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COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

January 31, 2022

ATTN: Jeremy Pierce

RE: Administrative Determination for 12990 Peyton Highway

File: ADM-21-076

Parcel ID: 32000-00-009

Dear Mr. Pierce:

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."

According to a deed submitted with your application, it appears that the subject property was created on August 23, 1957. Due to the parcel being created prior to the Board of County Commissioners adopting modern subdivision regulations on July 17, 1972, the parcel is considered a legal parcel.

Compliance with Zoning Regulations for Conformity:

The property is zoned A-35 (Agricultural) on March 24, 1999 when zoning was first established for this portion of El Paso County. The A-35 zoning district has a minimum lot size of 35 acres.

Section 1.15 of the Code defines a "Nonconforming Lot" as:

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“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 size is considered nonconforming because it is less than the minimum required 35 acres in size. In order to establish the existing parcel as legal nonconforming, the applicant has submitted this Administrative Determination.

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 parcel 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;
The property currently has an approved septic permit (Permit number 7517).
- 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;
There is an existing permitted onsite wastewater treatment system.
- 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 subject property is served by an existing on-site well (Permit number 7513).

- 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, less than 30% of the parcel area is constrained by floodplain and slopes exceeding 30%.
- 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 parcel is greater than one acre and is not served by central water or septic services.*

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

Discussion and Conclusion:

The parcel is considered a legal parcel due to it being created prior to the subdivision regulations and is considered nonconforming due to parcel size. As outlined in the analysis above, the property meets all the required criteria for the Planning and Community Development Director to make a determination of conforming parcel size per Section 5.6.7 of the Code. Therefore, the parcel is considered conforming under the provisions therein.

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