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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

FROM: Lindsay Darden, Planner II
Elizabeth Nijkamp, PE Engineer Review Manager
Craig Dossey, Executive Director

RE: Project File #: BOA-19-009
Project Name: 5210 Sapphire Drive Accessory Structure
Parcel No.: 63231-07-021

OWNER:	REPRESENTATIVE:
Jason Texer 5210 Sapphire Drive Colorado Springs, CO 80918	N/A

Commissioner District: 5

Board of Adjustment Hearing Date:	2/12/2020
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EXECUTIVE SUMMARY

A request by Jason Texer for approval of a dimensional variance to allow a 2,100 square foot accessory building in the RR-0.5 (Residential Rural) zoning district. The accessory structure will be used to store personal vehicles, items related to the applicant's residential home occupation of a carpet cleaning business, and other miscellaneous personal items. The El Paso County Land Development Code (2019) specifies that the building footprint of residential accessory structures shall not exceed the building footprint of the principal use (dwelling) to which they are subordinate. The building footprint of the single-family dwelling and attached garage is 1,384 square feet, therefore, the accessory structure is limited to 1,384 square feet. The 22,800 square foot lot, which is known as Lot 18, Block 7 of the Park Vista Estates Addition, is located on the west side of Sapphire Drive, approximately 397 feet north of the intersection of Sapphire Drive and Ruby Drive.



A. REQUEST

A request by Jason Texer for approval of a dimensional variance to allow a 2,100 square foot accessory building, which exceeds the building footprint of the principle use, which is 1,384 square feet.

B. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2019), states the following:

The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to:

- 1) *The exceptional narrowness, shallowness, or shape of the specific piece of property.*

The lot is not restricted due to exceptional narrowness, shallowness, or shape of the property.

- 2) *The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.*

No portion of the lot is encumbered by slopes exceeding 30% or containing the 100-year FEMA floodplain. There is a natural drainage path for stormwater over and through the property. However, the natural drainage pattern does not create an extraordinary situation that would result in a hardship. The lot is not restricted due to exceptional topographic conditions or other extraordinary or exceptional situation.

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Code continues by stating the following:

The Board of Adjustment may also grant variances from the strict application of any physical requirement of this 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;

- *The variance provides only reasonably brief, temporary relief; or*

This variance request, if approved, would provide permanent dimensional relief.

- *The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or*

The variance request does not include an alternative plan, standards or conditions that mitigate impacts or serve as a reasonably equivalent substitute for current zoning requirements.

- *Some other unique or equitable consideration compels that strict compliance is not required.*

The primary structure is a three-level 2,280 square foot home with a building footprint of 1,384 square foot at grade, which includes an attached 400 square foot garage. Section 5.2.1K of the Code specifies:

“Square Footage of Accessory Structure and Use Limited. The building footprint of accessory structures and accessory uses in all residential zoning districts shall not exceed the building footprint of the primary use (residence) to which they are subordinate, with the following exceptions:

- When the lot or parcel is 2.5 acres or greater the accessory structure building footprint may not exceed two (2) times the size of the building footprint of the primary use (residence).
- Structures and accessory uses classified as agricultural are exempt from the square footage limitation.
- Accessory structures on lots or parcels 35 acres or greater are exempt from the square footage limitation”

The subject parcel is 22,800 square feet in size and is not proposed to be utilized for agricultural purposes, therefore, the proposed accessory structure shall not exceed the size of the building footprint of the primary use. The applicant has indicated that the proposed building has already been purchased and there is no ability to modify the size.

There is a responsibility for property owners to complete due diligence prior to purchasing or erecting structures to ensure that they meet the criteria from the Land Development Code and any other applicable requirements. If the applicant had completed the necessary due diligence prior to purchase, they would have been informed that the proposed building does not comply with the size limitations for accessory structures within the Code. Staff does not believe that this meets the criteria for a hardship based on unique or equitable circumstances.

C. BACKGROUND

The 22,800 square foot parcel was created on December 5, 1956, and is known as Lot 18, Block 7 of the Park Vista Estates Addition subdivision. The property was initially zoned on May 11, 1942 and is located within the RR-0.5 (Rural Residential) zoning district. The single-family dwelling was constructed in 1979. The property owner is proposing a 2,100 square foot accessory structure which, as discussed above, requires approval of a dimensional variance from the Board of Adjustment prior to approval of a residential site plan and authorization of a building permit. The applicant proposes to utilize a portion of the proposed accessory structure for storage of items related to his residential home occupation of a carpet cleaning business. The residential home occupation meets the criteria outlined in Section 5.2.29.A of the Land Development Code and is, therefore, a permitted accessory use.

D. ALTERNATIVES EXPLORED

There are six (6) alternative options identified for the applicant that would not require approval of a dimensional variance request:

1. Permit and construct a smaller accessory structure (1,384 square feet) that complies with the Code requirements.
2. Construct multiple accessory structures which individually do not exceed the footprint of the single-family dwelling but result in the same cumulative square footage.
3. Apply for administrative relief, which could allow an accessory structure up to 1,660 square feet.
4. Enlarge the principle use (residence), which would allow for a corresponding increase in the size of the accessory structure.
5. Permit and construct an attached garage that complies with the setbacks of the RR-0.5 zoning district.
6. The applicant could secure offsite storage for all, or some of their items, thus negating the need for an accessory structure or an accessory structure of such size that exceeds the Code requirements.

E. APPLICABLE RESOLUTIONS

Approval: Resolution 3 – Unique and Equitable Circumstances
Disapproval: Resolution 4

F. LOCATION

North: RR-0.5 (Residential Rural)	Single-family residential
South: RR-0.5 (Residential Rural)	Single-family residential
East: RR-0.5 (Residential Rural)	Single-family residential
West: RR-0.5 (Residential Rural)	Single-family residential

G. SERVICE

1. WATER

Water service is provided by Colorado Springs Utilities.

2. WASTEWATER

Wastewater service is provided by an onsite wastewater treatment system (OWTS).

3. EMERGENCY SERVICES

The parcel is not located within a fire protection district. The El Paso County Sheriff's Office was sent a referral and did not respond to the request.

H. ENGINEERING

1. FLOODPLAIN

The site is not located within a defined floodplain as determined from staff's review of the FEMA Flood Insurance Rate Map Panel No. 0804100536G, dated December 7, 2018.

2. DRAINAGE AND EROSION

This property is located within the Templeton Gap Drainage Basin (FOMO1200). There are no drainage basin planning study improvements associated with this project. No platting action is being requested; therefore, no drainage fees are due at this time.

This site generally drains to the south-west. Stormwater runoff will continue to drain overland through adjacent private properties. Mitigation is shown on the site plan to minimize the direct connection of impervious areas and minimize any potential adverse impacts to the downstream properties.

3. TRANSPORTATION

The property is accessed via Sapphire Drive. A traffic study was not required due to the fact that the dimensional variance is not expected to result in an increase in the daily vehicle trips that the property would be expected to generate without the approval of the dimensional variance. No public roadway improvements will be required. An access permit will be required for this site.

I. RECOMMENDED CONDITIONS OF APPROVAL

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a dimensional variance for an accessory structure size that exceeds the square footage allowed by the Code, and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notation of approval:

Conditions

1. The approval applies only to the plans as submitted. Any expansion or additions to the proposed detached garage or to the existing dwelling may

require separate Board of Adjustment application(s) and approval(s) if the requirements of the applicable zoning district cannot be met.

2. Approval of a residential site plan by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department is required prior to construction of detached garage.
3. As stated in the letter of intent, the property owner proposes to store items related to the property owner's business in the accessory structure, therefore, compliance with regulations of Land Development Code Section 2.2.29(A) Residential Home Occupation shall be required.

Notation

1. Physical variances approved for a proposed structure (except for lot area variances) are valid only if construction of the structure is initiated within twelve (12) months of the date of the Board of Adjustment approval.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on January 15, 2019, for the Board of Adjustment hearing. Responses received are attached; others may be provided at the hearing.

K. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Adjacent Property Owner Responses

El Paso County Parcel Information

File Name: BOA-19-009

Zone Map No. --

PARCEL	NAME
6323107021	TEXER JASON J

ADDRESS	CITY	STATE
5210 SAPPHIRE DR	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80918	5050

Date: December 18, 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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Letter of intent

Jason J Texer
5210 Sapphire Dr. Colorado Springs, Colorado 80918

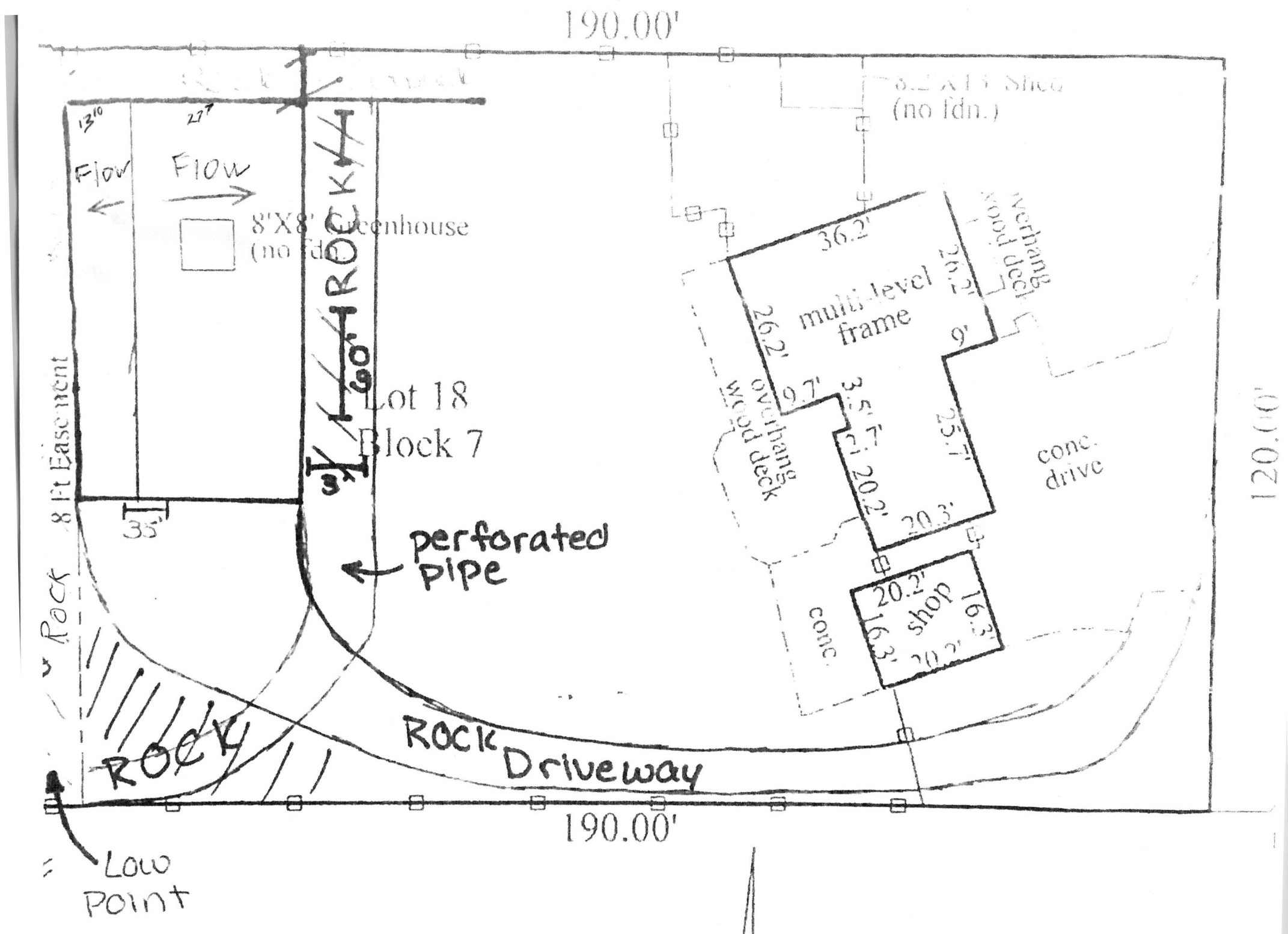
Site location: Lot 18, Blk 7 Park Vista Estates ADD

Size: ½ acher

Zoning: county

Request: I am requesting a 35 by 60 garage for my business, my hobbies, and my kid's and I's vehicles. That will include many woodworking tools, two business vans with cleaning supplies inside of them, and possibly a large motorhome in the future. It is larger than the main footprint of the main level of the house because my main footprint is smaller partially because there are three levels. It fits the area too. There are many properties in the area have large garages like the one i would like to build.

Proposed facilities: I am putting a bathroom in the garage that will be connected to the existing septic tank. I am also putting a rock drive along the southside of the property to the garage.



EL PASO COUNTY

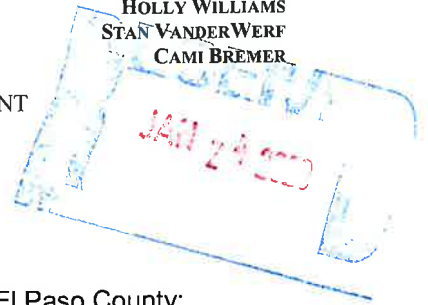


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January 15, 2020

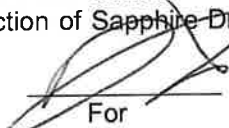
This letter is to inform you of the following petition which has been submitted to El Paso County:

BOA-19-009

DARDEN

**BOARD OF ADJUSTMENT
 5210 SAPPHIRE DRIVE**

A request by Jason Texer for approval of a dimensional variance to allow a 2,100 square foot accessory building in the RR-0.5 (Residential Rural) zoning district. For lots that are smaller than 2.5 acres, the El Paso County Land Development Code (2019) specifies that the accessory structure footprint shall not exceed the size of the building footprint of the primary use. In this case the primary use is a 1,344 square foot single family home with a building footprint of 984 square feet. The 22,800 square foot parcel is located within the Park Vista Estates Subdivision on the west side of Sapphire Drive approximately 397 feet north of the intersection of Sapphire Drive and Ruby Drive. (Parcel No. 63231-07-021) (Commissioner District No. 5)

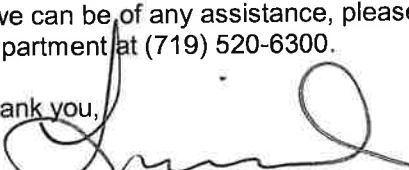
 _____ For	_____ Against	_____ No Opinion
Comments: <u>I won't even see it from my house</u>		

(FOR ADDITIONAL COMMENTS, PLEASE ATTACH ANOTHER SHEET.)

This item is scheduled to be heard by the El Paso County Board of Adjustment on Wednesday, February 12, 2020. The meeting begins at 9:00 A.M. and will be conducted in the Second Floor Hearing Room of the Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, Colorado. You are welcome to appear in person at the hearing to further express your opinion on this matter.

The online submittal portal can be found at: www.epcdevplanreview.com

If we can be of any assistance, please contact me at the Planning and Community Development Department at (719) 520-6300.

Thank you,

 Lindsay Darden, Planner II

Your Name: DAVE HARMON
(printed)

Address: 5205 Sapphire dr 80918
(signature)

Property Location: 5205 Sapphire Phone 719 499 0381

2880 INTERNATIONAL CIRCLE, SUITE 110
 PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
 FAX: (719) 520-6695

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January 15, 2020

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For

Against

No Opinion

Comments:

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Thank you,

Lindsay Darden, Planner II

Your Name: BILL OFFUTT Bill Offutt
(printed) (signature)
Address: 5230 SAPPHIRE DR C/S CO 80918
Property Location: NEXT DOOR NORTH SIDE Phone 719-337-9719

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

WWW.ELPASOCO.COM