TO: **El Paso County Board of County Commissioners**
Stan VanderWerf, Chair

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

RE: **Project File #: CS-20-004**
Project Name: HCD Reconsideration
Parcel No.: 54180-00-069

OWNER:	REPRESENTATIVE:
HCD Properties, LLC 2435 Majestic Plains Court Colorado Springs, CO 80915	T-Bone Construction, Inc. 1310 Ford Street Colorado Springs, CO 80915

Commissioner District: 4

Planning Commission Hearing Date:	4/1/2021
Board of County Commissioners Hearing Date:	4/27/2021

EXECUTIVE SUMMARY

A request by HCD Properties, LLC, for reconsideration of an approval of a map amendment (rezoning) of 7.13 acres from the C-2 (Commercial) zoning district to the CS (Commercial Service) zoning district. The request for reconsideration includes a proposed amendment to Condition of Approval No. 3 to allow for a 30-day extension for submission of a minor subdivision beyond the current 60-day requirement. The property is subject to the CAD-O (Commercial Airport Overlay) district and is located on the south side of Platte Avenue approximately one-third (1/3) of a mile east of the Platte Avenue and South Powers Boulevard intersection and is within Section 18, Township 14 South, Range 65 West of the 6th P.M. The property is not located within the boundary of a small area plan.

This property was previously considered for a map amendment (rezone) to the CS zoning district and was approved by the Board of County Commissioners on November 12, 2019 (PCD file no. CS-19-001). A condition of approval of the map amendment required a minor subdivision application be submitted within 60 days of approval of the map amendment (rezone).

A Code Enforcement notice of violation was sent to the property owner regarding the use of the property as a contractor's equipment yard, storage of inoperable vehicles, and vehicle repair on February 5, 2018. The property is currently being used for vehicle storage, maintenance, and repair, and a contractor's equipment storage yard. The applicant intends to remove the vehicle repair use from the site and the proposed uses of the property would consist of the contractor's equipment storage yard and associated office building and vehicle storage building.

A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION

Request: A request by HCD Properties, LLC for reconsideration of an approval of a map amendment (rezoning) of 7.13 acres from the C-2 (Commercial) zoning district to the CS (Commercial Service) zoning district. The request for reconsideration includes proposed amendment to Condition of Approval No. 3 to allow for a 30-day extension for submission of a minor subdivision beyond the current 60-day requirement.

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

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

B. Planning Commission Summary

Request Heard: As a Regular item at the April 1, 2021 hearing.
Recommendation: Approval based on recommended conditions and notations.
Waiver Recommendation: N/A
Vote: 9-0
Vote Rationale: N/A
Summary of Hearing: The applicant was represented at the hearing.
Legal Notice: Advertised in Shopper's Press on March 31, 2021.

C. APPROVAL CRITERIA

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019):

A. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned.
B. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
C. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
D. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

D. LOCATION

North:	I-2 (Limited Industrial)	Industrial
South:	City of Colorado Springs	Vacant
East:	C-1 (Commercial) RR-5 (Residential Rural)	RV park, motel, and outdoor vehicle storage
West:	CS (Commercial Service)	Contractor's equipment yard

E. BACKGROUND

The 7.13-acre parcel was zoned A-3 (Airport Farm) at the time of initial implementation of zoning for this portion of El Paso County on May 11, 1942 (BoCC Resolution No. 669212). The property was rezoned to the A-1 (Agricultural) zoning district in 1949 and again rezoned to the current C-2 (Commercial) zoning district on October 2, 1959.

The 7.13-acre parcel was illegally created outside of the El Paso County subdivision process by a land purchase by the City of Colorado Springs on November 21, 1996. The larger parent parcel was subsequently annexed into the City in 2014 for the Colorado Springs Airport (PCD file no. ANX-14-010). To be considered a legal lot, the parcel would have needed to have been created prior to July 17, 1972, or have been created legally through a subdivision action recognized by El Paso County pursuant to Section 7.2.1 of the Land Development Code and in conformance with C.R.S. Sections 30-28-133 through 139. Therefore, the parcel does not meet the definition of a "Legal Lot" as discussed in detail in the Code Analysis section below. Pursuant to Section 1.13.3 of the Code, no building permits may be authorized for a parcel of land that has not been included within a final plat action, or otherwise exempted by the Code.

A notice of violation was sent to the property owner regarding the use of the property as a contractor's equipment yard, storage of inoperable vehicles, and vehicle repair

on February 5, 2018. An Early Assistance meeting was held between staff and the applicant to discuss a map amendment (rezone) from the C-2 zoning district to the CS (Commercial Service) zoning district on March 22, 2018. An application was received for a map amendment (rezone) from the C-2 zoning district to the CS zoning district as a first step to legalizing the uses on the property on April 22, 2019 (PCD file no. CS-19-001). The Board of County Commissioners approved the map amendment (rezone) request on November 12, 2019, with a condition of approval requiring a subdivision application be submitted within 60 days of the date of approval. A subdivision application has not been submitted and a revised notice of violation was sent to the property owner on March 17, 2020, which was further revised on August 24, 2020. On December 15, 2020, an application was received to reconsider the map amendment (rezone) approval.

The C-2 zoning district is an obsolete zoning district, which is intended for the purpose of providing for large commercial activities. The CS zoning district allows for similar commercial uses and would maintain most of the allowed uses from the C-2 zoning district while allowing some additional uses. Currently there is an open code enforcement violation for the subject property (PCD file no. CE-19-167) for a contractor's equipment storage yard, which requires a special use permit to initiate, outside storage uses as accessory uses, which require a site development plan to initiate, and automobile and boat storage, which is not an allowed use in the C-2 zoning district. The proposed map amendment (rezone) to the CS zoning district would allow the existing uses that are not permitted in the C-2 zoning district with special use and/or site development plan approval, as applicable.

The property is currently being used for vehicle storage, maintenance, and repair, and a contractor's equipment storage yard. Vehicle storage and repair are allowed within the CS zoning district, and a contractor's equipment yard would require special use approval. Both existing uses would require approval of a site development plan to legalize those uses. The applicant has indicated in their letter of intent that they intend to remove the vehicle repair use from the site and the proposed uses of the property would consist of the contractor's equipment storage yard and associated office building and vehicle storage building. Staff is recommending Conditions of Approval Nos. 4 and 5 which were included in the original approval. These Conditions of Approval would require the applicant to legalize the existing uses that are proposed to remain through the appropriate site development plan and special use permit processes.

Approval of the reconsideration of the map amendment (rezoning) to CS (Commercial Service) would reaffirm the the prior map amendment (rezone)

approval to a district that is not obsolete and would be the first of several steps required to bring the parcel into compliance for the existing uses that were established without approval from the County.

F. ANALYSIS

1. Land Development Code Analysis

The C-2 (Commercial) zoning district is an obsolete zoning district, which means that no land shall be zoned or rezoned to C-2 on or after May 1, 1991. All land zoned C-2 prior to May 1, 1991 shall remain zoned C-2 and shall be subject to all the provisions of the C-2 zoning district until such time as the land is either rezoned or annexed. The subject application is for a reconsideration of a map amendment (rezoning) of the property to the CS (Commercial Service) zoning district. The CS (Commercial Service) zoning district allows similar uses to the C-2 (Commercial) zoning district.

The property is subject to the CAD-O (Commercial Airport Overlay) District and is located within the APZ-1 (Accident Potential Zone 1) Sub-Zone. Pursuant to the Land Development Code, Table 4-7, Commercial Airport Overlay District Land Use, industrial uses are allowed within the APZ-1 Sub-Zone and commercial uses are allowed with a special use permit within the APZ-1 Sub-Zone. Vehicle storage and contractor's equipment yard uses are classifiable as industrial uses and are, therefore, allowed within the APZ-1 Sub-Zone. The Colorado Springs Airport Advisory Commission was sent a referral and has no objection to the map amendment but has requested an avigation easement as a condition.

The property to the west is zoned CS (Commercial Service) and the current land use is a garden supply and landscape material retailer. The parcel to the east is split zoned between C-1(Commercial) and RR-5 (Rural Residential) and is used as an RV (Recreational Vehicle) park offering long term rentals, a motel, and outdoor storage for recreational vehicles, boats, cars, and trailers. The RR-5 portion of the lot appears to include part of the RV park and the outdoor storage area. Opposite the site, across East Platte Avenue, are commercial and industrial zoning districts and uses. The parcel to the south is located within the City of Colorado Springs and is vacant. Although there is some residential use within the adjacent lot to the east in the form of an RV park, that parcel also contains a motel and outdoor vehicle storage, which are considered commercial uses. The area surrounding the subject site is predominantly comprised of commercial and industrial uses. The map amendment (rezoning) to CS (Commercial Service) is expected to have a minimal impact to the existing character of the area.

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 7.13-acre parcel was created after July 17, 1972 and was not created legally through a subdivision action recognized by El Paso County pursuant to Section 7.2.1 of the Land Development Code and in conformance with C.R.S. Sections 30-28-133 through 139. The parcel was illegally created outside of the El Paso County subdivision process on November 21, 1996 and, which means that it does not meet the above definition of a “Legal Lot.” Staff is recommending Condition of Approval No. 3, which would require the applicant to legalize the illegal division of land through the El Paso County minor subdivision process, should the request for reconsideration of the approved map amendment (rezone) be approved. Previously, this map amendment (rezone) was approved with a condition requiring the applicant to submit a minor subdivision within 60 day of approval of the map amendment (rezone). The reconsideration and revised Condition of Approval No. 3 would extend this requirement to 90 days and allow a six (6) month time period for the subdivision to be approved and recorded.

Should the reconsideration be approved, a site development plan will also need to be approved in order to legalize the uses on the property. County review and administrative approval of a 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, water quality management, and parking and lighting standards. Any commercial uses will also require approval of a special use permit prior to site development plan approval to satisfy the requirements of the APZ-1 Sub-Zone as discussed above.

2. **Zoning Compliance**
The applicant is requesting a reconsideration of the approved map amendment (rezone) to the CS (Commercial Service) zoning district. The CS zoning district is intended to accommodate retail, wholesale or service commercial uses that serve the general public. The density and dimensional standards for the CS zoning district are as follows:

- Minimum district area – two (2) acres
- Minimum lot size – no minimum lot size
- Setbacks – front 25 feet, sides 25 feet, and rear 25 feet. The minimum setback is 25 feet from the perimeter boundary of the zoning district, but no minimum setback is required from any internal side or rear lot line within the same zoning district.
- Maximum building height – 45 feet
- Maximum lot coverage – no maximum lot coverage

The property is located within an obsolete zoning district and the zoning district that is requested as part of this application has similar use allowances. The property is 7.13 acres and will meet the minimum size of the zoning district. If the rezone request is approved, there would be no minimum setback required between the property to the west and the subject parcel, which is currently zoned CS.

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 5.1.3 –*** *Encourage economic development strategies tailored to the unique conditions of particular subareas of the County.*
>
> ***Policy 6.2.1 –*** *Fully consider the potential impact of proposed zone changes and development on the integrity of existing neighborhoods.*

The rezoning request is consistent with the adjacent parcel to the west which is also zoned CS (Commercial Service). By allowing the property to rezone from the obsolete C-1 district, future redevelopment of this site is likely to occur in a manner consistent with the surrounding properties. Conformance with the Policy Plan was made with the original map amendment (rezone) application; since this is a reconsideration, staff recommends that the request is still in general compliance with the Plan.

4. **Small Area Plan Analysis**
   The property is not located within the boundaries of a small area plan.

5. **Water Master Plan Analysis**
   The El Paso County Water Master Plan (2018) 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.*
   >
   > ***Goal 3.6 –*** *Develop and maintain partnerships with water providers.*

   The property is located within Planning Region 5 (Cherokee Metropolitan District Service Area) of the Plan and is not located within an estimated area of development. The Plan identifies the current demands for Region 5 to be 4,396 acre-feet per year (AFY) with a current supply of 4,849 AFY (Figure 5.1). The demand in 2040 is projected to be 6,468 AFY with a projected supply of 6,800 AFY (Figure 5.2). At build-out in 2060, the demand for Region 5 is projected to be 9,608 AFY with a projected supply of 10,131 AFY, which means by 2060 there is anticipated to be a surplus of 523 AFY (Figure 5.3, Table 5-2). Region 5 consists of areas served by Cherokee Metropolitan District and is not expected to experience significant growth by 2060 due to the area being greatly built out.

Water and wastewater services for the parcel are provided by Cherokee Metropolitan District. Coordination with the water service provider and an understanding of available facilities is a necessary step in analyzing water sufficiency and ensuring there are adequate resources to support proposed uses. Cherokee Metropolitan District was sent a referral and has no outstanding comments at this time. Water and wastewater analysis are not required as part of a map amendment (rezone) application process; however, a finding of water sufficiency will be required as part of the final plat process to legalize the illegal division of land.

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 valley fill and coal 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.

G. PHYSICAL SITE CHARACTERISTICS

1. **Hazards**
   There are no hazards on the property.

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

3. **Floodplain**
   The property is not located within a defined floodplain as determined from review of the FEMA Flood Insurance Rate Map panel number 08041C0754G, dated December 7, 2018.

4. **Drainage and Erosion**
   The property is located within the Sand Creek drainage basin (FOFO4000), which is included in the Drainage Basin Fee Program; however, drainage or bridge fees are not assessed with rezoning requests. It is anticipated that a drainage report as well as a grading and erosion control plan will be required with the site development plan application.

5. **Transportation**
   The property is accessed via the East Platte Avenue frontage road. A traffic study was not required as the site is not expected to generate 100 more daily vehicle trips than the property would be expected to generate with the current zoning. It is anticipated that a traffic study will be required with further development of the site.

   The site is subject to the El Paso County Road Impact Fee Program (Resolution 19-471), as amended.

H. SERVICES

1. **Water**
   Water is provided by Cherokee Metropolitan District. The District was sent a referral and has no outstanding comments.

2. **Sanitation**
   Wastewater is provided by Cherokee Metropolitan District. The District was sent a referral and has no outstanding comments.

3. **Emergency Services**
   The property is within the Cimarron Hills Fire Protection District. The District was sent a referral and has no outstanding comments.

4. **Utilities**
   Electric and natural gas services are provided by Colorado Springs Utilities.

5. **Metropolitan Districts**
   The property is located within the boundaries of Cherokee Metropolitan District. During the review process, Cherokee Metropolitan District indicated that the proposed map amendment (rezoning) request would not trigger any changes to water or wastewater services.

6. **Parks/Trails**
   Land dedication and fees in lieu of park land dedication is not required for a map amendment (rezoning) application.

7. **Schools**
   Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application.

I. APPLICABLE RESOLUTIONS

Approval Page 27
Disapproval Page 28

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations.

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

3. A minor subdivision shall be required to legalize the parcel prior to approval of a site plan, establishment of a new use, or continuation of any existing use. Submittal of an application for minor subdivision shall occur within 90 days of approval of the reconsideration by the Board of County Commissioners. Failure by the applicant to pursue approval of the minor subdivision in good faith, as determined by the PCD Director, may result in enforcement against the property for violation of this condition.

4. A site development plan shall be applied for and approved to legalize all existing uses on the site and/or prior to authorization of a building permit or the establishment of any new uses on the property. Submittal of a site development plan shall occur within 14 days of approval the minor subdivision plat. Failure by the applicant to pursue approval of a site development plan in good faith, as determined by the PCD Director, may result in enforcement against the property for violation of this condition.

5. A special use shall be applied for and approved prior to approval of any existing or new use requiring special use approval. If required, a special use application shall be submitted within 14 days of approval of the minor subdivision plat. Approval of the special use shall occur within six (6) months of receipt of the special use application. 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.

NOTATION

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified six (6) adjoining property owners on March 16, 2021, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Rezone Map
April 1, 2021 Planning Commission Minutes
Planning Commission Resolution
Board of County Commissioner’s Resolution

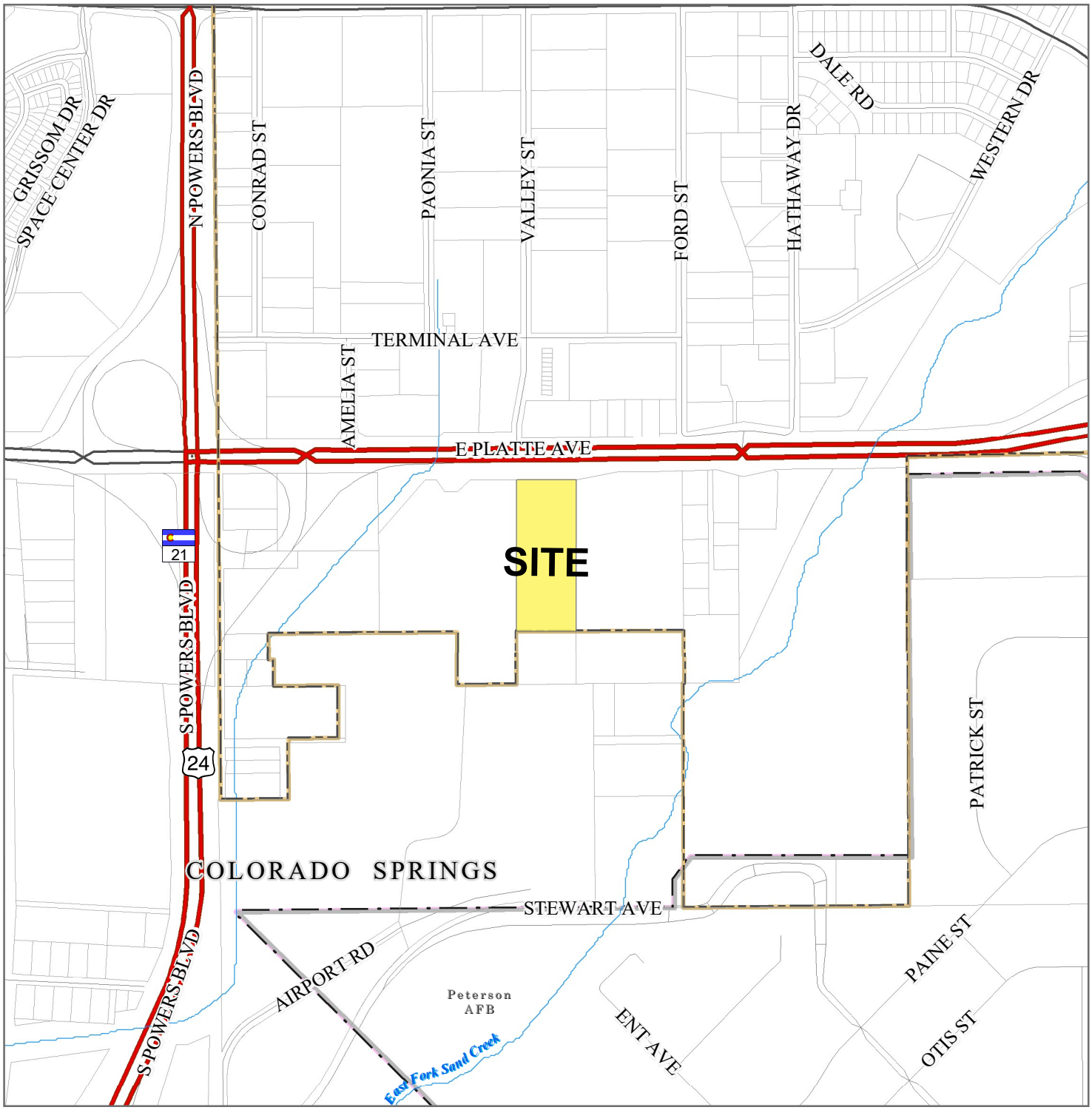
El Paso County Parcel Information

PARCEL	NAME
5418000	HCD PROPERTIES LLC

File Name: CS-20-004

Zone Map No. --

Date: March 12, 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

N W E S

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T-Bone Construction, Inc.
1310 Ford St.
Colorado Springs, CO 80915
(719) 570-1456 Fax (719) 591-5217
~~12 March 2021~~
Rev March 12, 2021

LETTER OF INTENT

1. Owner: HCD Properties LLC
   2435 Majestic Plain Court
   Colorado Springs, CO 80915

   Applicant: Darin Weiss
   T-Bone Construction, Inc.
   1310 Ford St.
   Colorado Springs, CO 80915

2. Site Location, Size and Zoning:
   a. Parcel #5418000069 (6201 East Platte Avenue), zone C-2; 7.13 acres, legal description: A Tract of Land Located in the NE 1/4 of the NW 1/4 of Section 18, Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado.

3. Request the reconsideration of the rezone to CS (Commercial Service). Current zoning of C-2 is obsolete as of May 01, 1991 per the LDC Section 4.4.2. Rezoning to CS, will bring the zone classification into a current zoning classification in compliance with the County Master Plan. The rezone to CS is most compatible to the previous CS classification and would match the adjacent property. The property is not located within a comprehensive planning area.

   a. Land Development Code Section 5.3.5 (B) Map Amendment Criteria:
      - The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
        - The reconsideration of the rezone for the above referenced lot will establish current zoning classification in compliance with the County Master Plan.
        - The request for the zone change is a requirement by the El Paso County Planning Department for development of the site. The C-2 zoning was recommended at the Early Assistance meeting. This is to bring the zoning classification into a current classification prior to a Subdivision and the Site Development Plan submittal.
        - The rezone to CS is the most compatible classification to the obsolete C-2 zoning.
      - The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
        - C.R.S. § 30-28-111. Zoning plan: The current C-2 (Commercial) zoning classification for this property which allows for large commercial activities is similar to the proposed

CS (Commercial Service) zoning classification, while adding some additional uses. Both classifications have the intent to accommodate retail, wholesale or service commercial uses that serve the general public.

- C.R.S. § 30-28-113. Regulation of size and use – districts - repeal: The current C-2 (Commercial) zoning classification for this property is similar to the proposed CS (Commercial Service) zoning classification. The lot size, setbacks, coverage percentage, building allowances, and general development standards are similar in the requirements.
- C.R.S. § 30-28-116. Regulations may be amended: Acknowledged.

- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions;
  - The zone change to CS is compatible with the existing adjacent zoning classifications. The adjacent zoning classifications are as follows:
    a. North: I-2 (Limited Industrial)
    b. South: City of Colorado Springs APD
    c. West: CS (Commercial Service)
    d. East: C-1 (Commercial) & RR-5 (Residential Rural)
  - The area around the site is prominently commercial and industrial, so the rezoning to CS (Commercial Service) would maintain the existing character of the area.
  - The proposed use for the site is a Commercial Contractors Main office space, a connected vehicle maintenance/storage building with an associated exterior screen fenced storage area.
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.
  - Approval will not adversely affect the public health, safety and welfare, as the original land use intent has not changed.

b. Subdivision Submittal Request.
- A condition from the previous Rezone Approval was that the Subdivision Submittal was to be submitted to the Planning Department withing 60 day of BOCC approval of the Rezone. Per discussions and guidance from our planner we are requesting that this time frame be extended to 90 days for application submittal from BOCC approval.

4. Approval of a map amendment (rezoning) to CS (Commercial Service) would update the zoning district to a district that is not obsolete and would be the first of several steps required to bring the parcel into compliance for the existing uses that were established without approval from the County

5. After this rezoning process, we will follow up with the Subdivision submittal to correct the illegal subdivision of the property back in November of 1996, a Special Use for a Contractors Equipment Yard, and a Site Development Plan.

6. Per the Engineering Criteria Manuals, Transportation Impact Study Guidelines Appendix B, a Transportation Memorandum will be required to be included with the Site Development Plan submittal package. The anticipated development for this property will generate less than 500 daily vehicle trips and a peak hour trip generation of less than 50.

This business will not generate an increase to pedestrian or bicycle traffic. The current use of the property generates approximately 25 trips per day.

7. No waivers are requested in this submittal.

8. Uses and condition of the property.

    a. Current Property Uses:

        - The front corner of the property is utilized by a vehicle repossession business. The client has another location for storage and is in the process of removing the vehicles from this property.

        - The owner is utilizing the back portion of the property for nightly storage of company equipment.

- The remainder of the property has been cleaned up and is currently vacant.

b. Proposed Use:

- The proposed use for the site, which will be addressed with a full Development Plan submittal, is for a Commercial Contractors Main office space and a connected vehicle maintenance/storage building with an associated exterior screen fenced storage are. The site will include grading of the site, required paved parking and landscaping.

- The client has experienced vandalism of their vehicles and truck mounted equipment at their current location, due to their outdoor of vehicles. This new building will facilitate overnight inside storage of their vehicles and truck mounted equipment. The use will not include any vehicle repair.

9. History of Request: The previous request to rezone went thru the review process and was recommended for approved by the County Planning Commission on 10/15/2019 with conditions of a Minor Subdivision submittal to legalize the parcel. With the time of year and then the subsequent Covid-19 Pandemic the client put a hold on the project. This caused us to exceed the time requirement for submittal of the Minor Subdivision Submittal package. This is a Reconsideration submittal for the Rezone Approval. To our knowledge there are no Code Enforcement Actions against this property.

21-May-19 13:07:21

PROJECT INFORMATION

LEGAL DESCRIPTION:
A TRACT OF LAND LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 18, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO

TAX SCHEDULE NUMBER: 54180-00-069

LOT SIZE: 7.13 acres

BUILDING AUTHORITY: EL PASO COUNTY

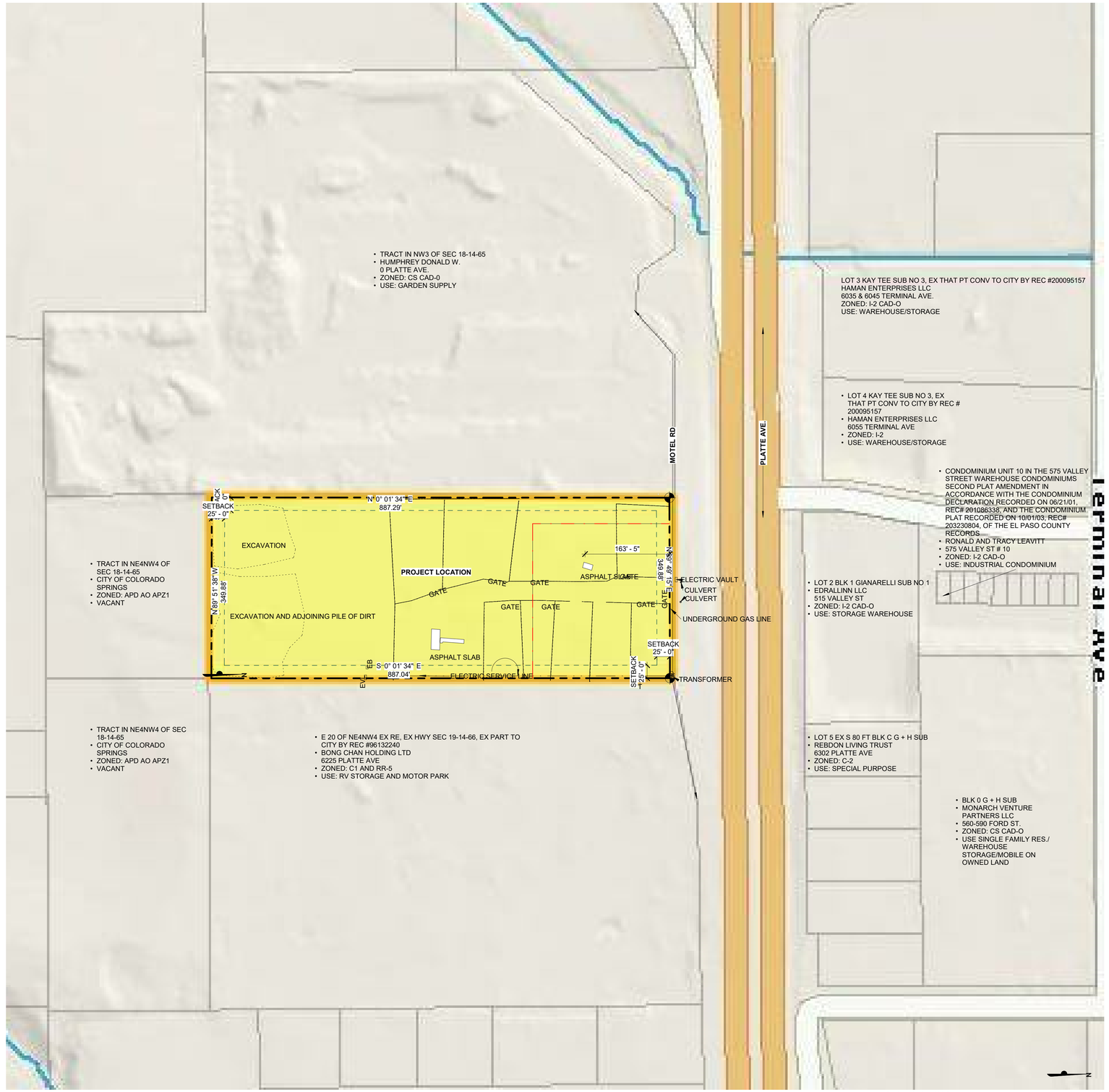
ZONING CLASSIFICATION: PREVIOUSLY C-2 (OBSOLETE) ; REZONING TO CS

STRUCTURE SETBACK REQUIREMENTS:
FRONT: 25 FT
SIDE AND REAR: 25 FT

METES AND BOUNDS DESCRIPTION:
TRACT IN NE4NW4 SEC 18-14-65 AS FOLS: COM AT NW COR OF SD SEC 18 FROM WHICH THE NE COR OF THE NW4 OF SD SEC 18 BEARS S 89<49'15'' E 2724.73 FT, TH S 85<53'45'' E 1753.14 FT TO INTSEC A LN THAT IS 45.00 FT SLY AS MEAS AT R ANGS FROM & PARA WITH S R/W LN OF US HWY 24 & POB, TH S 00<01'34'' W 887.29 FT, S 89<51'38'' E 349.88 FT, N 00<01'34'' E 887.04 FT TO A PT ON A LN THAT IS 45.00 FT SLY AS MEAS AT R ANGS FROM & PARA WITH SLY R/W LN OF SD US HWY 24, TH N 89<48'15'' W 349.88 FT TO POB

PROJECT DESCRIPTION:
REZONE OF OBSOLETE ZONE TYPE FROM C-2 TO CS- COMMERCIAL SERVICE

OWNER: HCD INC.
2435 MAJESTIC PLAINS CT
COLORADO SPRINGS CO, 80915-1969



1 RZ 1 EXISTING SITE
1" = 100'-0"

T-BONE CONSTRUCTION INC GENERAL CONTRACTOR
Design Development Consultants @
1310 FORD STREET
COLORADO SPRINGS, CO 80915 (719) 570-1456

(C) ALL RIGHTS RESERVED

Revisions		
#	DESCRIPTION	DATE

D1-8128

HCD DRILLING
6201 E. PLATTE AVE.
COLORADO SPRINGS, CO 80916

DP

DATE	4 FEB 2019
CHECKED	DCW
DRAWN BY	GKV

EXISTING SITE

RZ 1

J:_01_PROJECTS\2018 Projects\D1-8128 HCD Drilling DP\04 REVIT\HCD DRILLING.rvt

Planning Commission Meeting
Thursday, April 1, 2021
El Paso County Planning and Community Development Department
200 S. Cascade Ave – Centennial Hall Hearing Room
Colorado Springs, Colorado

REGULAR HEARING
1:00 p.m.

PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, TIM TROWBRIDGE, BECKY FULLER, SARAH BRITTAIN JACK, JAY CARLSON, JOAN LUCIA-TREESE, AND ERIC MORAES

PRESENT VIA ELECTRONIC MEANS AND VOTING: GRACE BLEA-NUNEZ

PRESENT AND NOT VOTING: NONE

ABSENT: THOMAS GREER

STAFF PRESENT: MARK GEBHART, NINA RUIZ, RYAN HOWSER, ELENA KREBS, TRACEY GARCIA (VIA REMOTE ACCESS), ELIZABETH NIJKAMP (VIA REMOTE ACCESS), AND EL PASO COUNTY ATTORNEY LORI SEAGO

OTHERS SPEAKING AT THE HEARING: RYAN WATSON AND DARREN WEIS

Report Items

1. **A. Report Items -- Planning and Community Development Department – Ms. Ruiz** -- The following information was discussed:

   a) The next scheduled Planning Commission meeting is for **Thursday, April 15, 2021 at 1:00 p.m.**

   b) **Ms. Ruiz** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.

c) **Mr. Gebhart** gave an update on the Master Plan process and timeline. Options were discussed for the format of the May Special Planning Commission hearings related to the Master Plan

B. Public Input on Items Not Listed on the Agenda – NONE

CONSENT ITEMS

2. A. Approval of the Minutes – March 18, 2021

The minutes were unanimously approved as presented. (9-0)

B. SF-20-030 HOWSER

FINALPLAT
GLEN AT WIDEFIELD FILING NO. 9B

A request by Glen Investment Group No. VIII, LLC, for approval of a final plat to create two (2) single-family residential lots. The 15,000 square foot property is zoned RS-6000 (Residential Suburban) and CAD-O (Commercial Airport Overlay) and is located on the east side of Bigtooth Maple Drive, approximately three-quarters (3/4) of a mile north of the Mesa Ridge Parkway and Marksheffel Road intersection and is within Section 22, Township 15 South, Range 65 West of the 6th P.M. (Parcel No. 55223-08-020) (Commissioner District No. 4)

Mr. Trowbridge: I noticed that it wasn't approved before because it was potentially unstable, and I didn't see anything from the applicant besides saying it was fixed. Nothing talks about the shallow ground water in the area. I would like to hear from engineering what was done to the site to stabilize it.

Ms. Nijkamp: The applicant has resubmitted a revised geotechnical report which states everything has been mitigated, and there is no current ground water problems in those two lots. Additional borings were done and found no ground water was received. **Mr. Risley -** So there was additional boring done but no mitigation. **Ms. Nijkamp** - Correct the additional boring showed there was no issue any longer.

Ryan Watson: To address the shallow ground water, per CGS recommendation, we instituted a year-long ground water monitoring program in which we measured the amount of ground water on the sites so we can capture all ebbs and flows; so with that we learned there were no ground water issues. Also, we did a regional soil testing when the overall grading was done, and any unstable soil we encountered was mitigated. A geo grid was set below this tract to help stabilize soil.

<u>PC ACTION:</u> TROWBRIDGE MOVED/LUCIA-TREESE SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, SF-20-030, FOR A FINAL PLAT FOR GLEN AT WIDEFIELD FILING NO. 9B UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-017, WITH TEN (10) CONDITIONS AND ONE (1) NOTATION, WITH A FINDING OF SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (9-0).

C. PUD-18-002 RUIZ

MAP AMENDMENT (REZONE)
DANCING WOLF

A request by David McElhoues, Alyce McElhoes, Robert Tello, Joshua Fuson, and Ruth Anne Fuson for approval of a map amendment (rezoning) from PUD (Planned Unit Development) to PUD (Planned Unit Development) to amend the minimum lot size requirement within the PUD to 2.5 acres and to amend the permitted uses within the commercial area included in the PUD area. The 25.15-acre property is located at the northeast corner of the Highway 83 and Hodgen Road intersection and within Section 22, Township 11 South, and Range 66 West of the 6th P.M. (Parcel Nos.61220-03-020, 61220-03-035, 61220-04-002, 61220-04-001, and 61220-03-036) (Commissioner District No. 1)

LUCIA-TREESE MOVED/BAILEY SECONDED TO APPROVE CONTINUING ITEM 2D, PUD-18-002 FOR DANCING WOLF MAP AMENDMENT (REZONE) UNTIL SUCH TIME THAT THE COUNTY ESTABLISHES WATER SUFFICIENCY.MOTION PASSED UNANIMOUSLY (9-0).

D. VR-18-002 RUIZ

VACATION AND REPLAT
DANCING WOLF

A request by David McElhoues, Alyce McElhoes, Robert Tello, Joshua Fuson, and Ruth Anne Fuson for approval of a vacation of five (5) platted lots and right-of-way and replat to create seven (7) single-family residential lots. The five (5) lots, totaling 25.15 acres, are zoned PUD (Planned Unit Development) and are located at the northeast corner of the Highway 83 and Hodgen Road intersection and are within Section 22, Township 11 South, and Range 66 West of the 6th P.M. (Parcel Nos. 61220-03-020,

31220-03-035, 6122-04-002, 6122-04-001, and 6122-03-036) (Commissioner District No. 1)

PC ACTION: LUCIA-TREESE MOVED/BAILEY SECONDED TO APPROVE CONTINUING ITEM 2D, PUD-18-002 FOR DANCING WOLF VACATION AND REPLAT UNTIL SUCH TIME THAT THE COUNTY ESTABLISHES WATER SUFFICIENCY. MOTION PASSED UNANIMOUSLY (9-0).

Regular Items

3. CS-20-004 **HOWSER**

MAP AMENDMENT (REZONE)
HCD RECONSIDERATION

A request by HCD Properties LLC, for reconsideration of an approval of a map amendment (rezoning) of 7.13 acres from C-2 (Commercial) to CS (Commercial Service). The request for reconsideration includes an amendment to Condition No. 3 to allow for an additional 30-day extension for submission of a minor subdivision beyond the current 60-day requirement. The property is subject to the CAD-O (Commercial Airport Overlay) district. The property is located on the south side of Platte Avenue approximately one-third (1/3) of a mile east of the Platte Avenue and South Powers Boulevard interchange and is within Section 18, Township 14 South, Range 65 W of the 6th P.M. (Parcel No. 54180-00-069) (Commissioner District No. 4)

Mr. Howser gave an abbreviated presentation by consensus approval of the Planning Commission and asked **Ms. Seago** to go over the review criteria for a map amendment. He then introduced the applicants' representative, **Darren Weis** to give their presentation.

Ms. Fuller – The burden is on the applicant to show that they've met the approval criteria. This was approved once, in December 2019 and we're back again due to noncompliance. **Mr. Bailey** – I agree with Ms. Fuller, but this may be the first of a few of these things due to 2020. My understanding of staffs' suggestion of taking this as an abbreviated hearing, is that it's predicated on an understanding that this has been previously approved. The only thing we're looking to do is simply grant the extension as nothing has changed since the Board of County Commissioners' action in December 2019. **Ms. Lucia-Treese** – I concur with **Mr. Bailey**, on pages 6 and7 it explains what is going on and with what the staff has previously presented, I move we have enough documentation to go forward. **Ms. Ruiz** - I just wanted to state that staff does agree with **Mr. Bailey** and **Ms. Lucia-Treese**, nothing has changed other than they are requesting an extended timeline in order to meet that condition of approval. Staff did feel since previously the Planning

Commission and Board of County Commissioners did make a determination that all criteria was met that it was unnecessary which is why we requested the abbreviated hearing. **Mr. Risley** - It appeared in the staff report that there was a revised notice of violation sent in March 2020, but the applicants' letter states there aren't any code enforcement actions against the property.

Mr. Howser gave a brief overview of the property's history to the Planning Commission.

Mr. Risley – I'm not clear whether or not the violation has been cured. **Ms. Ruiz-** The violation is ongoing. Referencing the recommended conditions, it recommends approval of a site plan being required so it wouldn't be until after this rezoning if it is reconsidered that they submit a subsequent subdivision request that is approved and then a site development plan. It wouldn't be until after the site development plan is approved that the violation would be dismissed. **Mr. Weis-** The initial violation was what they were using the property for. They had various tenants renting various portions of the property, but they have since moved. The client has another business, a vehicle repossession, which they are in the process of moving to a new site. **Mr. Moraes** – Initially they had 60 days for the process, and it didn't happen because of Covid per the applicant. Now they're coming back to get the rezoning done, to change from an obsolete zoning. So, what would happen if it didn't get done. Do they stay as a C2? **Ms. Ruiz** – If the request gets approved and they do not meet the established timeline then we would be back where we are today, they will need to submit another request for reconsideration. **Lori Seago -** Code enforcement could result in litigation against the property owner. **Ms. Fuller** – What is the violation that is in place right now? **Ms. Ruiz-** It is for vehicle storage and vehicle repair. **Ms. Fuller** – Would that be allowed under the new zoning? **Ms. Ruiz -** Yes, with a site development plan.

Mr. Howser presented a PowerPoint slide that shows current uses in the site and the proposed uses.

Ms. Brittain Jack – Did I hear that this zoning doesn't exist? What happens to the zoning if we don't approve this? **Ms. Seago -** The property is currently zoned C2 which is an obsolete zoning district, that is what the property reverted to when the previously approved CS zone change became void with noncompliance with that deadline that was included in the conditions of approval. If this is not approved today it will remain C2 and if it is approved, it will revert to that if the conditions are not complied with. **Mr. Trowbridge** – I noticed in the analysis that the Colorado Springs Airport Advisory Commission sent over a referral requesting a navigation easement as a condition. Weren't we told that it's the responsibility of the airport authority to obtain an easement and not the county? I noticed there is no condition of a avigation easement in here. **Ms. Ruiz-** We do not require an avigation easement, but the applicant may choose to enter into a navigation easement. **Mr. Weis -** There is an avigation easement recorded for property **Mr. Trowbridge -** Is

the phrase “in good faith” legal? **Ms. Seago**- It’s not a legal term but it is a common term to indicate the applicant is taking the necessary steps at the appropriate time to move the project along and not delaying things. **Mr. Trowbridge** - It doesn’t open staff to potential legal action does it? **Ms. Seago**- No, if the Board of County Commissioners approves the zoning request, then the applicant will have a deadline within condition five (5) and they don’t have a right to an extension. I don’t believe there would be a cause of action. **Ms. Fuller**- is there vehicle repair going on? **Mr. Howser –** No the applicant no longer wishes to pursue the vehicle repair use on the property.

IN FAVOR: NONE

IN OPPOSITION: NONE

PC ACTION: LUCIA-TREESE MOVED/BRITTAIN JACK SECONDED FOR APPROVAL REGULAR ITEM NUMBER 3, CS-20-004 FOR A MAP AMENDMENT FOR HCD RECONSIDERATION UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-020 WITH FIVE (5) CONDITIONS AND TWO (2) NOTATIONS THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION PASSED (9-0).

3. **El Paso County Master Plan – Informational Update – No Action Needed**

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.)

The minutes were approved as presented at the April 15, 2021 hearing.

MAP AMENDMENT (REZONING) (RECOMMEND APPROVAL)

Commissioner Lucia-Treese moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. CS-20-004
HCD Reconsideration Map Amendment (Rezone)

WHEREAS, HCD Properties, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference from the C-2 (Commercial) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by this Commission on April 1, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission Members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.

2. Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.

3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons were heard at that hearing.

4. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned.

5. The proposed land use or zone district is compatible with existing and permitted land uses and zone districts in all directions.

6. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district

7. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.

8. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the petition of HCD Properties LLC, for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the C-2 (Commercial) zoning district to the CS (Commercial Service) zoning district be approved by the Board of County Commissioners:

BE IT FURTHER RESOLVED that the Planning Commisison recommends the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

3. A minor subdivision shall be required to legalize the parcel prior to approval of a site plan, establishment of a new use, or continuation of any existing use. Submittal of an application for minor subdivision shall occur within 90 days of approval of the reconsideration by the Board of County Commissioners. Failure by the applicant to pursue approval of the minor subdivision in good faith, as determined by the PCD Director, may result in enforcement against the property for violation of this condition.
4. A site development plan shall be applied for and approved to legalize all existing uses on the site and/or prior to authorization of a building permit or the establishment of any new uses on the property. Submittal of a site development plan shall occur within 14 days of approval the minor subdivision plat. Failure by the applicant to pursue approval

of a site development plan in good faith, as determined by the PCD Director, may result in enforcement against the property for violation of this condition.

5. A special use shall be applied for and approved prior to approval of any existing or new use requiring special use approval. If required, a special use application shall be submitted within 14 days of approval of the minor subdivision plat. Approval of the special use shall occur within six (6) months of receipt of the special use application. 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.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the Board of County Commissioners for its consideration.

Commissioner Brittain Jack seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Risley	aye
Commissioner Bailey	aye
Commissioner Trowbridge	aye
Commissioner Lucia-Treese	aye
Commissioner Fuller	aye
Commissioner Brittain Jack	aye
Commissioner Blea-Nunez	aye
Commissioner Carlson	aye
Commissioner Moraes	aye

The Resolution was adopted by a vote of 9 to 0 the El Paso County Planning Commission, State of Colorado.

Dated: April 1, 2021

Brian Risley, Chair

EXHIBIT A

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NE ¼ OF THE NW ¼ OF SECTION 18, TOWNSHIP 14 SOUTH, RANGE 665 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO

RESOLUTION NO. 21-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVAL OF THE HCD RECONSIDERATION MAP AMENDMENT (REZONING)(CS-20-004)

WHEREAS, HCD Properties, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the C-2 (Commercial) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on April 1, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on April 27, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.

2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.

3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.

4. The proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.

5. The proposed land use will be compatible with existing and permitted land uses in the area.

6. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.

7. For the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

8. Changing conditions clearly require amendment to the Zoning Resolutions.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the petition of HCD Properties, LLC, to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the C-2 (Commercial zoning district to the CS(Commercial Service) zoning district;

BE IT FURTHER RESOLVED that the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

2. Any future or subsequent development and/or use of the property shall be In accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

3. A minor subdivision shall be required to legalize the parcel prior to approval of a site plan, establishment of a new use, or continuation of any existing use. Submittal of an application for minor subdivision shall occur within 90 days of approval of the reconsideration by the Board of County Commissioners. Failure by the applicant to pursue approval of the minor subdivision in good faith, as determined by the PCD Director, may result in enforcement against the property for violation of this condition.

4. A site development plan shall be applied for and approved to legalize all existing uses on the site and/or prior to authorization of a building permit or the establishment of any new uses on the property. Submittal of a site development plan shall occur within 14 days of approval the minor subdivision plat. Failure by the applicant to pursue approval of a site development plan in good faith, as determined by the PCD Director, may result in enforcement against the property for violation of this condition.

5. A special use shall be applied for and approved prior to approval of any existing or new use requiring special use approval. If required, a special use application shall be submitted within 14 days of approval of the minor subdivision plat. Approval of the special use shall occur within six (6) months of receipt of the special use application. 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.

NOTATION

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 27th day of April, 2021 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NE ¼ OF THE NW ¼ OF SECTION 18, TOWNSHIP 14 SOUTH, RANGE 665 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO