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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Planning Commission
Brian Risley, Chair

FROM: Lindsay Darden, Planner II
Daniel Torres, PE Engineer II
Craig Dossey, Executive Director

RE: Project File #: VA-19-004
Project Name: BSK Investment Contractor's Equipment Yard
Parcel No.: 53080-00-007

OWNER:	REPRESENTATIVE:
David Pickrell BSK Investments, LLC 5055 E 39 th Avenue Denver, CO 80207	Debra Greer DD Greer Design Studio 13075 Sunny Slope Road Peyton, CO 80831

Commissioner District: 2

Planning Commission Hearing Date:	10/15/2019
Board of County Commissioners Hearing Date	11/12/2019

EXECUTIVE SUMMARY

BSK Investments, LLC, requests re-approval of an expired variance of use (VA-08-010) to allow a contractor's equipment yard and accessory retail sales incidental to the principal use. The previously approved variance of use expired and the applicant requests re-approval in accordance with the provisions of the El Paso County Land Development Code (2019) that allow for a variance of use to continue indefinitely without expiration. The 5.01-acre lot is zoned RR-5 (Residential Rural) and is located on the west side of Utah Lane, approximately 846 feet south of the intersection of Adventure Way and Utah Lane. The property is not included within a comprehensive



planning area. The El Paso County Land Development Code (2019) does not allow contractor's equipment yards or accessory retail in the RR-5 (Residential Rural) zoning district. If the applicant can meet the review criteria located in Section 5.3.4. of the Land Development Code, then staff recommends the conditions and notations included within Section C of this report.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by David Pickrell of BSK Investments, LLC, for approval of a contractor's equipment yard and accessory retail sales in the RR-5 (Residential Rural) zoning district.

Waiver(s)/Deviation(s): There are no waivers or deviations associated with this request.

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

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the El Paso County Land Development Code (2019), 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.

D. LOCATION

North:	A-5 (Agricultural)	Religious Institution
South:	RR-5 (Residential Rural)	Residential
East:	RR-5 (Residential Rural)	Residential/Agricultural
West:	RR-5 (Residential Rural)	Kennel/Residential

E. BACKGROUND

The site is located in a transitional area of the County that is adjacent to property within the incorporated boundaries of the City of Colorado Springs. The zoning of the site is RR-5 (Residential Rural); however, there are several commercial operations occurring in the immediate area. The BoCC granted a variance of use for a landscape contractor's equipment yard in November of 2003. In 2008, the variance of use was renewed and expanded by the BoCC to allow for retail sales as an accessory use to the landscape contractor's equipment yard with an expiration of 10 years. The applicant now desires re-approval of the same variance of use, which has since expired, but also requests re-approval without expiration. The conditions and notations placed on the original variance have been met. There have been no zoning complaints against the property since the original variance of use was approved in 2003.

F. ANALYSIS

1. Land Development Code Analysis

The El Paso County Land Development Code (2019) does not allow contractor's equipment yards or retail sales in the RR-5 (Residential Rural) zoning district. The requested uses are not consistent with the RR-5 zoning district without approval of a variance of use. The Planning Commission and Board of County Commissioners shall consider the review criteria of Section 5.3.4 of the El Paso County Land Development Code (2019) in approving a variance of use

2. Dimensional Compliance

All of the structures on the property meet the dimensional standards within the RR-5 (Residential Rural) zoning district, which are as follows:

- Front yard setback: 25 feet
- Rear yard setback: 25 feet
- Side yard setback: 25 feet
- Height maximum: 30 feet
- Lot coverage maximum: 25 percent

3. Policy Plan Analysis

Consistency with the El Paso County Policy Plan (1998) is not required 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 related to this request are as follows:

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

Policy 6.3.8: Recognize the need and allow for the reasonable accommodation of adequate amounts of land with sufficient infrastructure for land uses of a heavy industrial nature and/or considered to be "locally undesirable" within all sub areas of the County provided that adequate facilities and services will be available. Consider the environmental, visual and land use compatibility impacts and incorporate, where possible, buffering and screening techniques to address compatibility with surrounding uses

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 7.1.2: Consider the future combined impact of potential additional land use requests when considering individual applications for special or unique land uses.

The facility generates limited adverse impacts to other land uses in the area and is compatible with the surrounding commercial uses. The existing contractor's equipment yard and accessory retail sales uses continue to be consistent with the El Paso County master plan. Staff recognizes that this transitional area may be annexed into the City of Colorado Springs in the future. For that reason, at time of the previous variance of use renewal in 2008, staff recommended a five (5) year renewal term. The BoCC approved a ten (10) year renewal term and, as of the date of this report, the parcel has still not been annexed into the City of Colorado Springs nor is staff aware of any pending annexation.

4. Small Area Plan Analysis

The property is not located within a small area plan.

5. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. Continuation of the existing use should not significantly impact wildlife.

The Master Plan for Mineral Extraction (1996) identifies eolian deposits (windblown sand and salt) 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.

5. Water Master Plan Analysis

Consistency with the El Paso County Water Master Plan (2018) is not required for a variance of use request. For background, the Water Master Plan has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Policy 6.1.3.3: Encourage sustainable landscaping that is tailored to the variations of climate zones across the County.

The well for this parcel is specified for domestic use only and does not allow for irrigation of landscape materials. An alternative landscape plan was submitted with the most recently approved site plan (PPR-08-053) to defer roadway landscaping, internal landscaping, and parking lot landscaping until such time as a central water source is available. Since 2008, the applicant has been able to successfully cultivate seven (7) ponderosa pines in the roadway landscape area by utilizing recycled water.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

There are no known hazards that affect this site.

2. Wildlife

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

3. Floodplain

The property is not located within a defined floodplain as determined by FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0529G, dated December 7, 2018.

4. Drainage And Erosion

The property is located within the Sand Creek (FOFO4000) drainage basin. Although the Sand Creek drainage basin is a fee basin, no drainage and bridge fees are required for a variance of use request. Stormwater runoff from the site drains westerly and southerly. A drainage letter is currently under review with the site development plan application. The drainage letter provides the design of two porous landscape detention facilities.

5. Transportation

The site is located southeast of Black Forest Road and Woodmen Road. Access to the site is via Utah Lane, which is an existing private roadway that is not maintained by the County. A traffic impact study was not required and the County road impact fee does not apply to this request as the proposed variance of use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate currently. No public roadway improvements will be required.

H. SERVICES

1. Water

Water is provided by an individual well.

2. Sanitation

Wastewater is provided by an onsite wastewater treatment system.

3. Emergency Services

The property is served by the Falcon Fire Protection District.

4. Utilities

The site is served by Mountain View Electric Association (electrical service) and Colorado Springs Utilities (natural gas service). Mountain View Electric Association and Colorado Springs Utilities were notified of this variance request and responded with no objections.

5. Metropolitan Districts

This site 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 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

Approval Page 51
Disapproval Page 52

J. STATUS OF MAJOR ISSUES

There are no outstanding major issues for 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 (2019), staff recommends the following conditions and notations:

CONDITIONS

1. Approval is limited to the renewal of the previously approved variance of use for a contractor’s office and equipment yard as depicted in the applicant’s letter of intent and site drawings.
2. This variance of use approval shall be deemed abandoned, and of no further force and effect, if the primary intended use and/or activity has not been substantially implemented upon the approved site within one (1) year of the Board of County Commissioners’ variance of use approval, or if implemented, has been discontinued for a period of one (1) year. For the purpose of this condition, this variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.
3. Storage of junk or inoperable and unregistered vehicles is prohibited.
4. The parking of vehicles or equipment along Utah Lane is prohibited.
5. Retail sales shall be incidental to the principal use for which the variance is granted and shall not be marketed to passer-by traffic along the Woodmen Road corridor.

NOTATIONS

1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.

2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on September 24, 2019, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan

El Paso County Parcel Information

File Name: VA-19-004

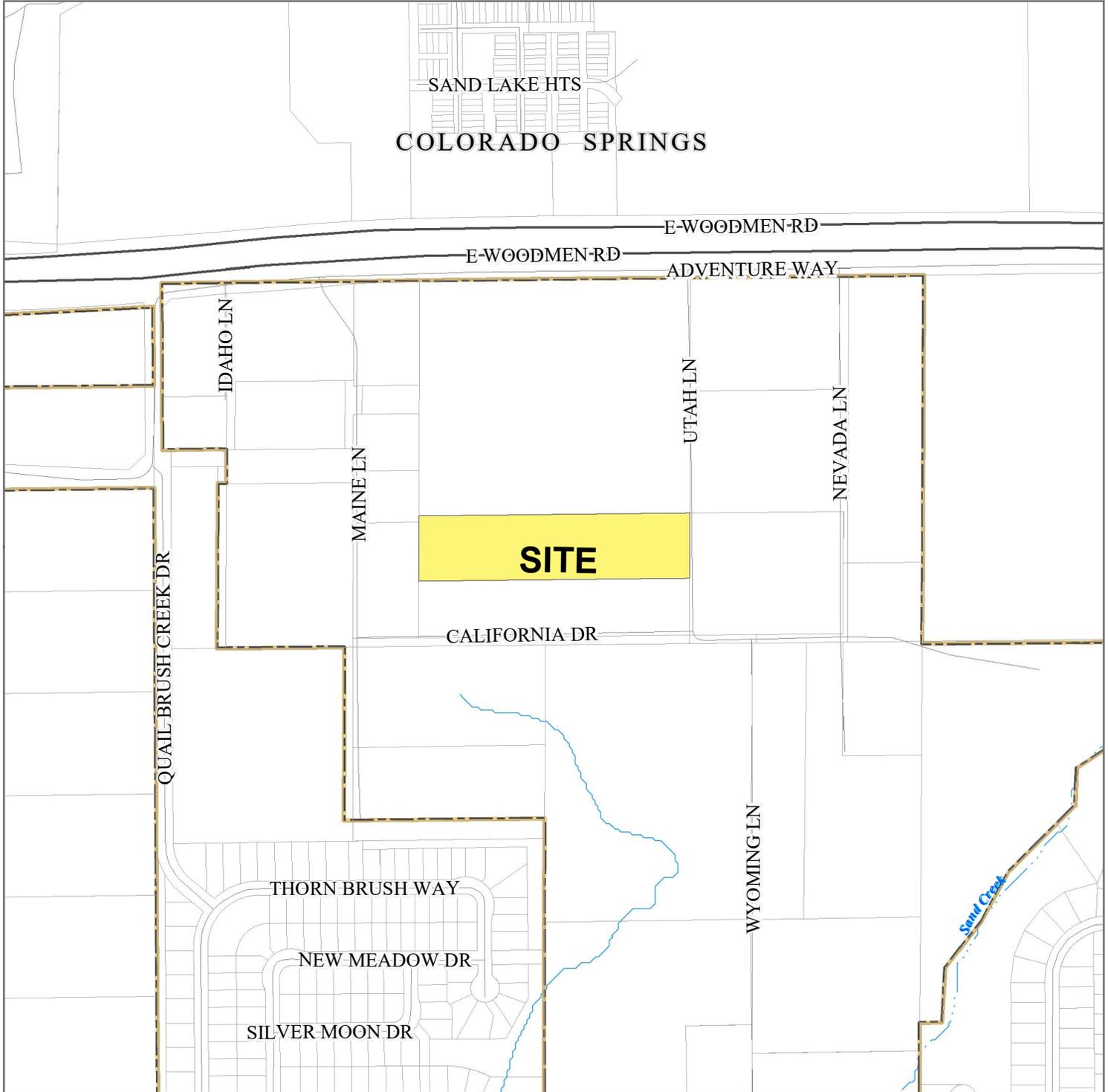
PARCEL	NAME
530800007	BSK INVESTMENTS LLC

Zone Map No. --

ADDRESS	CITY	STATE
7340 UTAH LN	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80923	7200

Date: September 24, 2019



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (919) 520-6600



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D.D. Greer Design Studio
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 13075 Sunny Slope Rd., Falcon, CO 80831
 (719) 499-3874 (cell)
 email: deb.j.greer@gmail.com

BSK Investments Variance renewal request

EXISTING VARIANCE: VA 08-010
Property: 53080-00-007 Unplatted parcel
Address: 7340 Utah Lane
 The site is located southeast of Black Forest and Woodmen Road, on an unpaved private street, Utah Lane.
Area: 5.01 acres
Zone RR-5/UV/AO

Revised May 1, 2019
 Sept. 19, 2019

Request: Renew Use Variance Administratively for this existing business. Allow a contractor’s equipment yard with accessory retail activity in RR-5. Allow this Use Variance to run indefinitely as part of the zoning.

Time Period Extension Request:

The period of the Variance should be extended indefinitely because this business has been stable and in this location for over a decade. At this time it does not appear that any big changes are planned in this area. The neighborhood appears to have been stable and harmonious in adjacent land use mixtures.

Exemption Request previously approved:

We request that the previously approved Exemptions from the County Landscape Code continue to stand, however we can meet 95% of the requirements with what is existing on-site. The previous exemption deferred requirements of street trees on Utah Lane, 5% internal landscaping and 2 parking lot trees, at 1/15 spaces until a central water source is available was granted in the previous application. The water situation has not changed, however 7 ponderosa pines have been successfully cultivated on the street frontage with manually applied recycled water. They no longer need supplemental water, and meet the street tree requirement without supplemental irrigation. The frontage is 100% vegetated with native grasses.

Meeting the spirit of the code as internal landscaping in this sub rural setting, the property contains a naturalized, low lying area on the west end which is permanently dedicated to wetlands. This area is comprised of native grasses, a seasonal drainage

pond and some naturalized cottonwood and elm saplings, provides habitat to many birds, reptiles and small mammals, and comprises over 25% (approx. 51,652 s.f.) of the total site.

The well permit for this business is specifically for Domestic Use only. No livestock watering or outside irrigation is allowed from the well. The well permit stating this was submitted with the previous application and accepted as justification for limiting or deferring new landscaping on the property.

The property is screened on all sides by combinations of buffer, opaque materials on the fences and berms.

Discussion:

Owner: BSK Investments, LLC
David Pickerel
7340 Utah Lane
Colorado Springs, CO 80923
Phone: (719) 520-5959

Consultant: D.D. Greer Design Studio
Debra Greer
13075 Sunny Slope Rd.
Falcon, Co 80831
Phone: (719) 499-3874

This site is not eligible for annexation to the City of Colorado Springs, as there is no contiguity to City Boundaries.

The property is bounded on the north by A-5-CAD-AO zoned religious institution (Mt. Springs Church), on the west by rural residential zoned RR-5-CAD-AO, on the south by rural residential zoned RR-5-CAD-AO, on the east across Utah Lane by RR-5-CAD-AO zoned properties in use as commercial/contractors yard properties with Variances allowing such use, in similar fashion to the current request.

The property is located just outside the edge of Falcon/Peyton Small Area Master Plan 2008 and appears to be in a slush area of county, master plan-wise, between Falcon/Peyton Area Master Plan and City boundaries. The general neighborhood has been quietly developing its own unique character of mixed, compatible uses such as a 2 churches, landscape materials yards and greenhouses intermixed with rural residential.

The property is currently in use as a contractor's equipment yard associated with a landscaping and erosion control business with outside storage. This request proposes to continue the existing use indefinitely, for as long as this type of business operates on the site.

Access for this site is via private driveway from an existing private street (Utah Lane) which in turn is access from a public street. No changes to access are requested. The Use generates between 10 and 35 individual trips per day (one way = 1 trip), between 7 am and 6 pm Monday through Friday except holidays, depending on the season. Late Spring, summer and early fall are the higher number of trips, November through March are the lower number.

The Woodmen Metro District is nearby, however is neither adjacent to this site, nor does it provide any type of service to this site. At this time, it appears that this property is not eligible for inclusion into the District, nor would membership in the District benefit this property owner.

The property is currently served by the following utility providers:

Electric: Mountain View Electric Assn

Gas: Private Propane service

Sanitary Sewer: Septic system

Water: restricted Domestic Only well

Phone: Century Link

Fire Protection: Falcon FD

A Use Variance for this site was most recently approved in 2009 under VA 08-010. The owners request that the period from the currently requested Use variance approval to expiration is extended indefinitely.

This application meets the established criteria in the following manner:

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

The property has been in use as is for over a decade. To require the relocation to a different zone at this point would cause undue hardship to the business owner and have no beneficial effect on the surrounding neighborhood. This business provides a relatively quiet, unobtrusive buffer for the residential neighbors to the south with its location just south of the large and active Mountain Springs church on the north boundary, offsetting any possible benefit of returning this parcel to strictly rural residential use.

- *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 existing use is proposed to continue indefinitely, and has proven to be a compatible and harmonious neighbor. No complaints have ever been received by El Paso County re any activity, noise, dust, light or traffic problems. The surrounding character of the neighborhood is similar, although this site has better developed driving, storage and drainage control than the contractor's storage /landscape materials yards across Utah Lane. Yet the development and use of the site does not interfere or conflict with the adjacent rural residential development to the south and west. It strikes an organized medium between the highly developed church grounds and the open areas of the rural residential uses.

- *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 existing use to remain has been carefully developed with the guidance of a civil engineer since its original construction. Regularly used driving and parking areas are graveled and compacted. Concrete aprons surround the building, roof drains are directed to proper channels to prevent erosion, and small engineered drainage facilities are proposed to be improved to update compliance with all clean water standards.

- *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;*

As previously approved and proposed, will continue to uphold the Zoning and Land use laws of this County. The existing small business is in compliance with any requirements that have been made.

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

A large area of the west side of the site is fenced off and protected, as a natural stream runs through it and is surrounded by a marshy open space which is filled with wild life. The historic development of the site has not caused any runoff or pollution, and the fencing and drainage facilities will continue to protect this area from harm.

- *The applicant has addressed all off-site impacts;*

All off site drainage impacts have been accounted for in our work with County Engineering and with the protection of the stream on the west end. Traffic in and out of the site is very minimal and the business does some maintenance of the private road, so the adjacent users benefit as well. Access from public roads to the Private Street, Utah Lane are relatively new and are more than adequate to handle the minimal vehicle traffic this site generates.

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

A Site Plan has also been submitted (PPR 18189), as well as a drainage report and is in compliance or alternative compliance with all required sections of the code. Screening and berming are existing and in good repair. Adequate parking and circulation will remain as historically used and are in compliance with regulations.

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

The above services are all provided. As stated above, this business assists in physical maintenance of the private street, Utah Lane. Sewer is provided via existing septic system. Storm water and other drainage issues are either currently handled by compliant private facilities or are proposed as part of updating the site to current drainage criteria standards.

The small business existing on this site is a provider of significant jobs and with the addition of accessory retail sales, will also continue to generate additional sales tax

revenue for the County. The business has been stable and active for over a decade on this property, and will continue to provide local employment and sales tax revenue in the upcoming years, whether it is a city or county property. The business employs approximately 12- 15 people, depending on seasonal requirements and the abundance of erosion control / revegetation contracts.

A continuing reasonable use of this site would be obtained by the renewal and modification of this Use Variance request.

Pre-application issues:

County Engineering requested that the drainage be freshened up to meet current standards, and requested that gravel be added to a drive area in the lower contractor's yard. A new drainage report is also submitted separately for concurrent review with the Site Plan (PPR 18189). The site plan shows two new small Porous Landscape Detention ponds to improve water quality.

We are looking forward to working with you on this proposal. If you have any questions, please feel free to call me, the Developer or any member of the design team

Sincerely,

Debra Greer

