



February 13, 2023

PCD File No.: BOA227

**LETTER OF INTENT
TRACT A, C and H ESTATES
BOARD OF ADJUSTMENT REQUEST**

Owners:

Owner/Applicant:

Douglas Hill and Katherine Hill
13985 Silverton Road
Colorado Springs, CO 80921
(719) 231-2718
doug8397@msn.com

Applicant:

M.V.E., Inc.
1903 Lelaray Street, Suite 200
Colorado Springs, CO 80909
(719) 635-5736
Attn: David Gorman
daveg@mvecivil.com

Site Location Size and Zoning:

The site of this Board of Adjustments request is a 1.783± acre triangular shaped platted parcel known as Tract A, C and H Estates recorded under Reception No. 206712276 in the records of El Paso County, Colorado. The tract is located in the North ½ of the Southwest ¼ of the Northwest ¼ of Section 29, Township 11 South, Range 65 west of the 6th principal meridian in El Paso County, Colorado. The site is located on the east side of existing Black Forest Road, north of Shoup Road and south of Hodgen Road. The property has El Paso County Tax Schedule No. 51290-09-002 and is owned by Douglas E. Hill and Katherine L. Hill together with Lot 1, C and H Estates. The current address of the site listed "Black Forest Road" with no assigned address number. The triangular shaped tract is currently vacant range land containing natural grass and a few sparse trees. There is 30' wide Ingress, Egress & Public Utility Easement located along the northerly property boundary. The site is zoned RR-5 (Rural Residential – 5 acres) and is not located in an overlay zone.

The site is situated on the east side of existing Black Forest Road approximately one-quarter mile south of Hodgen Road in the Black Forest area of El Paso County, but the site is not located in forested terrain. Existing Black Forest Road, a paved public roadway, is adjacent to the western edge of the site. An unplatted parcel, zoned RR-5 and containing one single family residence, borders the site on the north side. Another unplatted parcel, zoned PUD with no existing structures, is located on the west side of existing Black Forest Road opposite the site. A vacant 100' wide right-of-way which is intended for the future realignment of Black Forest Road, is located along the east side of the site. Lot 1, C and H Estates (zoned RR-5) lies on the east side of the 100' wide vacant public right-of-way and contains a single family residence, barn, windmill and garage buildings. Said Lot 1 is owned by the same property owner

Engineers • Surveyors
1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736
Fax 719-635-5450 • e-mail mve@mvecivil.com

as the subject Tract A. Lot 3, C and H Estates (Zoned RR-5), containing a single family residence, is located southeast of the site and just south of Lot 1.

The C and H Estates subdivision plat was recorded March 24, 2006 and established three (3) single family residential lots and one (1) tract. The plat provided for dedication of 30' of right-of-way for existing Black Forest Road adjacent to the west side of Tract A. The plat also established the 100' wide right-of-way for future realignment of Black Forest Road as required by El Paso County Development Services Department at the time of the original platting because the realignment was shown on the Major Transportation Corridors Plan (MTCP) in effect at the time in order to eliminate the existing jog in the road. The MTCP has been updated twice since the initial platting and the Black Forest Road realignment project is still included in the current 2016 MTCP. The dedicated road right-of-way is not utilized at this time.

Request:

The property owners would like to vacate and replat the existing 1.783± acre parcel into one single family residential lot and make it available for construction of a new residence on the site. Section 5.4.2, Table 5-4 of the El Paso County Land Development Code requires that Minimum Lot Size in the RR-5 zone be 5.0 acres or more in area. However, Section 5.5.2(B)(2)(a) of the Land Development Code also provides that *“The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property.”* The request is for approval of an El Paso County Board of Adjustment dimensional variance to allow the existing tract to be replatted into a 1.783± acre lot in the RR-5 zone. The granting of the request, together with a subsequent vacation and replat application, would result in a legally platted lot for which a residential building permit may be obtained.

Justification:

The hardship on the property was created by the requirement imposed by El Paso County Development Services Department (2006 terminology) and the MTCP for dedication of a 100' wide curvilinear right-of-way swath that separated the 1.783± acre tract from the remainder of the property, preventing use of the property for single family residential use in the RR-5 zone. The owner of the property was not compensated for the right-of-way and the loss of use of the remainder tract, except that the platting of the remaining property was allowed by the department. In the absence of a subdivision plat, the property owner would have been compensated for the property handed over as right-of-way for a road realignment or expansion. Compensation aside, the land dedication significantly reduced the size of the property on the east side of Black Forest Road, reducing the number of potential 5.0 acre lots that would be allowed in the RR-5 zone. It also cut off the 1.783± acre tract from the main portion of the property, preventing the use of the property for single-family residential purposes and preventing efficient use of the remaining 14.692± acres of Lot 1 for any more than two potential single family residential units.

The dedication for the Black Forest Road right-of-way and the separation of Tract A from the property of Lot 1 presents a hardship on the owners. The wide separation, which is later to become an arterial roadway, deprives the owners of the enjoyment and beneficial use of the property that would have been attained if the area of Tract A was contiguous with Lot 1. The allowance of the proposed zone change will restore the potential beneficial use of the property by allowing a single-family residence to be placed on the site.

Development of existing Tract A as a single family residential lot is certainly possible while still observing all the remaining dimensional criteria contained in the Land Development Code including Width at Front Setback Line, Front, Rear and Side Building Setbacks, Maximum Lot Coverage and Maximum Building Height. The boundary dimension of the site are 333' on the north, 558' on the west and 659' along the southeast line. Furthermore, if Black Forest Road is ever realigned, it is highly likely that the land dedicated on the 2006 plat for existing Black Forest Road would be returned to the tract, adding 0.384± acre to the property for a total of 2.167± acres. Subtracting the setback and easement area from the total property area, leaves 0.99± acres available to place a residence. Discounting the unusable areas at the south and northeast triangle points, the remaining usable area is still 0.90± acres, which is more than adequate for a single family residence. The area of the property will allow maximum lot coverage of 19,400 square feet, more than enough to place a single family residence on the site.

The District Court, Water Division 1 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow drilling of a new well on the property to provide an adequate water supply for the site in accordance with the decree having Case No. 21CW3203 recorded under reception number 222096473 of the records of El Paso County. The owner will seek a finding of sufficiency from the Colorado Division of Water Resources El Paso County Board of County Commissioners based on the decreed water rights with the Vacation and Replat application. An Onsite Wastewater Treatment System (OWTS) report has been prepared which demonstrates that the site can support a septic system for wastewater treatment. Furthermore, the project consultant has contacted the El Paso County Health Department and verified that an OWTS would be allowed on the smaller lot subject to the actual soil conditions as determined by investigation and analysis such as that contained within the OWTS report.

Because the site is considerably large compared to the area of the potential residential improvements, the granting the requested variance will not adversely impact adjacent properties with regard to drainage nor will the development of the lot impact existing drainage patterns.

The proposed lot will be not impact traffic patterns as it will contain one (1) single family residential unit. The development for one residence is expected to generate a total of 9 trips per day (9.44 trips per unit for Average weekday trips ends), 1 trips in the peak AM Hour (0.75 trips/unit for AM), and 1 trips in the peak PM hour (1.00 trips/unit for PM) in accordance with Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers. This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour and the project does not significantly alter existing traffic or safety conditions. Even when considered together with the the lots to be created with the Vacation and Replat of Lot 1, C and H Estates (a total of 3 new residential lots), the project will have minimal impact regarding traffic conditions. For all proposed lots, there will be one existing and three proposed single family residential units with access to Black Forest Road. The development is expected to generate a total of 38 trips per day based on 9.44 trips per unit for Single Family Detached Housing (Average weekday trips ends), 3 trips in the peak AM Hour (0.75 trips/unit for peak AM traffic), and 4 trips in the peak PM hour (1.00 trips/unit for peak PM traffic) according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers. This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners have elected to not be included in any Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

Although the resulting lot size will be smaller than allowed in the RR-5 zone, the Board of Adjustment request will still provide compatibility with the existing and future surrounding land uses. For the time being, the lot would remain on the east side of existing Black Forest Road, but be separated by the unused alignment right-of-way which will provide adequate open distance between Tract A and the residential

lots to the east. In the case when Black Forest Road is realigned, Tract A will be separated from the existing lots on the east by the new roadway. Since the property to the west of Tract A is zoned PUD, nearby development densities could be higher than in the RR-5 zone. The proposed lot will be compatible with developed and undeveloped properties in the neighborhood. The residential classification will remain rural residential with an lot area just less than 2.0 acres. The resulting density of the single lot would be 1 unit per 1.783 acres or 0.56 units per acre. Upon relocation of existing Black Forest Road, the western right-of-way could potentially be vacated and a portion added back to the Tract A property, increasing the area to over 2.1 acres and decreasing the density value. The Black Forest Road realignment will eventually create a buffer/barrier between the site and the larger lot developments to the east and south. The recently approved Flying Horse North Sketch Plan is located on the west side of existing Black Forest Road. The sketch plan authorizes Commercial use with potential fire station at the nearby southwest corner of Black Forest Road and Hodgen Road. Low Density housing with density of 1.9 dwelling units per acre (0.53 acres per unit) is planned to the west of a Landscape Buffer/Open Space area in Flying Horse North. The 1.783 lot size will function as a transition between the 5 acre zoning on the east and the higher density development on the west.

This application was examined in light of the current El Paso County Master Plan. **“Your El Paso Master Plan” (2021)** is a comprehensive document communicating a vision for many factors that influence the quality of El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County. This masterplan also replaces any previous Small Area Plans.

The site is not located in any of the designated Key Areas of the county. However, the site is located on the east side of existing Black Forest Road, adjacent to the Potential Area for Annexation shown southwest of Hodgen and Black Forest Roads. This particular adjacent area also recently received Sketch Plan approval for Flying Horse North located east of Black Forest Road, north of Shoup Road, and south of Hodgen Road. The sketch plan provides for a mix of residential densities west of Black Forest Road, including 5 Acre Estate Lots (0.225 Dwelling Units per Acre), 2.5 Acre Estate Lots (0.32 Dwelling Units per Acre), Low Density Residential Lots (1.9 Dwelling Units per Acre) and Medium Density Residential Lots (3.0 Dwelling Units per Acre) with Commercial use at the southwest corner of Hodgen and Black Forest Roads. As mentioned above, the proposed density for the rezone property is 0.56 Dwelling Units per Acre or 1.9 acres per dwelling unit. The site is designated to be a Large-Lot Residential Placetype. The Primary Land Use of this place-type is Single Family Detached housing with Agriculture, Commercial Retail, Commercial Service and Parks and Open Space as Supporting Land Uses. The location of this site and existing infrastructure is suited to single family residential use. However, Commercial Service could also be appropriate given the amenable terrain and location on both existing and future alignments of Black Forest Road, not too far removed from the commercial area designated at the southwest corner of Hodgen Road and Black Forest Road. In the Land Use category, Goal 1.1 is *“Ensure compatibility with established character and infrastructure capacity”*. This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The proposed use is still large lot residential with nearly 2 acres in area for the proposed single family lot. The proposed zone change is compatible to the existing neighborhood and surrounding development even though it would be slightly smaller lot size than 2.5 acres. The proposed density will not overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed zone change will not create the need for additional roadways or public facilities.

Goal 1.3 is “*Encourage a range of development types to support a variety of land uses.*”. The proposed zone change and single family residential use will keep the upper grassland nature of the area mostly intact. However, the zone change will allow the beneficial use separated tract that resulted from the ROW realignment. The tract is still large enough to support the rural residential use. Density and land use are compatible with the existing and future surrounding area and the natural features of the site will remain preserved with the 1.9 acres lot size.

The granting of the request will enable the site to be utilized for single family residential, thereby mitigating the hardship placed on the property by the previous public street right-of-way dedication. Granting the request will maintain compatibility with the surrounding properties in the current time frame and in future surrounding development scenarios.

Z:\61174\Documents\Letter of Intent\61174-Hill BOA-Letter Of Intent.odt