of the trees exist, while others will be added. Furthermore, adjacent properties on the south and east are separated by significant distance and rugged terrain. The Templeton gap Floodway is located in Lily and Lotus streets along the south and east sides of the site. The existing trees and foliage in the drainageway also provides effective screening. The west side of the site will be screened with the 100% opaque wood picket fencing and a combination of existing and new trees planted along the site boundary.

The existing/proposed use is not open to the public and will not generate additional traffic in or around the site. The owner's landscaping and snow removal business has no additional employees other than the owners and there are no plans for future staff. The tenant business is staffed with one to three employees. Hours of operation for the owner business and tenant business is 7 am to 6 pm. The owner and tenant transport and deliver their own materials to site as needed. Total average daily traffic trips generated by the site is 10 trips per day. The existing/proposed use will meet air, water, odor, and noise standards because the

existing/proposed use is limited to landscaping equipment storage, vehicle storage, landscaping material storage, and minor equipment repair in the existing utility building. The existing/proposed use will not adversely effect wildlife or wetlands. The materials stored on the site will not affect those items. The items will be stored as shown on the Site Plan with areas indicated for materials and vehicle storage. The Site Plan also indicates screening and landscaping. There will be no material or vehicle storage conducted outside of the designated storage areas, all located within the screened perimeter. Any material storage currently evident outside the property boundary will be relocated to a storage area inside the site.

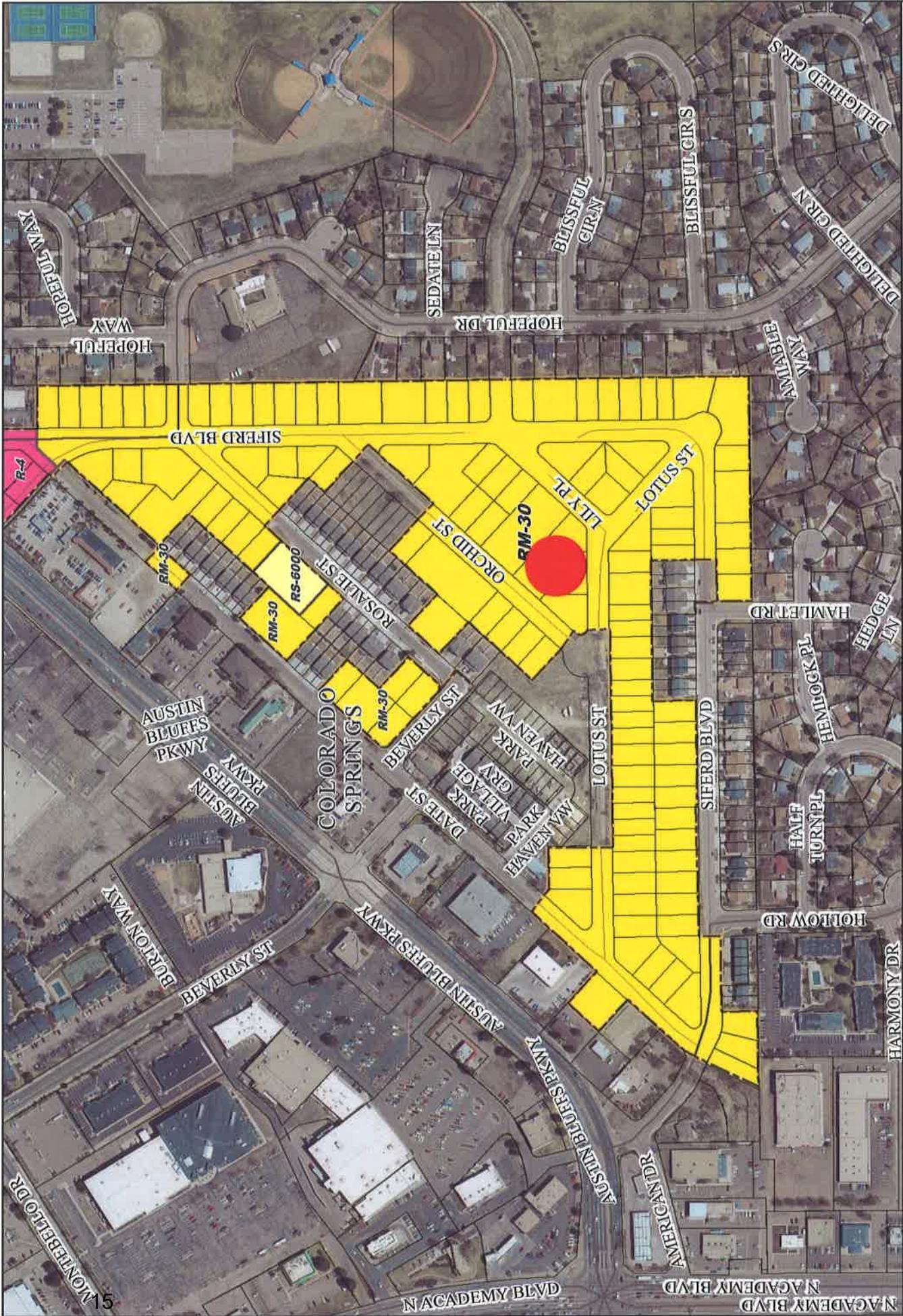
The nature of proposed use has no inherent impact to air, water, odor or noise conditions in the neighborhood. The uses have observed and will continue to observe all applicable County, State and Federal regulations concerning the operations. The site is not in a sensitive area and there are no aspects of the proposed uses that would interfere with wildlife or wetlands. With the proposed screening, there are no further off-site impacts associated with the site. The Site Plan provides for adequate parking, fencing and screening. Adequate sewer, water, storm drainage already exist. Adequate roadways, fire protection and police protection already exist on the site and the proposed use will not increase demands for those services.

This site is seeking a waiver from applicable landscape requirements due to lack of water availability. The owner's residence is served by private well and there is not water availability for adequate landscape irrigation. Some drought resistant plantings exist and limited plantings are planned along the site exterior. The proposed 100% opaque wood fence screening is planned to mitigate the lack of landscaping for the site.

The site has been used in the same manner for many years prior to this request. The variance request is made at this time to bring the existing use into compliance with the zoning code. The storage of the trailers have already been determined to be legal non-conforming. Without the variance, the existing businesses would be deprived of an appropriate location to store materials and base operations. Actual operations at the site are minimal because the operations are conducted at the various offsite client properties. The requested variance is appropriate for this rural residential type property located within a neighborhood that is in transition to a more urban character. The strict application of the code without the variance would result in exceptional hardship to the owner, causing the need to relocate or close their business activities, affecting life and livelihood.

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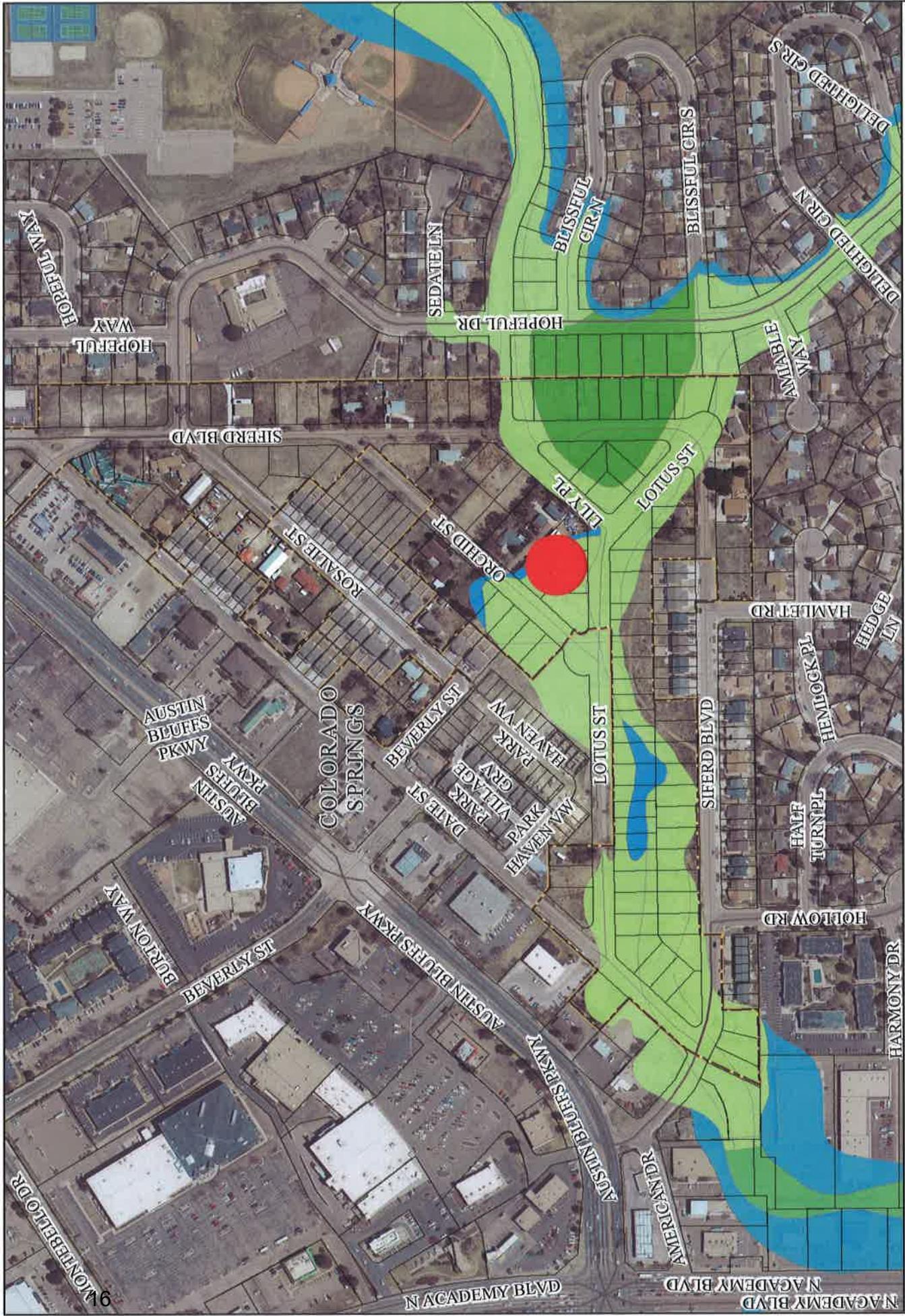


**El Paso County, Colorado**  
**Development Services Department**  
 Planning Division GIS Data Viewer



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# El Paso County, Colorado

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