

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development
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Colorado Springs, CO 80910

Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

March 29, 2023

ATTN: M Beaty Design & Build, LLC.

RE: Renard Trust

File: ADM-22-37

PID: 3206400033, 3206400013, and 3206400014

Dear Michael Beaty:

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. A request has also been made to confirm whether setback encroachments of various buildings can be considered a legal nonconformity.

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.”

In order to be considered a legal lot, the parcel would have had to have been created prior to July 17, 1972. The Planning and Community Development staff was able to find various deeds for this parcel. This parcel was created on August 8, 2022, by a “Combine Request” (see exhibit A) that was for tax purposes. The master parcel numbers were 3206400014 and 3206400031. Parcel number 3206400014 was created January 11, 1979, from deed (Book 3129, Page 243), of this, one acre was split off from the original piece (see card for parcel number 3206400014 exhibit c). Parcel number 3206400031 was created in 2006 and the master number for 3206400031 was 3206400010 which was created by a Deed in 1968. The master parcels were created prior to July 17, 1972, which makes them legal parcels. However, the subsequent parcels created from the master parcels were created after 1972 without going through the subdivision process, making them illegal divisions of land.

Compliance with Zoning Regulations:

The property was zoned A-35 (Agricultural) on March 24, 1999, when zoning was first initiated for this portion of El Paso County.

Section 3.2.2. of the Code defines “Agricultural district” as:

“The A-35 zoning district is a 35-acre district primarily intended to accommodate rural communities and lifestyles, including the conservation of farming, ranching and agricultural resources.”

Buildings on property, named per the site plan (exhibit D):

1. Mini Warehouse (Storage building) – 1999
2. Repair Shop (metal) – 1970
3. Modular home – no building date on file
4. Auto Sale “Office” – no building date on file
5. Convenience Store (18880) – no building date on file
6. Bar (Proposed Building) – **not built yet**
7. Shed (next to office) – no building date on file

Building 1 on the property was constructed in 1999 and meets setbacks for A-35 zoning (25 feet). Building 2, the “Repair shop” was built in 1970, has a rear setback of 3.9 feet which does not meet setback requirements of A-35 zoning. Building 3, the mobile home, which is rented

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on the property and does meet the setback standards of A-35 zoning (25 feet). However, the rental of the mobile home is not allowed by code. Building 4, the "Office," meets the setback requirements of the A-35 zoning district. Building 5, the convenience store, does not have a building date, however, it does meet the setback requirements for the zoning district. Building 6, is a proposed building that will meet the zoning setbacks. The use of a "bar" is not a permitted use in A-35 zoning. Lastly, building 7, a small shed, does not meet setbacks for the zoning district.

This property was initially zoned A-35 on March 24, 1999, buildings 1 and 2 can be considered legal nonconforming in relation to when zoning was established in 1999. However, buildings 3, 4, 5, and 7 do not have any building dates on file with the planning department, therefore it is recommended to acquire building permits for the associated buildings. Buildings 1, 3, 4, 5, and 6 do meet zoning setback standards for the A-35 district. Building 7, "shed" that is northwest of the "office" is encroaching into the setbacks by 8.6 feet.

Discussion and Conclusion:

Due to the master parcel being created prior to July 17, 1972, this can be considered a legal nonconforming parcel. However, the subsequent parcels created from the master parcel were created after 1972 and did not go through the subdivision process, making them illegal parcels. It is recommended to legalize the parcels that they through the minor subdivision process to create legal lots. The size of this parcel is 4.18 acres, which does not meet the lot size standards for A-35 zoning and it is recommended to seek approval from the Board of Adjustment for a lot size variance. Additionally, building 7 does not meet setback standards and a variance is recommended for setback encroachment, or remove the building. The other buildings on the property do meet setback standards. The proposed building as depicted on the site plan is within the setbacks for the A-35 district. However, it must go through proper zoning applications prior to obtaining a building permit. Lastly, the mobile home that is being rented is not an allowed use, and it is recommended that the property owner cease the use or move forward with a Variance of Use for a rental on the property.

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,



Meggan Herington, AICP
Executive Director
El Paso County Planning and Community Development Department

Exhibit A:

32064-00-033




OFFICE OF THE
COUNTY ASSESSOR
Steve Schleiher
ASSESSOR

1675 W. GARDEN OF THE GODS ROAD
EL PASO COUNTY
COLORADO SPRINGS, COLORADO 80903
(719) 520-6653
Fax (719) 520-6462

Combining/Splitting of Property

Schedule Number(s)	Improvement Locations
32064-00-031	
32064-00-014	



Owners Name KRISTINE L HEFFNER TRUSTEE for Tumble Weed Terrace TRUST
(Ownership on multiple properties must match EXACTLY for properties to be processed)

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Reason COMBINE INTO ONE TAX SCHEDULE NUMBER

Signature Martine L. Jeffers, Trustee Date 08/04/2022

Phone Number 719-684-4771

Return To:
El Paso County GIS/Mapping
1675 Garden of the Gods Rd. STE 2300,
Colorado Springs, CO 80907

If in the process of *transferring ownership*, a reception number **MUST** be provided.

Reception Number: _____

Office Use Only

Processed By Lucy Date 8/4/2022

Ownership of the parcels must match EXACTLY YES

Parcels must be contiguous to each other YES

This form was not processed because:

Office Use Only

Office

Tax Districts must be the same MBG

Any Parcels in Tax Lien Sale NO

Date: _____ Initials: _____

Only

Exhibit B:

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ADDRESS OF PROPERTY

ASSESSOR'S DESCRIPTION

23- 32064-00-010
TAX DIST PARCEL NO

TRACT IN SE4SE4 SEC 6-12-63 AS FOLS, BEG AT POI OF SLY R/W LN OF C R I & P RY WITH NLY LN OF CO RD, SD POI LOCATED AT PT THAT BEARS S 88°58' W 930.6 FT FROM & 30 FT N OF SE COR OF SEC 6, TH E ALG N LN CO RD 295.16 FT, N AT R/A TO LAST MENT COURSE 268.73 FT M/L TO SLY R/W OF C R I & P RY CD, TH S 47°41' W ALG SD R/W LN 399.16 FT M/L TO POB

To 2004
32064-00-031,032

5 PG007

GRANTEE	BOOK	PAGE	DATE	KIND OF INSTRUMENT	REMARKS
FUCHS LOUIS G & BARBARA E BEYTON, COLO					
Griffiths, Thomas R. & Jean E.	2245	715	7/26/68	614509	WD
FUCHS LOUIS G & BARBARA E	2327	222	1/16/70	709364	WD
Fuchs, Louis G.	2722	302	12-10-74	118713	RITL
Jackson, Merton O. & Lois M.	2703	24	9-3-74	98333	WD
Fuchs, Louis G.	2813	307	3-5-76	215409	QGD
Norvell, Rodney J. & Lawny D.	3419	787	4-3-81	758903	WD
ROCK CREEK CANYON CORP,	3864	1002	5-1-84	1109361	WD
BIJOU BASIN CORP.	3886	185	6-22-84	1130673	WD

FORM 702 (1/84) COMMERCIAL

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