

EL PASO



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

April 30, 2019

Jesus Castro
16650 Spencer Road
Peyton, CO 80831

RE: Administrative Determination for 16650 Spencer Road

File: ADM-19-019
Parcel ID: 4223000017

Dear Mr. Castro:

You have requested an administrative determination regarding the above referenced property to confirm that the property was created in conformance with the El Paso County subdivision regulations and is considered a legal lot under the county regulations. Authorization of building permit or zoning permit issuance is contingent upon a parcels' compliance with both the subdivision and zoning regulations of the El Paso County Land Development Code (2019).

The Code defines a legal lot as follows:

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.

Compliance with Subdivision Regulations:

The applicant is requesting confirmation that the parcel is a legal lot and is not subject to the El Paso County subdivision regulations as described in Section 7.2.1 of the Land Development Code. Based on staff research, parcel number 423000017 was created when the property was removed from the township map (4200000101) and created in April/May of 1964. The legal description and acreage of the parcel has remained unchanged since the creation date,

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therefore, parcel 423000017 is a legal lot because it was established prior to the subdivision regulations that went into effect in July 17, 1972.

Compliance with Zoning Regulations:

The subject parcel was zoned to the current A-35 (Agricultural) zoning district in 1999. Prior to that date there were no zoning restrictions for the property and no permits were required by the El Paso County Planning and Community Development Department. The A-35 zoning district has a minimum lot size of 35 acres and the subject parcel has a lot size of 10 acres.

The Code defines a nonconforming lot as follows:

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 parcel is considered non-conforming because it was legally created prior to the subdivision regulations and was an existing legally created lot at such time when zoning was implemented.

The Code sets forth specific provisions when a building permit for a dwelling or habitable addition is requested:

Nonconforming Lots Considered Conforming: A legal lot or zoning lot that is nonconforming as a result of the minimum lot size requirement within the applicable zoning district shall be considered to be exempt from the minimum lot size requirement where:

- Central water and sewer are both provided and the area of the legal lot is at least 60% of the minimum lot area required by the applicable zoning district; or
- Central water is provided and the area of the legal lot is at least 20,000 square feet; or
- No central water or central sewer is provided and the area of the legal lot or zoning lot is at least 2.5 acres.

A non-habitable addition or accessory improvement (e.g., a garage, deck, or tool shed) on a lot or parcel where a dwelling already exists is not subject to the requirements specified above. An existing dwelling, located on a lot or parcel that is nonconforming due to lot size that is destroyed or partially destroyed by fire, shall be subject to the restoration provisions of the Code.

Discussion and Conclusion:

While the parcel is classified as a legal lot due to its creation date, it is considered nonconforming due to lot size. However, specific provisions in the Code then exempt the parcel from the minimum 35 acre lot size of the A-35 (Agricultural) zoning district due to its legal lot status and because the area of the legal lot or zoning lot is at least 2.5 acres. Due to these circumstances, the subject property is eligible for building permit and zoning permit authorization. However, please be aware that there are some allowed uses within the A-35 (Agricultural) zoning district which do require a minimum of 35 acres, as noted in Tables 5-1 Principle Uses and 5-2 Accessory Uses of the Code. 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 Lindsay Darden, Planner II, at (719) 520-6302 or lindsaydarden@elpasoco.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Dossey". The signature is fluid and cursive, with the first name "Craig" written in a larger, more prominent script than the last name "Dossey".

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