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Stan VanderWerf, District 3
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March 29, 2023 *Revised April 21, 2023 

RE: Warehouse Ops Determination of Nonconforming Use – Addendum

File: ADM-22-036
Parcel ID: 54050-00-050; 54050-00-055

To Whom It May Concern:

A request has been made for an administrative determination regarding the above referenced parcels to confirm that the existing outside storage uses on the properties are considered nonconforming uses pursuant to the El Paso County Land Development Code (2022). A request has also been made for an interpretation regarding the applicability of stormwater permits for the properties. Pursuant to a meeting between El Paso County Staff and the property owners, this letter was requested as an addendum to ADM-22-036 to provide requested points of clarity regarding the use and stormwater obligations for parcel no. 54050-00-050.

A request was made to clarify the total acreage that the nonconforming outside storage use was limited to. According to El Paso County GIS data, using aerial photography from 2003, staff has determined at that time that the outside storage use on the property comprised approximately 13.7 acres. Pursuant to Section 5.6.4.B of the Land Development Code, a nonconforming use cannot be enlarged without variance of use or special use approval:

***Expansion of Use as Variance of Use or Special Use.** A nonconforming use of land shall not be extended or enlarged; provided, however, an extension or enlargement may be approved as a Variance of Use. Where the use is a special use in the zoning district, a special use permit shall be obtained for an extension or enlargement of the use.*

If the nonconforming use on the property is expanded beyond 13.7 acres in size, it shall no longer qualify as a nonconforming use and the appropriate permits will be required to bring the use into compliance with the current standards of the Land Development Code. Please see below for a graphical depiction of the measured storage area.

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**The use may comprise any continuous configuration of 13.7 acres across the existing disturbed area of the owner's property and still qualify as a legal nonconforming use. If the use is expanded beyond 13.7 continuous acres or moved onto an area of land that is not already disturbed, then it shall no longer qualify as a legal nonconforming use.*

A request was made to clarify the applicability of the stormwater obligations on the property. From a zoning perspective, the use is considered a legally nonconforming use; however, from a stormwater perspective, in order to bring the property into compliance with the Engineering Criteria Manual requirements, in accordance with the County's MS4 permit requirements, an Erosion and Stormwater Quality Control Permit (ESQCP), and all associated documents, is required for the property based on the amount of land disturbance and the property's proximity and impact to the floodplain (see Engineering Criteria Manual (ECM) Appendix I.4.1 and Table I-2). The ESQCP Application should be prepared to cover all previous areas of disturbance and all future disturbance associated with the required erosion control, any necessary water quality/detention facilities, and floodplain restoration or relocation. If the floodplain is to be permanently relocated from the FEMA mapped location, construction plans will be needed and additional coordination with the Regional Floodplain Administrator will be necessary.

Please see below for a list of required ESQCP/CDR submittal documents:

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- PBMP Applicability Form
 - Final Drainage Report (to include floodplain stability analysis)
 - Grading and Erosion Control Plan and checklist
 - Stormwater Management Plan and checklist
 - Financial Assurance Estimate
 - ESQCP Form

If applicable:

- PBMP Maintenance Agreement
- PBMP O&M Manual
- MS4 Post-construction Form(s)
- SDI Worksheet(s)
- Offsite construction easement or permission letter(s)

The intent of this addendum is to provide additional information and it is not intended to replace or supersede the previously issued ADM-22-036. The information contained therein is not rendered invalid by this addendum.

If you have any questions or concerns regarding this determination, please contact myself or Ryan Howser, AICP Planner III, at (719) 520-6049, or ryanhowser@elpasoco.com.

Sincerely,



Meggan Herington, AICP
Executive Director
El Paso County Planning and Community Development Department