

CITY PLANNING COMMISSION AGENDA

STAFF: MEGGAN HERINGTON

FILE NO(S):
CPC UV 17-00067 – QUASI-JUDICIAL

PROJECT: SAMELSON FAMILY RANCH USE VARIANCE

APPLICANT: 260 EB – 2, LLC/CHELSEA SAMELSON

OWNER: 260 EB – 2, LLC



PROJECT SUMMARY:

1. **Project Description:** This project includes an application for a use variance to allow the placement of seven (7) beehives, one (1) recreational vehicle and two (2) tiny homes on a 35-acre portion of a larger 400-acre property zoned A (Agricultural) which is located east of Highway 83, south of Shoup Road and west of Howells Road.

2. Applicant's Project Statement: (FIGURE 2)
3. Planning and Development Team's Recommendation: Staff recommends approval of the application, subject to conditions.

BACKGROUND:

1. Site Address: The site is not currently addressed
2. Existing Zoning/Land Use: A (Agricultural)/Vacant
3. Surrounding Zoning/Land Use: North: Unincorporated El Paso County/Single-Family Residential
South: Unincorporated El Paso County/Single-Family Residential
East: Unincorporated El Paso County/Single-Family Residential
West: Unincorporated El Paso County/Single-Family Residential
4. Comprehensive Plan/Designated 2020 Land Use: General Residential
5. Annexation: Northgate Annexation Number 5 and Number 6 recorded in 1986
6. Master Plan/Designated Master Plan Land Use: Northgate East Master Plan adopted with the annexation in 1986. This master plan is outdated and no longer relevant.
7. Subdivision: The property is not subdivided
8. Zoning Enforcement Action: There are no current enforcement actions on this site.
9. Physical Characteristics: The site is one of the last, if not the last, large properties that is not currently planned or entitled for development or being developed. The site has rolling topography, and natural vegetation. It is accessed off of unimproved Howells Road which is a dirt road in unincorporated El Paso County.

STAKEHOLDER PROCESS AND INVOLVEMENT: Because there is no technical documentation or review involved with this request, staff accepted the application and forwarded it directly to City Planning Commission. Prior to the City Planning Commission hearing, the site was posted and notice sent to 25 property owners within 1000 feet of the 35 acre section of the 400 acre property that is the central area for the uses to be located. If approved by City Planning Commission, the recommended conditions will require the applicant to finalize review with several standard review agencies.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. Review Criteria / Design & Development Issues:
 - a. Background

The property was annexed in 1986 with a master plan that illustrates a variety of residential and commercial uses and zoned A (Agricultural) intended as a holding zone until the property was ready to be developed. That master plan has never been implemented and is outdated. The property was purchased by the current owner in 1994. The owner has no near-term plans to develop the property other than a future single-family residence with accessory agricultural uses to be used as a family ranch. The timing of that is unknown as the owner is currently exploring the property for potential home-sites. As part of the long-term preparation for a single-family residence, the owner created a 35-acre legal description that has allowances for a well. The well permit lists a variety of residential and agricultural uses that would be permitted under the well permit.

As the owner continues the exploration of the property, they would like the ability to have some limited use of this large, natural area. The owner has discussed a number of options with staff, and is very limited based on the A (Agricultural) zone district being considered a "residential zone district" and the overall uniqueness of the property. City Code is not written to address such a large rural property that is desired as private ownership not planned for large-scale development.

While the A (Agricultural) zone district is largely used as a holding zone prior to development, the defined purpose of the district is to *accommodate large lot residential development and agricultural purposes that are, in most cases, on the periphery of the City limits but may become an urban area in the future. The agricultural activities conducted in the A zone district*

should not be detrimental to adjacent urban land uses. The types, size and intensity of uses permitted in this district shall encourage and protect agricultural uses until urban development occurs upon that parcel. Because the A zone is considered a residential type zone district, residential standards apply.

The current request is to place up to seven (7) beehives on the property along with one (1) recreational vehicle and two (2) tiny home park models. The attached **Figure 1** shows the general location of the recreational vehicle and the tiny homes within the treed portion of the property with the beehives placed in two separate locations on the western edge of the 35 acres internal to the overall 400 acre ownership. Setback distances from property lines are shown on the drawing. There will be at least a 1400-foot setback to any beehive from Howells Road and 200 feet from the nearest property line and a 680-foot setback from any recreational vehicle or tiny home from the property line along Howells Road and 500 feet to other exterior property lines. The plan illustrates those minimum setbacks as part of the approval. There would be little to no visual or noise impact to surrounding residences based on the topography of the site, vegetation and setback distances.

The Use Variance request will vary two separate sections of City Code. Section 7.3.105 highlights additional standards for specific uses allowed in residential zones. More specifically, beehives are regulated as part of Section 7.3.105A.2.b, which *states beehives are permitted provided that they are not a nuisance or injurious to the surrounding neighborhood and **are limited to one per principal use**, are allowed in any residential zone district.*

While this may be an acceptable limit in a traditional urban and suburban form, it is rather limiting when looking at a much larger agricultural property. City Code does allow animal production in an A zone district. Animal production is defined as *the raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis. Typical uses include grazing, ranching, dairy farming, and poultry farming.* With this definition, it is unclear if Apiculture (or beekeeping) would fall under this definition, or if a honey bee would be defined as an animal. **Figure 3** is a mapped analysis of A zoned properties within City limits. Most are large, developing residential neighborhoods, parks, open space, landslide areas or older, medium-sized residential subdivisions southwest of the downtown area.

The second section of Code to be varied addresses recreational vehicles. There are two definitions of Recreational Vehicle in Section 7.2.201:

- Recreational Vehicle: A vehicle used for transient living quarters which can be towed, hauled or driven and is designed for recreational, camping or travel use and including, but not limited to, travel trailers, camper trailers, motor home, pickup camper, watercraft or snowmobiles.
- Recreational Vehicle, Permanent: A single-family dwelling unit, containing complete sanitary facilities, which is principally intended for recreational use, but can accommodate long term residential use, and which is no less than seventeen feet (17') in length.

A recreational vehicle is not permitted as a principal or accessory living structure and a permanent recreational vehicle is only permitted within a mobile home park. Nothing in Code addresses the “tiny home” concept that is coming to the forefront of the compact living movement. There is no guidance for usage of these structures as temporary living in a more rural, large acreage setting or as accessory dwelling units. The approval of this use variance will allow the owner to temporarily utilize a recreational vehicle for part-time, short-term stays while the tiny homes will be more permanent in nature.

The first phase is to place a tiny home for semi-permanent occupancy. The tiny home would be hooked up to well and septic. The property does have an existing water augmentation plan and well permit that allows residential and accessory agricultural uses. **Figure 4** gives examples of what a tiny home looks like. While not the exact model to be placed, the examples are a good representation of the structure.

The second and third phases and timing are unknown at this point. The use variance would give the option for a second tiny home to be placed on the property and eventually used as an accessory structure to a future, more traditional, single-family residence. The recreational vehicle option allows the owner to stay on the property for short periods of time to determine the best site for the future permanent residence.

As part of the review, staff contacted City Fire, City Utilities and Enumerations for guidance. There are no requirements from Fire because these are not permanent structures. Fire and Enumerations recommended that an address be posted at the existing drive-way gate to the property.

Colorado Springs Utilities has already issued a well permit for the site, and the property would qualify for a septic permit with El Paso County Health because there are no utility facilities within 400 feet that would require connection to the larger system.

b. Use Variance:

The use variance criteria are listed below and justified for the application under review.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so that a denial of the petition would result in undue property loss.

This criterion is easily met solely based on the size and location. The 400 acres is located to the north and east of the city, abutting large lot residential in unincorporated El Paso County. City Code criterion does not adequately address residential type uses on 400 rural acres, nor does it contemplate impacts of temporarily using recreational vehicles on acreage of this size.

2. That such variance is necessary for the preservation and enjoyment of a property right of the petitioner.

While the property may be ideally located for additional residential density, that is not the intent of the owner at this time. The owner wishes to use the property as a natural area and enjoy its natural resources and beautiful scenic vistas as a family. The history of the property and the necessity of the enjoyment of the property right of the owner are cemented in the 23-year commitment that has been made in the investment of the property.

3. That such variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property.

With a 200-foot minimum setback for beehives and a 680-foot minimum setback for the recreational vehicle and the tiny homes from Howells Road, there will be little impact to surrounding properties. Also assisting with the mitigation will be the placement of structures in the trees and the natural vegetation and topography. **Figure 5** is a series of photos illustrating the treed area of the property and location of the first tiny home. Staff has added conditions to the approval that will support the preservation of surrounding property owner uses.

Staff finds that the use variance has adequately addressed and meets the review criteria as set forth in City Code.

4. Conformance with the City Comprehensive Plan:

The 2020 Comprehensive Plan calls out this area as “General Residential”. There are a few supporting policies when developing in a general residential area:

Policy LUM 202: General Residential - Utilize the General Residential designation for the vast majority of existing and future residential areas. This designation includes a wide variety of residential uses, as well as uses that serve and support individual neighborhoods.

Policy LU 202: Make Natural and Scenic Areas and Greenways an Integral Part of the Land Use Pattern - Treat the City's significant natural features, scenic areas, trail corridors, and greenways as critically important land uses and infrastructure that represent major public and private investments and are an integral part of the city and its land use pattern.

This request loosely fits the recommended land uses in the general residential area as there will be one full-time living unit on the property. However, the goals and policies of the Comprehensive Plan are more geared towards how our community grows and future integration of land use. This request is more of a temporary type use and is not clearly identified in the Comprehensive Plan. However, staff has identified a few goals related to open space and natural areas that support this type of transitional use:

Strategy LU 302c: Promote Compatibility between Land Uses of Differing Intensities

Design and develop mixed land uses to ensure compatibility and appropriate transitions between land uses that vary in intensity and scale.

Objective NE 2: Preserve Site Specific Natural Features

Identify individual features at the detailed development review stage. Colorado Springs is blessed with a diversity of significant natural features that are enjoyed by the community at large and contribute to the City's overall character and quality of life. There are also a significant number of small, site specific natural features whose presence offers additional small scale opportunities for unique and innovative design to contribute to an area's or site's identity. The Open Space Plan incorporates the Significant Natural Features Inventory but inventories and maps of all features are not complete.

Policy NE 201: Identify, Evaluate and Incorporate Significant Natural Features

Preserve the variety of spectacular natural features, so prevalent in and around the City, for the enjoyment of residents and visitors. Incorporate significant natural features on individual sites into the design of new development and redevelopment. Identify and inventory natural features through best management practices prior to incorporating features into site planning. Include significant natural features that contribute to the attractiveness of the community such as ridgelines, bluffs, rock outcroppings, view corridors, foothills, mountain backdrop, urban forest, floodplains, natural water bodies, clean air, natural drainageways and wildlife habitats.

Objective LU 3: Develop a Mix of Interdependent, Compatible, and Mutually Supportive Land Uses

Over the past several decades, the location and design of development have created a pattern of isolated, disconnected, single-purpose land uses. An alternative to this type of land use pattern is one that integrates multiple uses, shortens and reduces automobile trips, promotes pedestrian and bicycling accessibility, decreases infrastructure and housing costs, and in general, can be provided with urban services in a more cost-effective manner.

Based on the agricultural benefit and the transitional nature of the request, staff recommends that the use variance does meet the goals and objectives of the City Comprehensive Plan.

5. Conformance with the Area's Master Plan:
There is no active or relevant master plan for this site.

STAFF RECOMMENDATION:

CPC UV 17-00073 – USE VARIANCE DEVELOPMENT PLAN

Approve the use variance for the Samelson Family Ranch, based upon the finding that the use variance complies with the review criteria in City Code Section 7.5.803.B and 7.5.502.E, subject to compliance with the following conditions of approval:

1. All setbacks as outlined on the use variance plan shall be met.
2. All structures shall be located within the treed areas of the property.
3. A maximum of one (1) recreational vehicle and/or 2 tiny homes is permitted (3 structures total).
4. A maximum of seven (7) beehives is permitted.
5. The owner shall obtain all necessary approvals and permits from El Paso County Health for any on-site septic system prior to occupancy of the tiny home(s). All health department standards for recreational vehicles shall be met.
6. The owner shall verify with Colorado Springs Utilities that the approved well permit will support the accessory residential uses. The verification from Colorado Springs Utilities shall be submitted to the planning department.
7. An address shall be established with the Pikes Peak Regional Building Enumerations Department and posted at the existing gate of the property prior to final approval of the development plan.
8. The recreational vehicle shall be removed from the site prior to the issuance of a certificate of occupancy for the first permanent residence on the 400-acre property. Should a portion of the property be platted for the purposes of a subdivision creating individual developable lots, the recreational vehicle may remain on the undeveloped portion of the property until a certificate of occupancy is issued for a permanent residence.
9. The tiny homes shall be skirted to conceal the wheels and look like a permanent structure. Skirting materials shall match those of the tiny home.
10. All conditions shall be listed on the development plan prior to final approval.