

Pete Lien &
Sons
Concrete
Batch Plant

VA-19-002



LINDSAY DARDEN, PLANNER II

GILBERT LAFORCE, ENGINEER III

Public input

Tracey Garcia at
traceygarcia@elpasoco.com

Overview of Process

- Review criteria
- Applicant presentation
- Staff presentation
- Break to call in members of public
- Public testimony (allow time between each person to call in the next person)
- Break to ensure all members of the public have had an opportunity to speak.
- Applicant rebuttal
- Discussion and decision

If you are watching remotely and have not provided a name and a reliable phone number already, please email that information to Tracey Garcia at traceygarcia@elpasoco.com at this time.

Criteria for Approval

Land Development Code Section 5.3.4 Variance of Use

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 the 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;
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Criteria for Approval

- 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.

Public input

Tracey Garcia at
traceygarcia@elpasoco.com

Property Owner

Property Owner: Pete Lien & Sons Inc.

Applicant: Danielle Wiebers, Pete Lien & Sons Inc.

Consultants:

- Architect: Gary Harrison, Concepts West Architecture, Inc.

Overview of Process



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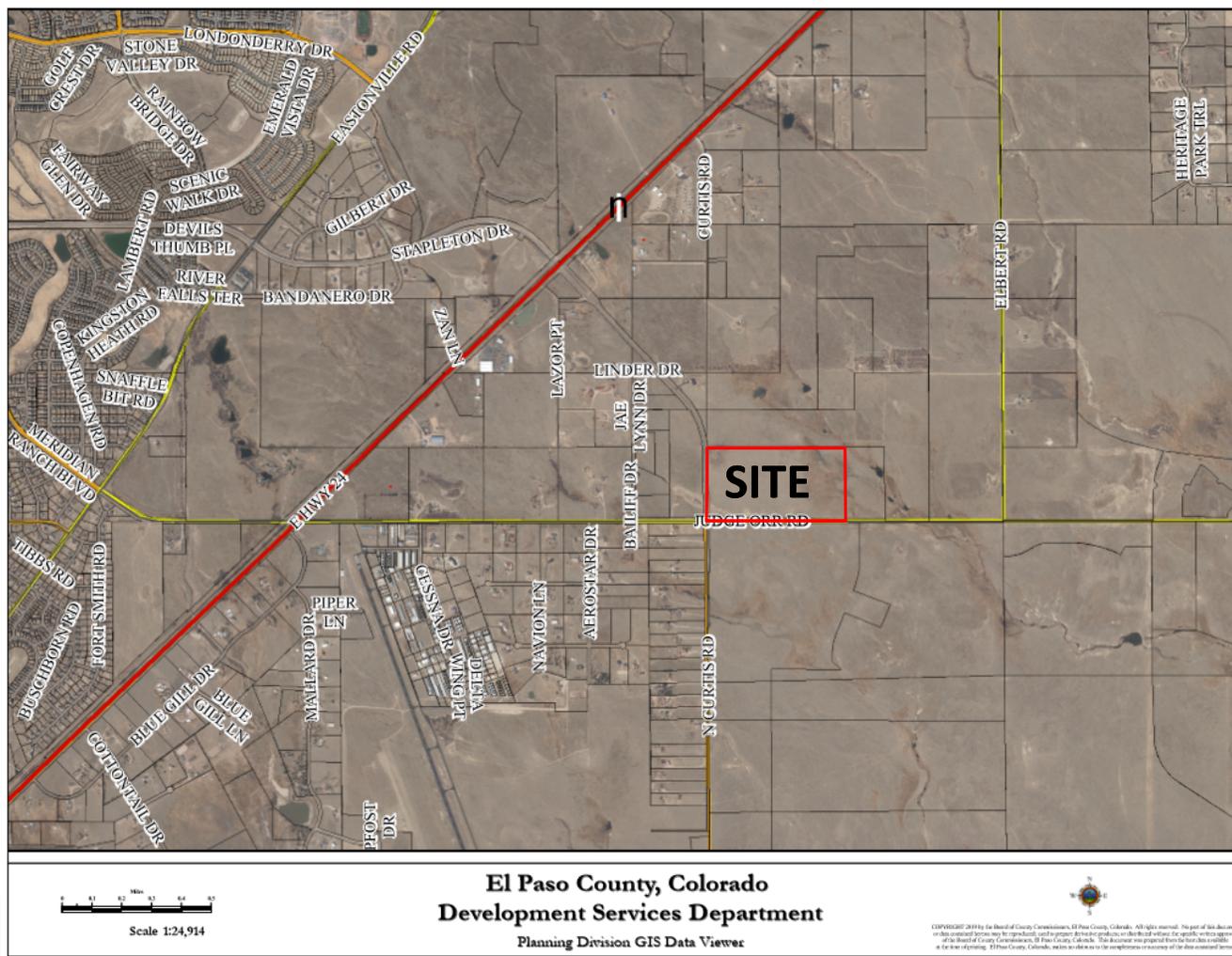
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Public input

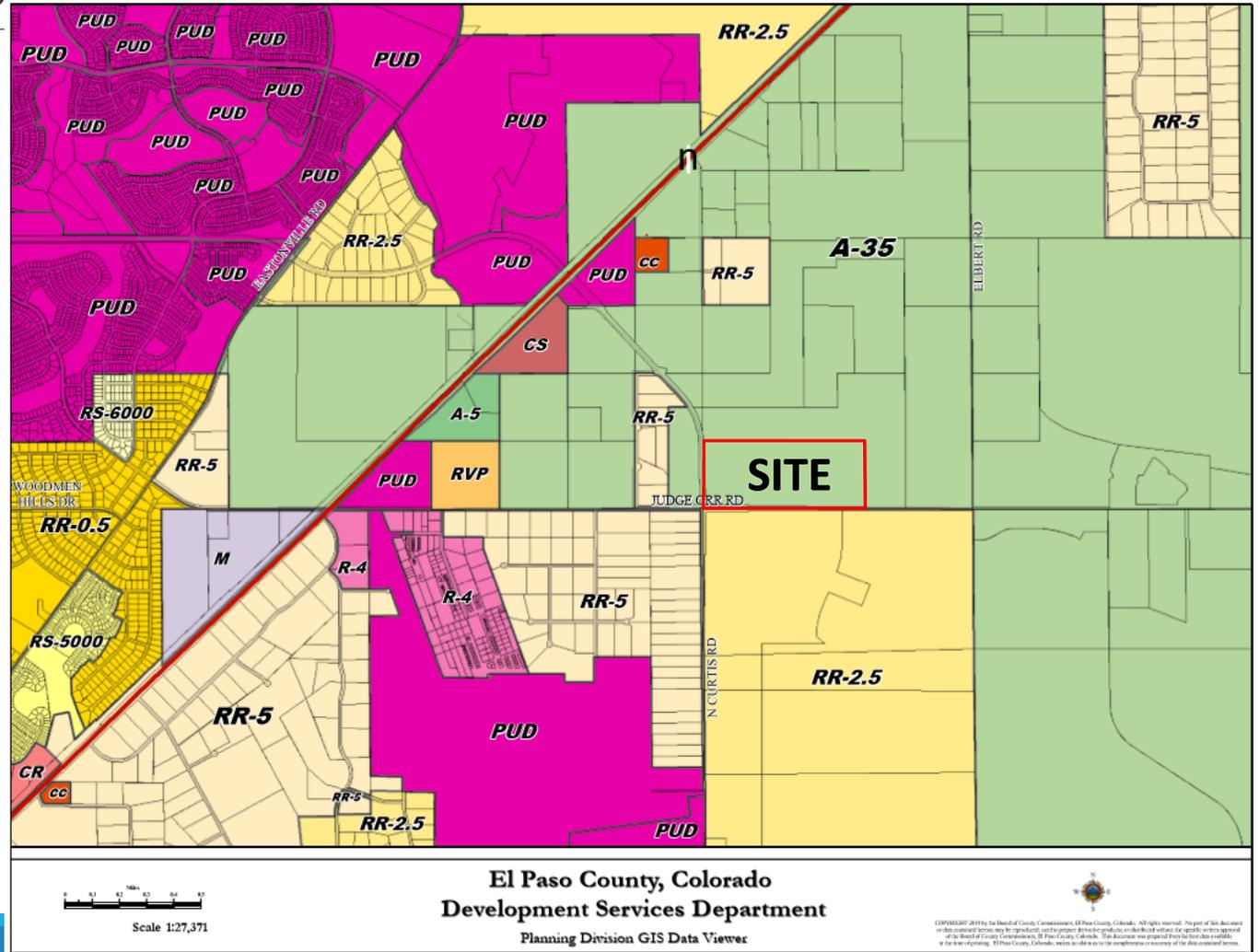
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Vicinity Map



Zoning

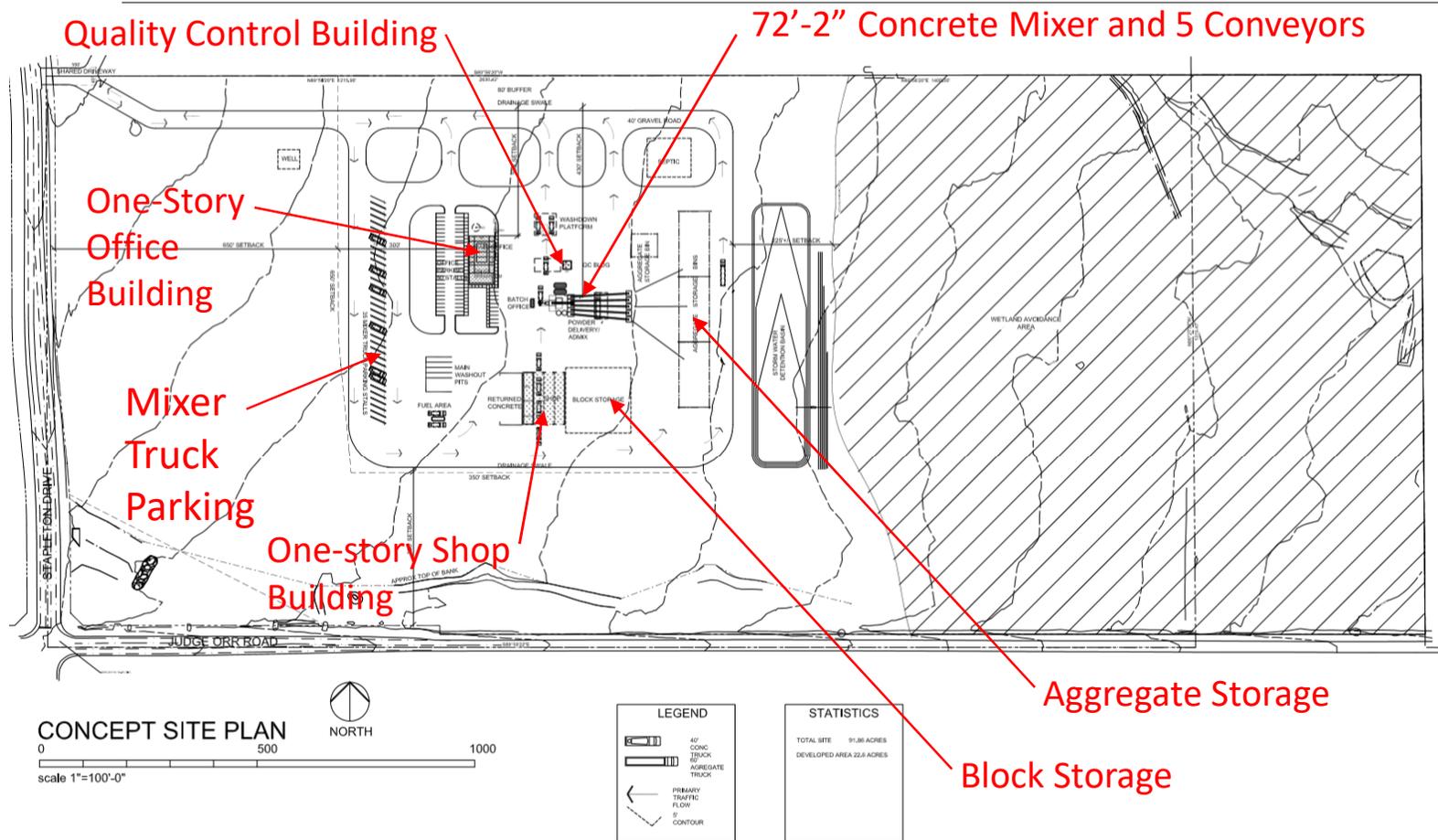
The subject parcel was zoned A-35 (Agricultural) on March 25, 1999, at the time that zoning was first initiated for this portion of the County.



Background

- April 17, 2018 – Applicant attended an early assistance meeting with the Planning and Community Development Department.
 - April 28, 2018 – Applicant closed on the purchase of the subject property.
 - May 2018 – Staff received three letters of objection from nearby property owners with concerns identified pertaining to the industrial nature of the proposed use, heavy truck traffic, and potential impacts to property values.
 - February 21, 2019 – the variance of use application was accepted for review by the Planning and Community Development Department.
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Project Scope

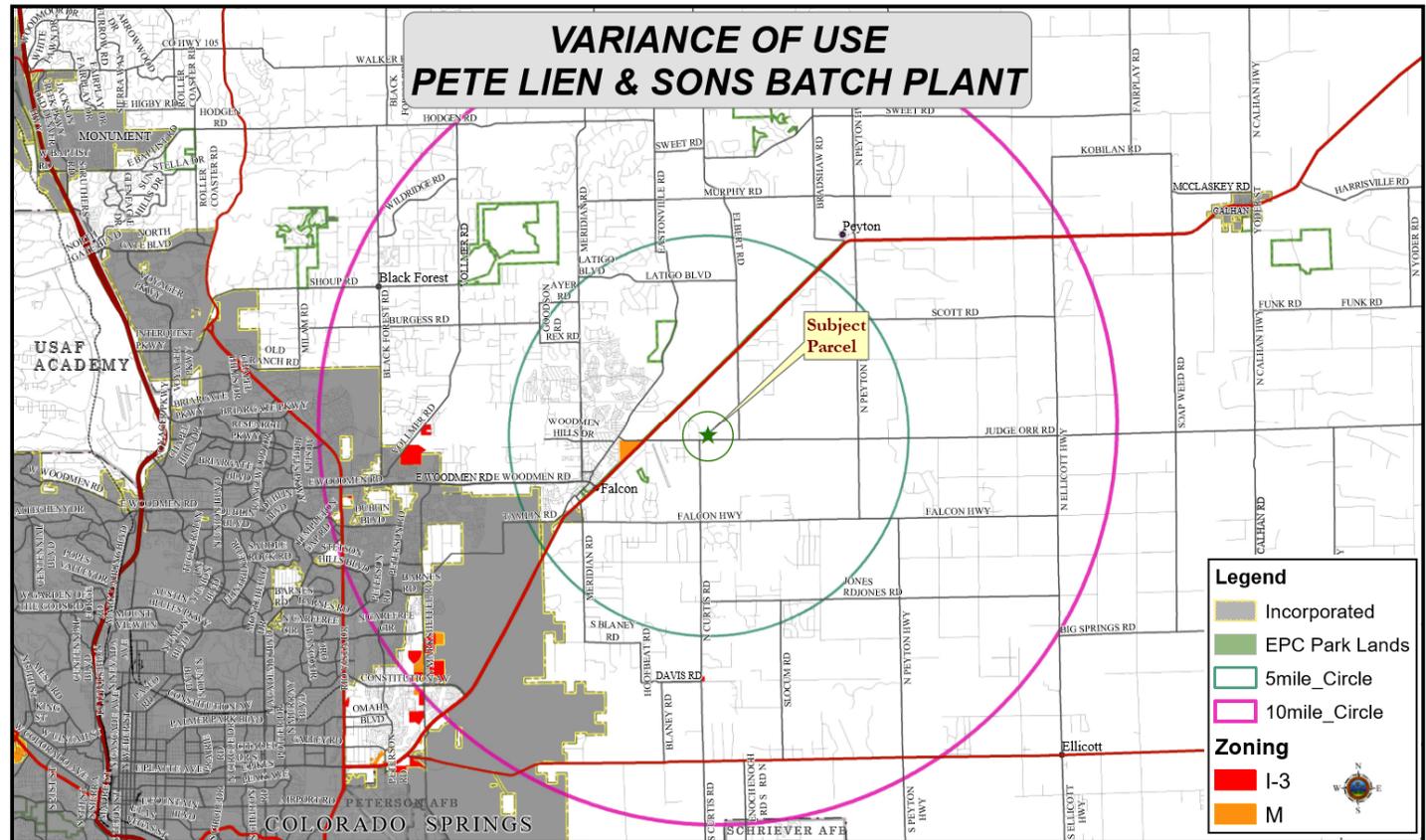


Land Development Code Analysis - Zoning

- Permanent batch plants are not permitted as an allowed use or as a special use in the A-35 (Agricultural) zoning district.
- Approval of a variance of use and a subsequent site development plan would be required to establish the use.
- The I-3 (Industrial) zoning district and the M (Industrial) are the only zoning districts would allow a permanent batch plant as a special use.
- Special uses are generally more compatible with the underlying zoning district and serve to address potential impacts of certain land uses on existing and allowed uses in the same neighborhood.

Land Development Code Analysis - Zoning

- Within 5 miles of the subject parcel there is one area of M (Industrial) shown in orange.
- Within 10 miles of the subject parcel, additional areas of I-3 (Industrial) and M (Industrial) are shown in red and orange.
- 2 existing concrete batch plants are located in the area of I-3 and M zoning located near Constitution and Marksheffel.



Land Development Code Analysis - Zoning

- M(Industrial Zoning) within 5 miles of the site.
- Four parcels, one is developed
- Immediately adjacent to Woodmen Hills to the west.



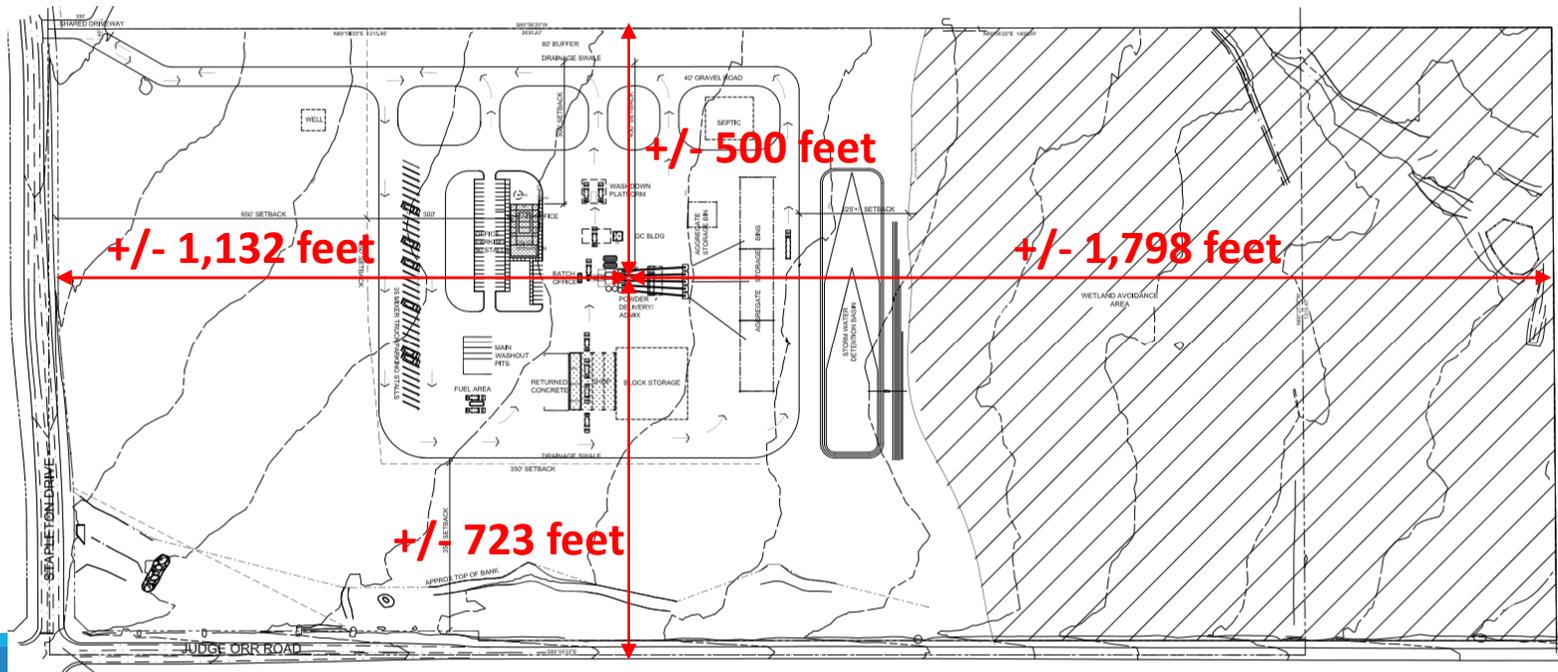
Zoning Compliance - Dimensional Standards

- The dimensional standards within the A-35 (Agricultural) zoning district are as follows:
 - Front, Rear, and Side Yard Setbacks 25 feet
 - Lot Coverage Maximum none
 - Height Maximum 30 feet
 - Footnote 10 of Table 5-4 in the Code specifies:

“One additional foot of height is allowed for each foot of additional setback provided above the required minimums up to a maximum of 100 feet.”
- The minimum setback requirement for structures in the A-35 (Agricultural) zoning district is 25 feet on all sides. The concrete mixer is proposed to be 72'-2" at its tallest point and located approximately 500 feet from the nearest property line.

Setbacks to Concrete Mixer

- Applying footnote 10, the max. height allowed based on the additional setbacks provided is 505 feet; however, footnote 10 limits the max. height to 100 feet, which applies in this case.
 - $500 \text{ ft}(\text{proposed setback}) - 25 \text{ ft}(\text{standard A-35 setback}) = 475 \text{ feet additional setback provided.}$
 - $475 \text{ ft} + 30 \text{ ft} (\text{max. height allowed in A-35}) = 505 \text{ feet.}$

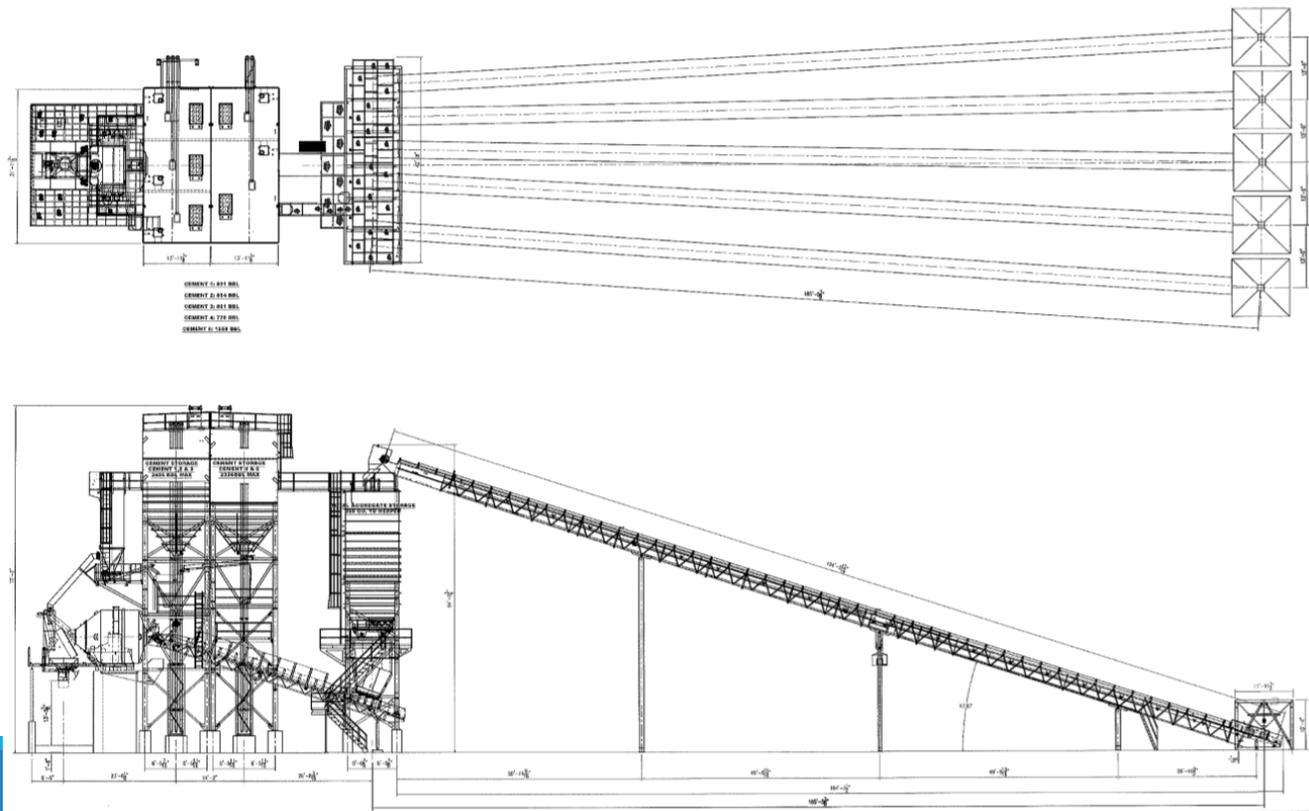


Land Development Code Analysis - Hardship

- The applicant purchased the subject parcel on April 28, 2018, after attending the early assistance meeting and learning of the processes potential compatibility issues.
- Purchasing a property is not considered a hardship; therefore, the strict application of any of the provisions of the Code would not result in peculiar and exceptional practical difficulties or undue hardship.
- Locating the batch plant on a property already zoned for heavy industrial use and requires a special use rather than a variance of use, such as property zoned I-3 (Industrial) or M (Industrial), would be considered more compatible with the other allowed and special uses in those locations.

Land Development Code Analysis – Use Compatibility

- The scale and overall massing of the proposed 72'-2" concrete mixer and conveyors may result in an inadequate visual transition from the surrounding low density residential and agricultural uses to the more intense and visually intrusive industrial batch plant use.



Land Development Code Analysis – Use Compatibility

•Landscaping and additional buffer widths are proposed to mitigate those impacts; however, the height of the concrete mixer combined with the flat terrain will make screening and buffering of the visual impact difficult, if not totally impractical.

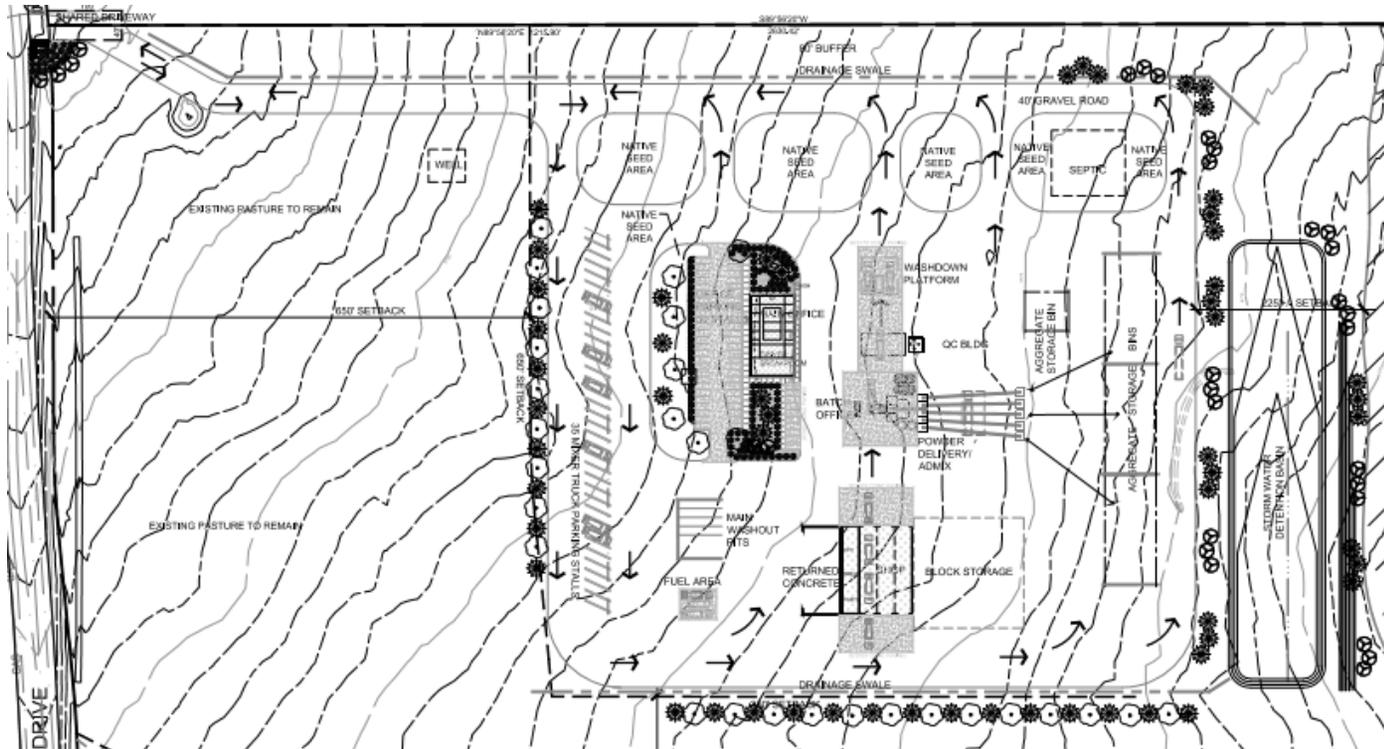


Land Development Code Analysis – Health, Safety, and Welfare

- The Code, specifically Section 6.3.1, does not require air quality management plans with variance of use applications; however, a plan was submitted for review that listed potential environmental impacts as dust, odor, and hazardous air pollutants (HAPs).
- For the various sources of dust on the site, the plan specified controls to mitigate and outlined procedures for handling complaints for the site, inspecting the site, monitoring the site, and follow up actions for when complaints are received.
- All development applications shall comply with any County, state, and federal air quality standards and shall reduce potential emissions where feasible.
- The Colorado Department of Public Health and Environment Air Pollution Control Division, will require an Air Pollutant Emissions Notice (APEN).
- All aspects of the APEN must be complied with including dust control, emissions from equipment, and odor control and response.
- A condition of approval has been included below specifying that an APEN shall be required prior to approval of a subsequent site development plan.

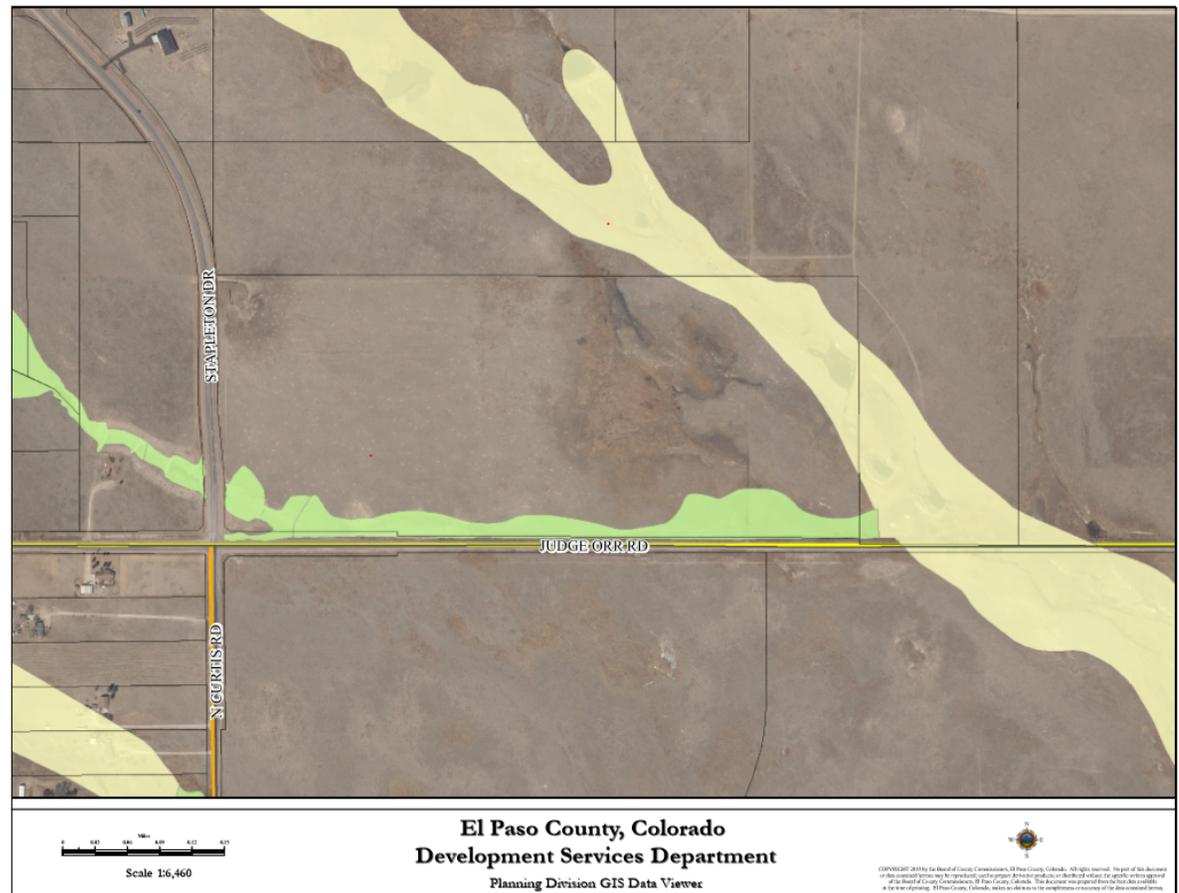
Land Development Code Analysis – Landscape and Screening

- Landscaping is proposed and a conceptual landscape plan has been provided
- Detailed landscape plan review shall occur at time of site development plan.



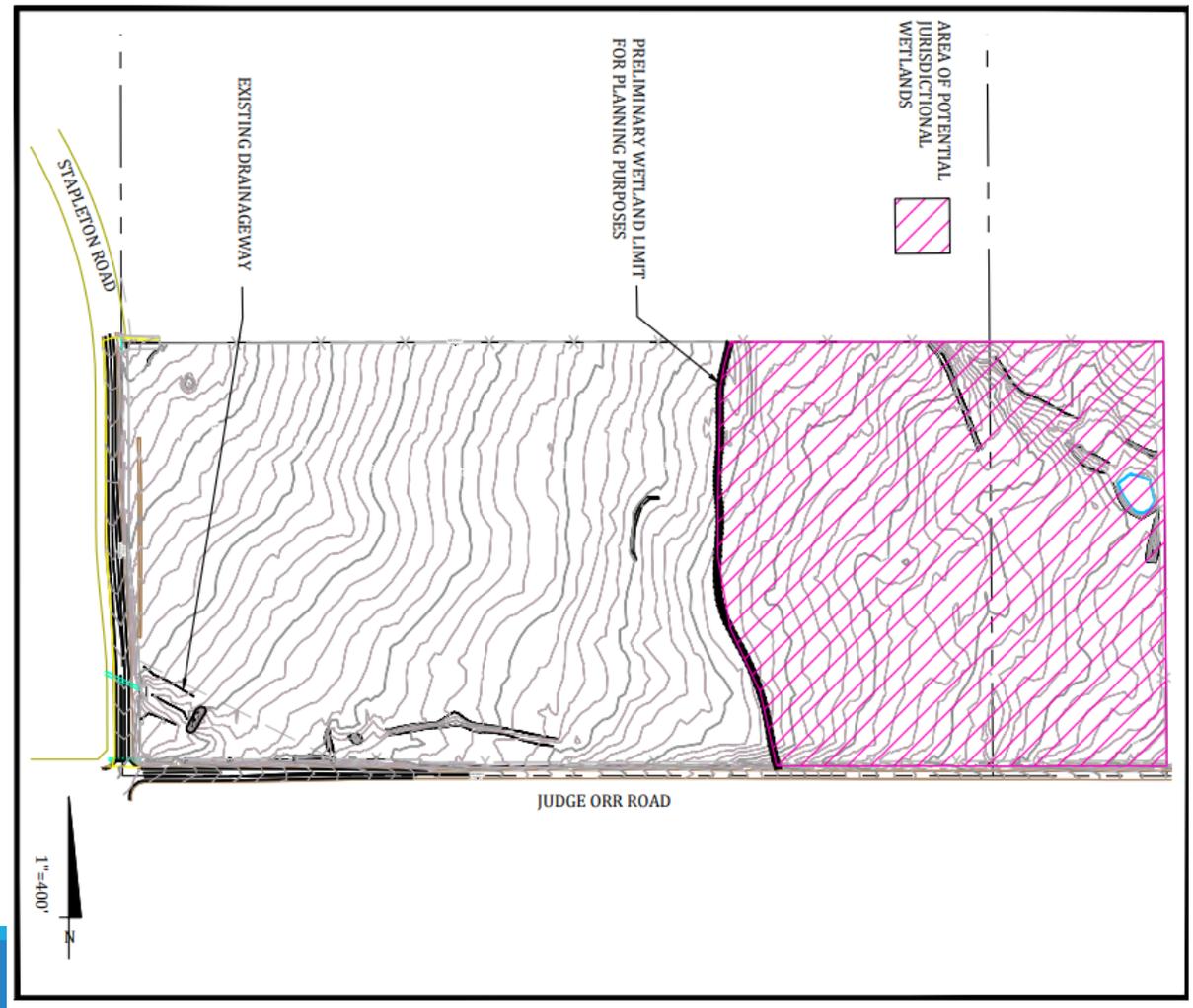
Land Development Code Analysis – Floodplain

- 100-year FEMA floodplain flows through the property:
 - Zone A shown in yellow
 - Zone AE shown in green
- Subsequent site development plan shall show the floodplain location and prohibit structures and storage of materials within the floodplain areas.



Land Development Code Analysis – Wetlands

- Areas of potential jurisdictional wetlands are shown in pink on the east side of the property.
- Development is not proposed within the wetland areas.
- A condition of approval requires US Fish and Wildlife documentation to be provided with site development plan.



Land Development Code Analysis- Burrowing Owl Habitat

- A prairie dog colony exists onsite and the burrowing owl, a threatened species, often nests in vacated prairie dog mounds.
- A study documented the presence of burrowing owls onsite, located beyond the minimum distance (150 feet) from the proposed limits of disturbance that is required by the by the Colorado Parks and Wildlife.
- The study noted that if additional burrowing owls arrive onsite after construction activities commence, a qualified biologist should reassess the risk to owls caused by construction activities.



Map 1. Burrowing Owl Survey Points – April/May 2019.

Land Development Code Analysis – Transportation

- A traffic study was submitted with the variance of use application and was reviewed by the El Paso County Public Works Department, Engineering Division, and the Colorado Department of Transportation (CDOT).
 - A deviation was approved for access on Stapleton Drive to avoid disturbance to floodplain, wetlands, and existing wildlife habitat along the southern property line.
 - A haul route agreement will be required to mitigate impacts of heavy truck traffic on the paved roadways.
- 

Engineering - Drainage and Erosion

- Geick Ranch drainage basin
- The following will be required with the site development plan:
 - Drainage Report
 - Grading and Erosion Control Plan (GEC)
 - Erosion and Stormwater Quality Control Permit (ESQCP)

Engineering - Transportation

- Access is via Stapleton Drive per an approved deviation request
- Traffic Impact Study
 - Recommends a south bound left turn lane on Stapleton Drive to the proposed access
 - Signal warrant is met at Stapleton Drive and Highway 24
- CDOT access permits required
 - Stapleton Drive and Highway 24
 - Judge Orr Drive and Highway 24
 - \$70,833 escrow for the future signal at Stapleton Dr and Highway 24 is required

Engineering - Deviation

- Per the Engineering Criteria Manual (ECM) no direct lot access is permitted on a Minor Arterial (Judge Orr Rd) or Major Arterial (Stapleton Dr)
- Applicant requested access on Stapleton Drive since no local roadway can provide parcel access and due to the topographical constraints of the drainage way along the Judge Orr Road frontage.
- The request was approved due to the topographic conditions imposed by the drainage way with the following conditions of approval.
 - “Should the Stapleton access need to be relocated to Judge Orr at a future date, the cost shall be at the property owner’s expense.”
 - “A complete shared access easement agreement is required with the site plan application as stated by the applicant in page 5 of 8 of this deviation request.

Engineering - Haul Route Agreement

- The heavy truck traffic for the permanent concrete batch plant is anticipated to have impacts to the existing paved roadways located along the haul route.
- Section 5.10.3 of the ECM states a haul route agreement may be required for activities that are anticipated to cause extraordinary damage or accelerated deterioration to County roads.
- At this time County has no standardized method for quantifying the impacts of heavier vehicles used by the batch plant and other similar uses on paved roadways
- Conditions of Approval Nos. 7 & 8 are included to provide a temporary method to calculate and assess a haul route impact fee based on actual traffic counts for this site until such time the County adopts a standardized countywide haul route fee
 - Condition of Approval No 7: Complete haul route agreement prior to site development plan approval
 - Condition of Approval No 8: Record daily trips and submit traffic counts annually to the County. Traffic counts will be utilized to determine annual haul route fee and any amendments to County or CDOT access permits.

Engineering - Haul Route

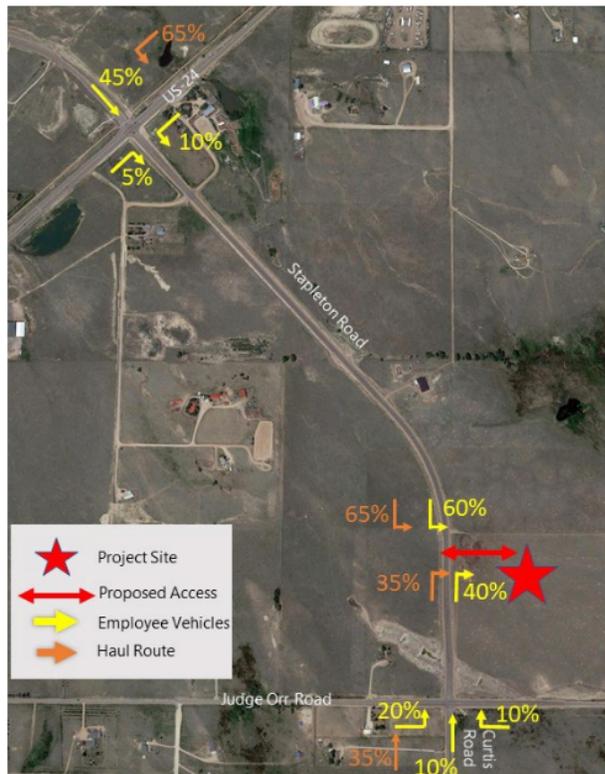


FIGURE 3: TRIP DISTRIBUTION - INBOUND TRIPS

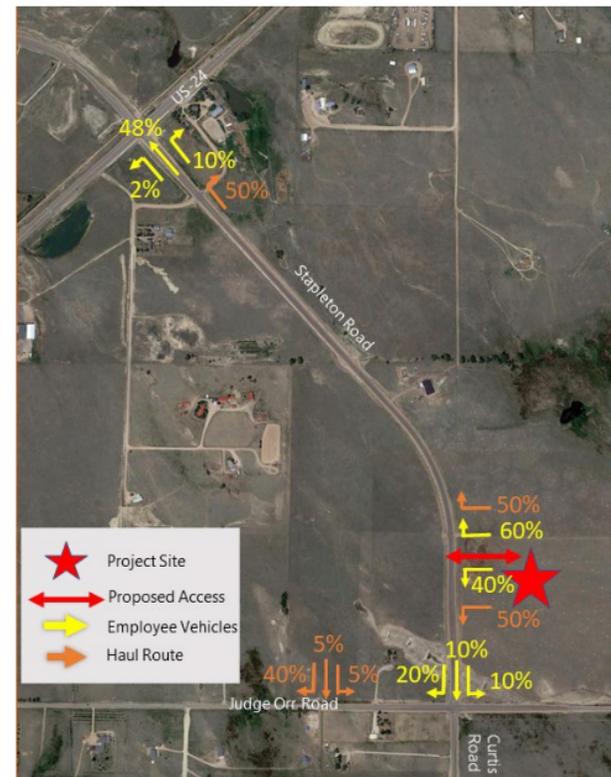


FIGURE 4: TRIP DISTRIBUTION - OUTBOUND TRIPS

El Paso County Policy Plan

Consistency with the El Paso County Policy Plan (1998) is not a required review criterion for a variance of use request. However, the following analysis is being provided for background purposes. 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 2.2.5:** Encourage mitigation of all adverse impacts to wetlands and riparian habitat.
- **Policy 2.2.8:** Encourage the protection and preservation of state listed endangered and threatened species, species of special concern, and species with immediate conservation needs.
- **Policy 6.1.10:** Ensure that new development will not create a disproportionate high demand on public services and facilities by virtue of its location, design, or timing.
- **Policy 6.1.11:** Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses
- **Policy 6.2.12:** Ensure that proposed zone changes and or use variances in established neighborhoods are compatible in scale and physical character.
- **Policy 6.3.4:** Commercial, office, industrial and, residential development should be compatible with surrounding land uses in terms of scale, intensity and potential impacts.
- **Policy 6.3.8:** Recognize the need and allow for the reasonable accommodation of adequate amounts of land with sufficient infrastructure for land uses of a heavy industrial nature and/or considered to be "locally undesirable" within all sub areas of the County provided that adequate facilities and services will be available. Consider the environmental, visual and land use compatibility impacts and incorporate, where possible, buffering and screening techniques to address compatibility with surrounding uses.
- **Goal 7.1:** Reasonably accommodate unique and special uses which provide value to the greater community and which can be made consistent with surrounding uses.

El Paso County Policy Plan

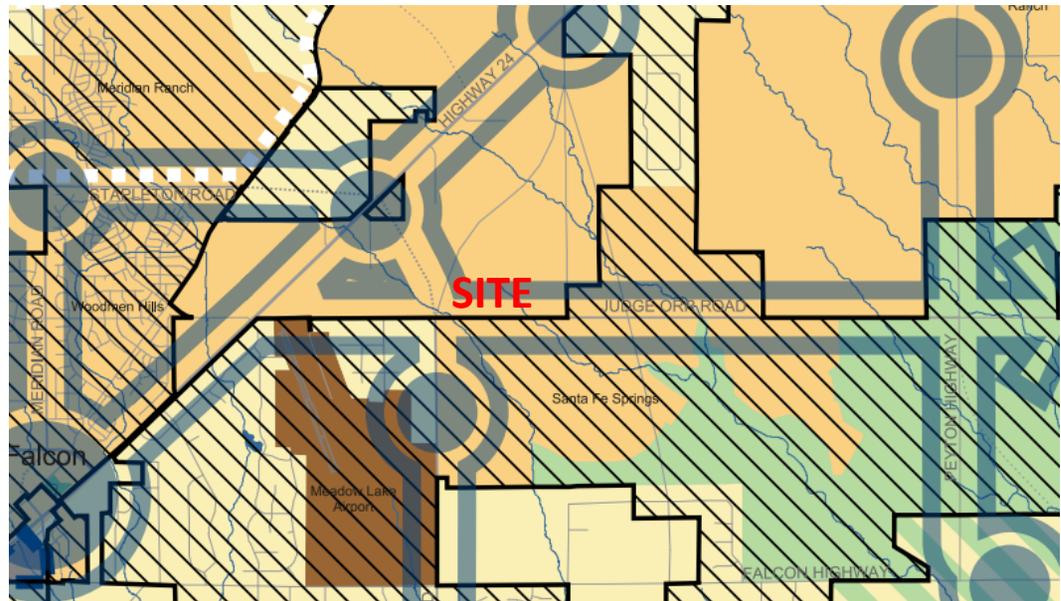
- The surrounding adjacent land uses consist of agricultural grazing land and/or single-family residential.
- Directly to the south of the subject parcel is the Saddlehorn Ranch Subdivision (273 – 2.5 acre lots, water provided by the Saddlehorn Ranch Metropolitan District, individual onsite wastewater treatment systems).
- Excluding Saddlehorn ranch, nearby residential development is typically 5-acre lot sizes; however, approximately 2 miles west of the subject parcel, on the west side of Eastonville Road, the density increases with smaller (+/- 0.5-acre) residential lots.
- The nearest non-residential use is Meadow Lake Airport located approximately 1 mile west of the subject parcel. The airport also includes supporting uses such as aviation-related commercial businesses and residential uses.
- The proposed industrial use may create an inadequate visual transition from low density residential and agricultural uses to the more intense and visually intrusive batch plant use and may be of an incompatible scale with the existing adjacent development and general vicinity.
- The proposed batch plant is not consistent with the nearby uses which are predominately residential, agricultural, airport and aviation-supporting uses; however, a concrete batch plant could be considered a necessary use in order to support the current and future growth of the County, particularly in the northeastern and eastern portions.
- The proposed site layout locates the taller structures near the center of the property, further from the property lines in an effort to help reduce the visual impact.

El Paso County Policy Plan

- A concrete batch plant, like many other industrial land uses, is a necessary use for a community the size of El Paso County and serve the needs of the greater community.
- Such uses are often locally undesirable and the geographic siting of heavy industrial uses are usually a contentious land use issue, as is the case with this request.
- The continued loss of available industrially zoned land is also an ever-pressing issue for El Paso County as properties historically zoned for industrial uses are rezoned for residential and commercial uses. This causes industrial uses to migrate into the more rural, less developed areas of the County.
- The sourcing and associated costs for such services and materials can often be directly impacted by the proximity of the industrial provider, which in turn can impact the bottom-line cost to the consumer.

Falcon/Peyton Small Area Master Plan

- The subject parcel is located within the Falcon/Peyton Small Area Masterplan (2006) and the land use recommendation for that area is shown as proposed urban density development.
- The Plan identifies a network of growth nodes that are connected by major transportation corridors.
- The property is bordered on the west by the Stapleton-Curtis growth corridor and on the south by the Judge Orr Road Growth Corridor.
- The Plan stresses the importance of maintaining the efficiency of the growth corridors and permitting adjacent uses which complement the higher speed and higher traffic arterial corridors.



Falcon/Peyton Small Area Master Plan

Policies listed in the Plan that apply to the Stapleton-Curtis and Judge Orr growth corridors are as follow:

- **Policy 4.5.5.1:** Recognize the importance of the Woodmen Road, Meridian Road and Stapleton/Curtis corridors as critically important non-State transportation corridors serving the area. Maintain options for a high level of access control, adequate right-of-way preservation and adjacent uses which will complement these higher speed, higher traffic major arterial corridors.
- **Policy 4.5.5.2:** Also recognize the importance of other key corridors in the planning area as identified on the Major Transportation Corridors Plan as it may be amended in response to development activities and plans. These corridors include but are not limited to Judge Orr Road, Elbert Highway and Peyton Highway.

Per the traffic study, the proposed site access lies within the Stapleton/Curtis Growth Corridor and the haul route would run predominately north and south along that corridor, which may negatively impact the efficiency of the arterial corridor if larger trucks are routinely pulling in and out of the batch plant site.

Falcon/Peyton Small Area Master Plan

Other applicable general policies from the Falcon/Peyton Small Area Master Plan (2006) are as follow:

- **Goal 3.2.1:** Establish a variety of Primary Employers that will provide stable, diverse, well-paying employment opportunities for current and future residents of the planning area.
- **Goal 3.5.7:** Ensure the coordination of land use and transportation planning.

Industrial development is generally limited to areas specified in the Plan as growth nodes. While the subject parcel is located within an area specified for future urban development, the site is not specifically located within an identified growth node so the proposed industrial use is not consistent.

The current proposal for a concrete batch plant could enhance the variety of employment opportunities for current and future residents of the planning area as there are no industrial uses near to the subject parcel and the nearest non-residential use is within Meadow Lake Airport, where commercial uses that support the airport use are permitted.

Water Master Plan

Consistency with the El Paso County Water Master Plan (2018) is not a required review criterion for a variance of use request. The following analysis is being provided for informational purposes. The Water Master Plan has three main purposes; to 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.

- **Goal 4.3:** Collaborate with the State and other stakeholders to extend the economic life of the Denver Basin aquifers.
 - **Policy 4.5.5.1:** Incentivize the use of deeper Arapahoe and Laramie-Fox Hills aquifers by central water providers, leaving or deferring the use of the shallower aquifers for the more dispersed domestic well users.
 - **Policy 4.3.6:** Encourage well monitoring throughout the County, with an emphasis on the Denver Basin aquifer fringe areas.
 - **Policy 5.2.2:** Recognize the water supply challenges and limitations inherent in each of the regional planning areas, with particular emphasis placed on Regional Planning Area 3 (Falcon), as a result of current reliance on non-renewable Denver Basin wells and the renewable, but limited and over appropriated, Upper Black Squirrel Creek alluvium.
 - **Policy 5.2.4** – Encourage the locating of new development where it can take advantage of existing or proposed water supply projects that would allow shared infrastructure costs.
 - **Policy 6.0.11** – Continue to limit urban level development to those areas served by centralized utilities.
- 

Water Master Plan

- The estimated water usage per year for the concrete batch plant will range from 15 to 28 acre-feet per year which is equivalent to the annual usage of approximately 22 – 42 rural households.
- The well permit issued by the State (Permit # 83325-F) allows up to 32.2 acre-feet to be withdrawn annually from the Arapahoe aquifer.
- The water findings permit additional withdrawals from the Denver (31.4 acre-feet per year) and the Laramie-Fox Hills (28.4 acre-feet per year) aquifers and, while there is no approved well permit for withdrawals from those aquifers currently proposed, the water findings would potentially allow for a new well permit applications to be submitted for withdrawal from those aquifers in the future.
- Based on the well permit, the applicant is proposing to utilize approximately one-third (1/3) of the total water that was allocated to the parcel and to withdraw water solely from the Arapahoe aquifer.

Water Master Plan

- The proposed Saddlehorn development to the south will be served by the Saddlehorn Ranch Metropolitan District, which will provide central water service from the Arapahoe and Laramie-Fox aquifers. It is unknown whether the applicant has approached the Saddlehorn Metropolitan District to determine if inclusion into the District or extraterritorial service by the District is possible.

As currently submitted, the proposed well permit suggests the plan for water supply to the proposed use is consistent with the Water Master Plan policy of withdrawing from the deeper aquifers (Arapahoe and Laramie-Fox) and reserving the shallower aquifers, such as the Denver aquifer, for domestic well usage. Additionally, the project will not utilize the alluvium from the Upper Black Squirrel Creek and will provide a flow meter to monitor the usage for the site.

Conditions of Approval

Conditions:

1. Approval of a site development plan by the Planning and Community Development Department shall be required to establish the proposed use on the subject parcel.
 2. Screening and landscaping shall be installed prior to the initiation of the use and be in general conformance with the landscape plan submitted with the variance of use request.
 3. Prior to approval of the site development plan, documentation shall be submitted identifying that an Air Pollution Emissions Notice (APEN) has been reviewed and approved by the Colorado Department of Public Health and Environment Air Pollution Control Division.
 4. Prior to approval of a site development plan proposing any land disturbing activities, documentation from the United States Fish and Wildlife Services (USFWS) authorizing such activity shall be received.
 5. An on-site wastewater treatment (OWTS) is required for this project and shall be obtained from El Paso County Public Health.
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Conditions of Approval

Conditions (continued):

6. The project is subject to the El Paso County Road Impact Fee Program (Resolution 19-471), as amended. Traffic impact fees shall be paid in full at the time of site development plan.
7. Prior to the approval of the site development plan, the applicant shall enter into a haul route agreement with the El Paso County for the variance of use. The Board of County Commissioners has authorized that the haul route agreement be approved administratively by the ECM Administrator. The haul route agreement shall identify the impacts on the County roads for this variance of use that will cause extraordinary damage or accelerated deterioration to County roads in accordance with the EPC ECM. The haul route agreement shall include requirements to address pavement/structure impacts to County Roads, provide for an annual fee to be paid to the El Paso County Road and Bridge Fund, provide for annual adjustments for applicable construction costs, provide for a fee structure that is based upon actual annual site traffic counts, include provisions for payment requirements, and include an allowance for the required annual fee to be administratively adjusted by the County Engineer upon the adoption of a (countywide) haul route fee by the El Paso County Board of County Commissioners.

Conditions of Approval

Conditions (continued):

8. The submitted Traffic Impact Study assumes an average vehicle trip and related trip distribution that will be generated by each land use for the proposed variance of use. The applicant shall install a traffic counter at its access/driveway to Stapleton Road which shall at a minimum record the actual trip distribution, daily trips and peak hour volumes by vehicle type. The traffic counts shall be provided annually as outlined in the proposed haul route agreement or within 15 business days when requested by El Paso County. The actual traffic counts will be utilized to determine: the annual haul route fee, required amendments to the County driveway/access permit in accordance with the EPC ECM, any obligations to the El Paso County Road Impact Fee Program as a result of amendments to the El Paso County driveway/access permit, and required amendments by the applicant to the County access permits with CDOT. Note that amendments to the County and CDOT driveway/access permits could trigger the need for updated traffic impact studies and related roadway improvements in accordance with the EPC ECM and/or CDOT driveway/access permit criteria.

Conditions of Approval

Conditions (continued):

9. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of 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 species.
 10. The applicant shall complete two Colorado Department of Transportation access permits for the intersections of State Highway 24 and Stapleton Drive, and State Highway 24 and Judge Orr prior to site development plan approval.
 11. The applicant shall complete an escrow agreement with the Colorado Department of Transportation in the amount of \$70,833.00 to be applied towards the construction of a traffic signal at State Highway 24 and Stapleton Drive prior to site development plan approval.
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Conditions of Approval

Conditions (continued):

12. Vertical structures greater than 35 feet in height shall require Federal Aviation Administration (FAA) Form 7460-1 Notice of Proposed Construction for Obstruction Evaluation.

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 applicant shall coordinate with CDOT to determine the fair share contribution and/or construction necessary to bring the intersection of Highway 24 and Stapleton Road to a satisfactory level of service with the site development plan application.

Conditions of Approval

Notations (continued):

3. 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.
4. 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.

Public Notice

The Planning and Community Development Department notified three (3) adjacent property owners on May 13, 2020 for the June 2, 2020 Planning Commission Hearing and the June 23, 2020 Board of County Commissioners Hearing.

The property was posted on May 14, 2020.

To date we have received:

- 7 letters of support
- 3 petitions in opposition
- 64 letters of opposition
- 1 letter of concern/inquiry

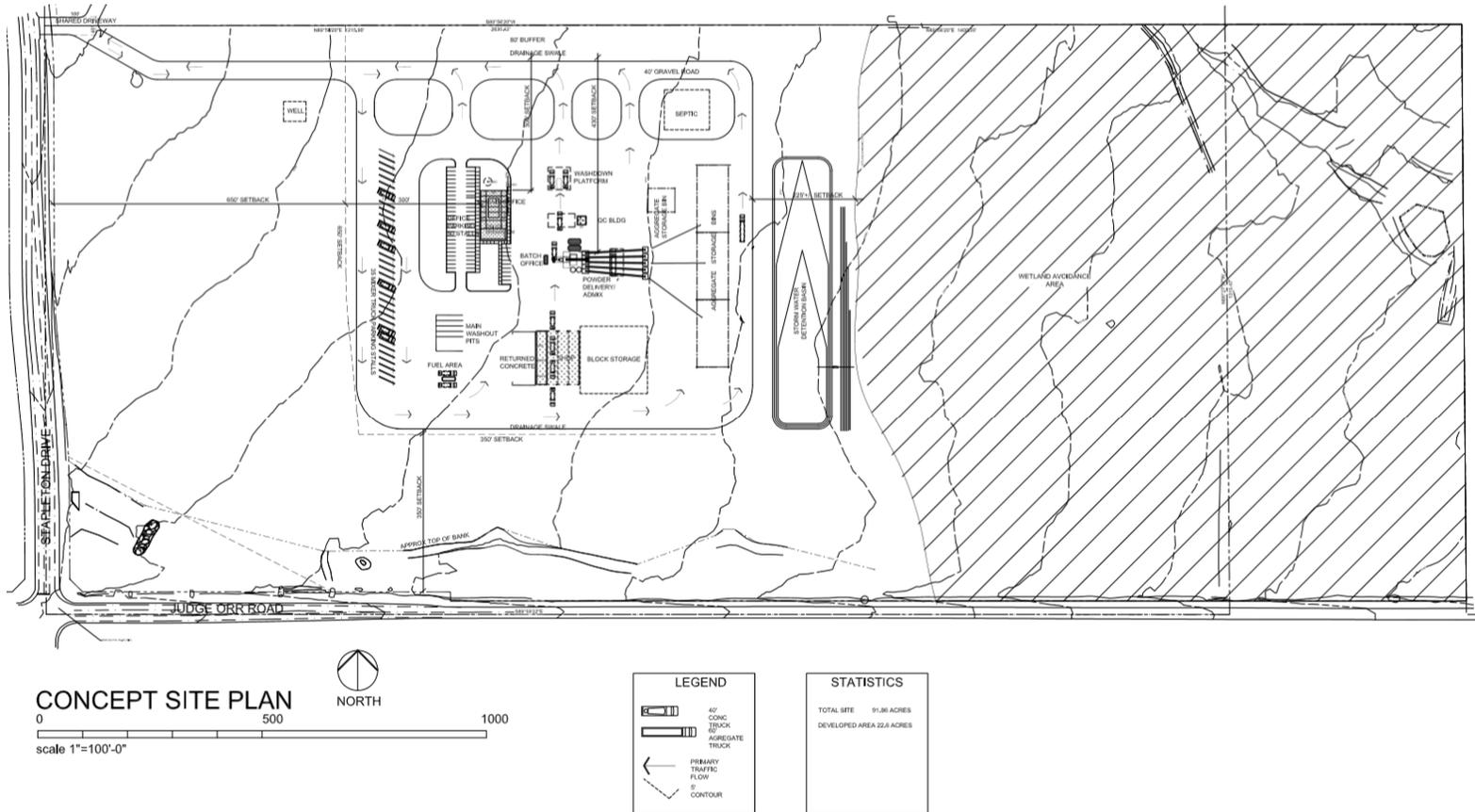


Public Notice

On May 31, 2020, I visited the site and found the public notice on the ground near the posting site.



Questions for Staff?



Overview of Process

- Review criteria
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