

EL PASO



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

November 5, 2018

RE: ADM-18-027 Administrative Determination-Continued Use Letter
11605 Black Forest Road, Colorado Springs, CO 80908
Schedule No. 5217000152

Brad Priebe
LB Rental
13010 Tahosa Lane
Colorado Springs, CO 80908

To Whom It May Concern:

A request has been made to the El Paso County Planning and Community Development Department for a determination of current use status and eligibility for continued use of the property located at 11605 Black Forest Road, Colorado Springs, CO 80908. Authorization of use is contingent upon a parcels' compliance with both the subdivision and zoning regulations as identified in the El Paso County Land Development Code.

Compliance with Subdivision Regulations

The Board of County Commissioners approved a Subdivision Waiver Petition on October 15, 1975, under reception number 185379, to create the lot in question. The parcel, thus, meets the definition of legal lot as contained in the El Paso County Land Development Code, which defines a legal lot, as it pertains to this parcel, as a parcel exempted from the subdivision by the Board of County Commissioners.

Compliance with Zoning Regulations

The parcel was zoned to C-2 (Commercial) zoning district on December 3, 1975. According to the County Assessor's records, the residential structure was constructed in 1919. The tavern was constructed in 1963 and the use of a Recreational Vehicle Storage area was in use at the time of approval of the rezone. An interpretation letter (INT-19-001A), dated January 3, 1989, was sent to the property owners to determine the legal use of a recreation vehicle storage lot. It was determined at that time that recreational vehicle storage was an allowed use. The current Land Development Code (2018) requires a variance of use approval by the Board of County Commissioners to allow recreational vehicle or boat storage in the C-2 (Commercial) zoning district.

Section 5.6.2 (A) Continuation of Use states: A nonconforming use may be continued and a nonconforming building may continue to be occupied, except as otherwise provided in this Section. A preexisting, nonconforming use which would require the approval of a special use shall be presumed to have the required special use permit.

Section 5.6.2 (C) Interruption of Nonconforming Use states: If a nonconforming use is abandoned for a period of one year, the structure and land where the nonconforming use

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previously existed shall be occupied and used only by a conforming use. Intent to resume active operation of the nonconforming use shall not affect the foregoing. The burden of proof that a nonconforming use has been continuously maintained rests with the property owner or operator of the use. The evidence that an operation has been continuous shall be clear and conclusive. Any nonconforming use may be deemed abandoned after a period of less than one year if the property owner expressly states intent to abandon the use, or engages in action which unambiguously expresses intent to abandon.

Section 5.6.3 (A) Damage to the Structure states: A nonconforming structure damaged or partially destroyed by fire, explosion or natural occurrence may be restored to the condition in which it was immediately prior to the occurrence of the damage or destruction provided:

- The value of the damage is less than 50% of the County Assessor's assessed value of the improvements damaged;
- The restoration or reconstruction does not extend beyond the original limits of the structure in setback, lot coverage, height, floor area, and number of bedrooms or bathrooms; and
- All restoration or reconstruction is started within one year from date of the damage and is completed within two years.

Discussion and Conclusion

In short, the use of a bar is an allowed use within the C-2 (Commercial) zoning district, and the recreational vehicle storage and a single family dwelling uses, as depicted on the vicinity map (attached), at 11605 Black Forest Road, Colorado Springs, Co 80908 are classified as legal non-conforming uses within the C-2 (Commercial) zoning district.

In the event of not meeting Section 5.6.2 or Section 5.6.3 listed above, a variance of use and site development plan would be required to authorize and implement the use, respectively. Any expansion outside of the existing recreational vehicle storage area, as depict on the attached aerial photograph, and/or any expansion of the single family dwelling that does not comply with the Code would not be allowed and would require approval of a variance of use and/or site development plan application. Any expansion to the bar would require prior Planning and Community Development Department approval of a site development plan. Please note that the property may be used pursuant to the use allowance in the C2 (Commercial) zoning district, subject to any regulations and requirements of the Code.

Administrative determinations by the Planning and Community Development Director are subject to the appeal provisions of the Land Development Code and any other procedures adopted by Board of County Commissioners ordinance or resolution.

Should you have any questions, please contact Gabe Sevigny, Planner II, at 719-520-7943.

Sincerely,



Craig Dossey, Executive Director
El Paso County Planning and Community Development Department

CC: Gabe Sevigny
File: ADM-18-027

