

# EL PASO COUNTY



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO:** El Paso County Board of County Commissioners  
 Mark Waller, Chair

**FROM:** Len Kendall, Planner I  
 Beck Grimm, EI Engineer I  
 Craig Dossey, Executive Director

**RE:** Project File #: VA-18-004  
 Project Name: 12843 Peyton Highway - Variance  
 Parcel No.: 32080-01-002

OWNER:	REPRESENTATIVE:
Rodney and Cecilia Norvell 18436 Main Street Peyton, CO 80831	Rodney Norvell 18436 Main Street Peyton, CO 80831

**Commissioner District: 2**

Planning Commission Hearing Date:	6/18/2019
Board of County Commissioners Hearing Date	7/9/2019

**EXECUTIVE SUMMARY**

A request by Rodney Norvell for approval of a variance of use for three (3) dwelling units on a single parcel where one dwelling unit is allowed in the RR-5 (Residential Rural) zoning district. The property has received approval for four (4) previous variances for this use. The previous variance of use expired on July 13, 2016. The current variance application includes a request to allow the use indefinitely.

**A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION**

**Request:** A request by Rodney Norvell for approval of a variance of use for three (3) dwelling units on a single parcel where one dwelling unit is allowed in the RR-5 (Residential Rural) zoning district.



**Waiver(s)/Deviation(s):** There are no waivers or deviations as part of this request.

**Authorization to Sign:** There are no documents associated with this application that require signing. There are no documents associated with this application that require signing.

## **B. PLANNING COMMISSION SUMMARY**

**Request Heard:** As a Regular item at the June 18, 2019 hearing.

**Recommendation:** Approval based on recommended conditions and notations.

**Waiver Recommendation:** N/A

**Vote:** 6 to 1

**Vote Rationale:** N/A

**Summary of Hearing:** The applicant was represented at the hearing. Planning Commission Draft Minutes are attached.

**Legal Notice:** N/A

## **C. APPROVAL CRITERIA**

Pursuant to Section 5.3.4 of the Land Development Code, the Board of County Commissioners may consider the following criteria in approving a variance of use:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- 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 County;
- 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;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- 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.

#### **D. LOCATION**

North:	RR-5 (Residential Rural)	Two single-family dwellings
South:	A-35 (Agricultural)	Single-family residential
East:	A-35 (Agricultural)	Vacant/agricultural
West:	A-35 (Agricultural)	Single-family residential

#### **E. BACKGROUND**

The property was zoned A-4 (Agricultural) on July 28, 1983 (P83-009Z) to facilitate a minor subdivision request to create two approximately 10 acre lots. At the time of the zoning, the property contained a hog farm. The minor subdivision (MS-83-005) was approved by the Board of County Commissioners on August 23, 1983 and the plat was recorded on September 28, 1983. Over time, the A-4 (Agricultural) zoning district was reclassified to the RR-3 (Rural Residential) zoning district, which, due to nomenclature changes has been renamed the RR-5 (Residential Rural) zoning district.

In 1991, the subject parcel was in violation of the A-4 (Agricultural) zoning district by having three (3) dwellings (mobile homes) located on it where only one (1) dwelling was allowed. The property owners were the same property owners that initially zoned and subdivided the property, and they were aware of the restrictions on the use of the property. A violation came about via a septic inspection by El Paso County Health Department for four (4) mobile homes. In an attempt to legalize the use, the property owner submitted the variance of use (VA-91-006) application, which proposed to allow four mobile homes on the property. The variance of use was approved due to hardship, but the approval included a condition that limited the use to three mobile homes. The applicant's letter of intent included the following as a statement of hardship:

"The three mobile homes are occupied and provide a much needed inexpensive, very comfortable housing in the area and would create an undue hardship if it was required that these homes be abandoned".

In 1996, the original variance of use was set to expire so the property owner applied for a renewal of the variance of use (VA-96-005) citing a similar hardship. The variance of use was extended on April 11, 1996, for five (5) additional years. On January 25, 2001, the Board of County Commissioners approved a renewal of the variance of use for a second time, based on the same hardship as above. The variance of use was approved for an additional five (5) years. On July 13, 2006, the Board of County Commissioners once again approved a variance of use renewal, citing the same hardship as all of the prior variances. However, with this approval the use was conditioned with an expiration date of ten (10) years, which reset the

expiration of the use for July 13, 2016. The applicant did not apply for a renewal of the variance of use prior to the expiration date; therefore, the use variance is expired. El Paso County Code Enforcement found the zoning violation during an annual check on all approved variances of use in the County. The current property owner is the son of the previous property owner, and of the same family who originally zoned and subdivided the property and who received approval of all four (4) previous variances of use.

Site visits by Planning and Community Development staff verified that there are currently three mobile homes on the 10 acre parcel. The property owner does not reside on the property.

## **F. ANALYSIS**

### **1. Land Development Code Analysis**

The El Paso County Land Development Code (2019) allows one single-family residence per parcel in the RR-5 (Residential Rural) zoning district. The requested use is not consistent with the RR-5 zoning district without approval of a variance of use.

### **2. Zoning Compliance**

All of the structures on the property meet the dimensional standards within the RR-5 (Residential Rural) zoning district, which are as follows:

Front yard setback: 25 feet  
Rear yard setback: 25 feet  
Side yard setback: 25 feet

Height maximum: 30 feet

Lot coverage maximum: 25 percent

### **3. Policy Plan Analysis**

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

**Policy 6.2.12:** Ensure that proposed zone changes and or use variances in established neighborhoods are compatible scale and physical character.

The property has had multiple mobile homes on the parcel since 1991 and there has not been much new development in this area during that time. Four (4) variances have been approved for the property. The Code Enforcement violation was generated when the property owner failed to submit for a renewal of the variance of use. There have been no zoning complaints against the property.

#### **4. Small Area Plan Analysis**

The 10.83 acre property is located within the boundaries of the Falcon/Peyton Small Area Master Plan (2008). The property lies within an area of the Plan that is planned for rural residential development with future development potential along a corridor of activity (Peyton Highway). Relevant goals and policies are as follows:

**3.1.3** – Preserve the core rural character of the area.

**3.1.4** – Provide a variety of different densities of development options.

**3.3.1** – Encourage diversity and variety in housing types, sizes, locations, and prices to meet the needs of existing and new residents.

**3.3.3** – Prevent poorly executed, land-consuming development patterns by promoting compact growth and planned development.

**3.3.4** – Meet the housing needs of as many existing and new residents of differing ages, incomes, and desired living accommodations.

The Falcon/Peyton Plan defines rural density as parcel sizes at least 10 acres and typically greater than 35 acres. This parcel is 10 acres in size, and the County considers parcels greater than 2.5 acres to be rural, so in this regard the parcel meets the intent of the small area plan, however only one (1) dwelling is allowed on a parcel in the RR-5 zoning district. Based on the applicant's letter of intent, the three (3) mobile homes are occupied and provide much needed inexpensive, very comfortable housing in the area and would create an undue hardship to the current tenants if the homes were required to be vacated. The goals and principles of the Plan include preserving the core rural character of the area, which this application does not meet. The goals and principles also encourage meeting the housing needs of as many existing and new residents as possible, which the request would continue to support if approved.

#### **5. Other Master Plan Elements**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies alluvial fan deposits and upland deposits in the area of the subject parcel. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, severed mineral rights exist. The mineral rights owner has been notified of the application and hearing date.

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

There are no known environmental hazards, such as steep slopes, rock fall, subsidence, shrink-swell soils, etc., on this site.

### **2. Wildlife**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

### **3. Floodplain**

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0375G dated December 7, 2018, shows that the property lies within the zone X area, which is determined to be outside the 500-year floodplain.

### **4. Drainage And Erosion**

The property is located within the Upper Bracket Creek (CHBR0600) drainage basin, which is a no fee basin. No drainage or bridge fees are required for a variance of use. There are no drainage or erosion issues identified with this request. No public drainage improvements will be required.

### **5. Transportation**

The subject property is accessed via Peyton Highway. No access changes are proposed. A traffic impact study was not required due to staff determining that the proposed variance of use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate without the approval of the variance of use. No public roadway improvements will be required.

The El Paso County Road Impact Fee (Resolution 18-471) does not apply to this variance of use request.

## **H. SERVICES**

### **1. Water**

Water is provided by an individual private well. In a letter dated March 5, 1991, and included with the variance of use request, VA-91-006, the State Engineer indicated that the existing well (Permit No. 68260) can and will legally serve three (3) single-family homes.

### **2. Sanitation**

Wastewater treatment is provided by an onsite wastewater treatment system (OWTS) from 1991 for two (2) of the three (3) mobile homes on the property. These two homes are connected to a common septic tank and soil treatment area (STA). El Paso County Public Health does not have an OWTS record on file for the 3-bedroom

mobile home that is located closest to Peyton Highway on the west side of the property. Per El Paso County Public Health comments, if a record is known for the third OWTS, the applicant is to contact their office directly.

**3. Emergency Services**

The property is within the Peyton Fire Protection District.

**4. Utilities**

Mountain View Electric Association (MVEA) provides electrical service to the property. Black Hills Energy provides natural gas service to the property.

**5. Metropolitan Districts**

The property is not located within a Metropolitan District.

**6. Parks/Trails**

Land dedication and fees in lieu of park land dedication are not required for a variance of use application.

**7. Schools**

Land dedication and fees in lieu of school land dedication are not required for a variance of use application.

**I. APPLICABLE RESOLUTIONS**

See attached Resolution.

**J. STATUS OF MAJOR ISSUES**

There are no major issues associated with this application.

**K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.4 of the El Paso County Land Development Code (2019) staff recommends the following conditions and notations:

**CONDITIONS**

1. Variance of use approval is limited to the dwelling units discussed and depicted in the applicant's letter of intent and site plan drawing on file.
2. The applicant must provide proof that the third mobile home has an approved onsite wastewater treatment system (OWTS) permit on file with the El Paso County Public Health Department and El Paso County Planning and Community Development. If the applicant cannot provide such proof, then a new permit for an OWTS shall be applied for and approved by El Paso County Public Health Department within 6 months of the date of approval of this variance request (VA-18-004).
3. The applicant must submit a residential site plan within 90 days of this approval.

## **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.

## **L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified five (5) adjoining property owners on May 29, 2019, for the Board of County Commissioners meeting. Responses will be provided at the hearing.

## **M. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Site Plan  
Planning Commission Draft Minutes  
Planning Commission Resolution  
Board of County Commissioners' Resolution



# El Paso County Parcel Information

File Name: VA-18-004

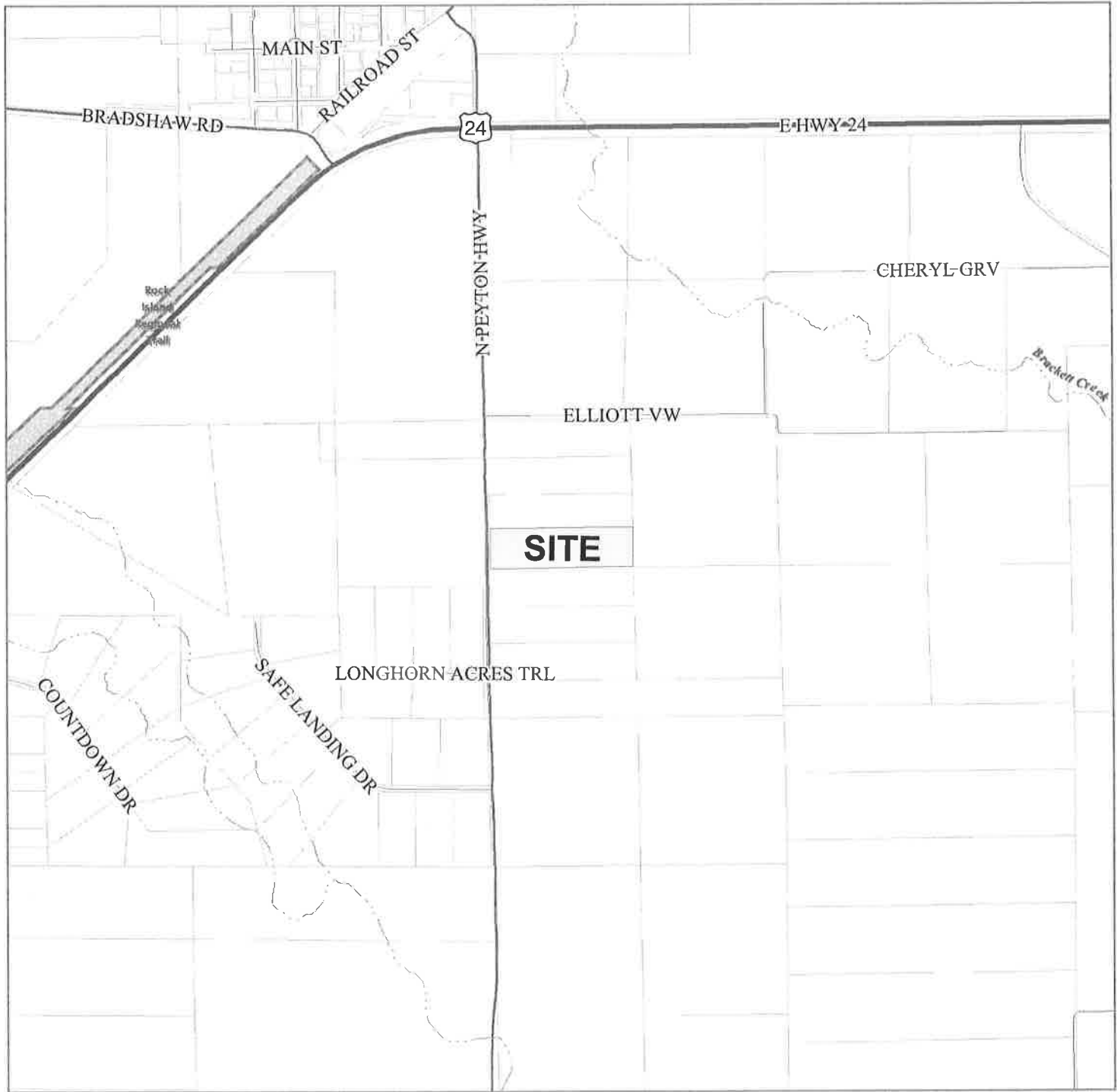
PARCEL	NAME
3208001002	NORVELL, RODNEY JAMES

Zone Map No. --

ADDRESS	CITY	STATE
18436 MAIN ST	PEYTON	CO

ZIP	ZIPLUS
80831	

Date: May 29, 2019



Please report any parcel discrepancies to:  
 El Paso County Assessor  
 1675 W. Garden of the Gods Rd.  
 Colorado Springs, CO 80907  
 (719) 520-6600



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Rodney Norvell  
18436 Main Street  
Peyton, CO 80831

June 25, 2018

Letter of intent:

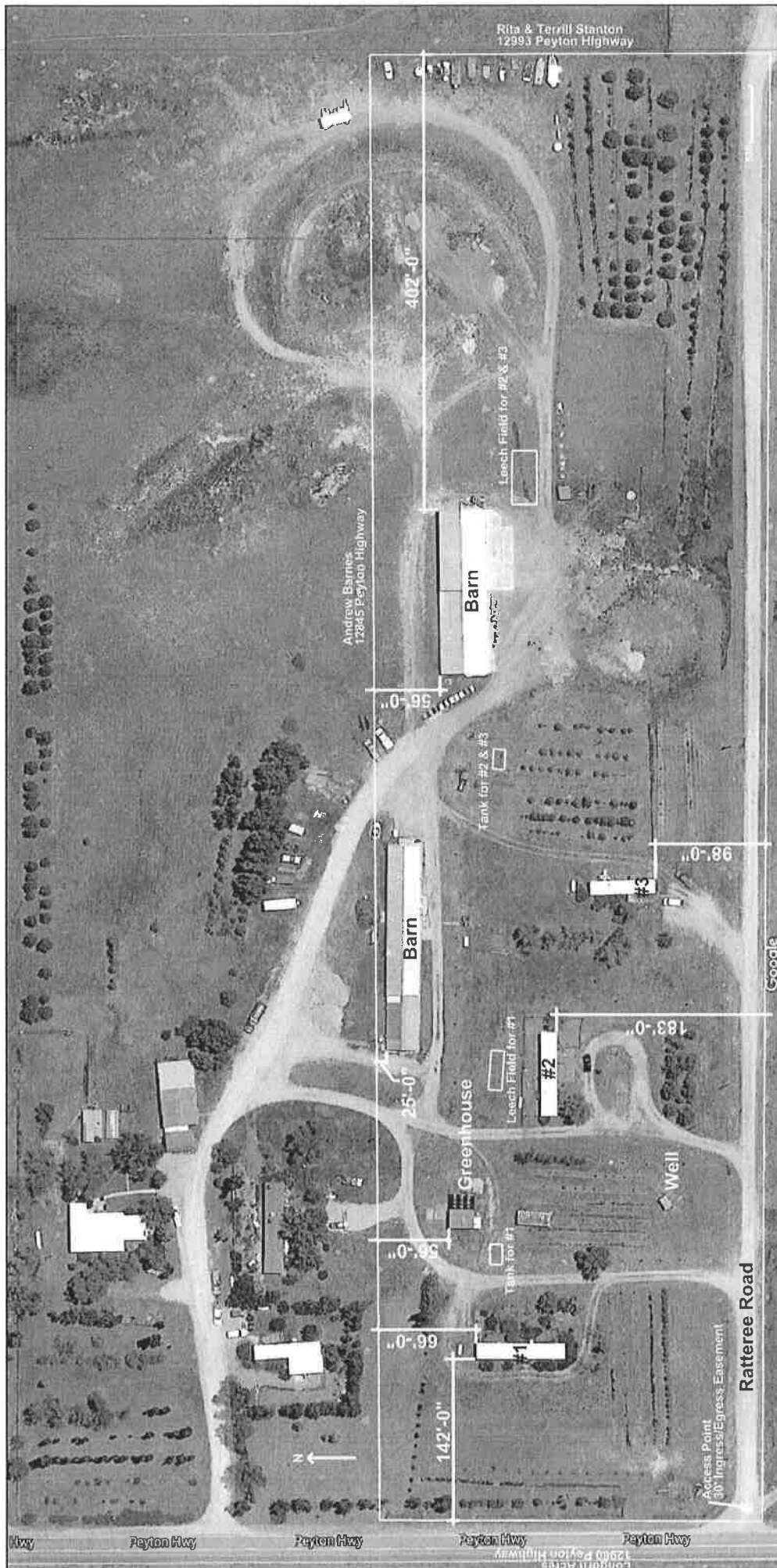
I am requesting a permanent variance of land use for the following property Lot 2 Norvell subdivision, 12845 Peyton Highway Peyton Colorado. This consists of 10.4 acres and zoned RR-4. Please note that there has been temporary variances for over 30 years.

It is requested that the variance be approved to keep the three mobile home residents on the aforementioned property. These homes are on permanent foundations and are provided with insulated skirting. All residents are served with a water system from a deep well on the property and with adequate internal and access roads. A central septic system was installed and approved by El Paso county health department.

As stated the three mobile homes are occupied and provide much needed inexpensive, very comfortable housing in the area and would create an undo hardship to the current tenants if it was required that these homes be abandoned. It is also to be noted that that the drainage from the proposed use will not adversely affect the adjacent properties.

---

Rodney Norvell



Rita & Terrill Stanton  
12993 Payton Highway

Andrew Barnes  
12845 Payton Highway

Barn

Barn

Greenhouse

Leach Field for #2 & #3

Leach Field for #1

Leach Field for #2

Leach Field for #3

#2

#3

Well

Ratterree Road

Access Point  
30' Ingress/Egress Easement

Google

Hwy

Payton Hwy

Payton Hwy

Payton Hwy

Payton Hwy

LONGHORN ACRES  
12993 PAYTON HIGHWAY



# EL PASO COUNTY

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting  
Tuesday, June 18, 2019  
El Paso County Planning and Community Development Department  
2880 International Circle, Hearing Room  
Colorado Springs, Colorado 80910

## REGULAR HEARING

9:00 a.m.

**PRESENT AND VOTING: TOM BAILEY, KEVIN CURRY, JOAN LUCIA TREESE, ALLAN CREELY, JANE DILLON, GRACE BLEA-NUNEZ, AND TIM TROWBRIDGE**

**PRESENT AND NOT VOTING: SARAH BRITTAIN JACK AND BECKY FULLER**

**ABSENT: BRIAN RISLEY, SHARON FRIEDMAN, AND PETER AURICH**

**STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, KARI PARSONS, LEN KENDALL, ELIZABETH NIJKAMP, BECK GRIMM, JENNIFER IRVINE, JOHN CHAVEZ, AND EL PASO COUNTY ATTORNEY COLE EMMONS**

**OTHERS SPEAKING AT THE HEARING: RODNEY NORVELL**

## Report Items

1. **Report Items -- Planning and Community Development Department -- Mr. Dossey**
  - A. The next scheduled Planning Commission meeting is for **Tuesday, July 2, 2019**. There are seven (7) on the agenda for that hearing.
  - B. **Mr. Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting as well as a Planning and Community Development progress report of permits and projects in process.

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)

C. There will be a Board of County Commissioners' work session on June 27, 2019 to discuss rural home occupations and extended family housing.

D. **Public Input on Items Not Listed on the Agenda -- None**

2. **Consent Items**

A. **Approval of the Minutes – June 4, 2019**

The minutes were approved as presented. (7-0)

B. **VR-18-018**

**PARSONS**

**VACATION REPLAT  
GLENEAGLE GOLF COURSE RESIDENTIAL INFILL DEVELOPMENT  
FILING NO. 2**

A request by G & S Development, Inc., for approval of a vacation and replat to create twelve (12) single-family residential lots. The 7.62 acre property, known as Tract G of the Gleneagle Golf Course Residential Infill Development Filing No. 1 subdivision, is zoned RS-6000 (Residential Suburban) and is located at north of Gleneagle Drive and east of Struthers Road. (Parcel No. 62062-01-120) (Commissioner District No. 1)

**PC ACTION: CREELY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM #2B FOR VR-18-018 FOR A VACATION AND REPLAT OF GLENEAGLE GOLF COURSE RESIDENTIAL INFILL DEVELOPMENT FILING NO. 2 UTILIZING RESOLUTION PAGE 49, MORE PARTICULARLY DESCRIBED ON PAGE 19-038 WITH FIFTEEN (15) CONDITIONS AND ONE (1) NOTATION AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (7-0)**

**REGULAR ITEMS**

3. **VA-18-004**

**KENDALL**

**VARIANCE OF USE  
12843 PEYTON HWY**

A request by Rodney Norvell for approval of a variance of use for three (3) dwelling units on a single parcel. The property is zoned RR-5 (Residential Rural) and is located two-thirds (2/3) of a mile south of the US Highway 24 East and North Peyton Highway intersection. (Parcel No. 32080-01-002) (Commissioner District No. 2)

**Mr. Kendall** asked **Mr. Emmons** to go over the review criteria for a variance of use.

**Mr. Norvell, applicant,** gave his presentation to the Planning Commission.

**Mr. Curry** – One of the criteria we look at is if the variance will cause an undue hardship for the residents who live there. Have you had the same residents for the last 30 years? **Mr. Norvell** – No.

**Mr. Curry** – When the occupants leave the property, then there is no longer a hardship on that particular property? **Mr. Norvell** – That is correct.

**Mr. Kendall** gave his full presentation to the Planning Commission.

**Ms. Blea-Nunez** – I'm wondering on the impact of the Master Plan. Is there a condition that if things change in the Master Plan, the variance can be looked at again? Did you put a year limit so that the Master Plan would change? **Mr. Kendall** – No, I believe that if this was approved, it would be legally non-conforming.

**Mr. Dossey** – The Master Plan is not a regulatory document. It is like the current small area plans that guide in making land use decisions. So, if it does change, it doesn't have the effect of changing the variance. That would only come through a change to the Land Development Code. As you'll note in the staff report, a finding of consistency with the Master Plan is not a requirement for a variance.

**Ms. Blea-Nunez** – Am I to understand that two homes have passed the septic inspection, but the third has not, is that correct? And, would a site development plan be processed? What are the other buildings on the property? **Mr. Kendall** – EPC Health Department stated they would have to apply for that septic permit. A residential site plan would be completed after the variance is addressed. One of the buildings is a hog barn.

**Mr. Trowbridge** – Why were limits placed on the previous variance? **Mr. Kendall** – Initially there were dates put on the variances and our code enforcement staff would check on them at expiration date and see if the use was still in place.

**Mr. Trowbridge** – Was Regional Building involved?

**Ms. Fuller** – The homes were placed in 1991, after replating in 1983. **Mr. Kendall** – The owner was aware of the restrictions and placed them any way.

**Mr. Gebhart** – For clarification, if it was zoned in 1983, Regional Building would have been involved.

**Ms. Lucia-Treese** – The three mobile homes that are there now have been there since 1991, is that correct? **Mr. Kendall** – Yes, that is correct.

**IN FAVOR: NONE**

**IN OPPOSITION: NONE**

**Mr. Norvell** had a chance to address the Commission. The other two buildings are storage for a boat and tools and a gym area. All the mobile homes are rentals.

**Mr. Trowbridge** – What is the age of the units? **Mr. Norvell** – late 70s and early 80s. I maintain the units myself. The life span is approximately 60 years.

**Mr. Bailey** – I'm wondering if the maintenance of the structures is appropriate discussion. **Mr. Emmons** – You may consider it with regard to safety of the structures. A variance is where someone is asking for the ability to conduct a use that is not allowed in a zoning district. There is no requirement for the Master Plan. This is really asking for permission and you are looking at compatible with the surrounding area. The critical criteria are what are the peculiar difficulties or an undue hardship that you need to focus on.

**Ms. Blea-Nunez** – Have you had complaints from your neighbors about the rental situation? **Mr. Norvell** – No, there has not been any complaints.

**DISCUSSION:**

**Mr. Curry** – It's been going on for a very long time. I think the variance could be approved by adding a condition by stating that the variance could expire at such time that when the occupants no longer live there and also add a condition that the applicant shall submit a residential site plan within 90 days of approval.

**Ms. Dillon** – In our current state of needing affordable housing in our County, you cause a hardship to do away with those options.

**Ms. Blea-Nunez** – We have expected growth in the County and a shortage of affordable housing. The housing outweighs the character of the area. We need low cost housing in the County.

**Ms. Lucia-Treese** – I'm in agreement with **Ms. Nunez** and **Ms. Dillon**. I too share their concerns of lack of affordable housing in the County. As long as the homes are being maintained, I don't have a problem.

**Mr. Creely** – This has been going on for 30 years. To try to change this is not a good idea. The residential site plan is needed however.

**Mr. Trowbridge** – We need affordable housing in good shape. I have lived in a mobile home in bad shape, so I just want to encourage good maintenance and conditions for the renters.

**Mr. Curry** – Even if one believes affordable housing crisis exists, I don't believe ignoring housing requirements is the way to go.

**Mr. Bailey** – I am sympathetic and agree that we need to clean this up. The only challenge has been administrative. The County saw the need to bring it back, there was no neighbor complaints. I am inclined to let it continue. It's prudent to get the site plan and get a baseline to make sure we know what use is in place.

**Ms. Fuller** – If this was a new request, we just generally approve this? It sounds like they just got stuck in this issue. Do we need to address the removal of the homes when they wear out?

**Mr. Emmons** – The variance does not address removal of the homes. Whoever removes those will most likely have environment issues in that removal. The owner should be responsible for making sure that when these do wear out that the appropriate steps are made to remove them. If this came to you as a new application, you would be doing the same thing today. Look at the case made to you, look at compatibility of the area, understanding that it is not allowed in the zoning district, and listening to the applicant justify the need and if they have met the review criteria.

**Mr. Trowbridge** – In the summary, it states that it allows indefinitely. Is that a good idea or should we place a time limit. **Mr. Bailey** – My observations would be that when these wear out the owner will place something that is permitted in the zoning district. **Mr. Emmons** – While it may not be current practice, you do have the ability to add a time limitation as a condition.

**Ms. Brittain Jack** – I know there was some legislation regarding putting people out of their homes, do we have to consider that? **Mr. Emmons** – I would argue that that is not within the purview of your decision making. That is a private matter between the landlord and tenant.

**PC ACTION: LUCIA-TREESE MADE A MOTION/DILLON SECONDED TO APPROVE REGULAR ITEM #3 FOR VA-18-004 FOR A VARIANCE OF USE FOR 12843 PEYTON HWY UTILIZING RESOLUTION PAGE 51, MORE PARTICULARLY DESCRIBED ON PAGE 19-039 WITH THREE (3) CONDITIONS, WITH AN ADDED CONDITION THAT THE APPLICANT MUST SUBMIT A RESIDENTIAL SITE PLAN WITHIN 90 DAYS AND THREE (3) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF**



**COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-1) MR. CURRY WAS THE NAY VOTE.**

**4. ENGINEERING CRITERIA MANUAL (ECM) UPDATE REGARDING MAS4 PERMIT COMPLIANCE**

**Ms. Jennifer Irvine, El Paso County Engineer, and Mr. John Chavez, County Stormwater Manager** gave their presentation to the Planning Commission.

**Mr. Creely** – Are there any similarities with the City of Colorado Springs? **Ms. Irvine** – In relationship to our stormwater permit, the County is different than the City. The County has a Phase 2 Permit; the City has a Phase 1 Permit. We also have a different criteria manual. The County has rural development that the City doesn't really share. The character is much different in the County. The City is home rule and the County is under statutory guidance.

Phase 2 covers populations between 100,000 to 500,000 residents.

**Ms. Blea-Nunez** – Are all other Phase 2 agencies doing this and what does that look like for them? **Mr. Chavez** – there are other Phase 2 agencies doing this similar work. The County is more progressed than others. They are looking for our criteria to mimic or copy what we have done.

**Mr. Creely** – Talk to me about the number of inspectors needed and how you came about that number. **Mr. Chavez** – We completed a needs analysis looking at 80-85 active projects and compliance issues. Those projects will require inspections about every two weeks. We hired five inspectors and as of July 1 the inspections will be done through DPW and not through PCD. The inspection time depends on the size of the site and compliance.

**Ms. Blea-Nunez** – Can you define the urbanized areas of the County? **Mr. Chavez** – It's defined generally as Cimmaron Hills, Templeton Gap enclave, Security/Widefield area, and Falcon and Monument.

**Mr. Trowbridge** – What impact does this have on your staff? **Mr. Gebhart** – Doesn't really affect our staff. Our engineers will use these documents going forward. **Ms. Irvine** – One of the other components that we've coordinated with **Mr. Dossey** is in relationship to the stormwater quality and we will be hiring additional engineers who will specifically work with those stormwater inspectors and the PCD staff. EDARP will allow a seamless process for information exchange.

**IN FAVOR: NONE**

**IN OPPOSITION: NONE**

**DISCUSSION:**

**Mr. Curry** – I want to commend you on an excellent presentation. I look at the applications brought before us and look at the unintended consequences not often seen.

**Ms. Blea-Nunez** – Where will we likely in the future see this again? **Mr. Gebhart** – You won't know that you are seeing it, but it's being used as a resource of review for our staff. **Mr. Irvine** – Beyond the stormwater, we look at the ECM to evaluate additional changes that may be needed. We will be working on ADA items and small cell and right of way items. It's a work in progress that we plan to bring back to you for consideration.

**PC ACTION:** CURRY MADE A MOTION/BLEA-NUNEZ SECONDED TO APPROVE REGULAR ITEM #4 FOR THE ENGINEERING CRITERIA MANUAL (ECM) REVISIONS REGARDING THE MS4 PERMIT COMPLIANCE AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (7-0)

**5. El Paso County Master Plan – Informational Update – No Action Needed**

**Information regarding the survey and/or community meetings can be located at <https://elpaso-hlplanning.hub.arcgis.com/>**

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at [www.elpasoco.com](http://www.elpasoco.com) to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

VARIANCE OF USE (Approved)

Commissioner Lucia-Treese moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION**

**OF THE COUNTY OF EL PASO**

**STATE OF COLORADO**

**RESOLUTION NO. VA-18-004  
12843 Peyton Highway - Norvell**

WHEREAS, Rodney Norvell did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the Choose an item. zoning district to permit three (3) dwelling units on a single parcel where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on June 18, 2019; and

WHEREAS, based on the evidence, testimony, exhibits, 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 Planning Commission Members during the hearing, this Commission finds as follows:

1. That the application was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. That all exhibits were received into evidence.
5. That the proposed land use does not 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 the proposed variance of use conforms to Chapter 5, Use and Dimensional Standards, Section 5.3.4, Variance of Use, of the El Paso County Zoning Resolutions.

7. 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, and

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Planning Commission 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 that the application of Rodney Norvell for a variance of use within the RR-5 (Residential Rural) zoning district to permit three (3) dwelling units on a single parcel where such is not a permitted use for the following described unincorporated area of El Paso County be approved:

See Exhibit A

AND BE IT FURTHER RESOLVED that the Planning Commission recommends the following condition(s) and notation(s) shall be placed upon this recommendation:

**CONDITIONS**

- 1. Variance of use approval is limited to the dwelling units discussed and depicted in the applicant's letter of intent and site plan drawing on file.
- 2. The applicant must provide proof that the third mobile home has an approved onsite wastewater treatment system (OWTS) permit on file with the El Paso County Public Health Department and El Paso County Planning and Community Development. If the applicant cannot provide such proof, then a new permit for an OWTS shall be applied for and approved by El Paso County Public Health Department within 6 months of the date of approval of this variance request (VA-18-004).

**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.

AND BE IT FURTHER RESOLVED that this Resolution and recommendations be forwarded to the El Paso County Board of County Commissioners for its consideration.

Commissioner Dillon seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Lucia-Treese	aye
Commissioner Dillon	aye
Commissioner Creely	aye
Commissioner Bailey	aye
Commissioner Blea-Nunez	aye
Commissioner Trowbridge	aye
Commissioner Curry	nay

The Resolution was adopted by a vote of 6 to 1 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: June 18, 2019

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Brian Risley, Chair

## EXHIBIT A

Lot 2 Norvell subdivision, 12845 Peyton Highway Peyton Colorado. This consists of 10.4 acres and zoned RR-5.

RESOLUTION NO. 19-

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

APPROVE VARIANCE OF USE TO PERMIT NORVELL VARIANCE (VA-18-004)

WHEREAS, Rodney Norvell 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-5 (Residential Rural) zoning district to permit three (3) dwelling units on a single parcel 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 June 18, 2019, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use (VA-18-004); and

WHEREAS, a public hearing was held by this Board on July 9, 2019; 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 Rodney Norvell for a variance of use to allow three (3) dwelling units on a single parcel within the RR-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. Variance of use approval is limited to the dwelling units discussed and depicted in the applicant's letter of intent and site plan drawing on file.
2. The applicant must provide proof that the third mobile home has an approved onsite wastewater treatment system (OWTS) permit on file with the El Paso County Public Health Department and El Paso County Planning and Community Development. If the applicant cannot provide such proof, then a new permit for an OWTS shall be applied for and approved by El Paso County Public Health Department within 6 months of the date of approval of this variance request (VA-18-004).
3. The applicant must submit a residential site plan within 90 days of this approval.

**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.

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

DONE THIS 9th day of July, 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
County Clerk & Recorder

**EXHIBIT A**

Lot 2 Norvell subdivision, 12845 Peyton Highway Peyton Colorado. This consists of 10.4 acres and zoned RR-5.