



# APPCE232

Request for Appeal of Executive Determination



**Mindy Schulz**

Strategic Services Manager

Planning and Community Development

[mindyschulz@ElPasoCo.com](mailto:mindyschulz@ElPasoCo.com) | 719.520.6304

**Terry Sample**

Senior Assistant County Attorney

[terrysampl@ElPasoCo.com](mailto:terrysampl@ElPasoCo.com) | 719.520.6386



## **PUBLIC INPUT**

If you are watching remotely and would like to speak on this item, please email your name and phone number to:

[PCDHearings@elpasoco.com](mailto:PCDHearings@elpasoco.com)



## Procedures

Staff shall first present the item and provide testimony and evidence to support the PCD Executive Director's decision to issue an executive determination in this matter.

The appellant shall then be given an opportunity to address the Board and present any testimony and/or evidence. The Board may then ask any final questions of staff or the appellant prior to rendering a decision.

The Board, in considering the testimony and evidence presented by both staff and the appellant, shall either:

Move to deny the appeal, thus affirming the decision of the PCD Executive Director; or

Move to approve the appeal, thus overturning the decision of the PCD Executive Director.



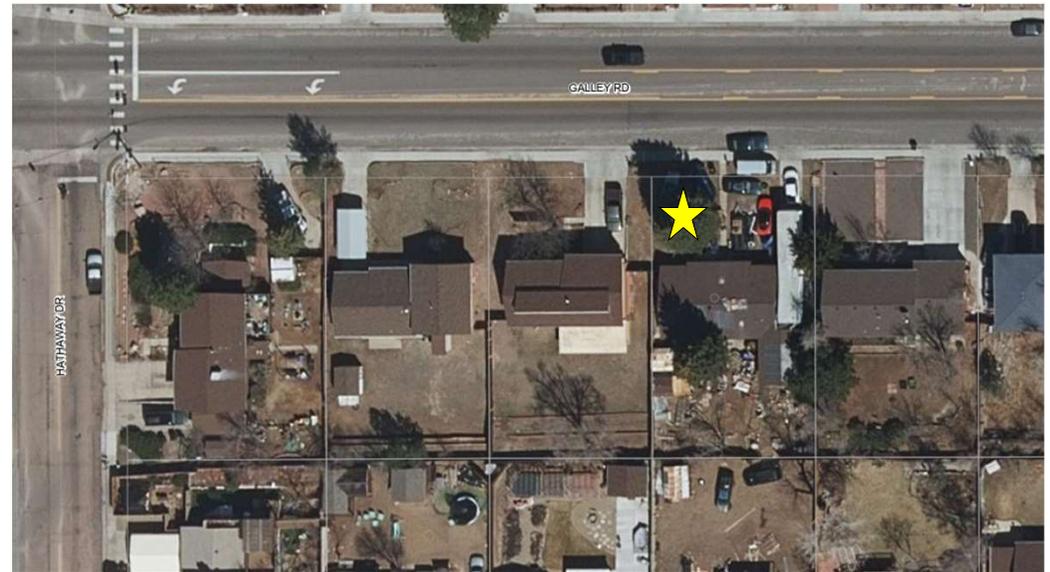
## Request for appeal

An appeal by the property owner, Nathan A. Baird, of a decision made by the Executive Director of the Planning and Community Development Department (PCD) to issue an executive determination authorizing the Office of the County Attorney (OCA) to proceed with litigation for violations of Ordinance No. 18-02: Prohibiting the Accumulation of Rubbish and Sections 5.2.2(l) Storage Buildings as Accessory Uses and 11.3.1 Unlawful Acts of the El Paso County Land Development Code.



# Property Information

- 6725 Galley Road (Parcel No. 54074-04-009)
- RS-5000 (Residential Suburban) zoning district
- 8,400 square feet
- Commissioner District 4



2022 Aerial



## Complaints Received

- **June 22, 2022:** Numerous inoperable vehicles parked all over the front yard in addition to old appliances, piles of wood, rock and debris litter the yard. This is a visual blight for our neighborhood and an attractive nuisance. Clearly visible on south side of 6700 block on Galley Rd. Potential fire hazard as well.
- **July 7, 2022:** Numerous inoperable vehicles cover entire front yard in addition to old appliances, rubbish and a semi-trailer. No people are ever visible coming or going.
- **August 28, 2022:** This yard and house are both a mess. Cars and trucks all over the yard. Trash everywhere in the yard and on the roof. Looks horrible! These people are running a vehicle repair shop out of this property. Need to clean this mess up!



# Notice of Violation issued on June 29, 2022





## Ordinance No. 18-02

### **Section 4 of the Ordinance defines rubbish as:**

Any trash, junk, garbage, litter, refuse, debris, outside storage of used tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, part 1 of article 20 of title 30, C.R.S., and any rules and regulations promulgated thereunder), lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or packaging, remnant construction or demolition materials, vehicle parts, abandoned or junk equipment, used appliances or furniture, oil, carcasses of dead animals, any object likely to injure any person or create a traffic hazard, or any other object which has been discarded or abandoned.

### **Section 5 of the Ordinance states:**

It shall be unlawful for any owner to allow the accumulation of rubbish on any lot, parcel, or tract of land in the County under such owner's control, possession, or ownership, or upon any alley or sidewalk, adjacent to such lot, parcel, or tract of land.



## Ordinance No. 18-02



The property owner disagrees that the commercial dishwasher is rubbish.



Definition of rubbish includes abandoned or junk equipment, used appliances, or any other object which has been discarded or abandoned.



# Land Development Code

**5.2.2 (I) Storage Buildings as Accessory Uses:** Semi-trailers with attached running gear (i.e. axles, wheels) and mobile homes shall not be used as storage buildings after the effective date of this Code, except in the A-35 Zoning District. Existing semi-trailers and mobile homes being used as storage buildings in conformance with County rules and regulations on the effective date of this Code shall be considered nonconforming uses.

- In 2007, language prohibiting the use of semi-trailers and mobile homes as storage buildings as accessory uses, except in the A-35 zoning district, was added to the Code. According to aerial photography from EPC GIS, the semi-trailer was not located on the property between 2007-2020.

**11.3.1 Unlawful Acts:** It is unlawful to use real property or improvements thereon; to develop real property, to erect, construct, reconstruct, remodel, restore or improve a building or structure, or to alter the use of any real property or improvements thereon in any way not in accordance with this Code or with the terms and conditions of any development application approval or development permit, or without first obtaining all development approvals and permits required by this Code.



## 5.2.2 (I) Storage Buildings as Accessory Uses

The property owner disagrees that he is in violation of this section of the Code and has made the following statements:

- The semi-trailer is not a semi trailer.
- The semi trailer is a recreational vehicle
- The semi-trailer is not a storage building





## 5.2.2 (I) Storage Buildings as Accessory Uses

**Section 1.14.1 Definition of Terms:** Words used in this Code have their dictionary meaning unless they are specifically defined in this Code. Words defined within this Code shall have the specific meaning assigned, unless the context clearly indicates another meaning.

- **Merriam- Webster:** freight trailer that when attached is supported at its forward end by the fifth wheel device of the truck tractor
- **Dictionary.com:** Also called semi; a detachable trailer for hauling freight, with wheels at the rear end, the forward end being supported by the rear of a truck tractor when attached.
- **Cambridge Dictionary:** a large, box-like container with wheels at the back that is pulled along by a strong truck





## 5.2.2 (I) Storage Buildings as Accessory Uses

On May 30, 2023, the owner emailed Staff a link to the State's website which provided the requirements needed to convert the semi-trailer into a recreational vehicle. The owner states that the semi-trailer has at least four (4) of the required facilities (cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, potable water supply system including a faucet and sink, and/or separate 110-125-volt electrical power supply and/or L P gas supply).

In addition to the above, the following is needed:

- A DR 2444 Statement of Fact must be completed by the applicant listing the modifications completed on vehicle.
- A certified weight slip is required.
- A DR 2698 Verification of Vehicle Identification Number is required.

During a phone conversation with the property owner on September 20, 2023, he stated that he would need to hire someone to transport the trailer to get it weighed in order to go through the process to convert it and register it as a recreational vehicle.



## 5.2.2 (I) Storage Buildings as Accessory Uses

The owner has made statements to Staff that fencing materials are stored inside the trailer and that he will go inside the trailer to play guitar. He provided the below pictures of the inside of the semi-trailer.

The use of the semi-trailer as a storage building as an accessory use does not mean the semi-trailer has to be full of "storage items". A shed/garage is still a shed/garage even if it is empty.





## Additional Information

### Case Timeline

- June 29, 2022: Notice of Violation issued
- September 14, 2022: Courtesy letter issued
- May 5, 2023: Executive Determination issued
- May 15, 2023: Request for appeal received
- November 9, 2023: Appeal hearing



## Additional Information

- The semi-trailer was previously used as a mobile command center for CSU. This does not mean the trailer was converted into a recreational vehicle.
- Staff requested to conduct an inspection of the inside of the trailer to confirm the use of the trailer. The owner denied the request and expressed concerns about pictures of the inside of the trailer becoming part of public record. Staff offered to conduct an inspection without taking pictures, but the owner never accepted the offer.
- The property owner was told that if the semi-trailer is licensed and registered as a recreational vehicle, then Section 5.2.2 (I) would no longer apply.



# Executive Determination issued on May 5, 2023





## Recommendation

- Rubbish continues to exist on the property (appliance/commercial dishwasher)
- The semi-trailer is not being used for commercial purposes, has not been converted into a recreational vehicle as recognized by the Colorado Department of Motor Vehicles, and is being used as an accessory use storage building.

Staff recommends the Board deny the request for an appeal and affirm the decision of the PCD Executive Director to issue an executive determination to authorize the OCA to proceed with litigation.



# Questions for Staff?