

VA-03-008

442.18

**RECONSIDERATION OF APPROVED  
 VARIANCE OF USE  
 AUTOMOTIVE RECYCLING CENTER IN THE RR-3 ZONE DISTRICT  
 KENNETH D. HARRIS**

A request by Kenneth D. Harris for reconsideration of an approved Variance of Use to allow an automotive recycling center in the RR-3 (Rural Residential) District. The property, consisting of 27.8 acres, is located southwest of the intersection of Highway 94 and Franceville Coal Mine Road at 12655 Highway 94 and is within the Highway 94 Comprehensive Planning area, El Paso County, Colorado. Assessor's Tax Schedule #44000-00-367.

**PREPARED BY**

Jan Fetrow  
6/7/04

**APPLICABLE RESOLUTIONS**

Approval	Page 19
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**PLANNING DIVISION RECOMMENDATION:** The Planning Division recommends **approval** of the request to allow additional signage to consist of metal letters attached to the concrete block sections of the existing eight foot (8') high perimeter screening fence. The total sign area shall be limited to forty (40) square feet. Said signs shall be allowed on the block wall that faces Highway 94 (north) and on the block wall that faces west (toward eastbound traffic) and is located sixty feet (60') from the front property line. The ten (10) year expiration date for this approval will continue to be November 17, 2013, which is 10 years from the original date of Board of County Commissioners' approval. All Conditions and Notations of the prior approval shall remain valid and in effect with the exception of Condition # 3 regarding the signs, which shall be modified as follows:

3. The business identification signage shall be restricted to a total of two (2) signs attached to the eight foot (8') high decorative block wall fence that surrounds the perimeter of the property. One (1) sign shall face north toward Highway 94 and one (1) sign shall face west (visible to eastbound traffic). Said west-facing sign shall be located sixty feet (60) feet from the front property line. The area of each sign shall not exceed forty (40) square feet. No freestanding or low profile signs shall be allowed.

**BACKGROUND:** On November 17, 2003, the Board of County Commissioners approved the Variance of Use with the following Conditions and Notations:

**CONDITIONS**

1. This Variance of Use is granted for the operation of an auto recycling center only.
2. Prior to the authorization for the issuance of any building permit(s), the applicant shall submit an Administrative Plot Plan in accordance with this Variance of Use approval and Section 37 of the El Paso County Land Development Code. This plan shall address, among other things, access, height of existing and proposed structures, grading, drainage, erosion control, landscaping, fencing, signage, location of the vehicle and parts storage, construction of new buildings, demolition of existing buildings, removal of existing buses, surface treatment of all parking areas and drive aisles, and the ratio used to calculate the required number of parking spaces.
3. All business identification signs associated with the auto recycling center business shall comply with the provisions of Section 35 of the El Paso County Land Development Code and are not approved via this Variance of Use.
4. Prior to the approval of any building permit through the Planning Department, the applicant shall provide documentation that the El Paso County Health Department has approved the septic system for expansion of the existing commercial operation.
5. The approval of this Variance of Use shall be limited to a maximum of ten (10) years from the date of Board of County Commissioners approval. Any costs incurred by the applicant to refurbish the existing nonconforming use or comply with the conditions of approval and shall not be used as justification for extending the Variance of Use beyond the ten (10) year time limit.
6. No part of the auto recycling center business shall be located within the F.E.M.A. designated floodplain unless approved by the Pikes Peak Regional Building Department Floodplain Administrator.
7. The proposed flagpole shall not exceed thirty feet (30') in height.
8. At such time as the construction of all proposed buildings and facilities are completed, all existing school busses presently used for storage shall be removed from the property, and all dismantling of automobiles or other vehicles and storage of parts and/or accessories shall be done in conformance with the approved plot plan. Outside storage racks may be used for sheet metal parts, running gear, wheels, tires, auto glass, and other large items impractical to store inside the approved buildings. Racks shall not extend above the building eave heights or the eight (8) foot northern fence.

9. All automotive waste generated during the recycling processes shall be collected, stored, transported and recycled according to all Federal, State and local regulations. Automotive waste shall not be permitted to seep or leak into native soil. No parking or vehicle access is allowed over the surface of any leach field.

#### **NOTATIONS**

1. No subsequent enlargement, expansion or modification of the use shall be allowed unless the proposal is reevaluated and goes through the public hearing process in accordance with the requirements of the El Paso County Land Development Code.
2. If the Variance of Use is abandoned or discontinued for one (1) year or longer the Variance of Use shall be deemed abandoned and of no further force and effect.
3. The Planning Department shall have the right to enter the site, without notice, to inspect the facility for compliance with the terms and conditions of this Variance of Use.
4. Variance of Use requests not forwarded to the Board of County Commissioners for consideration within one hundred eighty (180) days of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.
5. Failure to comply with any of the conditions of approval may result in revocation of the Variance of Use.

#### **REASON FOR RECONSIDERATION**

The applicant's original Request for Variance included a provision to allow two (2) signs in the form of metal letters to be attached to the dark brown cement block sections of the decorative eight foot (8') high fence surrounding the perimeter of the property. Although the applicant included information and provided justification concerning the need for relief from the sign code limitations imposed on this property, staff did not "process" the signs as part of the variance application. Staff now believes that this was a mistake because the allowable signage for this business is restricted to the same amount allowed for a home occupation in a residential zone district. This presents a problem for a business operating on a parcel of land that is almost thirty (30) acres in size and adjacent to Highway 94 (where the travel speed is fairly brisk).

For the past six (6) months the applicant has been struggling with the signage issue and trying to determine how to acquire the amount of signage that is appropriate for a commercial business rather than an out-of-home business. Upon re-examination of the matter, staff believes it is appropriate to reconsider the request for relief to the sign code requirements inasmuch as the following factors are relative to this case:

- 1) The applicant's original variance application included a request for signage appropriate to the operation of a commercial business as opposed to an out-of-home business, but the sign issue was not acted upon in the review.
- 2) The applicant is not requesting to erect a free-standing sign or one atop a structure on the site. The applicant merely wishes to have two (2) signs which are in the form of metal letters attached to concrete block sections of the existing eight front (8') high perimeter screening fence. After an admittedly cursory review of the sign regulations in the Code, however, I am unable to find a sign description that fits this "form". The closest type of sign that is similar to this and allowed per the Code appears to be a "side-of-building" sign attached to, or painted on the side of a building. The location of the buildings on the property in question, however, precludes the use of this sign format.
- 3) The applicant would like to increase the maximum allowable sign size from twenty (20) square feet to forty (40) square feet in area. Forty (40) square feet is the maximum allowable sign size in a commercial or planned business zone district for an individual user in a freestanding building that is not located within a commercial center; therefore, the applicant is not asking for any relief greater than would be afforded to him in a commercial zone district. .
- 4) Only two (2) signs would be permitted--one forty (40) square foot sign attached to a block perimeter wall facing north toward Highway 94 and one forty (40) square foot sign located on a block wall facing west so as to be visible to eastbound traffic. The block wall section to which the fence west-facing sign would be attached is located sixty feet (60') from the front property line.
- 5) No freestanding or low profile signs are proposed for the business. The property is zoned RR-3 (Rural Residential) District, and the existing auto recycling business is allowed as an approved Variance of Use. The former junkyard was is a legal non conforming use in the RR-3 zone district. Many of the surrounding properties also contain legal nonconforming junkyard businesses and are more of an eye sore than is this property. (Note: Most of the present junkyards were relocated to this area after 1965 but prior to 1983 in response to being moved from locations within Colorado Springs. During this period this area was located just east of what was then the boundary between the zoned and unzoned areas. Upon zoning (in April 1983) the junkyards and related uses became legal nonconforming uses. What this essentially meant was that these businesses could continue to operate in perpetuity so long as they did not either expand or cease operations for more than a prescribed period.)

- 6) In this particular case, the "change" from a traditional junkyard operation with rusted car bodies spread out over a large portion of the property to an automotive recycling business appears to be the type of change that should be encouraged in this area; however, the applicant is essentially being penalized for improving his property since the "improvement" results in triggering compliance with Code regulations.
- 7) Staff agrees to this reconsideration of a prior condition due to the unique circumstances outlined above. Because there is no applicable allowance for business signs in the RR-3 (Rural Residential) District, staff believes the Variance of Use process (rather than the Board of Adjustment) is the appropriate process for reconsideration of this Condition.

**ENCLOSURES**

Vicinity Map

Reconsideration Request Letter

BoCC Approval Letter (from public hearing held on November 17, 2003)

# El Paso County Parcel Information

Parcel Number: 4400000367

Parcel Address: 0 18-14-64

Parcel Owner: HARRIS KENNETH D

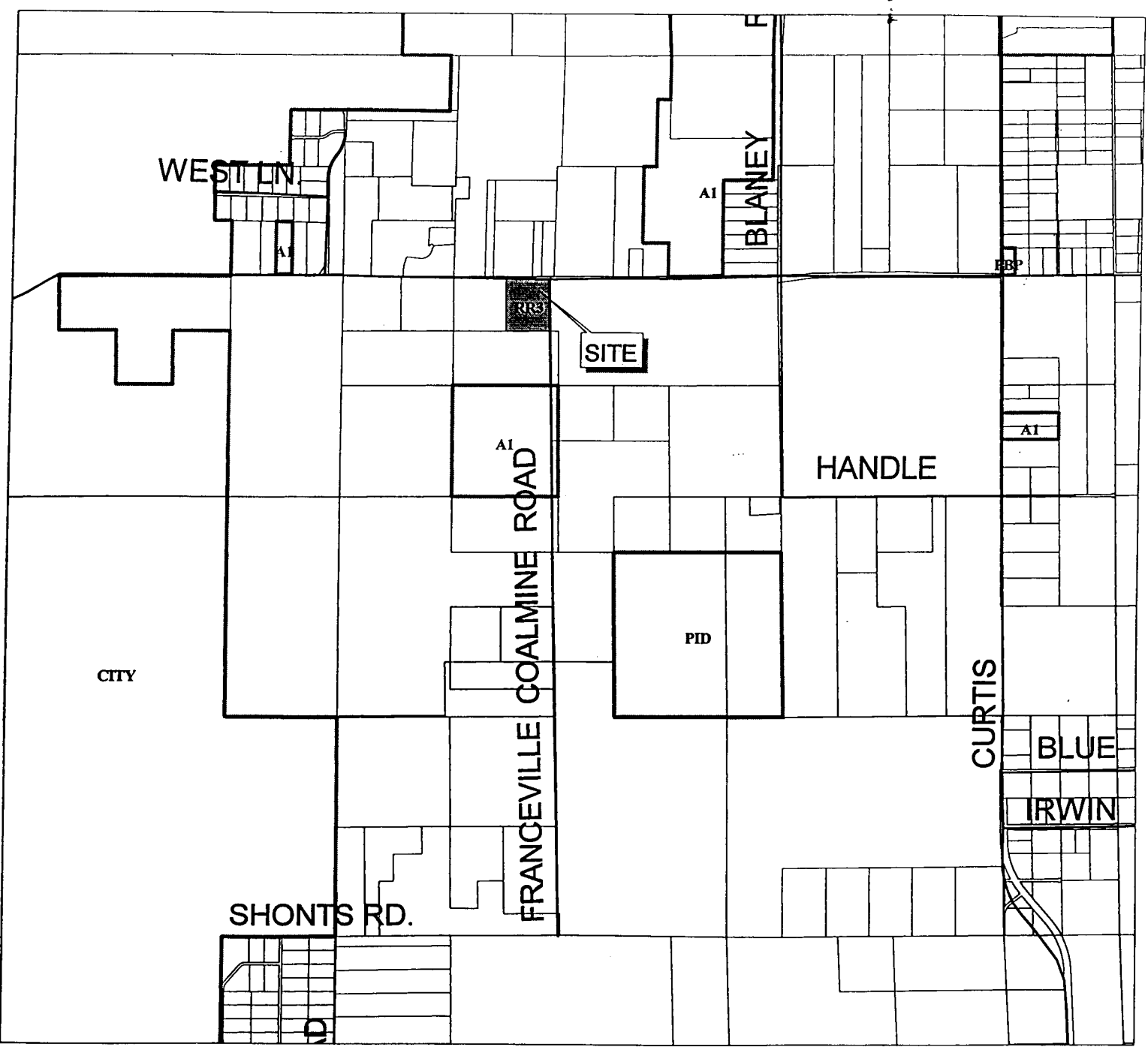
Parcel Owner 2: HARRIS MAYBEL E

File Name: VA-03-008

Zone Map No.: 442.18

(RECONSIDERATION)

Owner Mailing Address: 11850 JORDAN RD, FOUNTAIN, CO 80817



Please report any discrepancies to:  
El Paso County GIS/Mapping  
325 S. Cascade  
Colorado Springs, CO 80903  
(719)520-6523

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May 13, 2003

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April 27, 2004

To: Jan [REDACTED] Fetrow  
Planner  
El Paso County Planning Department  
27 E. Vermijo  
Colorado Springs, CO 80903

**RECEIVED**

APR 28 2004

PLANNING DEPARTMENT

From: Fred Ferguson  
All-Auto Recyclers LLC  
12655 Hwy. 94  
Colorado Springs, CO 80929

Subject: Request to reopen Request for Variance.

The purpose of this letter is to request the Planning Department to reopen or reconsider the portion of our original Request for Variance to establish an auto parts recycling business at the above address. The portion of that request with which we are concerned involved the request to install signage appropriate to the operation of said business.

Our original Request for Variance included the request for the signs, and the application fee was paid, but that item was not acted upon in the review. We were allowed to install a sign appropriate to an out-of-home business in an RR-3 zone, but not one appropriate to a commercial business such as the one we received approval for when our request for variance was granted.

We are not requesting to be able to erect a free-standing sign, or one atop a structure or building on the site. Our request is to have a sign which is in the form of metal letters attached to concrete block sections of our existing 8" high perimeter screening fence. The closest to this form of sign which we have been able to find, in an admittedly cursory review of sign regulations, is the side-of-building signs attached to, or painted on, the sides of buildings. The location of our buildings preclude us from using this format, however.

Our original request was for a sign on the front of our 8' fence, 75" from the property line, containing the company name "All-Auto Recyclers" and the words "American", "Foreign" and "Late Model" beneath the name. We are withdrawing the request for these three additions, leaving only the "All-Auto Recyclers" name. The words "All-Auto" are already on the fence, covering 20 square feet in size in accord with zoning rules. We wish to add the rest of our name. "Recyclers", increasing the total area to 40 square feet.

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The second sign, and perhaps the most urgent, faces west toward eastbound traffic, and is to be located on a concrete section of the fence at its northwest corner, and like the front sign, is to have only the name "All-Auto Recyclers", and to be of the same size as the other, that is, a total of 40 square feet. The fence, at this point, is 60' from the front property line.

We would certainly appreciate having you, if it is possible, reopen consideration of this item from our initial request.

Thank you for your kind assistance,



Fred Ferguson  
All-Auto Recyclers  
(719) 390-9376

**RECEIVED**

**APR 28 2004**

**PLANNING DEPARTMENT**

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(RECONSIDERATION)  
VA-03-008

# El Paso County Planning Department

November 17, 2003

Kenneth D. Harris  
11850 Jordan Road  
Fountain, Colorado 80817-3518

RE: Variance of Use: Automotive Recycling Facility in the RR-3 District (VA-03-008)

This is to inform you that the above-referenced request for approval of a Variance of Use to allow an automotive recycling center in the RR-3 (Rural Residential) District was heard and approved by the Board of County Commissioners on October 9, 2003. The property (Assessor's Tax Schedule #44000-00-367), consisting of 27.8 acres, is located southwest of the intersection of Highway 94 and Franceville Coal Mine Road at 12655 Highway 94 and is within the Highway 94 Comprehensive Planning Area, El Paso County, Colorado.

This approval is subject to the following:

## CONDITIONS

1. This Variance of Use is granted for the operation of an auto recycling center only.
2. Prior to the authorization for the issuance of any building permit(s), the applicant shall submit an Administrative Plot Plan in accordance with this Variance of Use approval and Section 37 of the El Paso County Land Development Code. This plan shall address, among other things, access, height of existing and proposed structures, grading, drainage, erosion control, landscaping, fencing, signage, location of the vehicle and parts storage, construction of new buildings, demolition of existing buildings, removal of existing buses, surface treatment of all parking areas and drive aisles, and the ratio used to calculate the required number of parking spaces.
3. All business identification signs associated with the auto recycling center business shall comply with the provisions of Section 35 of the El Paso County Land Development Code and are not approved via this Variance of Use.
4. Prior to the approval of any building permit through the Planning Department, the applicant shall provide documentation that the El Paso County Health Department has approved the onsite wastewater system. Said system shall be designed and sized by a Colorado Professional Engineer because of the commercial use of the property.

(RECONSIDERATION)  
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5. The approval of this Variance of Use shall be limited to a maximum of ten (10) years from the date of Board of County Commissioners approval. Any costs incurred by the applicant to refurbish the existing nonconforming use or comply with the conditions of approval and shall not be used as justification for extending the Variance of Use beyond the ten (10) year time limit.
6. No part of the auto recycling center business shall be located within the F.E.M.A. designated floodplain unless approved by the Pikes Peak Regional Building Department Floodplain Administrator.
7. The proposed flagpole shall not exceed thirty feet (30') in height.
8. At such time as the construction of all proposed buildings and facilities are completed, all existing school busses presently used for storage shall be removed from the property, and all dismantling of automobiles or other vehicles and storage of parts and/or accessories shall be done in conformance with the approved plot plan. Outside storage racks may be used for sheet metal parts, running gear, wheels, tires, auto glass, and other large items impractical to store inside the approved buildings. Racks shall not extend above the building eave heights or the eight (8) foot northern fence.
9. All automotive waste generated during the recycling processes shall be collected, stored, transported and recycled according to all Federal, State and local regulations. Automotive waste shall not be permitted to seep or leak into native soil. No parking or vehicle access is allowed over the surface of any leach field.

**NOTATIONS**

1. No subsequent enlargement, expansion or modification of the use shall be allowed unless the proposal is reevaluated and goes through the public hearing process in accordance with the requirements of the EI Paso County Land Development Code.
2. If the Variance of Use is abandoned or discontinued for one (1) year or longer the Variance of Use shall be deemed abandoned and of no further force and effect.
3. The Planning Department shall have the right to enter the site, without notice, to inspect the facility for compliance with the terms and conditions of this Variance of Use.
4. Failure to comply with any of the conditions of approval may result in revocation of the Variance of Use.

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Kenneth D. Harris  
November 17, 2003  
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This represents the Planning Department's understanding of the action taken by the Board of County Commissioners. A copy of their Resolution will be forwarded to you, once that document is available.

Should you have any questions or if I can be of further assistance, please contact me at 719-520-6300.

Sincerely,



Janice E. Fetrow, Planner II

cc: File: Prompt/ VA-03-008

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(RECONSIDERATION)  
VA-03-008