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July 5, 2022

ATTN: Sarah Sankaouskas

RE: 8915 OLD CANON CITY RD., Non-Conforming Lot Size and Setback
File: ADM-21-071
Parcel ID: 75361-00-010

Dear Ms. Sankouskas:

A request has been made for an interpretation regarding the above referenced parcel to confirm that the property is considered a legal division of land pursuant to the El Paso County Land Development Code.

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 subject property was created by deed on August 29, 1952. Due to the parcel being legally created prior to the Board of County Commissioners adopting modern subdivision regulations on July 17, 1972, the property is considered a legal lot.

Compliance with Zoning Regulations for Conformity:

The property is within the F-5 (Forestry and Recreation District) zoning district. The parcel was zoned F (Forest and Recreation District) on May 10, 1942 when zoning was established for this portion of El Paso County. Due to changes in the nomenclature of the Code, the F zoning district was renamed to the F-5 (Forestry and Recreation District). The F-5 zoning district has a minimum lot size of 5 acres, and the subject property has a lot size of 2.5 acres.

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 F-5 zoning district’s minimum lot area requirement, 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. When the lot was created the F zoning district did not have a minimum lot size.

- 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;
This criterion does not apply as the applicant does not own any adjacent property.
- 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 El Paso County Health Department has no record of an existing wastewater permit since the home was constructed prior to the County's records. The Health Department stated an inspection would take place if a minor or major wastewater related issue needed to be remedied.
- 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;
This criterion does not apply as the applicant is not constructing a new dwelling.
- 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 #110757).
- 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 minimal land with 30% slopes.

- 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 sewer is provided and the area of the lot is greater than one acre (2.5 acres).

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

Discussion and Conclusion:

The property is zoned F-5 (Forestry and Recreation District) and is 2.5 acres in size, which does not meet the 5-acre minimum lot size requirement for the district. The parcel is considered legal nonconforming in regard to lot size. The El Paso County Health Department has no record of an existing wastewater permit since the home was constructed prior to the County's records. Please contact the El Paso County Health Department to verify no additional steps need to occur through their office.

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 Kylie Bagley, Planner II, at (719) 520-6232 or kyliebagley@elpasoco.com.

Sincerely,



Kari Parsons, Senior Planner
El Paso County Planning and Community Development Department