

EL PASO COUNTY



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Planning Commission
 Jim Egbert, Chair**

**FROM: Raimere Fitzpatrick, AICP PM/Planner II
 Tommy Hoff, Engineer I
 Craig Dossey, Executive Director**

**RE: Project File #: VA-17-004
 Project Name: Fletes Contractor's Equipment Yard
 Parcel No.: 43000-00-269**

OWNER:	REPRESENTATIVE:
Cesar and Elia Fletes 11138 Birch Hollow Way Peyton, CO 80831	(Same)

Commissioner District: 2

Planning Commission Hearing Date:	09/19/2017
Board of County Commissioners Hearing Date:	10/10/2017

EXECUTIVE SUMMARY

A request by Cesar and Elia Fletes for approval of a variance of use to legalize an existing contractor's equipment yard associated with a stone and stucco business in the RR-5 (Residential Rural) zoning district. The 35 acre property is located on the north side of Falcon Highway approximately 1.13 miles east of the intersection of Falcon Highway and US Highway 24. The applicants store construction materials, equipment, and supplies inside an existing 4,320 square foot detached garage. Company vehicles, scaffolding, and additional construction materials are stored outside in a partially screened area.

No significant traffic or drainage impacts are anticipated as a result of the continued operation of the use on the site. Staff initially had concerns regarding the mitigation of potential negative visual impacts. However, the applicants have proposed the construction of a second detached structure for the purpose of enclosing all construction equipment, materials, and supplies which are currently stored outdoors onsite. The El Paso County Public Health identified concerns regarding outdoor storage on top of the existing septic system components and storage and disposal of fluids associated with repair and maintenance of equipment and vehicles on site. Staff has recommended conditions of approval which address these visual and environmental concerns.

A. REQUEST/WAIVERS/AUTHORIZATION

Request: Approval of a variance of use permit to legalize an existing contractor's equipment yard in the RR-5 (Residential Rural) zoning district.

Waiver(s): No waivers are associated with this request.

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

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, Variance of Use, Criteria, of the El Paso County Land Development Code (2016), in approving a variance of use, the following criteria may be considered:

- 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

The property is located on Falcon Highway approximately 1.13 miles east of the intersection of Falcon Highway and US Highway 24. The property is located adjacent to the following surrounding zoning districts and land uses:

North: RR-5 (Residential Rural)	Single-family Residential
South: RR-5 (Residential Rural)	Single-family Residential
East: RR-5 (Residential Rural)	Single-family Residential
West: RR-5 (Residential Rural)	Vacant

E. BACKGROUND

The Planning and Community Development Department approved a residential site plan to construct a 4,320 square foot detached garage (PCD File No. ADD-15-177) on the property on May 8, 2015. A complaint was submitted to the Department on April 14, 2016, that a business was operating on the property. Upon investigation by code enforcement, it was determined that a contractor's equipment yard was in operation without obtaining the appropriate approvals.

A notice of violation was sent to the property owners on April 27, 2016. The property owners submitted an Early Assistance Application to discuss the permitting process and requirements on August 24, 2016. The applicants initially submitted a special use application for a rural home occupation for a contractor's equipment yard associated with a stucco and stone business on January 30, 2017. After discovery that the applicants did not reside on the property (an employee lives on site), the special use application was closed and the applicants submitted a variance of use application. According to the letter of intent submitted with this application, the residence is occupied by an employee of the business.

The Planning and Community Development Director reduced the cost of the new application by the amount of fees previously paid. Additional information regarding why the applicants did not qualify as a rural home occupation is provided in the next section of this report.

F. ANALYSIS

1. Land Development Code Analysis

The Land Development Code defines a contractor's equipment yard as follows:

Contractor's Equipment Yard

A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.

A contractor's equipment yard is not an allowed principal or accessory use in the RR-5 zoning district. It is allowed as a special use under the rural home occupation provisions of the Land Development Code. However, the intent of the rural home occupation provisions is to promote small home based businesses. A rural home occupation is defined in the Code as follows:

Home Occupation, Rural

A home occupation allowed in the A-35 Zoning District only and as a Special Use in other Zoning Districts, intended to recognize the unique land use characteristics in low density agriculturally zoned areas and to reasonably accommodate the home-based businesses that traditionally occur in these areas.

The resident of the home is an employee of the stucco and stone business, but does not operate the business. Because the applicants do not reside on the property, they cannot operate the business on the property as a rural home occupation. Therefore, approval of a variance of use permit is required to legalize the continued use of the property as a contractor's equipment yard.

The applicants have stated in the letter of intent that current outdoor storage consists of five (5) business trucks, two (2) mixers, two (2) trailers, scaffolding, and raw materials such as packaged sand, stone, and stucco. The raw materials are stored on pallets in packing material prior to delivery to specific work sites. The scaffolding is stacked horizontally adjacent to the existing six (6) foot opaque screening fence.

Any concerns pertaining to potential negative visual impacts would be completely eliminated if the applicants were required to store all of their equipment and materials, with the exception of vehicles and trailers, inside a permanent structure (e.g., detached accessory structure). The letter of intent indicates a willingness on

the part of the applicants to construct an additional detached structure to store materials, equipment, and some vehicles that are currently stored outdoors. Staff is recommending a condition of approval to require the applicants to construct a second accessory structure to store all equipment and material which are currently stored outdoors onsite with the exception of vehicles and trailers. Staff is also recommending a condition of approval to authorize the outdoor storage of vehicles and trailers.

2. Zoning Compliance

A contractor's equipment yard is not an allowed use in the RR-5 zoning district. If the variance of use permit is approved, the existing use would be legalized subject to compliance with any conditions of approval. A contractor's equipment yard is only an allowed use in the I-3 (Heavy Industrial) and M (Industrial) zoning districts. It is permitted by special use in the CS (Commercial Service), I-2 (Limited Industrial), and C-2 (Commercial) zoning districts. Staff recommends that rezoning to any of these districts at this location would be inconsistent with the recommendations of the Falcon Peyton Small Area Master Plan (2009). Additionally, such rezoning of the property would not be desirable due to the lack of available water and wastewater services necessary to support commercial, service, and industrial related uses.

3. Policy Plan Analysis

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 6.2.1 Fully consider the potential impact of proposed zone changes and development on the integrity of existing neighborhoods.

Policy 6.2.12

Ensure that proposed zone changes and/or use variances in established neighborhoods are of compatible scale and physical character.

The applicants have indicated a willingness in the letter of intent to construct an additional detached structure for the purpose of storing the construction materials and equipment, which is currently stored outdoors onsite. The applicants have identified a proposed second structure on the variance of use site plan for this purpose. Storing equipment and building materials indoors will eliminate potential negative visual impacts of outdoor storage associated with the contractor's equipment yard. The construction of multiple accessory structures on the 35 acre property would be considered compatible with the character the surrounding area. Many of the properties surrounding the site have been improved with large accessory structures of a similar size to that which is located on the Fletes property.

Staff is recommending a condition of approval that this secondary storage structure be constructed within one (1) year of approval of the variance of use permit. The outdoor storage of vehicles and trailers would be permitted with a condition of approval that the parking area be screened from view from Falcon Highway.

Staff is also recommending a condition of approval that until the secondary storage structure is completed, all outdoor storage occur adjacent to the existing garage as depicted on the variance of use site plan and that the storage area be screened from view from Falcon Highway by a minimum six (6) foot 100 percent opaque fence.

Should the applicants choose not to construct the secondary structure for storage, all outdoor storage of equipment and materials shall be contained completely within the existing detached garage. Future outdoor storage would require Board of County Commissioners approval as an amendment to the variance of use permit.

4. Small Area Plan Analysis

The property is located within the boundaries of the Far Southern Area of the Falcon/Peyton Comprehensive Plan (2008). There are no general land use area specific policies and/or recommendations of the Plan that are relevant to this request.

5. Other Master Plan Elements

The variance request is consistent with or does not create negative impacts to elements depicted on the El Paso County Wildlife Habitat Descriptors Map (1996), the El Paso County Parks Master Plan (2014), the Master Plan for Mineral Extraction (1996), and the Major Transportation Corridors Plan (2016).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The site is impacted by a floodplain; however, all activities and improvements associated with the existing and proposed use are to be located outside of the designated floodplain.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors Map (1996) indicates a low impact to wildlife in the area.

3. Floodplain

FEMA Flood Insurance rate maps (FIRM) panel number 08041C0575F shows that the 100-year floodplain (Zone A) of Eastern tributary of the Falcon drainage basin flows through the southwestern and northwestern portions of the parcel.

4. Drainage And Erosion

The property is located within the Falcon Drainage Basin (CHWS1400), which was last studied in 2013. Due to the size of the site and limited amount of improvements, no significant drainage impacts are anticipated as a result of the operation of the use on the site. Any expansion of the use on the site will require an analysis of on and off-site drainage impacts. Drainage and bridge fees are not required with variance of use permit approvals.

5. Transportation

The property has access on to Falcon Highway, which is categorized as a Major Collector. A traffic impact study was not required because the letter of intent stated the maximum anticipated average daily trips (ADT) are 20. Because the estimated ADT is less than 100 additional trips, the use will not be subject to the El Paso County Road Impact Fee.

H. SERVICES

1. Water

Water is provided to the site from an existing individual well. Findings of water sufficiency are not a requirement for a variance of use permit.

2. Sanitation

The existing residence located on the property is serviced by an onsite wastewater treatment system (OWTS). No additional wastewater facilities are anticipated in association with the proposed variance of use permit.

The Environmental Health Division of El Paso County Public Health commented on the application in a letter dated July 13, 2017, which is included as an attachment.

Comments from El Paso County Public Health included requirements that no vehicular traffic or storage occur over the existing septic system. The comments also state that any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all state and federal regulations related to the storage of such fluids. These requirements have been added as recommended conditions of approval. The letter has also been included as an attachment for reference.

3. Emergency Services

Emergency and fire protection services are provided by Falcon Fire Protection District.

4. Utilities

Mountain View Electric Association provides electrical service to the property. Natural gas service is provided by Black Hills Energy.

5. Metropolitan Districts

The property is not located within a metropolitan district.

6. Parks/Trails

The property is adjacent to a proposed bicycle route as identified on the El Paso County Parks Master Plan (2014). The variance of use is not anticipated to negatively impact the proposed bicycle route. Park land dedication or fees in-lieu of land are not required for a variance of use permit.

7. Schools

The property is located in the Falcon School District No. 49. School land dedication or fees in-lieu of land dedication are not required for a variance of use permit.

I. APPLICABLE RESOLUTIONS

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J. STATUS OF MAJOR ISSUES

A Notice of Violation for operating a contractor's equipment yard in the RR-5 zoning district was issued on April 26, 2016 after complaints were received by Code Enforcement staff. Initial inspections of the property showed a large amount of equipment and materials stored on the north side of the property which was visible from both Chief Road and Falcon Highway. A recent inspection of the subject property revealed that the applicants have greatly reduced the amount of outside storage and have installed a six (6) foot fence to obscure the view of the contractor's equipment yard from Falcon Highway. Code Enforcement staff has not received any further complaints on the subject property since the Notice of Violation was issued.

K. CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in 5.3.4 (Variance of Use) of the El Paso County Land Development Code (2016), staff recommends the following conditions and notations:

CONDITIONS

1. Approval of the variance of use permit requires the construction of a secondary accessory structure for the purpose of storing equipment and materials within one (1) year from the date of approval of the variance of use permit. Should the applicant choose not to construct the secondary structure, all equipment, with the exception of vehicles and trailers, and materials shall be stored within the existing detached garage. Should the applicant obtain site development plan approval to construct a secondary storage structure, the applicant shall be allowed temporary outdoor storage of equipment and materials during the

construction period. Construction of the secondary storage structure shall be completed within one (1) year of site development plan approval.

2. Outside storage shall be limited to vehicles and trailers associated with the business and shall be located adjacent to the existing six (6) foot 100 percent opaque screening fence. The outdoor storage area shall be screened from view from Falcon Highway by a six (6) foot 100 percent opaque screening fence as depicted on the variance of use site plan. The fence shall be maintained in good condition at all times. In the event the fence is damaged, such damage shall be repaired within 30 days of notification of non-compliance by the Planning and Community Development Department.
3. Within 60 days from the date of approval, the applicant shall submit a site development plan for review and approval by the Planning and Community Development Department to provide a detailed depiction of existing and proposed structures and improved surfaces associated with the approved variance of use permit.
4. Temporary outdoor storage of equipment and materials shall be limited to the paved and/or hard surfaced areas adjacent to and surrounding the detached garage as depicted on the variance of use site plan. In no instance shall the temporary outdoor storage or other activities associated with the contractor's equipment yard occur or be conducted south of the garage or screening fence.
5. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur within the existing 100 year floodplain.
6. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing septic system components.
7. Any contractor related mechanical equipment that is maintained onsite must have fluids collected and stored to either be recycled or disposed of per all State and Federal regulations related to the storage of such fluids.

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 (2016).
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/criteria are being violated, preceded by notice and public hearing.

3. Unless otherwise specified by the BOCC, the variance of use shall be deemed abandoned, and the variance of use permit shall be of no further force and effect, if:
 - a. The primary intended use or activity has not been substantially implemented within one year of the BOCC's approval; or
 - b. The primary intended use or activity has been discontinued for a period of one year.

4. Because the proposed use does not generate an additional traffic in excess of 100 additional daily trips, this action is not subject to the provisions of the El Paso County Road Impact Fee Program in accordance with Resolution 16-484 Exhibit A, the Road Impact Fee Implementation Document.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified twelve (12) adjoining property owners on August 30, 2017, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

- Vicinity Map
- Letter of Intent
- Site Plan
- El Paso County Department of Public Health Letter

El Paso County Parcel Information

File Name: VA-17-004

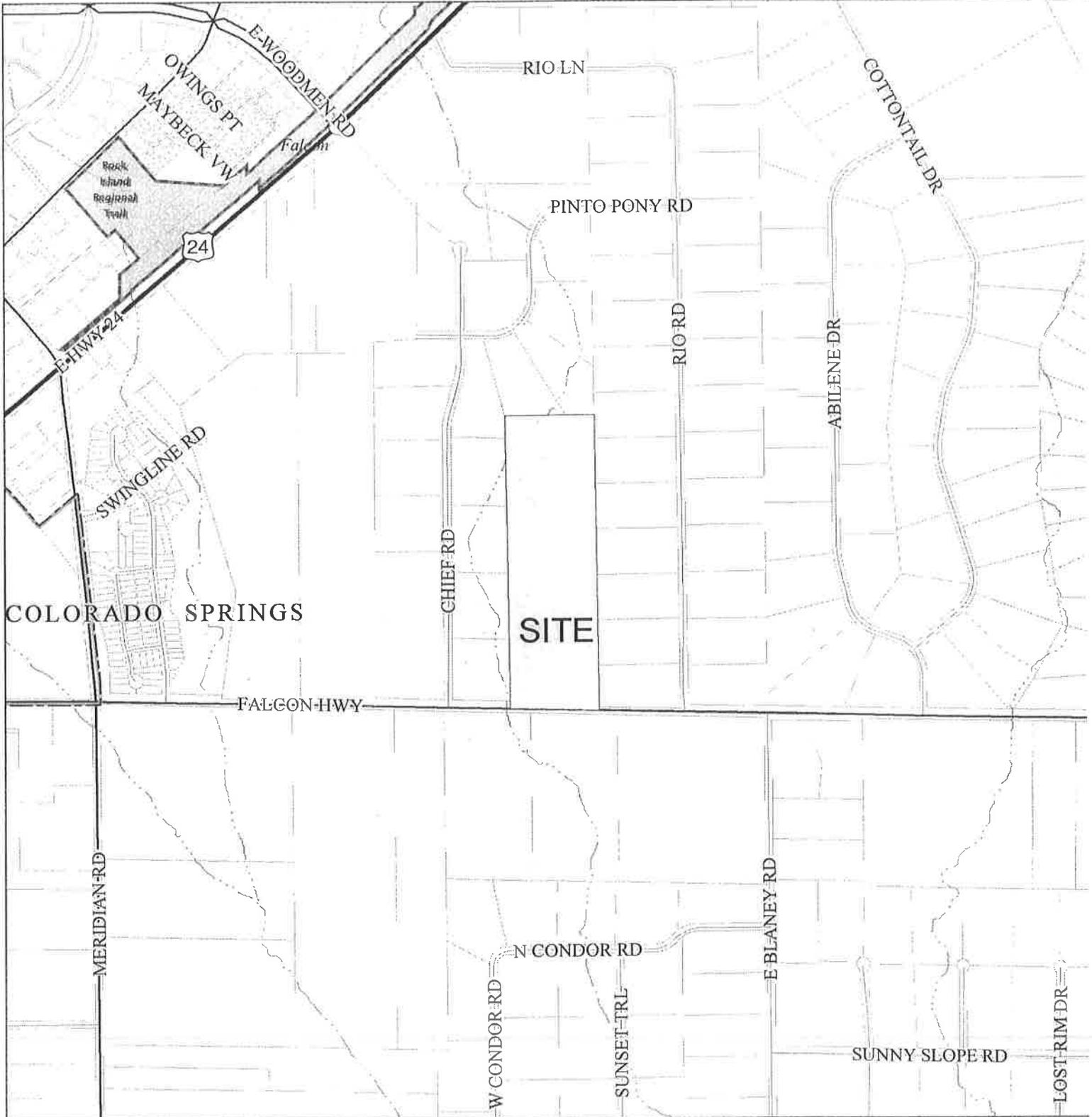
PARCEL	NAME
4300000269	FLETES CESAR JESUS

Zone Map No.: --

ADDRESS	CITY	STATE
12460 FALCON HWY	PEYTON	CO

ZIP	ZIPPLUS
80831	8008

Date: August 30, 2017



Letter of Intent

May 17, 2017

El Paso County
Planning and Community Development Department

RE: Fletes Rural Home Occupation
Tax ID # 43000-00-269

To whom it may concern:

The purpose of this letter is to get a variance of use permit to use a small portion of the 35 acres of the property which address is 12460 Falcon Hwy, Peyton, CO 80831 to keep our construction equipment for a small family owned business.

There is a detached garage 54.0' x 80.0' where we keep most of the materials such as paper, wire, plastic, nails, staples, cement; we do not storage hazardous materials. The garage is fully equipped with heating and cooling adding value to the property and to the neighborhood. We are willing in building a galvanized garage to storage the rest of the materials and some trucks, remove the old corral and build an entrance with an automatic gate as shown on the pictures attached to have a nice and clean place and view.

Outside the garage we keep our five business trucks, two mixers, two trailers, that we attached to the trucks, and the scaffold.

Two persons that are part of the family go to the site in the morning to get the trucks and drive them to the job site and will return in the afternoon to leave them. Some days, one or two employees will go to pick up some material and will leave; they don't come back in the afternoon.

We, Cesar and Elia run the business (office duties) at this time from the house and we do not involved others. We would like to have the office in the garage where we have space for our office. That was the idea when we pulled out the permit to build the existing garage.

Labors do not go to the place, they go directly to the job sites where we work in different areas of Colorado Springs and Monument; we do not work in the property we just keep our staff there. Once a month or sometimes every two months, a semi-truck will enter to drop off material that most of the time it takes about 15-20 minutes to drop the material off and leave.

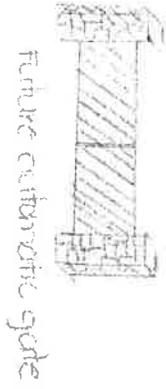
We live five minutes away from the property. One of the labors lives in the house with his family, we like to help our workers, and we are responsible people who like to do the right things. We have been working so hard to have our own business and can help others.

Sincerely,

Cesar and Elia Fletes

Chief Rd.

Falson Hwy

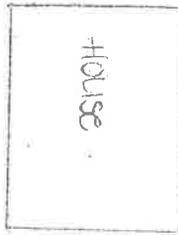


Rock towered Storage

Future fence

Fenced

Future fence to



Future fence



Prevent • Promote • Protect

Environmental Health Division
1675 W. Garden of the Gods Road
Suite 2044
Colorado Springs, CO 80907
(719) 578-3199 *phone*
(719) 578-3188 *fax*
www.elpasocountyhealth.org

Fletes Contractor's Equipment, VA-17-269

Please accept the following comments from El Paso County Public Health for the variance approval referenced above:

- **Drinking water service for the proposed project is by an individual private well. The water system does not meet the definition of a public water system, and is therefore unregulated.**
- **Wastewater service for the project is provided by an existing professionally engineered, permitted, inspected, and approved on-site wastewater treatment system (OWTS) that was installed in 2014. The OWTS was designed for a 3 bedroom house. The components of the OWTS are located on the south side of the existing house. No vehicular traffic is allowed to drive or park on these components.**
- **Contractor mechanical equipment to be maintained onsite, if any, must have fluids collected and stored to either be recycled or disposed of per all state and federal regulations related to the storage of such fluids.**

Mike McCarthy
El Paso County Public Health
Environmental Health Division
719.575.8602
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13July2017