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RESOLUTION NO. 18- 141

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

APPROVE VARIANCE OF USE TO PERMIT A GENERAL OFFICE. (VA-18-001)

WHEREAS, John Hotchkiss did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-2.5 (Residential Rural) zoning district to permit a general office where such is not permitted for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by this reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on March 20, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use for a general office; and

WHEREAS, a public hearing was held by this Board on April 10, 2018; and

WHEREAS, based on the evidence, testimony, exhibits, recommendations of the El Paso County Planning Commission, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the County Commissioners during the hearing, this Board finds as follows:

1. That the application for the variance of use was properly submitted for consideration by the Board of County Commissioners.
2. That proper posting, publication and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted, and that all interested persons and the general public were heard at those hearings.
4. That all exhibits were received into evidence.
5. That the proposed land use does permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.

6. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Board of County Commissioners considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or Federal regulations during construction and upon completion of the project;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State, and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed Variance of Use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the application by John Hotchkiss for a variance of use for a general office within the RR-2.5 (Residential Rural) zoning district where such is not a permitted use for the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by this reference;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

**CONDITIONS**

1. Any subsequent addition or modification to the operation or facility beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to administrative review, and if it is the opinion of the Planning and Community Development Department Director that it constitutes a substantial change, then such addition or modification shall be subject to review and approval by the Board of County Commissioners.
2. Prior to building permit authorization, the applicant is required to obtain a permit from El Paso County Public Health for an onsite wastewater treatment system(s).
3. The applicant shall seek approval from the Planning and Community Development Department of a commercial site development plan prior to the implementation of the uses and/or prior to building permit authorization.
4. A commercial well permit shall be obtained within 120 days of the approval date from the Board of County Commissioners. The due date may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to obtain the well permit.

**NOTATIONS**

1. Variance of Use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or Variance of Use conditions/standards are being violated, preceded by notice and public hearing.
3. If the Variance of Use is discontinued or abandoned for two (2) years or longer, the Variance of Use shall be deemed abandoned and of no further force and effect.
4. Road impact fees shall be paid at the time of approval of each site development plan for uses that will cumulatively generate 100 more daily vehicle trips.

**WAIVER:** A waiver of Section 6.2.2.D of the Land Development Code requiring an opaque fence with a minimum height of six (6) feet where a commercial use is immediately adjacent to a residentially zoned parcel.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 10th day of April, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:



By: Charles D Broerman  
County Clerk & Recorder

By: [Signature]  
President

**EXHIBIT A**

**PROPERTY LEGAL DESCRIPTION:**

THAT PART OF LOT 8 LY NLY OF TR CONV BY BK 2288-416, TOG WITH  
THAT PORT OF VAC BURGESS RD BY BK 3173-561 BLK E SPRING CREST  
AMD FIL