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COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

May 25, 2021

ATTN: Artie Cage

RE: Administrative Determination for 9440 Curtis Road

File: ADM-21-019
Parcel ID: 42330-00-039

Dear Mr. Cage:

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."

Based upon the survey provided with the application, the subject property was created by survey on July 13, 1968. 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 A-35 (Agricultural) zoning district. The parcel was zoned A-35 on March 24, 1999 when zoning was established for this portion of El Paso County. The A-35 zoning district has a minimum lot size of 35 acres, and the subject property has a lot size of ten (10) acres.

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



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

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 A-35 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.
- 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.
This criterion does not apply since the property is undeveloped and there is not an approved septic permit for the property.
- 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 since the property is undeveloped and a soils report has not yet been provided.

- 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.

This criterion does not apply as the property is undeveloped.

- At least 30% of the zoning lot is considered buildable after exclusion of land identified as containing 100 year floodplain and 30% slopes.

No floodplain or slopes in excess of 30% exists on the property.

- 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.

The area of the lot is greater than one acre and there are no centralized services to the property. The property will be served by well and septic.

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

Discussion and Conclusion:

The property is zoned A-35 (Agricultural) and is ten (10) acres in size, which does not meet the 35-acre minimum lot size requirement for the district. As part of the administrative determination request, the applicant provided a copy of a survey indicating that the parcel was legally created on July 13, 1968. The parcel is considered legal nonconforming in regard to lot size.

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 John Green, Planner II, at (719) 520-6442 or johngreen@elpasoco.com.

Sincerely,



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