

# EL PASO COUNTY



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

October 30, 2020  
ATTN: Brian Moreno

RE: Administrative Determination for 7330 Swan Road

File: ADM-20-039  
Parcel Nos.: 5205400027; 5205400028

Chuck Broerman  
11/23/2020 01:50:35 PM  
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Rec \$18.00 Pages

El Paso County, CO



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Dear Mr. Moreno:

A request has been made for an interpretation regarding the above referenced parcels to confirm that the property is considered legally nonconforming with regard to lot size pursuant to the El Paso County Land Development Code (2019). In order to determine if the property is considered nonconforming, the parcels must first be confirmed as legal lots.

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."

Both parcels were legally created by warranty deed on January 6, 1966, (Book 2138, Page 360). The legal descriptions and acreage of the parcels has remained unchanged since the creation date; therefore, the parcels are considered a legal lots.

### Compliance with Zoning Regulations for Conformity:

The properties were zoned A-4 (Agricultural) on September 21, 1965 when zoning was first initiated for this portion of the County. Due to changes in the nomenclature of the Land Development Code, the A-4 zone district has been renamed to RR-5 (Residential Rural). The RR-5 zoning district has a minimum lot size of five (5) acres, except where the lot abuts a section line County road. The subject property abuts Swan Road, which is a section line County road

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



COLORADO SPRINGS, CO 80910-3127  
FAX: (719) 520-6695

[WWW.ELPASOCO.COM](http://WWW.ELPASOCO.COM)

separating Sections 5 and 8, Township 12 S, Range 65 West, thereby reducing the minimum lot size to 4.75 acres in accordance with Table 5-4 of the Code.

Section 1.15 of the Code defines a "Nonconforming Lot" 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 does not conform with the minimum lot area requirement of the RR-5 zoning district. The property was legally created prior to the subdivision regulations; however, the lot size was not legally existing when zoning was implemented. Therefore, the lot cannot be considered nonconforming. However, on March 3, 1994, the El Paso County Board of Adjustment approved a lot size variance request to allow a lot size of 4.48 acres where 4.75 acres is required, establishing the lot size for the property as legal, with a condition that parcel nos. 5205400027 and 5205400028 remain under common ownership (PCD File No. BOA-94-022). Parcel 5205400027 is 4.34 acres and parcel 5205400028 is 0.14 acres. Both parcels are subject to a merger by contiguity agreement, which effectively combined them into one 4.48-acre zoning lot (PCD File No. MER-20-006). The parcels are under common ownership; subject to approval of MER-20-006 by which both parcels would be merged into one, both of which are in keeping with the intent of the conditional approval associated with BOA-94-022.

**Discussion and Conclusion:**

The parcels are considered legal lots due to their creation prior to the subdivision regulations and the lot size is considered legal as a result of the Board of Adjustment action. Additionally, both parcels have been combined through a merger by contiguity action to create a single legal zoning lot. Therefore, it is the determination of the Planning and Community Development Director that the property is considered a legal, conforming lot.

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 Ryan Howser, Planner I, at (719) 520-6049 or [ryanhowser@elpasoco.com](mailto:ryanhowser@elpasoco.com).

Sincerely,



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