

EL PASO COUNTY
COLORADO

Kevin Mastin, Interim Executive Director
El Paso County Planning & Community Development
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Board of County Commissioners
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August 17, 2022

ATTN: Marcia Small

RE: 7166 Skyline Circle ADM
File: ADM-22-026
Parcel ID: 83092-02-003

Chuck Broerman
11/18/2022 10:51:46 AM
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El Paso County, CO



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Dear Marcia Small:

A request has been made for an interpretation regarding the above referenced parcel to confirm that the property is a nonconforming lot based on the creation date of the plat in relation to when R-T zoning was put into place for the property. In addition, 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 (2021).

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."

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The property was legally platted as Lot 15 of the Western Hills subdivision (Plat No. 1574) on July 3, 1956. Since the property was legally platted, it is considered a legal division of land.

Compliance with Zoning Regulations:

The property was zoned R-T (Residential Topographic) on April 27, 1967, when zoning was first initiated for this portion of El Paso County.

Section 4.2.1. of the Code defines a “R-T, Residential-Topographic District” as:

“The R-T district is intended to accommodate residential use in regions of extreme topographical conditions.”

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 nonconforming because it does not conform with the R-T zoning district’s minimum lot area requirement, 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;
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 #000204).

- 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 an approved well permit (Permit #217449).

- 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 38% 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 lot is less than 20,000 square feet; therefore, this criterion is not met.

The parcel does not meet all of the above requirements and therefore cannot be considered a conforming lot. However, the lot size is considered nonconforming due to the existence of the lot preceding the establishment of zoning regulations on this property.

Discussion and Conclusion:

The property was legally platted prior to the adoption of the modern subdivision regulations and is therefore considered a legal division of land.

The property is zoned R-T and is 11,400 square feet in size, which does not meet the 5-acre minimum lot size for the zoning district. The parcel is considered legally nonconforming with regards to lot size.

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,

A handwritten signature in black ink, appearing to read "Kevin Mastin". The signature is stylized with a large initial "K" and a long horizontal stroke at the end.

Kevin Mastin, Interim Executive Director
El Paso County Planning and Community Development Department

Exhibit A:

7166 Skyline Circle

This document shows when R-T zoning was established on the property : April 27, 1967



