


EL PASO COUNTY
COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Planning Commission
 Brian Risley, Chair

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

RE: Project File #: AL-19-026
 Project Name: Hyatt Extended Family
 Parcel Nos.: 42330-00-028 and 93100-11-292

OWNER:	REPRESENTATIVE:
Mark and Angelita Hyatt 14200 Judge Orr Road Peyton, CO 80831	N/A

Commissioner District: 2

Planning Commission Hearing Date:	2/18/2020
Board of County Commissioners Hearing Date	3/24/2020

EXECUTIVE SUMMARY

A request by Mark and Angelina Hyatt for approval of a special use for continuous occupancy of accessory living quarters. The property is zoned A-35 (Agricultural) and is located on the north side of Judge Orr Road approximately 0.62 miles east of the Judge Orr Road and U.S. Highway 24 intersection. The applicants are proposing to utilize an existing 1,216 square foot mobile home that is currently located on the property as the accessory living quarters for continuous occupancy by their son. The A-35 (Agricultural) zoning district permits two dwelling units as well as accessory living quarters pursuant



to the accessory living quarters regulations in Section 5.2.28 of the El Paso County Land Development Code (2019). Accessory living quarters may be utilized for continuous occupancy with approval of a special use approved administratively by the Planning and Community Development (PCD) Director or, if elevated, by the El Paso County Board of County Commissioners. The applicants wish to designate the existing mobile home as accessory living quarters and is requesting approval of a special use to allow for continuous occupancy. This would allow the property owners to add a third dwelling unit to the parcel at a later date as permitted within the A-35 (Agricultural) zoning district. The PCD Director has elevated this item to Board of County Commissioner's decision as a result of neighbor opposition to the approval of the special use to allow for continuous occupancy of the accessory living quarters.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Mark and Angelina Hyatt for approval of a special use for continuous occupancy of accessory living quarters.

Waiver(s)/Deviation(s): There are no waiver requests associated with this application.

Authorization to Sign: There are no documents associated with this application that require signature

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

Pursuant to Section 5.3.2.C of the Land Development Code, the Planning Commission and Board of County Commissioners may consider the following criteria in approving a special use:

- The special use is generally consistent with the applicable Master Plan;
- The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application

demonstrates that it will provide adequate public facilities in a timely and efficient manner;

- The special use will not create unmitigated traffic congestion or traffic hazards on the surrounding area, and has adequate, legal access;
- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

D. LOCATION

North:	A-35 (Agricultural)	Vacant
South:	RR-5 (Residential Rural)	Single Family Residential/Vacant
East:	A-35 (Agricultural)	Single Family Residential
West:	RVP (Recreational Vehicle Park)	RV Park

E. BACKGROUND

The 39.4-acre parcel was legally created via deed on June 15, 2004. The parcel was zoned A-35 (Agricultural) on March 25, 1999, when that portion of El Paso County was initially zoned. There is an existing 3,628 square foot residence on the property with an attached 780 square foot garage. In addition to the principle structure, there is also a 1,217 square foot mobile home, a barn, cattle shed, and a utility building. The applicants propose to designate the existing 1,217 square foot mobile home as accessory living quarters and requests approval of a special use for permanent occupancy of the accessory living quarters. The applicants propose to add a second principle residence to the parcel in the future. Because the parcel is located within the Upper Black Squirrel Groundwater Management District (UBSGWD), the well is only permitted to serve up to two single family residences. A major variance from the UBSQWD would be required to permit a third dwelling unit to utilize the well since the accessory living quarters would be considered by the district to be the second single family residence on the parcel. One adjacent property owner has expressed opposition to this application.

F. ANALYSIS

1. Land Development Code Analysis

The El Paso County Land Development Code (2019) requires approval of a special use and residential site plan for detached accessory living quarters with special provisions for permanent occupancy. The Code has specific use regulations for accessory living quarters:

- The accessory living quarters shall be no larger than the total square footage of the primary residence, up to a maximum of 1,500 square feet of the finished habitable floor area, as measured to the outside of the walls.
- All electric, gas, central or municipal sewer and water services to the guest house shall be interconnected to and indistinguishable from that of the principal dwelling unit and shall not have separate meters, service lines or billings.
- In conjunction with an approval of the accessory living quarters, an affidavit signed by the owner shall be filed for recording with the El Paso County Clerk and Recorder acknowledging that the accessory living quarters may not be leased or rented.

The Code also states that detached accessory living quarters may be utilized for continuous occupancy with special use approval. The use is limited to family members to:

- Provide for temporary living arrangements to family members whom are elderly, disabled, or exhibit a family need; or,
- Provide for temporary living arrangements for immediate family members assisting with the needs of the residents of the primary residence on the property.

A family member shall be related by blood, half blood or at law, and which term “at law” includes in-law relationships arising from a deceased or former spouse.

Approval of a special use permit shall be based upon a finding that the following review criteria from Section 5.2.28(H) of the Land Development Code have been met:

- There is a family hardship or need that justifies the request for the extended family housing.
- The proposed use is compliant with the special use approval criteria of Chapter 5 of the Land Development Code

One of the special use approval criteria listed in Chapter 5 of the Code indicates that “The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution”. The Upper Black Squirrel Groundwater Management District (UBSQWMD) regulations permit two detached single-family dwellings to share a well within their district and each parcel is limited to one well. The conversion of the existing mobile home that is currently utilized as the second dwelling unit on the parcel to accessory living quarters complies with the requirements of the Upper Black Squirrel regulations. However, at such time as a

third dwelling unit is desired, the applicants would be required to apply for and receive approval of a major variance from the UBSQWMD prior to being able to draw from the existing well to serve the third dwelling unit. Therefore, a condition has been added to this request to require documentation of approval of the major variance before such time as the County shall issue a residential site plan approval for an additional residential structure (which is the second dwelling under the Land Development Code, which is separate from the proposed accessory living quarters) on the parcel.

2. Zoning Compliance

Based upon the applicants' site plan drawing, the existing 1,217 square foot mobile home meets the 25-foot setback from all property lines as required in the A-35 (Agricultural) zoning district. The Land Development Code permits accessory living quarters in all residential zoning districts but is limited to one accessory living quarters per lot, parcel, or tract. The A-35 zoning district permits up to two detached single-family residential structures and, in addition to that, would also allow one structure for accessory living quarters.

The applicants' plan to convert the existing mobile home to an accessory living quarters structure to permit the addition of a third detached single-family structure to be constructed on the parcel in the future as permitted by the Code. Another method to accomplish this would be via rezoning and subsequent subdivision of the parcel; however, because the Code permits two detached single-family dwelling units plus an accessory living quarters in the A-35 (Agricultural) zoning district, that would be a more expensive and lengthy process.

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:

Goal 13.1- Encourage an adequate supply of housing types to meet the needs of county residents.

Policy 13.1.3- Recognize the need for housing alternatives that provide for the county's special populations. Special populations may include low income, elderly, and physically and mentally impaired.

The purpose of the special use for extended family housing is to provide housing in the accessory living quarters for an immediate family member to live on the property to assist a family member in need. As indicated in the applicants' letter of intent, the property owners intend on housing their son in the extended family dwelling. This

application recognizes a need for housing alternatives that provide for the County's different populations.

4. Small Area Plan Analysis

The subject parcel is located within the Falcon/Payton Comprehensive Planning Area for which land use decisions are guided by the Falcon/Payton Small Area Master Plan (2008). The small area masterplan shows the subject parcel as "Proposed Urban Density Development that is suitable for urban density development and should include open space and provide transition zones between higher and lower densities". As previously mentioned above, the zoning for the subject parcel is A-35 (Agricultural) with a parcel size that conforms to the dimensional requirements of the A-35 zoning district. The small area plan supports increased future density in this area which would be best accomplished by rezoning and subsequent subdivision. However, the Land Development Code permits development in conformance with the existing zoning district, which is consistent with the applicants' proposal.

5. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant goals and policies are as follows:

Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.

Goal 1.2 – Integrate water and land use planning.

Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.

Policy 5.2.2 – Recognize the water supply challenges and limitations inherent in each of the regional planning areas, with particular emphasis placed on Regional Planning Area 3 (Falcon), as a result of current reliance on non-renewable Denver Basin wells and the renewable, but limited and over-appropriated, Upper Black Squirrel alluvium.

As mentioned previously in this report, the proposed special use for the accessory living quarters for permanent occupancy will not impact the current water usage for the parcel. The mobile home is existing and is permanently occupied by the property owners' son. If a third detached single-family dwelling is proposed in the future,

approval of a major variance would be required by the Upper Black Squirrel Groundwater Management District UBSGMD. During this project review, the UBSGMD has been a referral agency providing input where their regulations are more restrictive than the El Paso County Land Development Code (2019).

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. The El Paso County GIS layer indicates, based on the proximity of stream and floodplain, there is potential for Preble Jumping Mouse Habitat on the subject parcel. The County has a clearance letter from the U.S. Fish and Wildlife Services on file that covers a large portion of El Paso County where Preble Jumping Mouse are not present. The subject parcel is within the area designated by the clearance letter.

The Master Plan for Mineral Extraction (1996) identifies upland deposits on the subject parcel. A mineral rights certification was prepared by the applicants indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

A soils and geology report was not provided with the special use application and was not required by staff because the request is to utilize an existing mobile home as accessory living quarters for permanent occupancy.

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 08041C0554G, dated December 7, 2018, shows that a portion of the property is within zone A, an area determined to be within the 100-year floodplain. There are no current or proposed structures in the mapped floodplain.

4. Drainage And Erosion

The property is located within the Haegler Ranch Drainage Basin (CHMS0200). No drainage or bridge fees are required for a special use. No public drainage improvements will be required.

5. Transportation

The property is accessed via Judge Orr Road. A traffic impact study was not required because the proposed special use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate without the approval of the special use request. No public roadway improvements will be required.

H. SERVICES

1. Water

Water is provided by private well. The Upper Black Squirrel Groundwater Management District (UBSGMD) limits private wells to serve two single family dwellings and allows one well per parcel. If a third single family dwelling is desired in the future, a major variance would be required from the UBSGMD to permit that dwelling to utilize the existing private well.

2. Sanitation

Wastewater is provided by two onsite wastewater treatment systems (OWTS).

3. Emergency Services

The property is within the Falcon Fire Protection District. The district was sent a referral request to review the project and did not issue comments.

4. Utilities

The subject parcel is within the Colorado Springs Utilities service area for natural gas. It is anticipated that Mountain View Electrical Association will continue to provide electrical service to the property.

5. Metropolitan Districts

The subject parcel 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 special use application.

7. Schools

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

I. APPLICABLE RESOLUTIONS

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Disapproval Page 40

J. STATUS OF MAJOR ISSUES

There are no outstanding issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.2 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

CONDITIONS

1. Approval is limited to the extended family dwelling as discussed and depicted in the applicants' letter of intent and the approved residential site plan drawing.
2. Any subsequent site plan to add a third dwelling unit on this parcel shall not be approved unless documentation demonstrating that a major variance has been approved by the Upper Black Squirrel Groundwater Management District to permit the third dwelling unit to utilize the existing well.
3. The detached accessory living quarters for permanent occupancy shall be removed within three (3) months after the need no longer exists or 3 months after the date of the expiration of the special use approved, if one is specified, unless an application to legalize the use is submitted or an application to subdivide the property is submitted.

NOTATIONS

1. Special use approval includes conditions of approval and the accompanying site plan. 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 special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified ten (10) adjoining property owners on January 29, 2020, for the Planning Commission hearing. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map

Letter of Intent

Site Plan

El Paso County Parcel Information

File Name: AL-19-026

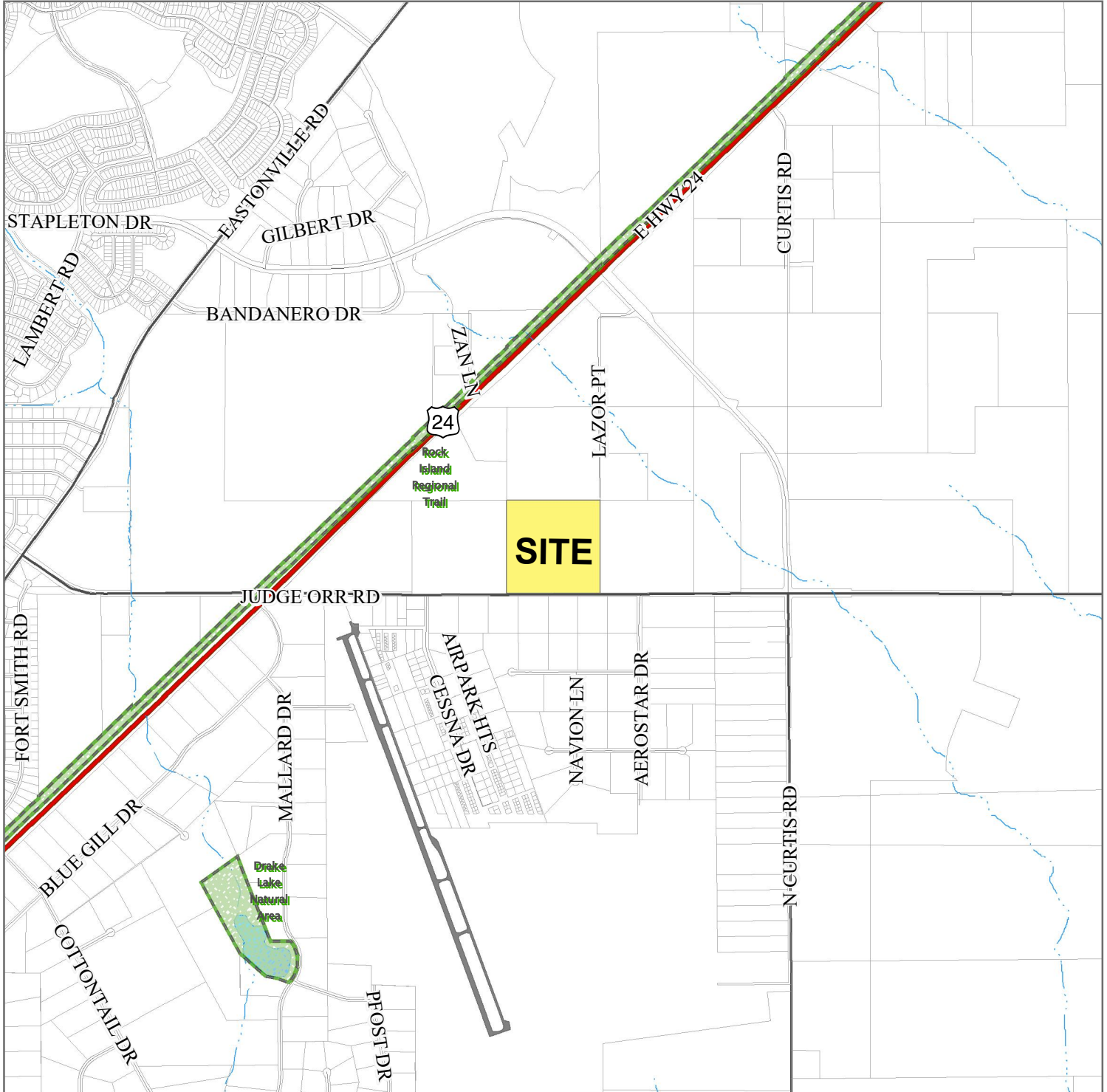
PARCEL	NAME
423300028	HYATT MARK A

Zone Map No. --

ADDRESS	CITY	STATE
14200 JUDGE ORR RD	PEYTON	CO

ZIP	ZIPLUS
80831	8404

Date: January 29, 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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Mark A. Hyatt & Angelita C. Hyatt
14200 Judge Orr Rd
Peyton, CO 80831-8404
281-468-8540
markahyatt@gmail.com

November 21, 2019

Lindsay Darden
2880 International Circle
Colorado Springs, CO 80910

Letter of Intent

To Whom It May Concern,

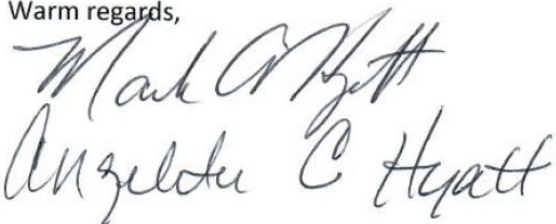
We own a 39.4 acre property near Falcon Colorado, known as 14200 Judge Orr Rd, Peyton, CO where we maintain our residence. The legal description is SE4SW SEC 33-12-64, Assessor Schedule No: 4233000028. The property is zoned A-35. We also have a small modular home currently permitted on our property as a single family dwelling. In retrospect after a further understanding of the land development code, we should have been requested an Extended Family Dwelling permit. Our son lives in the house in order to assist me with maintaining the property as I am not able to do so on my own.

Nothing about the current installation of the modular would change as we are only requesting a change in classification to meet the extended family dwelling special use criteria.

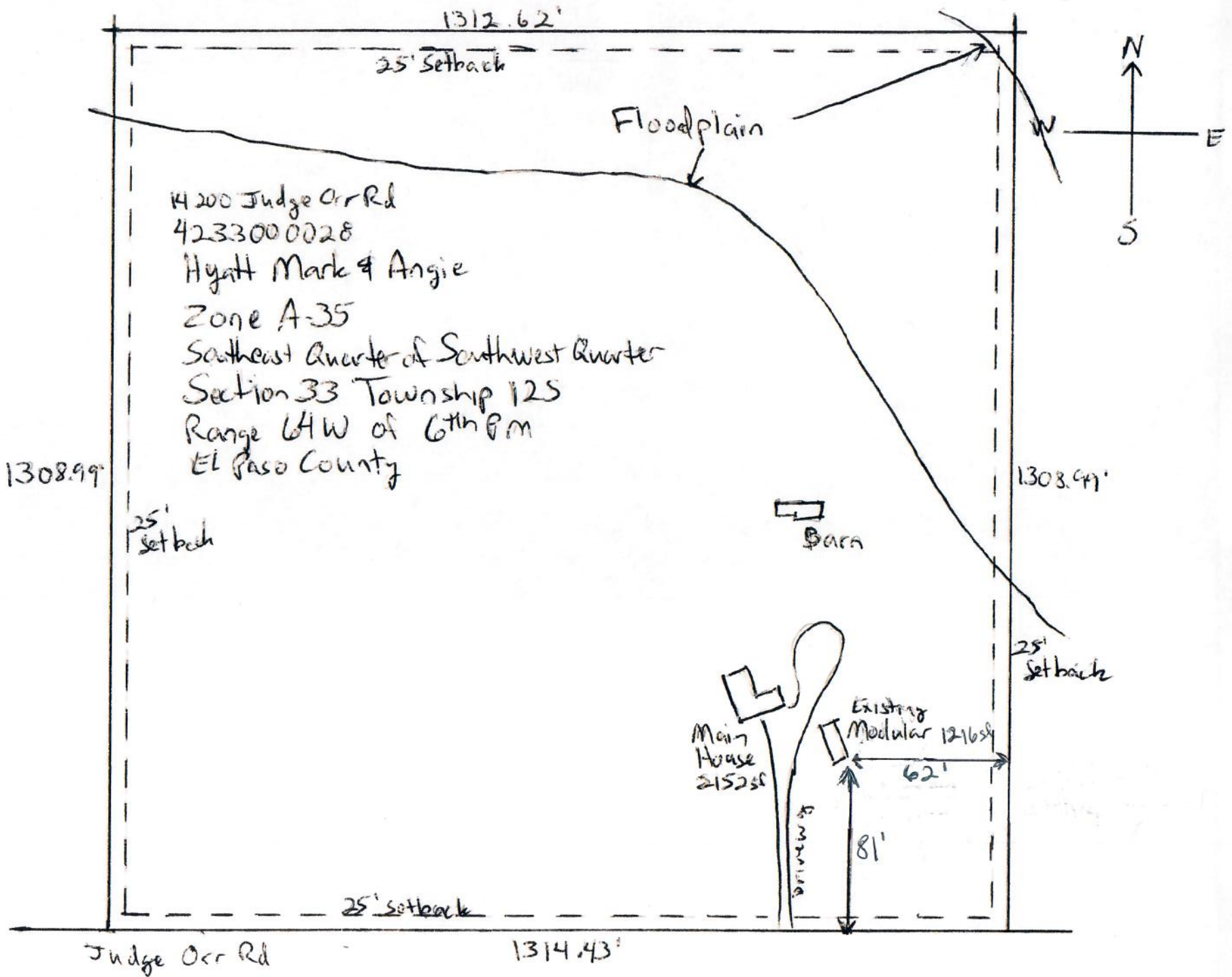
- Legitimate family hardship exists as our son is needed to maintain the property by mowing, snow removal, tree trimming, and repairing fences
- Land Development Code Standards will be met by the current installation of the 1216 sq ft modular home connected to existing meters and facilities.
- The modular home is anchored instead of placed on a foundation so that it may be removed after the need to care for parents and property no longer exists.
- The extended family unit will not be leased or rented at any time.

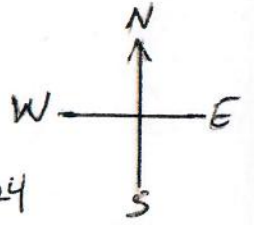
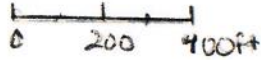
Please contact us with any questions or concerns.

Warm regards,



Mark A. Hyatt and Angelita C. Hyatt





13925 E US Hwy 24
 4233001001
 Smith Aaron & Tanisha
 Zone: A-35 A-5

4233000012
 Mahncke Family Partnership
 Zone: A-35

13975 E US Hwy 24
 4233000011
 Lazor Michelle & Steven
 Zone: A-35

14010 Judge Orr Rd
 4233000027
 Prairie Stone LLC
 Zone: RVP

14200 Judge Orr Rd
 4233000028
 Hyatt Mark & Angie
 Zone A-35
 Southeast Quarter & Southwest Quarter
 Section 33 Township 12S
 Range 64W of 6th PM
 El Paso County CO

14400 Judge Orr Rd
 4233000029
 Fields Daniel & Tammy
 Zone: A-35



14115 Judge Orr Rd
 4304001003
 Engler Terry & Susan
 Zone RRS CAO

14125 Judge Orr Rd
 4304001004
 Wagonman Rachelle D
 Zone RRS CA P

14155 Judge Orr Rd
 4304001005
 Christian Kerenew
 Zone RRS CA P

14255 Judge Orr Rd
 4304001006
 Shadler-Tessie J
 Zone RRS CA P

Judge Orr Rd