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July 11, 2023

REVISED DATE: August 9, 2023

ATTN: Jason Bracken

RE: 7315 HODGEN RD ADM
File: ADM-23-017
Parcel ID: 5129000004

Dear Jason Bracken:

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 (As Amended).

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 has an associated deed from July 27, 1960. The parcel number was originally 51000 00 034 but changed to 51029 00 0004 in 2001 due to the changeover of maps from township map to section map. Additionally, staff was able to recover a map from 1972 of the parcel as it is today. When reviewing the legal descriptions of the deed from 1960 and the legal description for the parcel as of today, the descriptions were found to be a match. Since the property was created prior to July 17, 1972, it is considered a legal division of land.

Compliance with Zoning Regulations:

The property was zoned RR-5 (Residential Rural) on September 20, 1965, when zoning was first initiated for this portion of El Paso County.

Section 3.2.1. of the Code defines a “RR, Residential Rural District Purposes” as:

“The RR-5 zoning district is a 5-acre district intended to accommodate low-density, rural, single-family residential development.”

Section 1.15 of the Code defines a “Lot, Nonconforming” 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 conforming because it does conform with the RR-5 zoning district’s minimum lot area requirement. The parcel 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 was created before it was zoned.

- 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;

The lot meets zoning standards and all items at the property are in compliance with the code.

- 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 property currently has a septic tank but requires an updated permit.

- 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 a well that was installed in the early 1900's, however, no current well permit is on file.

- 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; approximately 90% of the lot is not encumbered by 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.

The subject property meets the third point of the above bullet points, there is no central water or sewer, and the lots is great than one acre. The well and septic permits will require updates.

The parcel does meet all of the above requirements and therefore can be considered a conforming lot.

Discussion and Conclusion:

The property was legally created prior to the adoption of the modern subdivision regulations and is therefore considered a legal division of land. The property is zoned RR-5 and is 30 acres in size, which does meet the 5-acre minimum lot size for the zoning district. The parcel is considered a legal lot. Any proposed new 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 Ashlyn Mathy, Planner I, at (719) 520 6447 or ashlynmathy2@elpasoco.com.

Sincerely,



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

Exhibit A:
This shows when the parcel was originally zoned.



434870	
PERIMETER	698387.315973
OBJECTID	5
RES_NUM	434870
RES_DATE	9/20/1965, 6:00 PM
ZONE_AREA	6
EPCLB.InitialZoning.AREA	0.000000
SHAPE.STArea()	9067864922.819141
SHAPE.STLength()	698387.315544

Exhibit B:
Map from 1972 depicting parcel.

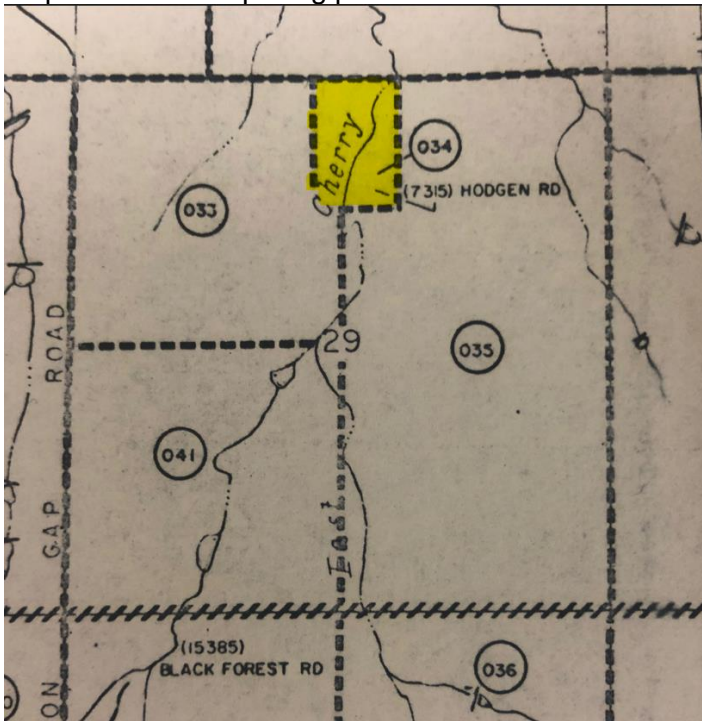


Exhibit C:
Deed from 1960 with legal description.

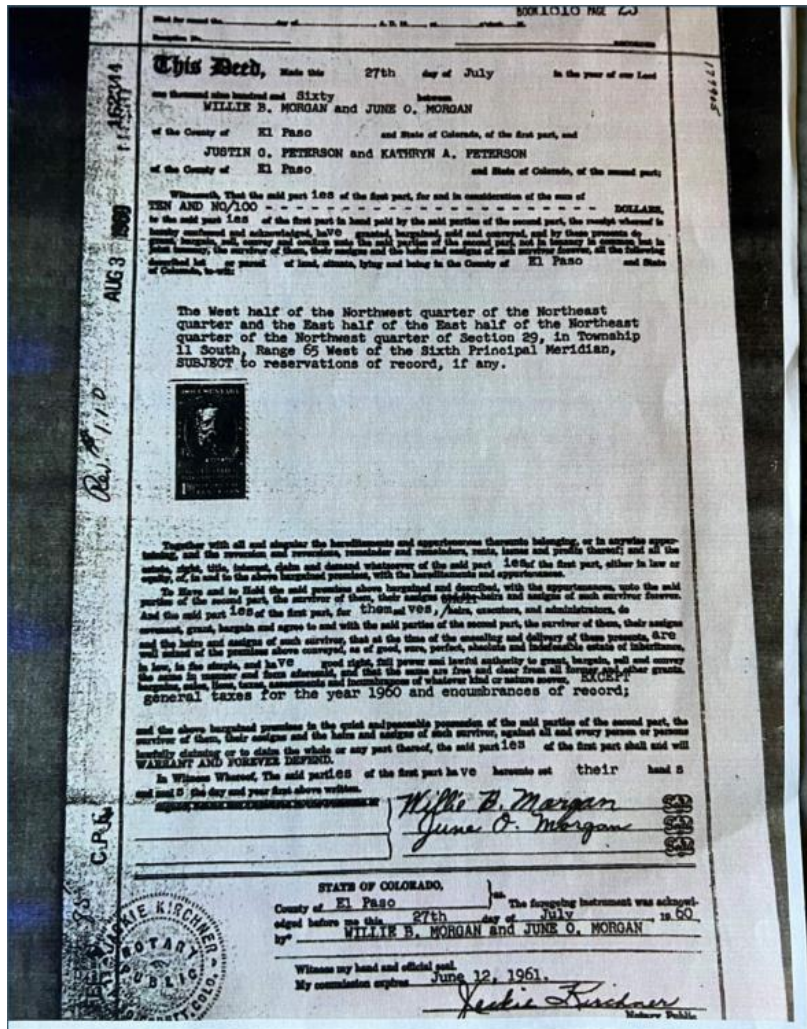


Exhibit D:
Assessor's page with current legal description.

Owner:	BRACKEN HEATHER R
Mailing Address:	7315 HODGEN RD COLORADO SPRINGS CO, 80908-2160
Location:	7315 HODGEN RD
Tax Status:	Taxable
Zoning:	RR-5
Plat No:	-
Legal Description:	W2NW4NE4, E2E2NE4NW4 W/4MR SEC 29-11-65