


EL PASO COUNTY
COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Planning Commission
 Brian Risley, Chair

FROM: Ryan Howser, Planner I
 Daniel Torres, PE Engineer II
 Craig Dossey, Executive Director

RE: Project File #: VA-20-005
 Project Name: Five Star Equestrian Center
 Parcel No.: 57000-00-104

OWNER:	REPRESENTATIVE:
Luis Praxmarer c/o Lee Jolivet, Esq. 102 South Tejon Street Colorado Springs, CO 80903	Urban Strategies, Inc. 6 South Tejon Street, Suite 550 Colorado Springs, CO 80903

Commissioner District: 4

Planning Commission Hearing Date:	2/18/2021
Board of County Commissioners Hearing Date	3/9/2021

EXECUTIVE SUMMARY

A request by Urban Strategies, Inc., for approval of a variance of use to legalize multiple single-family detached and attached residences, a vehicle repair garage, an equestrian center, and a horse boarding facility. The 85.66-acre property is zoned A-5 (Agricultural) and is located on the west side of Midway Ranch Road, approximately one-half mile north of Rancho Colorado Boulevard and is within Sections 15 and 22, Township 17, and Range 65 West of the 6th P.M. The property is included within the South Central Comprehensive Plan (1988).



The property is currently being used for equestrian purposes, events, and boarding of horses. Additionally, there are thirteen (13) occupied dwelling units on the property, and a vehicle repair garage. A notice of violation was sent to the property owner from Code Enforcement regarding the expired variance of use for the vehicle repair garage on August 9, 2018. An application for a variance of use renewal was received on November 16, 2018 but was subsequently cancelled on November 25, 2019. A revised notice of violation was sent on May 15, 2020, citing several uses which are not permitted in the A-5 zoning district, including the vehicle repair garage and multiple dwelling units. The applicant then requested an Early Assistance meeting which was held on July 16, 2020 to discuss the proposed variance of use. The variance of use application was received on October 16, 2020.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Urban Strategies, Inc., for approval of a variance of use to legalize multiple single-family detached and attached residences, a vehicle repair garage, an equestrian center, and a horse boarding facility. In the A-5 (Agricultural) zoning district.

Waiver(s)/Deviation(s): There are no waivers or deviations associated with this request.

Authorization to Sign: There are no documents associated with this application that require signing.

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code, the Planning Commission and Board of County Commissioners may consider the following criteria in approving a variance of use:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.

- The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;
- The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

D. LOCATION

North:	RR-5 (Residential Rural)	Agricultural/Residential
South:	RR-5 (Residential Rural)	Vacant
East:	City of Fountain	Vacant
	I-2 (Limited Industrial)	
West:	RR-5 (Residential Rural)	Vacant
	RR-2.5 (Residential Rural)	

E. BACKGROUND

The 85.66-acre property was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this area of unincorporated El Paso County (BoCC Resolution No. 434870). The Board of County Commissioners approved a rezoning request from A-4 to A-2 (Agricultural) on December 3, 1984 (PCD File No. P-84-038). Due to changes in the nomenclature of the Code, the A-2 zoning district was renamed as the A-5 (Agricultural) zoning district. Parcels over 35 acres in size do not fall within the El Paso County definition of subdivision and are, therefore, not subject to the County subdivision standards. The 85.66-acre property, created by warranty deed on October 12, 1984, is considered a legal division of land.

The Board of County Commissioners approved a request for a special use for operation of a commercial stable, incorporating one primary residence, an indoor

arena, an outdoor arena, and several barn structures on December 3, 1984 (PCD File No. AL84031Z). Unpermitted modular structures have been added to the property over the years to be occupied by ranch hands employed by the property owner. Ranch hand residences are a permitted use by right in the A-5 zoning district. While these residential units have been continuously occupied since construction, they have not continuously functioned as ranch hand residences and are currently being occupied as rental units.

The Board of County Commissioners approved a request for a variance of use, with a ten (10) year expiration, to allow a vehicle repair garage on August 15, 2005. The structure associated with the vehicle repair was constructed in 2006. The vehicle repair garage specializes in restoration of classic cars.

A notice of violation was sent to the property owner from Code Enforcement regarding the multiple dwelling units and the expired variance of use for the vehicle repair garage on August 9, 2018. An application was received to renew the variance of use on November 16, 2018 and was subsequently cancelled on November 25, 2019. A revised notice of violation was sent on May 15, 2020, citing several uses which are not permitted in the A-5 zoning district, including the vehicle repair garage and multiple dwelling units.

The applicant requested an Early Assistance meeting which was held on July 16, 2020 to discuss the variance of use. The Planning and Community Development Department received the application for the variance of use on October 16, 2020. The applicant is requesting approval to legalize the use of the existing dwelling units as rental residences and for the vehicle repair garage.

A site plan has been provided illustrating the current uses and structures on the property. No new development is proposed at this time; however, the existing uses will need to be legalized. The applicant will be required to submit and receive approval of a site development plan. The site development plan will need to be substantially consistent with the site plan provided with the variance of use application and provide a more detailed depiction of the proposed use, including landscaping, parking, and lighting. Any expansion to the equestrian uses will require approval of a revision to the previously approved special use permit (PCD File No. AL84031Z) and any expansion to the residential and/or commercial uses will require approval of a revised variance of use.

F. ANALYSIS

1. Land Development Code Analysis

The El Paso County Land Development Code (2021) does not allow multiple dwelling units on a single parcel in the A-5 (Agricultural) zoning district. The requested use is not consistent with the A-5 zoning district without approval of a variance of use.

The Code defines “Dwelling, Additional” as:

“A dwelling unit, allowed in the A-35 District only, either within or added to an existing single-family detached dwelling or located as a separate accessory structure on the same lot or parcel as the principal single-family dwelling, for use as a complete, independent living facility with provisions within the dwelling unit for cooking, eating, sanitation, and sleeping. The additional dwelling shall be considered an accessory use to the principal dwelling.”

An additional dwelling is only allowed as an accessory use in the A-35 (Agricultural) zoning district. Currently, this property has thirteen (13) dwelling units, which were originally designated as farm/ranch residences.

The Code defines “Farm/Ranch Residence” as:

“A farm/ranch residence is a dwelling unit occupied by persons principally employed at or engaged in the operation of the farm or ranch.”

A farm/ranch residence is permitted by right in the A-5 zoning district, which allows one farm/ranch residence per five (5) acres. The 85-acre property would allow up to 17 farm/ranch residences, provided the residents are principally employed or engaged in the operation of the farm or ranch. Despite originally being designated as farm/ranch residences, the residences are no longer occupied by residents principally engaged in operation of the ranch on a continuous basis. Therefore, they can no longer be classified as farm/ranch residences, and the use as individual dwelling units is not permitted.

The potential impacts of the multiple dwelling units are anticipated to be similar to farm/ranch residences; the only potential increased impact is an increase in traffic due to those residing onsite not being principally employed by the farm or ranch. The proposed variance of use will have a minimal impact to the County’s

transportation network. Please see the Transportation section below for additional information regarding traffic impacts.

The El Paso County Land Development Code (2021) does not allow a vehicle repair garage in the A-5 (Agricultural) zoning district. The requested use is not consistent with the A-5 zoning district without approval of a variance of use.

The Code defines "Vehicle Repair Garage, Commercial" as:

" An establishment used for the care or repair of passenger vehicles and light trucks, including major or minor work such as paint, body and fender work or engine and transmission overhaul and incidental storage or parking of repaired vehicles, but excluding the dismantling of wrecked vehicles and the storage of junk vehicles."

The vehicle repair garage was approved by a variance of use on August 15, 2005. A condition of approval for the variance of use indicated an expiration date of ten (10) years, after which the structure for the garage would either need to be removed, converted into an accessory building, or the applicant would need to obtain an extension of the variance of use. Expansion or alteration of the use has not occurred since it was originally established; however, no renewal was requested to allow the continuation of the use.

A commercial stable is allowed as a permitted use in the A-35 zoning district and as a special use in the A-5 and RR-5 (Residential Rural) zoning districts. A commercial vehicle repair garage is allowed as a permitted use in the CS (Commercial Service), C-2 (Commercial), and M (Industrial) zoning districts, and as a special use in the CC (Commercial Community), CR (Commercial Regional), I-2 (Limited Industrial), and I-3 (Heavy Industrial) zoning districts. The 13 dwelling units are not allowed in any zoning district and can only be allowed with a variance of use. Due to the unique combination of uses on the property, rezoning would not be appropriate as there is no zoning district which would allow for all the uses presently on the property.

The property is located approximately two (2) miles south of the Pikes Peak International Raceway. Due to the proximity to a racetrack, a vehicle repair garage specializing in restoration of classic cars may continue to be a suitable use in this area. The garage structure is screened from view from the residential structures on the property and is screened from the surrounding adjacent properties by an opaque privacy fence located on the east side of the property.

Since no construction is proposed at this time and the variance is being requested to legalize the existing uses, there will be no additional off-site impacts to traffic or drainage facilities. Visual and noise impacts that would result from legalizing the uses are expected to be minimal, as the applicant is not proposing any land disturbing activities or expansion of the uses at this time. Approval of a site development plan will be required to complete the process of legalizing the existing uses. Staff is recommending Condition of Approval No. 2, which would require the applicant to legalize the existing uses through the site development plan process within six (6) months of the date of approval, should the current variance request be approved. County review and administrative approval of the site development plan will help ensure that adequate buffers, setbacks, and screening are implemented to further mitigate any potential impacts to the surrounding area. The site development plan review will also include compliance with all applicable aspects of the Land Development Code and the Engineering Criteria Manual, including but not limited to grading and erosion control, and parking and lighting standards.

2. Zoning Compliance

The A-5 (Agricultural) zoning district density and dimensional standards are as follows:

- Minimum lot size: 5 acres
- Minimum width (at front setback line): 200 feet
- Minimum front, side, and rear yard setback: 25 feet
- Maximum lot coverage: None
- Maximum height: 30 feet

All structures, with the exception on one, meet the 25-foot setback from all property lines and are under 30 feet in height. The one nonconforming structure is located approximately 18 feet from the north property boundary.

On February 10, 2021, a determination of nonconformity was made by the Planning and Community Development Director identifying the setback encroachment as a legal nonconformity (see attached PCD File No. ADM-21-006).

3. Policy Plan Analysis

Consistency with the El Paso County Policy Plan (1998) is not a required review criterion for a variance of use request. For background, the El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document

concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County master plan. Relevant policies are as follows:

Policy 5.1.5 – *Promote quality and diverse economic development that is consistent with adopted plans, emphasizing both the creation and retention of jobs that meet the needs of citizens of the County at all skill levels.*

Policy 5.1.9 – *Encourage appropriate economic development in rural areas of the County as a means of providing local employment opportunities, increasing community tax base, and reducing long commutes.*

The subject property is zoned A-5 (Agricultural) and is surrounded by properties zoned RR-5 (Residential Rural) to the north and south and RR-2.5 (Rural Residential) to the west. The property is bounded by Interstate 25 to the east. To the east, across Interstate 25, is property located within the City of Fountain, as well as I-2 (Limited Industrial) zoned property in unincorporated El Paso County. Pikes Peak International Raceway is located approximately two (2) miles north of the property, which could present a unique need for a local vehicle repair garage.

The proposed use complements the rural character of the area and preserves the unique geographic features present on the site as much of the site remains undeveloped. The request may be supported by Policies 5.1.5 and 5.1.9, included above, as it could continue to encourage the economic development and employment opportunities within this rural portion of the County. By locating multiple unique uses on the site that complement the character of the surrounding area, rather than subdividing to place each use on discrete properties, the applicant is proposing a more innovative use of the property which results in a less impactful development.

4. Small Area Plan Analysis

The property is included within the South Central Comprehensive Plan (1988). Consistency with the Plan is not a required review criterion for a variance of use request. For background, relevant policies include the following:

Policy 2.1 – *The rural character of the area should be preserved.*

Policy 2.1.a – *The majority of the land should remain in ranchland.*

Policy 3.1 – *Mixed uses and density ranges should be permitted as long as potential negative impacts on neighboring uses are mitigated. Consideration of compatibility should include, but not be limited to traffic, smoke, dust, odors, noise, light, building height/bulk/materials and colors, as well as visual impacts.*

The overall density of the property is rural in nature. The thirteen (13) dwelling units on 85 acres results in an overall density far lower than what the density could be if the property were to be subdivided into five (5)-acre residential lots. The mixed-use nature of the property was evaluated when the variance of use for the vehicle repair garage was considered and approved by the BoCC in 2005 (PCD file no VA-05-005). It was determined at that time that negative impacts on adjacent lots were not likely to have been generated as a result of the operation of the vehicle repair garage. A Code Enforcement complaint regarding the additional dwelling units and the expired variance of use to operate the vehicle repair garage was received on August 6, 2018 and a notice of violation was sent to the property owner regarding uses on August 9, 2018. However, no letters in opposition were received in response to this request and no specific complaints regarding the impacts of the operation of the vehicle repair garage were received. One was received from a neighbor in support of the request.

The majority of the property consists of ranch land. Should the additional dwelling units be approved as rental units, they will not be considered ranch homes; however, the residents may still primarily utilize the ranch and equestrian components.

5. Water Master Plan Analysis

Consistency with the El Paso County Water Master Plan (2018) is not a required review criterion for a variance of use request. For background, the Water Master Plan has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.1 – *Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.*

Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.

Goal 1.2 – Integrate water and land use planning.

The subject property is located within Planning Region 7, Fountain Area, which is expected to have the largest growth demand in the County by 2060. Specifically, the Plan states:

“Areas projected to develop by 2040 are located south of Fountain (City) on the north and south sides of Link Road. Areas northwest of Fountain along the east and west sides of Marksheffel Road are also expected to grow by then, as well as the area south of Fountain on the west side of I-25.”

The property is not located within an estimated area of future development. Region 7 does not draw from the Denver Basin aquifer and is not identified as potentially having issues regarding long term sustainable draw. It should be noted that the Plan provides an analysis based upon centralized water providers and not individual wells, as is proposed by the applicant. However, the Plan identifies the current demands for Region 7 to be 10,141 AFY (Figure 5.1) with the projected need at build-out in 2040 at 15,845 AFY (Figure 5.2) and the projected need at build-out in 2060 at 26,969 AFY (Figure 5.3). Region 7 currently has 15,376 AFY in supplies and is projected to have 27,840 AFY in supplies in 2060, which means by 2060 there is anticipated to be a surplus of 871 AFY (Table 5-2) associated with the central water providers.

The property is served by onsite wastewater treatment systems (OWTS) and currently has two well permits (Permit No. 83543-F and Permit No. 83533-F). Both of these permits specify that the use of ground water includes the following: “ordinary household purposes, livestock, poultry, horse arenas, greenhouse, nursery, dust suppression, aggregate, drip irrigation and pond evaporation.” The existing well permits do not allow for commercial uses or vehicle repair; therefore, the water is being illegally used for those purposes. The applicant is aware of the issue and has indicated that they intend to acquire the appropriate permit from the State Water Engineer prior to approval of the site development plan. Staff is recommending Notation No. 4, which recommends that the applicant acquire the appropriate well permit. Water and wastewater analyses are not required as part of a variance of use application process. El Paso County

does not approve well permits and, therefore, has no jurisdiction over the enforcement of the well permit or conditioning approval based upon issuance of a revised well permit.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies sand and gravel with silt and clay deposited by older streams and slope wash on upland mesas which slope gently from the mountains in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

Conformance with The El Paso County Parks Master Plan (2013) is not a required review criterion for a variance of use request.

Please see the Transportation section below for information regarding the El Paso County 2016 Major Transportation Corridor Plan Update (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The property contains areas located within the floodplain. Please see the Floodplain section below for information regarding the floodplain.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

3. Floodplain

There is a defined zone A floodplain within the site as determined from review of the FEMA Flood Insurance Rate Map panel number 08041C1160G, dated December 7, 2018. There are existing structures located within the floodplain, which traverses the property from the northwest corner to the east property line. The applicant is not proposing additional development at this time and is, therefore, proposing to leave the floodplain area undisturbed.

4. Drainage and Erosion

The property is located within the Midway Ranch (FOFO0800) drainage basin, which is an unstudied basin with no drainage or bridge fees. A drainage report

and erosion control plan were not required as the applicant is not proposing any additional development or land disturbing activities on the site at this time.

5. Transportation

The site is accessed via Midway Ranch Road, which is a Colorado Department of Transportation (CDOT) frontage road. Per the associated traffic study, the site will generate an estimated 172 average daily trips. Additionally, the traffic study indicated that no auxiliary turn lanes are required at the site access points. Per comments provided by CDOT on February 28, 2019, the site has access permits in place and no new improvements will be needed. The proposed variance of use will have a minimal impact to the County's transportation network. The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvement requirements in the immediate vicinity of the site.

H. SERVICES

1. Water

Water is provided by existing permitted wells (Permit No. 83543-F and Permit No. 83533-F). The well permits do not allow for a commercial business. Staff is recommending Notation No. 4, which recommends that the applicant acquire the appropriate well permit.

2. Sanitation

Wastewater is provided by existing septic systems. El Paso County Public Health (EPCPH) has requested additional information regarding the septic systems and still has outstanding comments at this time. Staff is recommending Condition of Approval No. 3, which recommends that the applicant provide evidence that septic permit applications have been submitted to EPCPH prior to site development plan approval.

3. Emergency Services

The property is within the Hanover Fire Protection District. The District was sent a referral and did not provide comments.

4. Utilities

Electrical service is provided by Mountain View Electric Association (MVEA) and natural gas services is provided by Black Hills Energy. MVEA and Black Hills Energy were both sent referrals and have no outstanding comments.

5. Metropolitan Districts

The property is not located within a metropolitan district.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a variance of use application.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a variance of use application.

I. APPLICABLE RESOLUTIONS

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Disapproval Page 52

J. STATUS OF MAJOR ISSUES

There are no major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.4 of the El Paso County Land Development Code (2021), staff recommends the following conditions and notations:

CONDITIONS

1. Approval is limited to the use of thirteen (13) dwelling units and a vehicle repair garage, as discussed and depicted in the applicant’s letter of intent and site plan drawings, in addition to those previously approved special uses (PCD File No. AL-84-031Z). Any subsequent addition or modification to the operation or facility beyond that described in the applicant’s letter of intent and as shown on the site plan shall be subject to review and approval of a new variance of use request.

2. The applicant shall apply for and receive approval of a commercial site development plan within six (6) months of variance of use approval by the Board of County Commissioners. The deadline may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

3. The applicant shall provide evidence that septic permit applications have been submitted with El Paso County Public Health prior to approval of the site development plan.

NOTATIONS

1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.
4. The applicant is aware that the existing well permit does not allow for the uses approved by the variance of use. The applicant will need to seek approval of a revised well permit from the State Water Engineer.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on January 28, 2021, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Administrative Determination

El Paso County Parcel Information

File Name: VA-20-005

PARCEL	NAME
5700000104	CORVETTE PARTNERS LLP

Zone Map No. --

Date: January 27, 2021



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (719) 520-6600



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**Five Star Equestrian Center
Variance of Use – Letter of Intent**

Summary

This variance of use request seeks to reinstate a variance of use to allow a *vehicle repair garage* in an A-5 zone. The original variance was issued for a period of 10 years and the owner neglected to apply for a renewal in a timely manner. In order to provide flexibility to accommodate future tenants, the owner is also requesting a variance of use for a *truck and recreational vehicle repair garage* in the event services are expanded beyond classic car restoration on the site. There are a total of thirteen (13) dwelling units on the property that were originally occupied exclusively by ranch hands. Over time, some of these dwelling units ended up being occupied by individuals that had a tenuous relationship with (or even no relationship to) the Five Star Equestrian Center property. The variance of use request also seeks to legitimize the ability of the owner to rent existing dwelling units on the property. No new development or disturbance of the property is proposed.

Earlier this year a Notice of Violation (NOV) was issued for the subject property that was triggered by complaints received from a former tenant and a neighbor. The NOV identified a variety of uses that were allegedly not permitted and/or required special use approval. In addition, a variance of use for a vehicle repair garage that was approved in 2005 (VA-05-005) which was granted for 10 years had expired and the applicant neglected to re-apply for an extension in a timely manner.

Subsequent research by the planning staff determined that many of the uses flagged in the NOV were approved uses under a special use permit issued by the BOCC in 1984 (AL-84-31). A copy of the letter of intent that accompanied the special use application is included with this submittal. In it the petitioner requests permission to operate a commercial stable on the property. For the past 35 years a variety of equestrian related events have regularly taken place at the Five Star Equestrian Center. Activities authorized by the special use permit have operated continuously since that time. These activities include

breeding, raising and training of horses; training of students in horsemanship; purchases and sales of horses and horse shows.

The NOV identifies several uses that are not allowed uses:

- A hotel is not an allowed use.
There is no hotel on the property. There is a sign that advertises a "Horse Motel" – which is meant to indicate boarding of horses on a short-term basis is available.
- An indoor amusement center is not an allowed use.
An indoor arena that hosts equestrian related events has been operating since the special use approval in 1984. Activities taking place within this facility are consistent with those defined as an indoor amusement center by the LDC.
- An outdoor amusement center requires a special use and approved site development plan.
The special use approval granted in 1984 allowed for equestrian related uses to take place in various outdoor riding arenas located throughout the property. These were shown on the original site plan and are also shown on the site plan that accompanies this submittal.
- A business event center requires special use approval and approved site development plan.
Activities authorized by the 1984 special use approval include, " a for-profit business whose purpose is to provide a place for people to assemble for events...." – which is the definition of a business event center in the LDC.
- A rodeo requires special use approval and approved site development plan.
The LDC defines rodeo as, "a public performance which includes bronco riding, calf roping, steer wrestling, bull riding or other related events." These activities have taken place on the property consistently since the 1984 special use approval was granted. However, it appears that rodeo as a special use was not specifically called out in 1984 even though the use was explicitly contemplated in the letter of intent submitted by the petitioner.
- The vehicle repair garage and dwelling units as uses the NOV identifies as not allowed in the A-5 zone are addressed below.

Two items identified in the NOV remain unresolved. First, the applicant seeks a *permanent* variance of use that would forever legitimize the vehicle repair garage. After the initial variance of use for a vehicle repair garage was approved in 2005, a 9,600 square foot facility was subsequently constructed to house the Corvette Center, a classic car sales and restoration facility that relocated from Motor City. The owner plans to retire in the near future and would like to sell his business. It is possible a buyer may wish to work on more than just automobiles, which is why this request also seeks approval for use of this facility as a truck and recreational vehicle repair garage.

Secondly, there are several residential dwellings on the property that are not allowed as accessory uses in an A-5 zone. These dwelling units have been occupied continuously for many years. Initially these properties were occupied by individuals that were employed as ranch hands, but over the years as some of these dwelling units became vacant and were rented to individuals with no employment relationship. (For example, some of these dwelling units have been rented to individuals that board horses on the subject property.) Over the past 35 years, perhaps due to a lack of any institutional memory, many of the dwelling units on the property have become rental units. Property rentals have become an important source of both labor on the ranch and income so the owners seek to continue these uses in the future.

This application formally requests that the variance of use granted for the vehicle repair garage be extended permanently and expanded to allow for truck and recreational vehicle garage use, as well. The applicant also requests that any residential dwelling unit can be rented to either ranch hands or any other tenant as a part of this variance of use request. As detailed later in this Letter of Intent, the request meets the criteria required to approve a variance of use.

Background

Originally known as Bara Farm, the subject property was developed in the 1980s as a horse farm/equestrian center. A range of equestrian related uses was permitted under a special use permit approved in 1984. A copy of the Letter of Intent that accompanied the special use

request in 1984 is included as part of this application. The request sought to formalize uses that were taking place on the property, which included:

“...the breeding, raising and training of horses, and the training of students in horsemanship and equitation from time to time. Also from time to time, purchases and sales will be made as is customary at all ranches. It is also contemplated that there will be horse shows from time to time, at which show horses will be displayed and judged.”

The Letter of Intent goes on to describe the various structures on the property that accommodate the foregoing uses as well as anticipated on-site employees.

Bara Farm was subsequently purchased by Luis Praxmarer in September, 1996 and renamed Five Star Ranch and Equestrian Center. Five Star Ranch and Equestrian Center was sold to Ric Noring in December 2004.

In 2006, Mr. Noring constructed the Corvette Center, a classic car restoration business that he operated, on a 4-acre parcel located on the southeastern edge of the property. Mr. Noring continued to operate the equestrian elements of the Five Star Ranch and Equestrian Center. The uses on this property under Mr. Noring's ownership have remained unchanged from the uses authorized by the 1984 special use permit (except for the Covette Center that was authorized by a variance of use granted in 2005).

On June 5, 2020 Luis Praxmarer (the previous owner) reacquired ownership of the property from Ric Noring. Prior to Mr. Praxmarer re-acquiring ownership, El Paso County Code Enforcement officials had notified the prior owner concerning land use violations on the property. The prior owner (Mr. Noring) had never adequately addressed the outstanding issues that were identified. The property is now known as the Five Star Equestrian Center.

An Early Assistance meeting between Urban Strategies and El Paso County staff was held on July 16, 2020. By the time of this meeting, staff

had determined equestrian related uses on the property that had been flagged in the NOV had, in fact, been approved in the 1984 Special Use permit.

The expired variance of use for the Corvette Center and any violations related to non-conforming dwelling units on the property remained unresolved. Staff recommended the most efficient way to remedy any on-going violations would be through a Variance of Use request – even though there were no guarantees such a request would be approved.

Request and Justification

The Corvette Center was initially occupied in January 2007 pursuant to a Variance of Use (VA-05-005) granted in August 2005. This variance was, “limited to ten (10) years after which time the structure will either be removed, the applicant will re-apply for and obtain an extension of the Variance of Use, or the applicant will convert the structure back to an accessory building.”

The former owner neglected to re-apply for an extension of the Variance of Use. The current owner wishes to re-apply for a *permanent* Variance of Use allowing for this existing building. This building represents a significant private investment and it would be unfortunate if the building had to be removed or converted to a less efficient use because of the negligence of the former owner in not re-applying for an extension.

Considering the location just south of a large racetrack, it makes sense for a low impact automotive use to operate in this particular location. A traffic memorandum that is included as part of this application concludes the Corvette Center generates very little traffic and has no adverse impact on surrounding properties. The parcel is screened from view and provides sufficient parking/storage for vehicles that are being serviced.

It is likely the owner of the Corvette Center will be retiring in the near future and will want to sell his business. A new owner is expected to operate a similar type of business. The Corvette Center is categorized as a “Vehicle Repair Garage” with respect to LDC definitions. The applicant

requests a variance for this use as well as a closely associated "Truck and Recreational Vehicle Repair Garage" use in order that any future operation is less likely to have any compliance issues.

There are several dwelling units scattered throughout the property and identified on the site plan as Buildings R1 - R13. They range from old ranch houses to trailers to dwelling units attached to barns, which have been on the property and occupied since Luis Praxmarer purchased the property in 1996 (with the exception of two double wide mobile homes that were permitted and located near the northern boundary of the parcel in 1999).

These dwelling units have been continuously occupied (except for vacancies between occupants) during the time Mr. Praxmarer and Mr. Noring have owned the property. The Ranch depends on the income and/or labor derived from occupants.

While currently zoned A-5, this property was zoned A-1 at the time of its special use approval. A-1 zoning, now obsolete, allowed:

"Single family dwelling(s) or mobile home(s) for person(s) principally employed at or engaged in the operation of the farm ranch, dairy or fur farm. The total number of residences on a farm, ranch, dairy or fur farm shall not exceed one (1) unit per five (5) acres."

Under the foregoing criteria, and considering the subject property is 95.143 acres, a total of 19 dwelling units would be permitted as a legal non-conforming use to be occupied by people principally employed at or engaged in the operation of the Five Star Equestrian Center.

Dwelling units on the property were originally established for and occupied by the property owner and ranch employees. Over the past 35 years and several changes in ownership, the requirement that dwelling units being restricted exclusively to employees of the ranch has not been strictly adhered to. While most tenants have historically been and are currently principally employed or engaged in the operation of the Ranch, in some cases property has been rented to tenants with no

working connection to the Ranch – for example tenants that board horses on the property.

This variance of use requests that there be no restriction on the owner with respect to whom residential dwelling units are rented.

Water

There are two permitted wells that serve the subject property. Copies of well permits (#83533-F and #83543-F) accompanied by an aerial photograph showing where the state believes the wells to be are included as part of this application.

Both well permits allow for ordinary household purposes, livestock, poultry, horse arena, greenhouse, nursery, dust suppression, aggregate, drip irrigation and pond evaporation. It is not apparent from the language of these permits whether commercial use for the Corvette Center is allowed. Local water attorneys, Monson, Cummins & Shoheit have consulted with the water commissioner for the area, Doug Hollister concerning this matter. The attorneys and commissioner are in agreement that the term “indoor uses” would allow for commercial use by the Corvette Center. Furthermore, the commissioner believes the Middle Arkansas Groundwater User’s Association (MAGUA) has the ability to properly augment wells on the property, as required.

Event Parking and Trailer Storage

The Five Star Equestrian Center Site Plan identifies four separate areas that have been designated for event/guest parking and for the storage of horse trailers. Trailer storage is designated for the parking areas shown adjacent to the northern and southern property boundaries. Event/guest parking is accommodated in the two parking areas located in the middle of the property. The northern and southern horse trailer storage lots are estimated to accommodate up to 60 and 30 trailers, respectively. The eastern event/ guest parking lot can hold 20 horse trailers and the central lot can hold 5 trailers and an additional 5 or 6 cars.

Parking and storage capacity within these designated lots far exceeds historic and projected demand for these uses even on busy days.

Variance of Use

The El Paso County Land Development Code allows the Board of County Commissioners to grant a variance of use considering the following criteria:

- The strict application of any of the provision of the LDC would result in peculiar and exceptional practical difficulties or undue hardship.

The Special Use permit issued for this property by the Board of County Commissioners in 1984 allowed for a variety of uses not typically contemplated under the previous or current zoning codes. The variance of use allowing for the Corvette Center granted in 2005 permitted another use not normally found in the A-5 zone.

While existing uses on the property are not typical within the A-5 zone and are, in fact, unique throughout in the county irrespective of zone – they are low impact uses that have minimal, if any, adverse impact on the surrounding area.

The peculiar and exceptional practical difficulty as well as undue hardship that the property owner faces is the uses that have previously been approved on the property do not easily fit the LDC. In effect, the way the zoning code classifies land use and the unique nature of how the property is used is what has created the owner's problem.

Finally, as was discussed previously, over the years and through changes in ownership, the requirement that all dwelling units be occupied by the owner or employees has not been strictly enforced. Even if housing were restricted to employees, it would be an exceptional practical difficulty to enforce this restriction in perpetuity. Hence, the request for a variance to allow for unrestricted residential use of the designated dwelling units.

- The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;

The proposed uses are compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area and not detrimental to the health, safety or welfare of the inhabitants of the area or County.

Most of the properties surrounding the subject are zoned RR-5. Other zones on adjacent properties include RR-2.5, Grazing and I-2. Notwithstanding the variety of zoning, adjacent properties are vacant (with the exception of a ranch house and associated buildings on the property to the north).

The Pikes Peak International Raceway is located approximately two miles north of the subject property. There are also a variety of industrial uses on the opposite side of the freeway a couple of miles south of the subject property.

This eclectic grouping of zones and uses surrounding the subject property have coexisted for many years without any apparent detrimental affects. In fact, the wide variety of uses defines the character of this part of El Paso County.

Because the definition of a Vehicle Repair Garage in the LDC is relatively restrictive this variance of use request seeks to include Truck and Recreational Vehicle Repair Garage as an additional permitted use. This would permit future tenants of the Corvette Center building to work on larger vehicles. Because of the size of facility it is not anticipated there would be a large volume of vehicles (irrespective of size) being repaired or stored at any given time.

- The proposed use will be able to meet air, water, odor or noise standards established by County, State and federal regulations except those portions varied by this action;

The existing uses on the property meet air, water, odor and noise standards established by County, State and federal regulations. No new development is proposed. Water use meets that allowed by permit, air and odor standards have not historically been exceeded. Any noise generated on the site is substantially lower than the ambient noise of adjacent freeway traffic.

- The proposed use will not adversely affect wildlife or wetlands;

The existing uses on this property have not historically had an adverse affect on wildlife or wetlands. No new development is proposed. This application for a variance of use seeks to legalize various activities that have taken place on this property for many years.

- The applicant has addressed all off-site impacts;

The applicant has addressed all off-site impacts. Again, this is an already developed site and the uses are currently in existence .

- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening and landscaping;

The site plan for the proposed variance of use provides adequate parking, traffic circulation, open space, fencing screening and landscaping as evidenced by the operation of this facility of many years.

Various parking areas are designated on the site plan and described elsewhere in this Letter of Intent. Gravel roadways providing traffic circulation within the property are shown on the site plan. Commercial uses are screened from the freeway by opaque fencing on the eastern property line. The Corvette Center building is not visible from residential dwellings on the property.

- Sewer, water, storm water drainage, fire protection, police protection and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

Sewer, water, storm water drainage, fire protection, police protection and roads are all available and adequate to serve the needs of the proposed variance of use. Nothing changes from past uses.

Sewage on the property is handled by a septic system that has approved tanks and leach fields located strategically throughout the property. Storm water flows through the site as shown on the survey that accompanies this application. There is no recent history of flooding.

Water on the property is provided by a permitted well described earlier in this document.

Fire protection is provided by Hanover Fire Protection as confirmed by an email from the Fire Chief of this district. Sheriff protection is provided by El Paso County.

Road access to the property already exists and is more than adequate to serve the needs of the subject property.

For all of the foregoing reasons, this application meets the criteria necessary for the Board of County Commissioners to approve a Variance of Use.

The applicant respectfully requests a permanent Variance of Use be granted for the vehicle repair garage and truck and recreational vehicle repair garage. The applicant also respectfully requests Variance of Use be granted for all thirteen (13) of the dwelling units on the property not currently occupied as an allowed use.

Sincerely,

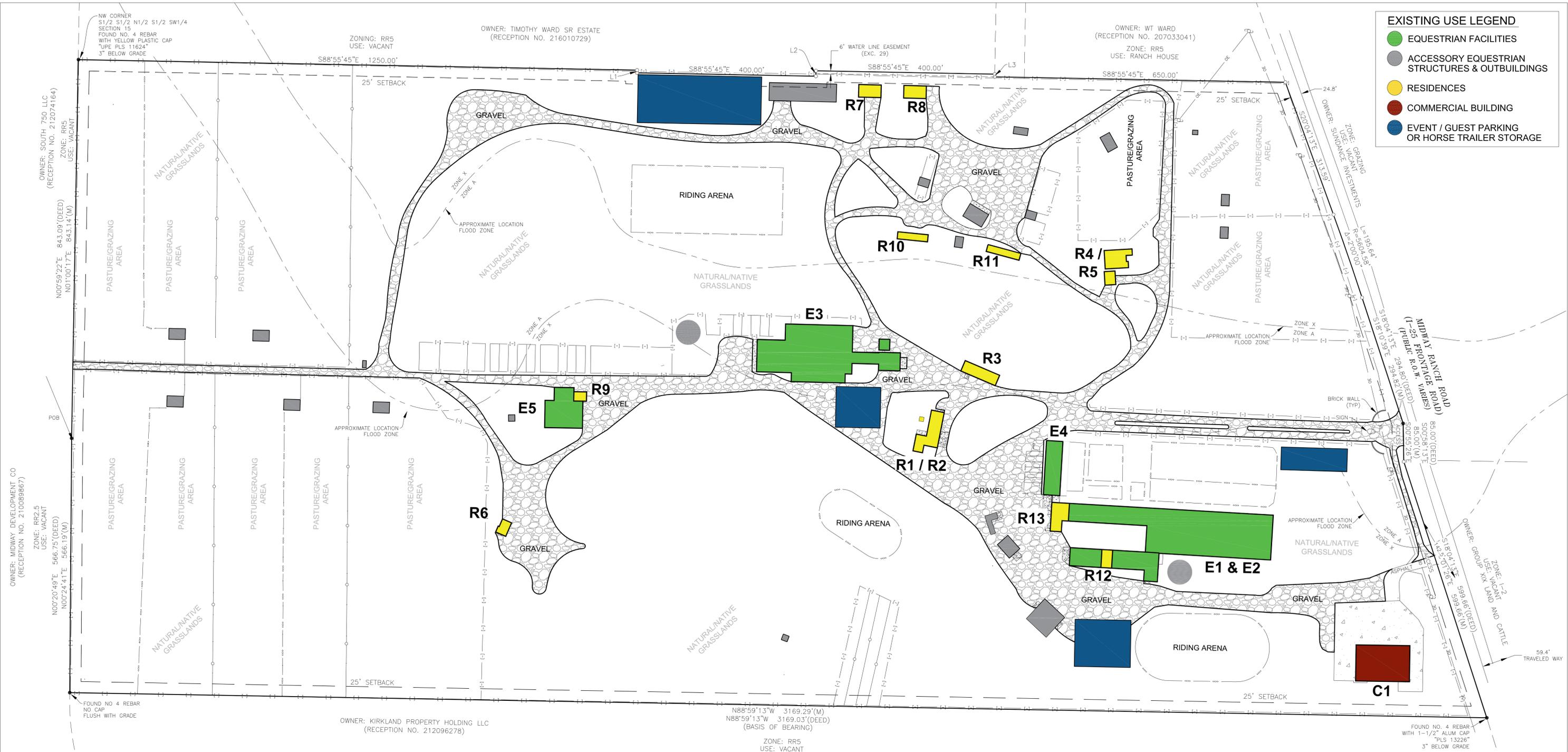


FIVE STAR EQUESTRIAN CENTER

EL PASO COUNTY, COLORADO

EXISTING USE LEGEND

- EQUESTRIAN FACILITIES
- ACCESSORY EQUESTRIAN STRUCTURES & OUTBUILDINGS
- RESIDENCES
- COMMERCIAL BUILDING
- EVENT / GUEST PARKING OR HORSE TRAILER STORAGE



BUILDING SUMMARY

BUILDING	USE	YEAR BUILT
E1	INDOOR ARENA	1984
E2	OUTDOOR ARENA	1984
E3	TRAINING & BOARDER DORMITORY	1985
E4	HORSE BARN	1984
E5	VETERINARY SERVICES	1985
C1	VEHICLE / RV & TRUCK REPAIR GARAGE	2006

BUILDING	USE	YEAR BUILT
R1	MANAGER'S HOME	1972
R2	MANAGER'S HOME BASEMENT	1972
R3	OWNER'S APARTMENT	PRE-1998
R4	GREEN HOUSE - MAIN	1922
R5	GREEN HOUSE - BASEMENT	1922

BUILDING	USE	YEAR BUILT
R6	RANCH HANDS HOUSE	1962
R7	WEST DOUBLE WIDE TRAILER	1999
R8	EAST DOUBLE WIDE TRAILER	1999
R9	VETERINARY SERVICES APARTMENT	1985

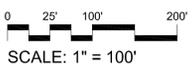
BUILDING	USE	YEAR BUILT
R10	WEST SINGLE WIDE TRAILER	PRE-1998
R11	EAST SINGLE WIDE TRAILER	PRE-1998
R12	SOUTH BARN APARTMENT	1984
R13	NORTH BARN APARTMENT	1984

NOTE:

Building R13, the North Barn Apartment is at 27 feet high, the tallest building on the property. Any new construction will not exceed this height.



NORTH



OWNER
LUIS PRAXMARER, FIVE STAR PARTNER, LLC
SONNEGG 11, 6166 FULPMES AUSTRIA

PETITIONER
URBAN STRATEGIES INC.
26 S. TEJON, SUITE 200
COLORADO SPRINGS, CO 80903

PREPARER
KIMLEY-HORN
2 N NEVADA, SUITE 300
COLORADO SPRINGS, CO 80903

EL PASO  **COUNTY**
COLORADO

COMMISSIONERS:
MARK WALLER (CHAIR)
LONGINOS GONZALEZ, JR. (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

February 10, 2021
ATTN: Les Gruen, Urban Strategies, Inc.

RE: Administrative Determination for Five Star Equestrian Center (formerly Cactus Creek Ranch)

File: ADM-21-006
Parcel ID: 5700000104

To Whom It May Concern:

A request has been made for an interpretation regarding the above referenced parcel to confirm that the setbacks of a structure located on the property is considered nonconforming pursuant to the El Paso County Land Development Code (2019). The property must first be confirmed as a legal lot.

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."

The property is unplatted and was created on October 12, 1984 by warranty deed (El Paso County Public Records, Book 3927, Page 1247). Parcels over 35 acres in size are not included within the El Paso County subdivision definition and are, therefore, not subject to the County subdivision standards. Therefore, the property is considered a legal lot.

Compliance with Zoning Regulations:

The property was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this area of unincorporated El Paso County (BoCC Resolution No. 434870). On December 3, 1984, the Board of County Commissioners approved a rezoning request from A-4 to A-2 (Agricultural) (PCD File No. P-84-038). Due to changes in the nomenclature of the Code, the A-2



zoning district was renamed as the A-5 (Agricultural) zoning district. The property is presently zoned A-5 (Agricultural).

Section 1.15 of the Code defines a “Structure, Nonconforming” as:

“Any legally existing structure which does not conform to the “location and bulk” regulations of this Code, either at the effective date of this Code or as a result of subsequent amendments which may be incorporated into this Code.”

In order to be considered a nonconforming structure, the structure on this property would either need to have been constructed prior to the establishment of zoning or complied with the applicable regulations at the time of construction.

The structure on the property was constructed between 1984 and 1986. The structure is located approximately 17 feet from the north property boundary. The A-5 zoning district has a 25-foot setback along all property lines. At the time of construction, the A-2 district had a side setback of 5 feet, provided the structure is greater than 60 feet from the front property line. The structure is located approximately 380 feet from the front property line. Since the structure met all dimensional standards at the time of construction and conformed to the A-2 zoning district, it can be considered a nonconforming structure.

Discussion and Conclusion:

As a result of subsequent amendments to the Code, the structure on this property no longer meets the side setback requirement. Therefore, the Planning and Community Development Department Director has made a determination that the structures can be considered legally nonconforming in regards to setbacks.

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.

Sincerely,



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

Attachments:
Site Plan (Extract)

