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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

June 23, 2020
8313 Lakeview Drive, Colorado Springs, Colorado.
ATTN: Jennifer R. Wolf

RE: Administrative Determination for Destinacion's Therapy & Maybell's Mission Inc.

File: ADM-20-014
Parcel ID: 5204004002

Dear Ms. Wolf:

A request has been made for determination regarding the proper use categorization under the El Paso County Land Development Code (2019) for the operation of a multi-faceted nonprofit business known as Destinacion's Therapy & Maybell's Mission, Inc. In addition to the use categorization, the applicant has requested a determination regarding if the use would be allowed on the legally platted lot known as Lot 21 of the Ponderosa Pines Filing No. 2 subdivision and addressed as 8315 Lakeview Drive, Colorado Springs, Colorado (Parcel No. 52040-04-002). The lot is 2.46 acres and is zoned RR-5 (Residential Rural), which has a minimum lot size requirement of 5 acres. The lot is under the minimum lot size requirement; however, a dimensional variance request was approved by the Board of Adjustment on April 1, 1982, which legalized the lot size and allowed for the construction of a single-family dwelling (BOA-82-28).

Section 5.1.6 of the Land Development Code (2019) states:

"The PCD Director is authorized to classify any unlisted use based on similar uses. If no similar use can be identified by the PCD Director, the PCD Director may initiate an amendment to the text of this Code to clarify where the unlisted use is allowed, or the applicant for an unlisted use may file an application to amend this Code following the prescribed procedures."

The applicant has requested a determination regarding the proper use categorization for the operation of the business, Destinacion's Therapy & Maybell's Mission.

Proposed Use

The applicant has described in detail the existing use onsite in the request letter. The relevant aspects of the use include:

- The operator is a registered psychotherapist in the state of Colorado and a masters level therapist.
- The operator has EAGALA certification, where therapists and horses work on the ground with clients.
- The operator has vowed to open this business to support veterans in need of mental health services.
- The operator rescues horses and then finds a place for them within the business if they are a good fit.
- The operator has stated that she does not employ other therapists.
- The use is a nonprofit business.
- The use is not a riding academy, a hippotherapy, PT, lesson or horsemanship group.

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



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FAX: (719) 520-6695

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- Clients talk to the operator about their emotional needs and health for about 30 to 40 minutes, walk the property, and watch the horses interact with each other for therapeutic purposes. The operator states that this process scientifically reduces stress levels, releases dopamine, lowers heart rate and blood pressure, as well as slows breathing to the rhythm of the horse's breathing, which is proposed to calm the client.

Land Development Code Analysis

The following uses have been partially or wholly identified as potential classifications of the business. These definitions come from Section 1.15 of the Code and have been matched to the information provided from the applicant's Administrative Determination Request Letter and from a site visit performed by Planning and Community Development Department staff on February 20, 2020.

Agritainment — Ongoing or seasonal events and/or activities, whether for remuneration or not, of an agricultural nature that are offered to the public for the purpose of recreation, entertainment, and/or education.”

Agritainment partially fits the described uses above due to the use being agricultural in nature, however, the nature of the business is not for education purposes..

Animal Refuge — A facility, other than a veterinary hospital, for the care and keeping of abandoned, injured, or confiscated animals, including domesticated or exotic species. Also includes what is commonly considered animal rescue or similar type facilities.

This partially applies as the business includes, but is not limited solely to, taking in horses and rehabilitating them. This aspect of the business only serves to support the main function of the use, which is to provide therapeutic services.

Riding Academy — An establishment which rents boards or leases riding horses or ponies or gives lessons to develop horsemanship.

The applicant does not rent, board, nor give riding lessons, nor does she develop horsemanship. The applicant stated in their request letter “I also hold my EAGALA certification, where therapists and horses work on the ground with a client. This certification binds me to groundwork; no riding.”

Home Occupation, Rural — A home occupation allowed in the A-35 Zoning District only and as a Special Use in other Zoning Districts, intended to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

The business is a home-based business which is rural and agricultural in nature. The use described correlates with the definition, however, a Rural Home Occupation is subject to use specific standards which further define the use, applicability, and limitations. An analysis of the use in comparison to those use specific standards is necessary to determine if the scope and sale of the business fits within the use specific standards.

Section 5.2.29.C of the Land Development Code provides the intent of a rural home occupation as:

“The intent of allowing a rural home occupation as a special use is to provide a mechanism by which a business owner or entrepreneur may reasonably establish or expand their home occupation on a large residential, forestry, or agriculturally zoned property in manner that protects neighboring properties from extreme or unreasonable impacts.”

The business is a home-based business that is rural in nature due to the use of livestock. The request letter does not describe a use which would result in extreme or unreasonable impacts, as it describes only a minimal potential for the generation of additional traffic, noise, or visual impacts.

In addition to the described business meeting the intent of the Rural Home Occupation, the use is also included in those uses allowed as a rural home occupation as shown in Section 5.2.29.B.5:

Allowed Home Occupations. The following types of uses, in addition to those allowed as a residential home occupation, may qualify as rural home occupations, if the general standards of a rural home occupation are met:

- Contractor's equipment yards, construction businesses, welding shops;
- Vehicle storage or repair businesses;
- Other small businesses which are rural or agricultural in nature; or
- Other small businesses which the PCD Director determines meet the intent of this Section of the Code.

Section 5.2.29.B.5 of the Code also lays out the following excluded uses:

- Any heavy industrial, solid waste disposal, solid waste transfer, scrap tire recycling or mineral extraction use;
- Any use involving significant public occupancy or overnight accommodations other than those uses specifically allowed in the zoning district;
- Any commercial tower or utility use, not otherwise allowed; and
- Any outdoor concert, shooting range, racetrack or comparable use.

The use does not fall within any of the above excluded uses. Therefore, it is not specifically excluded from being eligible for designation as a rural home occupation.

A rural home occupation requires special use approval in the RR-5 (Residential Rural) zoning district. As described in the applicant's request letter, the business follows all use specific standards for a rural home occupation as a special use, such as, the traffic being generated, number of employees, outside storage limitations, and environmental impacts. However, there is one exception; a rural home occupation requires a minimum of 5 acres and the applicant's property is only 2.46 acres in size according to the El Paso Counties 2019 Tax Assessment. The Board of Adjustment dimensional variance approval for the lot size only applies to residential development and not to a change in use, such as the addition of a rural home occupation.

Conclusion and Interpretation:

It is the determination of the Planning and Community Development Director that the most similar use to the use described by the applicant is a Rural Home Occupation. A Rural Home Occupation in the RR-5 (Residential Rural) zoning district requires special use approval as well as site development plan approval.

The lot is 2.46 acres in size and does not meet the minimum size requirement for a Rural Home Occupation. The dimensional variance approved in 1982 allowed for a single-family dwelling. The approval did not allow for a rural home occupation, therefore, approval by the Board of Adjustment of a separate dimensional variance will be required prior to approval of a special use application.

In order to begin the process of legalizing the existing use the applicant will be required to request an Early Assistance (EA) meeting with Planning and Community Development Department staff in order to discuss the request and processes in advance of submission.

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 Rad Dickson, Planner I, at (719) 520-6447 or Raddickson@elpasoco.com

Sincerely,

A handwritten signature in black ink that reads "Craig Dossey". The signature is written in a cursive, flowing style.

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