

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

COMMISSIONERS:  
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STAN VANDERWERF  
CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO:** El Paso County Board of Adjustment  
Kevin Curry, Chair

**FROM:** Gabe Sevigny, Planner II  
Elizabeth Nijkamp, PE Engineer Review Manager  
Craig Dossey, Executive Director

**RE:** Project File #: APP-20-001  
Project Name: Circle A Minor Subdivision Administrative Relief  
Appeal Request  
Parcel No.: 5123000015

**OWNER:**

**REPRESENTATIVE:**

Andres Daniel B. Trust 17110 E Goshawk Road Colorado Springs, CO 80908	M&S Civil Consultants, Inc. 20 Boulder Crescent, Suite 110 Colorado Springs, CO 80903
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**Commissioner District: 1**

Board of Adjustment Hearing Date:	5/13/2020
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**EXECUTIVE SUMMARY**

A request by Daniel Andres to appeal the determination by the Planning and Community Development Department Executive Director to deny a request for approval of administrative relief to allow three (3) proposed lots with a minimum lot size of 4.95 acres where five (5) acres is required within the RR-5 (Residential Rural) zoning district. The 14.897 acre property is located on the east side Goshawk Road, approximately one-half (1/2) mile north of Hodgen Road.



## **A. REQUEST**

A request by Daniel Andres to appeal the determination by the Planning and Community Development Department Executive Director to deny a request for approval of administrative relief to allow three (3) proposed lots with a minimum lot size of 4.95 acres where five (5) acres is required within the RR-5 (Residential Rural) zoning district.

## **B. APPROVAL CRITERIA**

Section 5.5.2.B.1 of the Land Development Code, Appeal of Administrative Determinations or Decisions, states the following:

*The Board of Adjustment shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by the PCD pertaining to the application or enforcement, under this Code, of:*

- *A zoning district's development requirements or a use standard relating to physical dimension, structural location, or bulk limitation;*
- *Nonconforming building provisions;*
- *Nonconforming lot or parcel or merger by contiguity provisions;*
- *Parking and development requirements;*
- *Landscape requirements;*
- *On-premise signs (dimensional, location, and number requirements only) provisions, and off-premise sign separation distances;*
- *Distance separation requirements required for daycare applications;*
- *Appeal of an action regarding administrative relief;*
- *Determination of wildfire hazard or zoning district boundary;*
- *Any other matter appealable to the Board of Adjustment under the provisions of this Code.*

## **C. BACKGROUND**

### Parcel Creation

The parcel in question was created in 1965 by deed (Reception Number 95028057). This date predates the adoption of the subdivision regulations by the Board of County Commissioners on July 17, 1972. Based on this information, the parcel in question is a legal conforming lot. The legal description was used by the County Assessor to calculate the assessed value for tax purposes, and the County Assessor's website indicated the parcel in question to be fifteen (15) acres whereas the surveyed lot size is 14.867 acres. The applicant purchased the parcel in 1995 with that assumption of the parcel included fifteen (15) acres.

### Early Assistance Meeting

The applicant requested an early assistance meeting (PCD File No.: EA-18-46) for a proposed minor subdivision consisting of three (3) lots. The assumed acreage, based on the El Paso County Assessor's website, was fifteen (15) acres. The applicant was notified by staff during the early assistance meeting held on February 20, 2018 that verification of the acreage would be required prior to submission of the proposed minor subdivision as the minimum lot size in the RR-5 (Rural Residential) zoning district is five (5) acres.

### Minor Subdivision Application

The applicant submitted a minor subdivision application on September 9, 2019. The minor subdivision application included a final plat drawing depicting each of the three (3) proposed lots less than the minimum lot size requirement of five (5) acres in the RR-5 zoning district. The proposed lot sizes ranged from 4.95 acres to 4.96 acres. The minor subdivision application was not accepted. The applicant was advised by staff on September 9, 2019 that the proposed lots do not meet the minimum lot size requirement and that either the number of proposed lots would need to be reduced to two (2) lots or approval of administrative relief would be required prior to accepting the minor subdivision application.

### Administrative Relief

Section 5.5.1 of the Land Development Code (2019) provides an opportunity to seek administrative relief from strict compliance of certain dimensional standards. The purpose of this Section is to provide flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal or a minor problem arises with the strict application of development standards.

Section 5.5.1.B authorizes the PCD Executive Director to grant administrative relief to the requirements for lot area, side and rear setbacks, and height limitation. Administrative relief shall be for the purpose of relieving difficulties or hardships due to narrowness, shallowness, shape or topographic condition of a specific piece of property, or to provide limited flexibility to lot standards when it is determined that no substantial detriment to the public good nor harm to the general purpose and intent of the Code will be caused by the administrative relief granted.

Specifically, Section 5.5.1.B.1 of the Code allows the PCD Executive Director to only grant relief for a "maximum of a 20% reduction in lot area, setbacks

and lot width from the amount required in the zoning district in which the subject property is located...”

On September 24, 2019 a request for administrative relief to allow three (3) lots with a minimum lot size of 4.95 acres, where five (5) acres is required within the RR-5 (Residential Rural) zoning district, was submitted by the applicant. Below is staff’s analysis of how the administrative relief request compared to the review criteria for administrative relief:

- *The strict application of the standard in question is unreasonable or unnecessary given the development proposal or the measures proposed by the applicant; or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district;*

The strict application of the standard in question (lot area) is not unreasonable as the applicant could still apply for an approval of a subdivision application consisting of two (2) lots. The surveyed lot size is 14.867 acres, which, if approved, would allow for 2 lots greater than 5 acres.

- *The intent of the Code and the specific regulation in question is preserved;*

Under the current proposal, the intent of the Code and the specific regulation (lot area) would not be preserved as each lot would be below the five (5) acre minimum.

- *The granting of the administrative relief will not result in an adverse impact on surrounding properties; and*

Granting the administrative relief may result in an adverse impact on surrounding properties pursuant to comments received from the Upper Black Squirrel Creek Groundwater Management District (UBSCGWMD). The District was sent a referral and responded in opposition to the administrative relief request with the following comment:

“The Upper Black Squirrel Creek Ground Water Management does not agree with parcels less than 5 acres because of the finite resources in the Basin. The

District encourages the uses of municipal water and wastewater systems, as opposed to the use of individual wells and septic systems in any proposed subdivision consisting of three or more lots, in order to minimize the possibility of contamination of the alluvial aquifer and to protect the already over-appropriated ground water resources of the Upper Black Squirrel Creek Designated Ground Water Basin.”

- *The granting of the administrative relief will not allow an increase in the number of dwelling units on a parcel.*

Without approval of the administrative relief, the proposed subdivision would be limited to two (2) lots. If the PCD Executive Director approved the request it would have allowed three (3) dwelling units, which would be in direct conflict with the criteria.

On October 28, 2019, the Planning and Community Development Department (PCD) Executive Director denied the request for administrative relief to allow three (3) proposed lots with a minimum lot size of 4.95 acres where five (5) acres is required within the RR-5 (Residential Rural) zoning district. The decision to deny the request for administrative relief was based upon the request not meeting all of the review criteria as analyzed above. The burden of proof is on the applicant to show that the decision by the PCD Executive Director to deny the administrative relief request was in error.

#### Appeal

Sarah M. Frear, on behalf of Daniel Andres, submitted an initial request for an appeal of the denial of the administrative relief on April 7, 2020. The attached “Appeal of Administrative Decision” letter dated April 13, 2020 was re-submitted by the applicant after initial review by staff and it provides additional background and justification for the requested appeal. The burden of proof is on the applicant to establish that the denial made by the PCD Executive Director was in error.

Within the attached “Appeal of Administrative Decision” letter, the applicant states that the owner assumed the acreage to be fifteen (15) acres as it was assessed, and the error was only discovered with the proposed minor subdivision application and modern surveying techniques.

**D. ALTERNATIVES EXPLORED**

There are three alternatives that would not require a dimensional variance request:

- 1. The applicant could not request approval of a minor subdivision.
- 2. The applicant could request approval of a minor subdivision of two (2) lots meeting the minimum lot size requirement of five (5) acres.
- 3. The applicant could withdraw the appeal request and work with PCD staff to process a request for approval of a dimensional variance from the Board of Adjustment.

**E. APPLICABLE RESOLUTIONS**

Approval: see attached

Disapproval: see attached

**F. LOCATION**

North: RR-5 (Residential Rural)	Single Family Residential
South: RR-5 (Residential Rural)	Single Family Residential
East: RR-5 (Residential Rural)	Single Family Residential
West: RR-5 (Residential Rural)	Single Family Residential

**G. SERVICE**

**1. WATER**

Water for the existing dwelling is provided by an individual well. The additional proposed lots that are the subject of this appeal request are also proposed to be served by individual wells.

**2. WASTEWATER**

Wastewater for the existing dwelling is provided by an onsite wastewater treatment system. The additional lots that are the subject of this appeal request are also proposed to be served by individual onsite wastewater treatment systems.

**3. EMERGENCY SERVICES**

The parcel is located within the Falcon Fire Protection District. The District was sent a referral for the appeal and has the following comment:

“Falcon Fire has no objections for this minor subdivision request.”

## **H. ENGINEERING**

### **1. FLOODPLAIN**

The site is not located within a defined floodplain as determined by staff following a review of the FEMA Flood Insurance Rate Map Panel No. 08041C0325.

### **2. DRAINAGE AND EROSION**

A drainage report was not required for the administrative relief application or the appeal. A drainage report may be required with the proposed minor subdivision application.

### **3. TRANSPORTATION**

The property is accessed from East Goshawk Road. A traffic impact study was not required as both the administrative relief application and the minor subdivision the applications meet the criteria established in the Engineer Criteria Manual Section B.1.2.D for no traffic impact study required.

## **I. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 10 adjoining property owners on April 20, 2020 for the Board of Adjustment meeting. Responses will be provided at the hearing.

## **J. ATTACHMENTS**

Vicinity Map

Administrative Relief Denial Letter (ADR-19-019)

Appeal Letter

Neighbor Support Letters

Board of Adjustment Resolution for Approval

Board of Adjustment Resolution for Denial

# El Paso County Parcel Information

File Name: APP-20-001

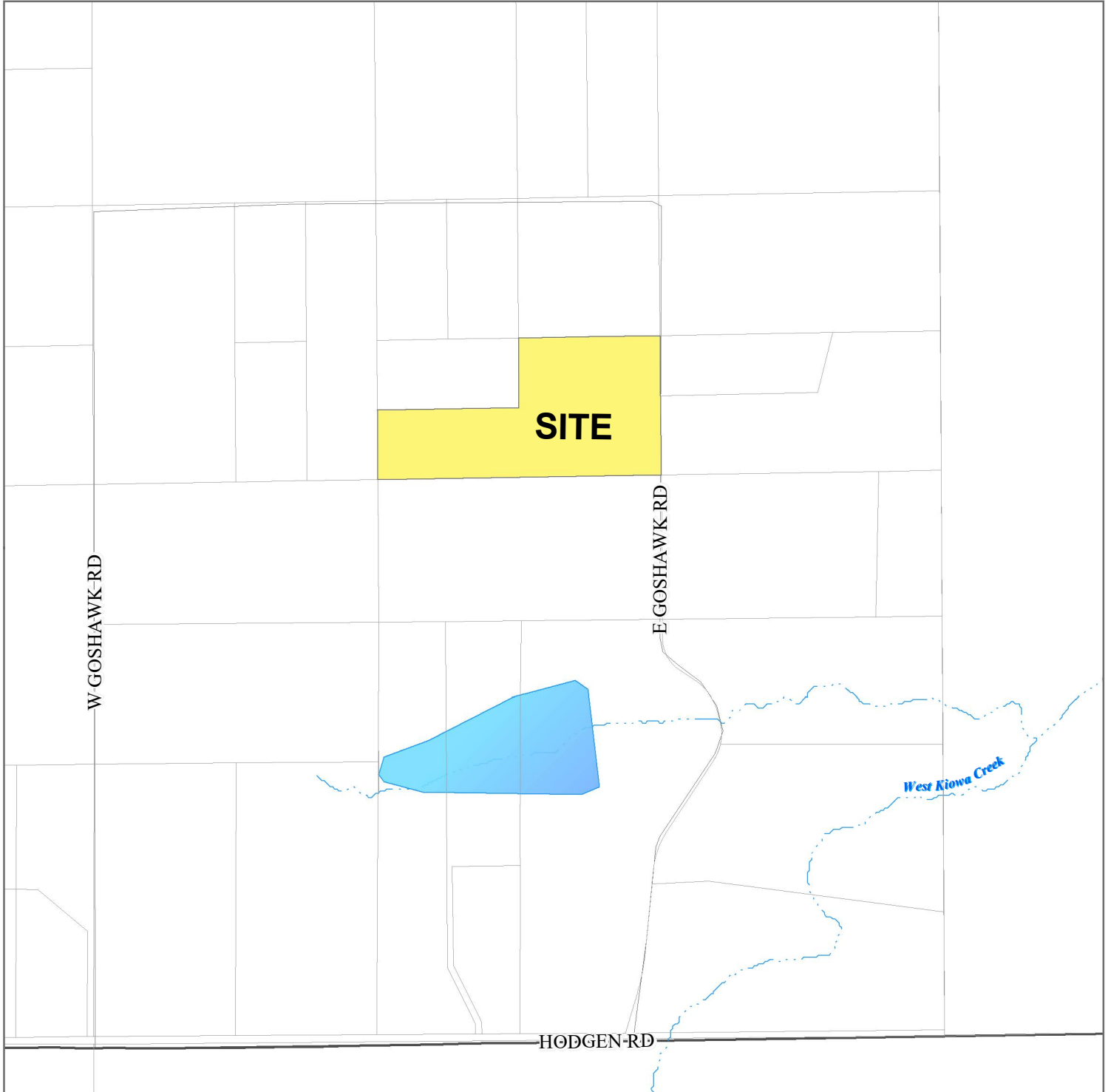
PARCEL	NAME
5123000015	ANDRES DANIEL B TRUST

Zone Map No. --

ADDRESS	CITY	STATE
17110 GOSHAWK RD E	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80908	1628

Date: April 14, 2020



Please report any parcel discrepancies to:  
 El Paso County Assessor  
 1675 W. Garden of the Gods Rd.  
 Colorado Springs, CO 80907  
 (919) 520-6600



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

October 31, 2019

RE: 17110 E Goshawk Road - A request for Administrative Relief for a proposed subdivision that will consist of three lots less than 5 acres; proposed Lot 1 is 4.957 acres, proposed Lot 2 is 4.960 acres, and proposed Lot 3 is 4.950 acres.

File: ADR-19-019  
Parcel ID No.: 5123000015

This is to inform you that the above referenced request for approval of an application for administrative relief to allow a lot size of proposed Lot 1 equaling 4.957 acres, proposed Lot 2 equaling 4.960 acres, and proposed Lot 3 equaling 4.950 acres where 5 acres is the minimum lot size within the RR-5 (Residential Rural) zoning district was **not approved** by the Planning and Community Development Director on October 28, 2019.

It is the determination and finding of the Planning and Community Development Department (PCD) Director that the application does not meet the review criteria for Administrative Relief included in Section 5.5.1 of the El Paso County Land Development Code (2019).

**Appeal**

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by the PCD pertaining to the application or enforcement of an action regarding administrative relief per Section 5.5.2.B.1 of the Land Development Code (2019). Should the applicant decide to appeal the denial of the Administrative Relief application, the applicant is required to submit a separate application with an accompanying fee of \$887.00 to the El Paso County Planning and Community Development Department.

Should you have any questions, please contact Gabe Sevigny at (719)520-7943.



Sincerely,

A handwritten signature in black ink, appearing to read "Craig Dossey". The signature is fluid and cursive, with the first name "Craig" and last name "Dossey" clearly distinguishable.

Craig Dossey, Executive Director  
El Paso County Planning and Community Development Department  
File: ADR-19-019

# Mulliken Weiner Berg & Jolivet P.C.

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Sara M. Frear  
Jessamyn L. Jones  
Eleanor D. Kasper

Of Counsel:  
Janet K. Williams

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SFrear@mullikenlaw.com

April 13, 2020

El Paso County Board of Adjustment  
2880 International Circle  
Colorado Springs, CO 80910

Re: Appeal of Administrative Decision  
ADR-19-019  
Parcel ID No. 51230-00-015

Dear Members of Board:

Please accept this letter as attached to and made a part of the Application for Appeal of Administrative Decision dated October 28, 2019 related to file ADR-19-019 and El Paso County Assessor Parcel ID No. 51230-00-015.

## **HISTORY OF PROJECT**

This project is in front of the Board on an appeal of an administrative decision to not approve an application for administrative relief to allow lot sizes of less than 5 acres. The Circle A Subdivision Filing No. 1 map ("Subdivision") was originally submitted as a minor subdivision of the entirety of El Paso County Assessor Parcel ID No. 51230-00-015 (the "Property") into three lots. While historically assessed as a 15 acre parcel, the Property has recently been measured with modern surveying methods as 14.867 acres. The Subdivision was submitted to subdivide the Property into Lot 1, 4.957 acres, Lot 2, 4.960 acres, and Lot 3, 4.950 acres. The Property is zoned RR-5.

## **RELIEF REQUESTED**

The property owner, Mr. Daniel Andres, trustee of the Daniel B. Andres Trust ("Mr. Andres"), is requesting approval of the application for administrative relief to allow lot sizes of less than 5 acres on the Circle A Subdivision Filing No. 1 Map. If this appeal is approved, Mr. Andres requests to submit a minor subdivision application subdividing the Property into Lot 1, 4.957 acres, Lot 2, 4.960 acres, and Lot 3, 4.950 acres.

# Mulliken Weiner Berg & Jolivet P.C.

El Paso County Board of Adjustment  
April 13, 2020  
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## STATEMENTS IN SUPPORT

The Property is currently assessed as one 15 acre parcel, and has been since at least 1965. Andres was deeded the property in 1995 has paid taxes since that time on the assumption the 15 acre designation was correct. The Property has historically been described in the real property records of the County as **the South Half of the South Half of the Southwest Quarter of the Northeast Quarter and the North Half of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter in Section 23, Township 11 South, Range 65 West, in El Paso County, Colorado**. Following the traditional aliquot description and the assumption a section is 640 acres, the above description equates to 15 acres. It wasn't until Mr. Andres began the subdivision process, as he wished to create two additional lots for his two children to build homes for their families, and modern surveying techniques were employed to map the Property and to locate the monumented corners, that it was discovered the Property is actually 14.867 acres.

The lot size variances of Lot 1, Lot 2 and Lot 3 from the RR-5 zoning requirement of 5 acres are insignificant and negligible when viewed in context. The largest variance is 0.050 of an acre, or 2,178 square feet. The smallest of the proposed lots is 215,622 square feet, or 99% of the zoning requirement of 217,800 square feet.

Mr. Andres has reached out to his adjoining neighbors in an attempt to purchase 0.133 acres, but none of neighbors were interested in selling. While his neighbors were not interested in selling a portion of their properties, Mr. Andres was able to obtain letters from most of his neighbors stating they do not oppose the Subdivision. Letters from the following neighbors are attached to this application:

1. Brian Neff, 16995 E. Goshawk Road
2. Daniel & Mandy Weber, 17075 E. Goshawk Road
3. Arvin Loudermilk, Trustee, 17115 and 17165 E. Goshawk Road
4. Kenneth & Tanya Vigil, 17250 E. Goshawk Road
5. Brandy Gilcrease, 17320 E. Goshawk Road
6. Matthew & Donna Royal, 17410 E. Goshawk Road

While we appreciate that if the requested relief is granted, Mr. Andres will be able to submit a minor subdivision application for three saleable lots, please know Mr. Andres' goal is not to subdivide and sell lots to strangers. Rather, his goal is to create one lot for his own home and one lot for each of his children, to allow them to build homes for their families which will be served by individually permitted wells, service from MVEA and all buildings properly permitted through PPRBD.

# Mulliken Weiner Berg & Jolivet P.C.

El Paso County Board of Adjustment  
April 13, 2020  
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## CONCLUSION

Section 5.5.2 (B) (1) of the El Paso County, Colorado Land Development Code allows the Board of Adjustment to hear and decide appeals where it is alleged there is an error in a decision made by the Planning and Community Development Department. For the reasons set forth above, Mr. Andres believes the strict application of the 5 acre minimum lot size for the proposed Subdivision results in peculiar and exceptional practical difficulties and exceptional and undue hardships upon him, and that the denial of his request for approval of an application for administrative relief was in error.

Pursuant to Section 5.5.2 (B) (2) (a) of the El Paso County, Colorado Land Development Code, the Board of Adjustment is authorized to grant a variance from the strict application of any physical requirement of the Code "... based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and ... [t]he variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as reasonably equivalent substitute for current zoning requirements...."

In support of this Appeal, Mr. Andres puts forward that the Board's approval of this request is equitable in light of his particular parcel and the proposed Subdivision plan serves as a reasonably equivalent substitute for the current zoning requirements. The requested variance would not be detrimental to anyone and these unique circumstances compel that strict application of the requirement of the Code not be required.

Sincerely,



Sara M. Frear

SMF:af

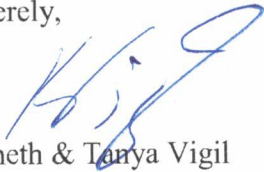
Dated: 3-15-20

To whom it may concern:

We are neighbors of Daniel Andres who resides at 17110 E. Goshawk Road. We are aware Mr. Andres is applying to subdivide his property into three lots, with the existing house on one lot and two additional houses to be constructed each on a separate lot. We understand that Mr. Andres' parcel is somewhat smaller than 15 acres, so each of the three new parcels will be slightly smaller than 5 acres.

We have no objection to the new three parcel subdivision and the construction of two additional houses on the Andres parcel.

Sincerely,

A handwritten signature in blue ink, appearing to read "KV", is written over the word "Sincerely,".

Kenneth & Tanya Vigil  
17250 E. Goshawk Rd  
Colorado Springs, CO 80908

Dated: 11 Mar 20

To whom it may concern:

We are neighbors of Daniel Andres who resides at 17110 E. Goshawk Road. We are aware Mr. Andres is applying to subdivide his property into three lots, with the existing house on one lot and two additional houses to be constructed each on a separate lot. We understand that Mr. Andres' parcel is somewhat smaller than 15 acres, so each of the three new parcels will be slightly smaller than 5 acres.

We have no objection to the new three parcel subdivision and the construction of two additional houses on the Andres parcel.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew & Donna Royal". The signature is fluid and cursive, with a large loop at the end.

Matthew & Donna Royal  
17410 E. Goshawk Rd  
Colorado Springs, CO 80908

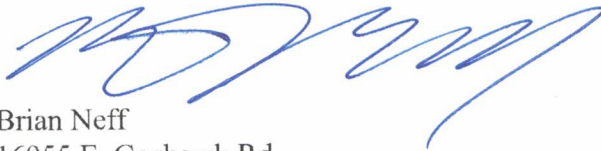
Dated: 3 March 2020

To whom it may concern:

I am a neighbor of Daniel Andres who resides at 17110 E. Goshawk Road. I am aware Mr. Andres is applying to subdivide his property into three lots, with the existing house on one lot and two additional houses to be constructed each on a separate lot. I understand that Mr. Andres' parcel is somewhat smaller than 15 acres, so each of the three new parcels will be slightly smaller than 5 acres.

I have no objection to the new three parcel subdivision and the construction of two additional houses on the Andres parcel.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brian Neff', written in a cursive style.

Brian Neff  
16955 E. Goshawk Rd  
Colorado Springs, CO 80908



Dated: 2/22/20

To whom it may concern:

I am a neighbor of Daniel Andres who resides at 17110 E. Goshawk Road. I am aware Mr. Andres is applying to subdivide his property into three lots, with the existing house on one lot and two additional houses to be constructed each on a separate lot. I understand that Mr. Andres' parcel is somewhat smaller than 15 acres, so each of the three new parcels will be slightly smaller than 5 acres.

I have no objection to the new three parcel subdivision and the construction of two additional houses on the Andres parcel.

Sincerely,



Arvin Loudermilk, Trustee  
17115 & 17165 E. Goshawk Rd  
Colorado Springs, CO 80908

Dated: 2/29/20 <sup>BJ</sup>

To whom it may concern:

I am a neighbor of Daniel Andres who resides at 17110 E. Goshawk Road. I am aware Mr. Andres is applying to subdivide his property into three lots, with the existing house on one lot and two additional houses to be constructed each on a separate lot. I understand that Mr. Andres' parcel is somewhat smaller than 15 acres, so each of the three new parcels will be slightly smaller than 5 acres.

I have no objection to the new three parcel subdivision and the construction of two additional houses on the Andres parcel.

Sincerely,



Brandy Gilcrease  
17320 E. Goshawk Rd  
Colorado Springs, CO 80908

Dated: 2 Mar 20

To whom it may concern:

We are neighbors of Daniel Andres who resides at 17110 E. Goshawk Road. We are aware Mr. Andres is applying to subdivide his property into three lots, with the existing house on one lot and two additional houses to be constructed each on a separate lot. We understand that Mr. Andres' parcel is somewhat smaller than 15 acres, so each of the three new parcels will be slightly smaller than 5 acres.

We have no objection to the new three parcel subdivision and the construction of two additional houses on the Andres parcel.

Sincerely,



Daniel & Mandy Weber  
17075 E. Goshawk Rd  
Colorado Springs, Co 80908

\_\_\_\_\_ moved that the following Resolution be adopted:

**BEFORE THE BOARD OF ADJUSTMENT  
OF THE COUNTY OF EL PASO  
STATE OF COLORADO  
RESOLUTION NO. BOA-\_\_\_\_\_**

**Resolution Approving an Appeal by Daniel Andres (APP-20-001) of the Denial of the Application for Administrative Relief for lot area by the Planning and Community Development Department Executive Director.**

WHEREAS, Daniel Andres (the “Applicant”) has requested an appeal from a denial of administrative relief for lot area located at 17110 E Goshawk Road in the RR-5 (Residential Rural) zone district, which property is identified by El Paso County Tax Schedule No. 5123000015 and is legally described as follows:

**South Half of the South Half of the Southwest Quarter of the Northeast Quarter and the North Half of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter in Section 23, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M. County of El Paso, Colorado.**

WHEREAS, the subject property is within the unincorporated area of El Paso County, Colorado; and

WHEREAS, the Board of Adjustment is vested with the power to approve or deny such appeals by virtue of Section 5.5.2 of the El Paso County Land Development Code and Sections 30-28-117 and -118, C.R.S., specifically, Section 30-28-118(2)(a), C.R.S.; and

WHEREAS, Daniel Andres submitted a request for administrative relief (ADR-19-019) for lot area for a proposed subdivision consisting of proposed Lot 1 equaling 4.957 acres, proposed Lot 2 equaling 4.960 acres, and proposed Lot 3 equaling 4.950 acres where 5 acres is the minimum lot size within the RR-5 (Residential Rural) zoning district; and

WHEREAS, it was the determination and finding of the Planning and Community Development Department (PCD) Director that the application did not meet the review criteria for Administrative Relief included in Section 5.5.1 of the El Paso County Land Development Code (2019); and

WHEREAS, the Planning and Community Development Department notified Daniel Andres on October 31, 2019 of the denial of the administrative relief request; and

WHEREAS, based on the evidence presented, the Board of Adjustment makes the following findings:

1. Proper notice procedures, including the notification of all adjoining property owners, have been completed by the Planning and Community Development Department.

2. The appeal was timely submitted for consideration by the Board of Adjustment.
3. The appeal hearing before the Board of Adjustment was extensive and complete; all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at the hearing.
4. The requested appeal by the Applicant of the Executive Director's denial of an administrative relief (ADR-19-019) application did satisfy the criteria for the Board of Adjustment to overturn the Executive Director's decision.
5. The burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the subject property.

NOW, THEREFORE, BE IT RESOLVED that the request for an appeal of a denial for administrative relief for lot area as more fully described above is hereby approved:

**RECOMMENDED CONDITIONS OF APPROVAL**

1. Any future proposed development of the subject parcels will require approval of a final plat, and the final plat must be recorded prior to initiating any land disturbing activities.

WARNING: Any violation of the terms of this resolution may result in rehearing and possible revocation.

\_\_\_\_\_ seconded the adoption of the foregoing Resolution. The roll having been called, the vote was as follows:

The Resolution was adopted by a vote of \_\_\_\_\_ by the Board of Adjustment of the County of El Paso, State of Colorado.

DATED:

\_\_\_\_\_ moved that the following Resolution be adopted:

**BEFORE THE BOARD OF ADJUSTMENT**

**OF THE COUNTY OF EL PASO**

**STATE OF COLORADO**

**RESOLUTION NO. BOA-\_\_\_\_\_**

**Resolution Denying an Appeal by Daniel Andres (APP-20-001) of the Denial of the Application for Administrative Relief for lot area by the Planning and Community Development Department Executive Director.**

WHEREAS, Daniel Andres (the “Applicant”) has requested an appeal from a denial of administrative relief for lot area located at 17110 E Goshawk Road in the RR-5 (Residential Rural) zone district, which property is identified by El Paso County Tax Schedule No. 5123000015 and is legally described as follows:

**South Half of the South Half of the Southwest Quarter of the Northeast Quarter and the North Half of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter in Section 23, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M. County of El Paso, Colorado.**

WHEREAS, the subject property is within the unincorporated area of El Paso County, Colorado; and

WHEREAS, the Board of Adjustment is vested with the power to approve or deny such appeals by virtue of Section 5.5.2 of the El Paso County Land Development Code and Sections 30-28-117 and -118, C.R.S., specifically, Section 30-28-118(2)(a), C.R.S.; and

WHEREAS, Daniel Andres submitted a request for administrative relief (ADR-19-019) for lot area for a proposed subdivision consisting of proposed Lot 1 equaling 4.957 acres, proposed Lot 2 equaling 4.960 acres, and proposed Lot 3 equaling 4.950 acres where 5 acres is the minimum lot size within the RR-5 (Residential Rural) zoning district; and

WHEREAS, it was the determination and finding of the Planning and Community Development Department (PCD) Director that the application did not meet the review criteria for Administrative Relief included in Section 5.5.1 of the El Paso County Land Development Code (2019); and

WHEREAS, the Planning and Community Development Department notified Daniel Andres on October 31, 2019 of the denial of the administrative relief request; and

WHEREAS, based on the evidence presented, the Board of Adjustment makes the following findings:

1. Proper notice procedures, including the notification of all adjoining property owners, has been shown by the Planning and Community Development Department.
2. The appeal was timely submitted for consideration by the Board of Adjustment.
3. The appeal hearing before the Board of Adjustment was extensive and complete; all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at the hearing.
4. The requested appeal by the Applicant of the Executive Director's denial of an administrative relief (ADR-19-019) application did not satisfy the criteria to overturn the Executive Director's decision.
5. The burdens of strict compliance with the zoning requirement(s) do not significantly exceed the benefits of such compliance for the specific piece of property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Adjustment of El Paso County, Colorado, hereby denies the appeal by Daniel Andres, of the denial of an administrative relief (ADR-19-019) application by the Executive Director of the Planning and Community Development Department and upholds the conclusion that an approval would increase the number of dwelling units on a parcel that is not allowed under the zoning district.

\_\_\_\_\_ seconded the adoption of the foregoing Resolution.

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

(vote)

The Resolution was adopted by a vote of \_\_\_\_\_ by the Board of Adjustment of the County of El Paso, State of Colorado.

DATED: