

**EL PASO**  **COUNTY**  
**COLORADO**

COMMISSIONERS:  
STAN VANDERWERF (CHAIR)  
CAMI BREMER (VICE-CHAIR)

LONGINOS GONZALEZ, JR.  
HOLLY WILLIAMS  
CARRIE GETTNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

August 12, 2021

ATTN: Joseph Alessi, Alessi and Associates, Inc.

RE: 11750 Green Acres Lane – Determination of Nonconforming Setbacks

File: ADM-21-039

Parcel ID: 52150-00-035

To Whom It May Concern:

A request has been made for an interpretation regarding the above referenced parcel to confirm that the structures located on the property are considered nonconforming in relation to the setback requirements pursuant to the El Paso County Land Development Code (2021). The property must first be confirmed as a legal lot.

Section 1.15 of the Code defines a “Legal Lot” as:

“A lot, parcel or tract of land created by a legal conveyance of the lot, parcel or tract prior to July 17, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to July 17, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by legally prepared survey dated prior to July 17, 1972; a lot, parcel or tract created by approval of the County commissioners in conformance with the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by a contract for deed or signed but unrecorded deed, each dated prior to July 17, 1972; a parcel exempted from subdivision by the Board of County Commissioners (BoCC), or any parcel of 35 acres or more, which, when created, did not cause a parcel of less than 35 acres to remain; a parcel created by any court pursuant to the law of eminent domain, operation of law, or by order of any court if the BoCC has been given timely notice and opportunity to join in the action; a parcel modified or reduced in size due to land acquisition by a governmental entity.”

The property was created by contract of sale of land dated January 8, 1972. The geometry and legal description of the property has not changed since its creation and it is, therefore, considered a legal lot due its date of creation preceding July 17, 1972.

2880 INTERNATIONAL CIRCLE, SUITE 110  
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127  
FAX: (719) 520-6695

[www.ELPASOCO.COM](http://www.ELPASOCO.COM)

**Compliance with Zoning Regulations:**

The property was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this portion of the County. Due to changes in the nomenclature of the Code, the A-4 zoning district was renamed as the RR-3 (Rural Residential) zoning district in 1991, and again as the RR-5 (Residential Rural) zoning district in 2007. The RR-5 zoning district has a minimum lot size of 5 acres and the subject property is 15 acres.

Section 1.15 of the Code defines a “Structure, Nonconforming” as:

“Any legally existing structure which does not conform to the “location and bulk” regulations of this Code, either at the effective date of this Code or as a result of subsequent amendments which may be incorporated into this Code.”

In order to be considered nonconforming structures, the structures on this property would either need to have been constructed prior to the establishment of zoning or complied with the applicable regulations at the time of construction.

According to the El Paso County Property Assessor’s web page, the following structures currently exist on the property:

1. Residence – 1,091 square feet, constructed in 1955
2. Shed #1 – 513 square feet, constructed in 1975
3. Shed #2 – 364 square feet, constructed in 1975
4. Shed #3 – 1,200 square feet, constructed in 1980
5. Shed #4 – 1,200 square feet, constructed in 1980

The applicant has provided a survey to depict where the improvements are located in relation to the property lines. The survey is attached herein. According to a survey provided by the applicant, shed #2 is no longer present on the property. Shed #1 is shown to be 23.1 feet away from the western (rear) property line and shed #3 is shown to be 10.8 feet away from the southern (side) property line. Shed #4 is a garage which meets the setback requirements of the RR-5 zoning district, which is 25 feet from all property lines.

At the time of construction of the accessory structures on the property, the A-4 zoning district had a minimum setback requirement of 25 feet from all property lines. Therefore, at the time of construction, the sheds #1 and #3 were constructed in violation of the setback requirements.

**Discussion and Conclusion:**

It is the determination of the Planning and Community Development Department Director that the structures cannot be considered conforming or nonconforming because they did not meet the minimum setback requirements at the time of construction. In order to legalize the setback encroachments, the applicant would either need to move the structures or would need to receive approval of a dimensional variance to allow a reduced setback. Pursuant to Section 5.5.1 of the Land Development Code, a maximum of a 20 percent reduction in setbacks from the amount

required in the zoning district (a maximum of five (5) feet in the RR-5 zoning district) in which the subject property is located may be approved through the administrative relief process. Shed #1 may be eligible for administrative relief; however, the setback encroachment for shed #2 exceeds the maximum 20 percent required to qualify for administrative relief.

Any proposed new development shall comply with all other applicable County, State, and Federal Regulations.

If you have any questions or concerns regarding this determination, please contact myself or Ryan Howser, Planner II, at (719) 520-6049 or [ryanhowser@elpasoco.com](mailto:ryanhowser@elpasoco.com).

Sincerely,

A handwritten signature in blue ink that reads "Craig Dossey". The signature is written in a cursive style with a large, looping "C" and "D".

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

Inclusions:  
Survey of Property