

# EL PASO

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# COUNTY

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

December 7, 2017

Mary Kovacevic  
211 Wolfe Avenue  
Colorado Springs, CO 80905

RE: Administrative Determination of Eligibility to Rebuild Residence in the Event of Partial or Complete Destruction – (ADM-17-030)

To Whom it May Concern:

This letter is in response to a request for a determination of whether the residence on the property located at 3780 McKay Road (Parcel ID No. 75022-00-007) may be rebuilt in case of fire or catastrophe. Eligibility for the Planning and Community Development to authorize building permit issuance is contingent upon compliance with both the subdivision and zoning regulations of the El Paso County Land Development Code (2017).

According to the records of the El Paso County Assessor, the 6,437 square foot parcel was created on or prior to November 2, 1964. The Assessor's records indicate the residence was constructed in 1919. Since the parcel was created in 1964, it is considered a legal lot which is defined by the Land Development Code as a lot, parcel, or tract of land created by a legal conveyance; shown on an approved subdivision plan or legally prepared survey; created by approval of the County Commissioners in conformance with any subdivision regulations in effect at the time of approval; by contract for deed or by deed, each being dated prior to July 19, 1972.

The property was zoned A-2 (Farming) in a County initiated rezoning of unzoned parcels in Sections 1- 32, Townships 11-16 South, Ranges 64- 68 West of the 6<sup>th</sup> P.M. on December 12, 1962 (Resolution 265751). The A-2 (Farming) zoning district required a five (5) acre minimum lot or parcel size, 25 foot front and rear yard setbacks, and a 10 foot side yard setback. The A-2 (Farming) zoning district was subsequently incorporated into what is now the A-5 (Agricultural) zoning district. The A-5 (Agricultural) zoning district maintains the five (5) acre minimum parcel size and 25 foot front and rear yard

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setback requirements of the previous A-2 (Farming) zoning district. The side yard setback in the A-5 (Agricultural) zoning district is 25 feet.

The property was zoned to what is now the A-5 (Agricultural) zoning district on December 2, 1962, two years prior to the creation of the parcel (Parcel ID No. 75022-00-007) in 1964. Therefore, the 6,437 square foot parcel did not meet the five (5) acre minimum parcel size requirements of the A-2 (Farming) zoning district at the time of creation nor does it meet the current area requirements of the A-5 (Agricultural) zoning district. The property does not conform the zoning requirements of the Code.

Additionally, from a review of County GIS data, it appears the residence may only be setback 20 feet from the rear yard where 25 is required and 10 feet from the eastern side yard setback where 25 is required. The exact location of the residence with respect to the setbacks may only be determined by a professional licensed surveyor.

### **Conclusion**

Because the property does not conform to the prior A-2 (Farming) or current A-5 (Agricultural) zoning district requirements for the minimum parcel size, approval of a lot area variance by the El Paso County Board of Adjustment is required prior to the authorization of a building permit for any habitable additions, expansions, or restoration and/or reconstruction of the residence. Specifically, the Board of Adjustment will need to approve a dimensional variance to allow a minimum parcel size of 6,437 square feet where five (5) acres is required and for any encroachments into the front, rear, or side yard setbacks.

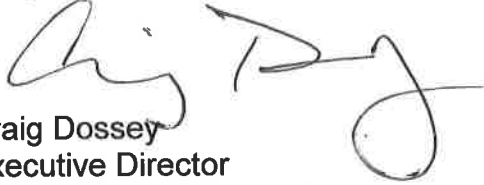
The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of the Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to: 1) the exceptional narrowness, shallowness or shape of the specific piece of property; or 2) the exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.

The Board of Adjustment may also grant variances from the strict application of any physical requirement of the Code, including minimum lot area and setbacks, based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and:

- The variance provides only reasonably brief, temporary relief; or
- The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or
- Some other unique or equitable consideration compels that strict compliance not be required.

This constitutes an administrative determination by the Planning and Community Development Executive Director. If you have any questions or concerns regarding this determination, the Board of Adjustment, or the site plan application review and approval process, please contact Raimere Fitzpatrick, at (719) 520-6302 or [raimerefitzpatrick@elpasoco.com](mailto:raimerefitzpatrick@elpasoco.com).

Respectfully,

A handwritten signature in black ink, appearing to read 'Craig Dossey', with a large, stylized flourish at the end.

Craig Dossey  
Executive Director  
Planning and Community Development

Cc: Raimere Fitzpatrick, Project Manager/Planner II  
ADM-17-030