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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

March 4, 2019

Matthew Pickett
15995 Park Ave
Colorado Springs, CO 80921

Re: ADM-19-004, 15910 Fools Gold Lane & 15915 Park Ave
Parcel No: 6128402036, 6128402033

Dear Mr. Pickett,

You have requested a determination of legal nonconformity concerning lot size requirements for 15910 Fools Gold Lane (Parcel No. 6128402036). The property is zoned RR-5 (Rural Residential). The platted lot, Lot 20, Block 3 of the Black Forest Park Subdivision is 30,000 square feet (0.69 acres) in size. The RR-5 zoning district has a minimum lot size requirement of five (5) acres.

The purpose Section 5.6.1, Legal Nonconforming, of the El Paso County Land Development Code states that:

“This Section governs uses, structures and lots that were legally established prior to the adoption of this Code and do not comply with one or more requirements of the Code. The County seeks to allow nonconforming uses, structures, and lots to continue to exist and be maintained and put to productive use and to encourage as many aspects of the uses, structures, and lots to be brought into conformance with this Code as is reasonably practical. This Section is intended to recognize the interests of the property owner in continuing the nonconformity but also to preclude the extension, expansion, or change in character of the nonconformity or the reestablishment of the nonconformity after it has been abandoned.”

Section 5.6.7(B)(2) includes the following language:

“**Nonconforming Lots Made Conforming.** Where a legal lot does not meet the above requirements to be exempted from the minimum lot size requirements, contiguous legal lots under the same ownership shall be combined through a merger by contiguity

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process to create a zoning lot and the resulting parcel shall be considered conforming with respect to the minimum lot size requirement where:

- Central water is provided, but not central sewer, and the resulting zoning lot after any required merger is at least 10,000 square feet; or
- No central water or central sewer is provided and the resulting parcel after any required merger is one acre or more in area.

A remainder nonconforming lot or parcel not required to meet the minimum lot size requirement for the subject property to be considered a conforming zoning lot shall be considered conforming provided the owner requests and receives a zoning lot determination from the PCD Director, and files the determination for recording with the Clerk and Recorder within 30 days of the date of the determination.” (Emphasis added)

Section 5.6, Legal Nonconformities, of the Code contemplates and limits when a dimensional variance before the Board of Adjustment may be applicable:

“When applying for a building permit or seeking any land use approvals, or when requesting a determination of nonconformity under this Code, the nonconforming lots or parcels due to lot size are subject to a merger by contiguity and shall submit to the PCD a signed and completed merger agreement, provided by the PCD, acknowledging consent to the legal combination of the nonconforming contiguous lots or parcels. No nonconforming lot or parcel due to lot size shall be determined to be eligible for a lot size variance if a contiguous lot or parcel under the same ownership is available to be merged to the nonconforming lot or parcel.”

Staff notes that you are also the owner of record of Lots 9 and 10, Block 3 of the Black Forest Park Subdivision. These lots are adjacent to the subject parcel, Lot 20.

Per the requirements of the El Paso County Land Development Code you are required to merge those contiguous parcels that are under the same ownership. Therefore, pursuant to Section 5.6.7(B)(2) of the Code, the Planning and Community Development Department Director cannot make a positive finding regarding Lot 20, Block 3 of the Black Forest Park Subdivision as a legal nonconforming lot that is eligible for building permit authorization.

Sincerely,



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

