

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

COMMISSIONERS:  
STAN VANDERWERF (CHAIR)  
CAMI BREMER (VICE-CHAIR)

LONGINOS GONZALEZ, JR.  
HOLLY WILLIAMS  
CARRIE GEITNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

April 19, 2021

ATTN: Matthew D. Pickett

RE: Merger by Contiguity for 15915 Park Avenue

File: ADM-21-023 and MER-21-014

Parcel ID: 61284-02-035

Dear Mr. Pickett:

A request has been made for an interpretation regarding the above referenced parcel to confirm that the property is considered legally nonconforming with regards to lot size pursuant to the El Paso County Land Development Code (2019). In order to determine if the property is considered nonconforming, the parcel must first be confirmed as a legal lot.

Section 1.15 of the Code defines a "Legal Lot" as:

"A lot, parcel or tract of land created by a legal conveyance of the lot, parcel or tract prior to July 17, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to July 17, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by legally prepared survey dated prior to July 17, 1972; a lot, parcel or tract created by approval of the County commissioners in conformance with the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by a contract for deed or signed but unrecorded deed, each dated prior to July 17, 1972; a parcel exempted from subdivision by the Board of County Commissioners (BoCC), or any parcel of 35 acres or more, which, when created, did not cause a parcel of less than 35 acres to remain; a parcel created by any court pursuant to the law of eminent domain, operation of law, or by order of any court if the BoCC has been given timely notice and opportunity to join in the action; a parcel modified or reduced in size due to land acquisition by a governmental entity."

The property was legally platted as Lots 9 and 10, Block 3, Black Forest Park in 1926 (Plat No. 869). Therefore, the resulting parcel is considered a legal lot.

**Compliance with Zoning Regulations for Conformity:**

The property was created in 1955, which was prior to zoning in El Paso County. January 3, 1955 when zoning was first initiated for this portion of the County. Due to changes in the nomenclature of the Code, the A-4 (Agriculture) zoning district was renamed RR-5 (Residential Rural). The RR-5 zoning district has a minimum lot size of five (5) acres, and the subject property has a lot size of 1.37 acres.

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)

Section 1.15 of the Code defines a “Nonconforming Lot” as:

“A nonconforming lot is a legally created lot or parcel of land which due to subsequent amendments of this Code, right-of-way acquisition by a government entity, or to the zoning or rezoning of the lot or parcel, does not conform with the minimum lot area requirement of this Code.”

The lot size is considered nonconforming because it does not conform with the minimum lot size of the RR-5 zoning district, was legally created prior to the adoption of subdivision regulations, and was legally existing when zoning was implemented.

Section 5.6.7 of the Code sets forth specific review criteria in order to determine the conformity of a lot:

**Determination of Conformity.** To determine a nonconforming lot as conforming, all the following criteria shall be met, as applicable:

- The creation of the lot or parcel was in conformance with all applicable regulations at the time of its creation;  
*The lot meets this criterion due to its creation date preceding the adoption of subdivision regulations.*
- The lot or parcel is currently in compliance with all use regulations and conditions and restrictions of any applicable special use or variance of use;  
*No special use or variance of use approval has been issued for the parcel and the applicant has not indicated an intent to initiate a new one.*
- The lot or parcel complies with the requirements and criteria of the merger by contiguity provisions of this Code;  
*This criterion does not apply as the applicant does not own any adjacent property.*
- All contiguous legal lots under the same ownership have been combined through a merger by contiguity process to create a zoning lot unless the PCD Director has authorized a remainder lot or parcel to be considered nonconforming;  
*All contiguous lots under common ownership have been recently combined through a merger by contiguity process.*
- For existing dwellings, verification provided by an El Paso County Certified Inspector that there is no evidence of wastewater related issues or that any wastewater issues are being remedied;  
*The property has an approved septic permit (Permit #SEP20-130).*
- For a new dwelling, a soils test has been submitted demonstrating sufficient area for the onsite wastewater treatment system and a private well to be installed meeting all internal and external lot minimum horizontal setback requirements;  
*The property has approved well and onsite wastewater treatment system (OWTS) permits.*
- For a new dwelling, documentation of water availability, including but not limited to, a copy of the well permit, evidence of a water tap, or a copy of a water commitment letter has been provided;  
*The property currently has an approved well permit (Permit #315356).*

- At least 30% of the zoning lot is considered buildable after exclusion of land identified as containing 100 year floodplain and 30% slopes;  
*Per GIS data, the property does not have any lands containing the 100-year floodplain and no portion contains land having slopes 30% or greater.*
- The lot or parcel meets one of the following lot size requirements:
  - Central water and sewer are both provided, and the area of the zoning lot is at least 20,000 square feet, or is 60% of the minimum lot area required by the applicable zoning district, whichever is less, or;
  - Central water is provided, but central sewer is not provided, and the area of the zoning lot is at least 20,000 square feet, or;
  - No central water or central sewer is provided and the area of the zoning lot is one acre or more.

*No central water or central wastewater is provided and the area of the lot is greater than one acre (1.37 acres).*

The parcel meets the above requirements and, therefore, can be considered a conforming lot.

**Discussion and Conclusion:**

The parcel is considered a legal lot due to it being legally platted as Lots 9 and 10, Block 3, Black Forest Park in 1926 (Plat #869) and is considered nonconforming due to lot size. As outlined in the analysis above, the property meets all the required criteria for the Planning and Community Development Director to make a determination of conforming lot size per Section 5.6.7 of the Code. Therefore, the lot is considered conforming under the provisions therein.

Any proposed development shall comply with all other applicable County, State, and Federal Regulations.

If you have any questions or concerns regarding this determination, please contact myself or Mercedes Rivas, Planner II, at (719) 520-6447 or [mercedesrivas@elpasoco.com](mailto:mercedesrivas@elpasoco.com).

Sincerely,



Craig Dossey  
Executive Director  
El Paso County Planning and Community Development Department