

Commissioner Creely moved that the following Resolution be adopted:

**BEFORE THE BOARD OF ADJUSTMENT
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. APP-20-003**

Resolution Approving an Appeal by Edith Disler (APP-20-003) of a determination by the Planning and Community Development Department Executive Director that a parcel be considered legal nonconforming in regards to lot size after merger by contiguity.

WHEREAS, Edith Disler (the "Applicant") has appealed a determination by the Planning and Community Development Department Executive Director that a parcel be considered legal nonconforming in regards to lot size after merger by contiguity, which property is addressed as 15995 Park Avenue and is legally described as follows:

LOTS 13 & 14 BLK 3 BLACK FOREST PARK SUB.

WHEREAS, the subject property is within the unincorporated area of El Paso County, Colorado; and

WHEREAS, the Board of Adjustment is vested with the power to approve or deny such appeals by virtue of Section 5.5.2 of the El Paso County Land Development Code and Sections 30-28-117 and -118, C.R.S., specifically, Section 30-28-118(2)(a), C.R.S.; and

WHEREAS, it was the determination and finding of the Planning and Community Development Department (PCD) Executive Director that the lot size of 1.38 acres for the two merged parcels be considered legal nonconforming pursuant to Section 5.6.7.B.2 of the Land Development Code (2016).; and

WHEREAS, the PCD Executive Director made an Administrative Determination in regards to the lot size being considered legal nonconforming on January 22, 2018; and

WHEREAS, based on the evidence presented, the Board of Adjustment makes the following findings:

1. Proper notice procedures, including the notification of all adjoining property owners, have been completed by the Planning and Community Development Department.
2. The appeal was timely submitted for consideration by the Board of Adjustment.
3. The appeal hearing before the Board of Adjustment was extensive and complete; all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at the hearing.

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4. The PCD Executive Director's administrative determination of legal nonconformity following merger by contiguity for Lots 13 and 14, Blk 3 Black Forest Park was in error based upon the following:

In applying Section 5.6.7 (C)(4) of the El Paso County Land Development Code, the PCD Executive Director should have required that all contiguous lots under the same ownership be merged together to come as close as possible to the RR-5 (Rural Residential) zoning district lot size requirement of five (5) acres.

NOW, THEREFORE, BE IT RESOLVED that the appeal of a determination by the Planning and Community Development Department Executive Director that a parcel be considered legal nonconforming in regards to lot size after merger by contiguity as more fully described above is hereby granted.

BE IT FURTHER RESOLVED that the January 22, 2018 administrative determination is hereby vacated.

Commissioner Palone seconded the adoption of the foregoing Resolution. The roll having been called, the vote was as follows:

Commissioner Creely	Aye
Commissioner Palone	Aye
Commissioner Carlson	Nay
Commissioner Davies	Aye
Commissioner Curry	Aye

The Resolution was adopted by a vote of 4 to 1 by the Board of Adjustment of the County of El Paso, State of Colorado.

DATED: December 21, 2020


Kevin Curry, Chair