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RESOLUTION NO. 19- 258

**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: EL PASO COUNTY
BY: Charles D. Broerman
County Clerk & Recorder

By: [Signature]
Chair

EXHIBIT A

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