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**Via Email Only**

Nina Ruiz  
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**Re: Hobby Farm as an Accessory Use at 31282 East Paint Mine Road in El Paso County, Colorado**

Ms Ruiz:

This firm represents Ms. Judy Fithian, the owner of a 190 acre farm, located at 31282 East Paint Mine Road in El Paso County, Colorado (APN No. 1200000378) (the *Farm*). The purpose of this letter is to clarify Ms. Fithian uses her property as a Hobby Farm rather than as an animal refuge. Hobby Farms, as you are aware, are permitted as an accessory use within her existing zone district.

Ms Fithian's Farm includes a small existing home, a riding ring, a hay pasture, animal housing facilities, and various other outbuildings. The Farm is zoned A-35 pursuant to the El Paso County Land Development Code (*LDC* or *Code*), which is defined as "a 35 acre district primarily intended to accommodate rural communities and lifestyles, including the conservation of farming, ranching, and agricultural resources." LDC § 3.2.1(B).

There has been some suggestion that Ms. Fithian's Farm is an Animal Refuge, but the Farm does not and has not operated as a refuge, it is a farm. An Animal Refuge is "[a] facility, other than a veterinary hospital, for the care and keeping of abandoned, injured, or confiscated animals, including domesticated or exotic species [which may also include] animal rescues or similar type facilities." LDC § 1.15.

Ms. Fithian has owned and operated the Farm since 2015 and during that time she has spent much of her energy creating a home for herself and her passion—her burros. Ms. Fithian is a Wild American Burro enthusiast, and much like a car enthusiast who buys a home with an oversized garage to house his/her vehicles, Ms. Fithian purchased the Farm as a way to pursue



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her passion of showing, raising, owning and caring for her burros. Ms. Fithian has never accepted abandoned, injured, or confiscated animals; she purchases her animals. She currently has twenty burros on the Farm, which she has either purchased or hand-raised from birth. When Ms. Fithian has purchased burros, she has done so from various private individuals and the federal government. Eight of the Jennies (or female burros) were purchased in Green Valley, Arizona. Two other burros were purchased from the Bureau of Land Management (BLM) pursuant to the Wild Free-Roaming Horse and Burro Act of 1971. Other burros on the Farm were raised, from birth, by Ms. Fithian.

The responsible ownership of livestock requires more than passion; it requires appropriate facilities and often times, helping hands. Far from being her primary source of income, Ms. Fithian's hobby requires a heavy investment of her personal time and money and is something she does not do for monetary gain. Occasionally, her friends and family assist her with care of her burros, but she is the predominant caretaker for her Farm and her burros. She has a paid assistant to care for the animals when she is away.

As a Wild American Burro enthusiast, Ms. Fithian *does* share her passion for the burros with others and she uses her Farm and her burros, at times, to assist with that effort. Even before purchasing the Farm, Ms. Fithian developed relationships with a number of local 4-H programs to engage youth in experiential programs related to agriculture and animal handling. Ms. Fithian and her burros help to advance the 4-H goal of "learn[ing] by doing", where the 4-H kids can visit the Farm and assist with the care of Ms. Fithian's burros in an active agricultural setting. 4-H kids spend hours learning to train the burros, moving the burros' feet and teaching them to move on command and give hugs. The kids also learn to care for the animals, helping to install fencing, clean barns, and move hay, among other things. Kids from the Country Style 4-H, Trail Blazers 4-H, and Greener Pastures 4-H, have also shown Ms. Fithian's burros at local parades and local shows including the Pikes Peak or Bust Rodeo Parade.

Ms. Fithian's Farm is clearly an agricultural use, falling within the definition of agriculture as that term is defined in the Code. Pursuant to LDC § 1.15, *Agriculture* means "the science, art, and business of raising livestock, including but is not limited to livestock, including beef cattle, sheep, swine, horses, ponies, mules, *donkeys*, llamas, alpacas or goat including the breeding and grazing of any and all these animals." Emphasis added. Further, Ms. Fithian's Farm is more closely akin to a "Hobby Farm" than to an animal refuge/rescue. A Hobby Farm is defined as follows:

A parcel of land where *livestock*, animals, or birds are raised or garden crops grown in a manner either incidental to the principal residential use of the property



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of where the production of livestock or garden crops on the property does not constitute a principal income for the property owner. *This would include 4H or similar types of programs.*

LDC § 1.15 (emphasis added).

Ms. Fithian is not operating an animal refuge or rescue. She is not a veterinarian and does not care for or keep abandoned, injured, or confiscated animals; she purchases her animals for her own personal enjoyment and employs a selective practice in choosing the animals that she brings to the Farm. Additionally, she is providing significant access to kids participating in local 4-H programs, where those kids can learn about the care and training of the animals.

Finally, the keeping of burros does not constitute a principal income for Ms. Fithian, in fact, she expends a considerable amount of money to keep and care for her animals, much like if she kept horses instead of burros. Ms. Fithian also solicits funds thru a 501(c)(3) not-for-profit organization that helps defray the cost of some of the 4-H programs at the Farm.

The keeping of animals and the operation of a Hobby Farm in the A-35 zoning district are both permitted by right as accessory uses. Ms. Fithian's use of the Farm for the keeping and raising of burros is allowed by right, just as if she were keeping sheep, horses, buffalo, etc. It is Ms. Fithian's intent to continue to operate her Hobby Farm and to continue her productive partnership with the local 4-H programs to teach future generations about livestock and, in particular, the Wild American Burro.

We look forward to hearing from you and would appreciate your department's confirmation that it views Ms. Fithian's Farm as a permitted use within the A-35 zone district, classifying it rightly as a Hobby Farm. Any comments or questions you may have should be directed to me or Michael Miller in my office. He can be reached at [hmmiller@spencerfane.com](mailto:hmmiller@spencerfane.com) or 303.592.8330. Thank you.

Very truly yours,

Benjamin A. Maresca

cc: Michael Miller ([hmmiller@spencerfane.com](mailto:hmmiller@spencerfane.com))  
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