

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development
O: 719-520-6300
MegganHerington@elpasoco.com
2880 International Circle, Suite 110
Colorado Springs, CO 80910

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

SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners
FROM: Meggan Herington, Director, Planning & Community Development
DATE: December 17, 2024
RE: LDC243, Proposed Amendments to the Land Development Code Pertaining to Natural Medicine

Project Description

This is an amendment to Chapters 1 and 5 of the El Paso County Land Development Code adding language pertaining to natural medicine uses. The purpose of the amendment is to:

1. Add definitions for natural medicine-related uses, including defining Natural Medicine Business, Natural Medicine Healing Center, Natural Medicine Cultivation Facility, Natural Medicine Product Manufacturer, and Natural Medicine Testing Facility,
2. Add use specific development standards for Natural Medicine Business and Natural Medicine Personal Cultivation to include time, place, and manner regulations, and
3. Add Natural Medicine Business to the table of principal uses establishing that the use of Natural Medicine Business is allowed in the CS, C-1, C-2, and M zone districts subject to development standards and site development plan approval.

Notation

Please see the draft Planning Commission minutes for a complete discussion of the topic and the Planning Commission staff report for staff analysis.

Discussion

There were no recommended changes made by the Planning Commission. Commissioners asked a series of questions about the State licensing and nuances of personal cultivation. There was also some discussion about how setbacks from relevant uses are calculated. Commissioners also stated that as the State licensing started and we know more about the function that the Code language can always be amended in the future.

Planning Commission Recommendation and Vote

Mr. Moraes moved / Mr. Smith seconded the motion to recommend approval of the amendments to the El Paso County Land Development Code to the Board of County Commissioners for their consideration. The motion was **approved (9-0)**. The item was heard as a regular agenda item.

Attachments

1. Draft Planning Commission minutes from December 5, 2024
2. Signed Planning Commission Resolution including Exhibit A (code language)
3. Planning Commission Staff Report
4. Draft BOCC Resolution

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting

Thursday, December 5th, 2024, El Paso County Planning and Community Development Department
2880 International Circle, Colorado Springs, Colorado – Second Floor Hearing Room

REGULAR HEARING at 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: Thomas Bailey, Sarah Brittain Jack, Jay Carlson, Eric Moraes, Wayne Smith, Christopher Whitney, Jim Byers, Tim Trowbridge and Bryce Schuettpelz.

PC MEMBERS PRESENT AND NOT VOTING: (NONE)

PC MEMBERS ABSENT: Becky Fuller and Jeffrey Markewich

STAFF PRESENT: Meggan Herington, Justin Kilgore, Daniel Torres, Ryan Howser, Christina Prete, Jeff Rice, Marcella Maes, Terry Sample (El Paso County Attorney's Office), Erika Keech (El Paso County Attorney) and Lori Seago (El Paso County Attorney).

OTHERS PRESENT AND SPEAKING: Steven Sery, Julie Shoemaker, Paul Krause, Doug Schanel, Kirby Thompson, Kevin Beechwood, Larry Driver, Sara Frear, Ann Odom, Brooks Swenson and Andrea Barlow.

1. REPORT ITEMS

Ms. Herington let Mr. Bailey (Chair) know that it would be acceptable for the Planning Commission to hear regular item 5B first since there are people in the audience that are in opposition of the item 5B that want to speak. Mr. Bailey agreed to hear item 5B first.

Mr. Kilgore had no announcements.

2. PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA

There were none.

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held on November 21st, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (9-0).

4. CALLED-UP CONSENT ITEMS:

The Planning Commission called up 3B File number PUDSP243 to be heard as a regular item.

5. REGULAR ITEMS

3B. PUDSP243

HOWSER

**PLANNED UNIT DEVELOPMENT / PRELIMINARY PLAN
URBAN LANDING**

A request by Elite Properties of America, Inc., for approval of a Map Amendment (Rezoning) of 6.58 acres from R-4 (Planned Development) to PUD (Planned Unit Development) with approval of a Preliminary Plan illustrating 49 single-family lots, 4 tracts, including 2.00 acres of open space provisions and 0.85 acres of land dedicated for private roads. The property is located at the southeast corner of the intersection of Spanish Bit Drive and Struthers Road. (Parcel No. 7136001045) (Commissioner District No. 3)

COMBINED STAFF & APPLICANT PRESENTATION: **Mr. Bailey** (Chair) suggested that audience members who wish to speak should go first, with the applicant answering their questions afterward. **Mr. Brooks Swenson** (N.E.S) agreed. **Mr. Swenson** presented his presentation and touched on some of the concerns that were heard from the public.

DISCUSSION: **Mr. Carlson** inquired about the height of the buildings, asking if a story is typically 10 feet tall. **Mr. Swenson** responded that the buildings are less than 30 feet tall, under two stories, and a typical story height is about 10 to 12 feet. **Mr. Bailey** then clarified that the maximum height limit in the PUD zoning district is 30 feet.

Mr. Moraes asked **Mr. Swenson** for clarification on Table 8 of the traffic study, specifically regarding the west and right turn lanes. **Mr. Trowbridge** directed **Mr. Moraes** to page 28 of the packet, where the information is included in the letter of intent. In response to **Mr. Moraes'** question, **Ms. Andrea Barlow** (N.E.S) outlined several proposed improvements, some of which are the responsibility of the Urban Landing development and others involve joint efforts with the Cathedral Rocks Commons commercial development. These improvements include adding a northbound right turn lane, lengthening the southbound left turn lane on Struthers Road at Spanish Bit Drive, paving Spanish Bit Drive, and installing curbs, gutters, and sidewalks. An acceleration lane at Struthers was also discussed but is not yet required based on traffic volume.

Mr. Moraes inquired about the potential impact of installing signage for a left-hand turn on Innovative Drive and Urban Landing Drive. **Mr. Torres** responded that Innovative Drive meets the criteria for full movement intersections so there's no need to limit them. He also noted that people generally prefer paved roads, especially in bad weather, but the roads already meet required criteria. **Mr. Smith** expressed concerns about the turn lanes, particularly the timing for the northbound right turn lane, which is based on specific traffic conditions, and questioned whether these conditions would provide sufficient guidance for traffic flow. **Mr. Torres** clarified that the current discussion is at the preliminary plan stage, and further details would be finalized at the final plat stage. He mentioned that the applicant is in talks with Cathedral Rocks Commons, which is further along in development, and that most of the needed improvements will be triggered by the development of nearby commercial lots

Mr. Moraes asked staff about feedback from the United States Air Force Academy (USAFA) regarding citizen concerns. **Mr. Howser** deferred the question to **Mr. Torres**, noting that most concerns were related to drainage, and emphasized that the project has received approval. **Mr. Torres** explained that drainage concerns stemmed from both the Cathedral Rocks Commons and the current development, with flows directed west beneath Struthers Road. He stated that the development plans to provide a detention pond to manage flows, which will be analyzed further in the final drainage report. **Mr. Howser** clarified that an additional condition of approval requires addressing any outstanding comments, including those from the USAFA and other staff, before the PUD plan can be officially recorded.

Mr. Moraes spoke on the notification process, explaining that previously only property owners touching the site were notified, but now notifications are sent to everyone within a 500-foot radius. **Mr. Moraes** and **Mr. Bailey** let **Mr. Krause** know that he could go before the BoCC to state his comments or talk to the applicant who is present at this hearing. The Planning commission is only a recommendation body.

PLANNING COMMISSION DISCUSSION: **Mr. Moraes** highlighted that the property was already zoned for something like the proposed plan, and the new zoning updates an obsolete designation, offering the opportunity to address citizen concerns. **Mr. Whitney** added that with more conditions and restrictions in this new zoning, the development has a better chance of aligning with what people want. **Mr. Bailey** noted that the existing R4 zoning had been in place for 50 years, so it wasn't surprising. **Mr. Smith** suggested displaying the decision criteria for transparency, and **Mr. Bailey** confirmed it was in the packet and accessible via EDARP. **Mr. Trowbridge** agreed with **Mr. Moraes**, stating the development fits the area well, as it is on the edge and could have been commercial, but housing is more appropriate. **Mr. Bailey** also commented that the applicant did a good job ensuring the development is compatible with existing residential areas.

STAFF COMMENTS: None

APPLICANT COMMENTS: None

PUBLIC COMMENTS: Property owners expressed their views on the proposed development. **Mr. Doug Schanel** supported it but raised concerns about stormwater runoff, traffic safety, and infrastructure, citing issues like sediment on Spanish Bit Drive, unplowed gravel roads, and unsafe lanes in snow. **Mr. Steve Sery** highlighted school traffic and road conditions, recommending the inclusion of acceleration lanes for both right and left turns onto Struthers to improve safety. **Mr. Paul Krause** opposed the development's size and traffic impact, suggesting a wall to prevent people from walking on his property and hoping for shared access concerning the easement behind his house. **Mr. Kevin Beechwood**, a long-time resident of Chaparral Hills, strongly opposed the plan, criticizing the excessive number of units and the impact on the horse community and water drainage, while also noting the limited notification to neighbors.

PC ACTION: TROWBRIDGE MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER PUDSP243 FOR A PLANNED UNIT DEVELOPMENT / PRELIMINARY PLAN URBAN LANDING UTILIZING THE ATTACHED RESOLUTION WITH SEVEN (7) CONDITIONS AND FIVE (5) NOTATIONS AND A RECOMMENDED FINDING OF SUFFICANCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

IN FAVOR: (9) Bailey, Brittain Jack, Byers, Carlson, Fuller, Moraes, Schuettpelz, Trowbridge, Whitney and Smith

IN OPPOSITION: (0) None

5A. VA244

KILGORE

**VARIANCE OF USE
UTAH-NEVADA LANE VARIANCE OF USE**

A request by N.E.S. Inc. for approval of a Variance of Use to allow a recreational vehicle (RV) storage and mini-warehouse facility in the RR-5 (Rural Residential) and CAD-O (Commercial Airport Overlay Zoning Districts). The property is located south of Woodmen Road on Adventure Way, south of the intersection of Adventure Way and Nevada Lane. (Parcel Nos. 5308000002, 5308000071, 5308000082) (Commissioner District No. 2).

STAFF PRESENTATION: Mr. Trowbridge asked **Mr. Torres** if Adventure Way is part of the City of Colorado Springs, while Nevada, California, and Utah are all private roads. **Mr. Torres** confirmed this. **Mr. Trowbridge** then asked who is responsible for maintaining these roads, to which **Mr. Torres** replied that he did not find any information on maintenance. Regarding Nevada Lane, **Mr. Torres** noted that the County Attorney indicated there wasn't enough information to determine if the road is open for public use. **Mr. Bailey** stated that the provided documentation suggests Nevada Lane is private, meaning anyone who used it in the past was trespassing on a private road. He asked Ms. Seago if the documentation is insufficient to establish ownership, emphasizing that ownership is an important issue.

Ms. Seago (El Paso County Attorney's Office) stated she reviewed deeds and court documents that identified only one property to the south that was previously granted access across the Applicant's property, and the Applicant is granting that property owner access through the gate on Nevada Lane. She said she cannot offer an opinion on whether any property owners may have an easement by prescription on Nevada Lane, but there is a suggested Notation of Approval that confirms that if approved, this Variance of Use will have no impact on such easement if it exists.

Mr. Whitney asked if the road has been used by the public for a long time. **Ms. Seago** responded that it has been used, but she could not confirm whether it was by the public or just a few residents as a private access easement, as she had no information on that. **Mr. Whitney** then asked if anyone had tried to block access to it, and **Ms. Seago** said not to her to my knowledge. **Mr. Torres** then continued with his presentation.

Mr. Carlson stated that the roadway issue should be resolved first, as approving the variance could alter the development plan if the road is later challenged in court. **Mr. Torres** responded that such matters would be handled in court and that if the road were deemed public, it would need to meet county standards. **Mr. Carlson** assumed the gates would have to be removed, and **Mr. Torres** agreed. **Mr. Bailey** noted that the Variance of Use decision wouldn't affect the road issue, which might need to be addressed separately. **Mr. Byers** mentioned that the property owner also owns Utah Lane, suggesting additional complications with private roads, but **Mr. Torres** was unsure about other easements. **Mr. Byers** agreed that road issues should be settled before proceeding with development. **Mr. Bailey** proposed allowing the applicant to address these concerns. **Mr. Whitney** asked **Ms. Seago** about the Quiet Title action, confirming it applied to half of Nevada Lane, which she affirmed. **Mr. Whitney** found it unusual for a Quiet Title to apply to just 15 feet, and **Ms. Seago** confirmed this. **Mr. Kilgore** continued the presentation.

APPLICANT PRESENTATION: **Mr. Whitney** confirmed that the eastern portion belongs to the client due to the Quiet Title action, while they already own the western portion, they are the owners of record of Nevada Lane. **Ms. Frayer (Applicant's attorney)** agreed with **Mr. Whitney's** and stated that the client is the owner of record of half of Utah Lane, and while there are recorded access easements affecting their ownership, they are not trying to disrupt these rights. **Mr. Byers** inquired about recorded access easements on California, and **Ms. Frayer** confirmed there are many recorded access easements on both California and Utah, including utility easements. **Ms. Odom (N.E.S)** continued the presentation.

Mr. Carlson asked if there is an area where property owners can access the development through the gate. **Ms. Odom** confirmed that it is 7215 Nevada Lane, a single-family home south of California, which has deeded access through the gate. She explained that this access has been in place for several decades, though she wasn't sure when the deed was recorded. **Mr. Carlson** clarified that this access is to the north-south road, and **Ms. Odom** confirmed they would have direct access through the gates on Nevada Lane. When **Mr. Carlson** questioned the earlier statement that no one had deeded access, **Ms. Odom** clarified that only this one property has deeded access.

PUBLIC COMMENTS: **Mr. Larry Driver** a property owner at 7150 Nevada Lane for over 30 years, opposed the proposal. He has maintained and plowed the road with his own equipment, with neighbor approval. His concern is that, while his neighbor is being granted access, he is not, despite using the road more than anyone else. **Mr. Driver** was unaware of the Quiet Title action and believes more information is needed before approving the Variance. **Mr. Kirby Thompson** who owns Hale Acres, also expressed concerns about property boundary issues and road access. He and his wife have used roads on Wyoming Lane since 1978. **Mr. Thompson** believes the applicant is using legal tactics to force action, especially after a Quiet Claim Deed was filed without proper notice. He referred to state laws that could make the roads public by prescription due to over 20 years of uninterrupted use. **Mr. Thompson** argued that blocking these roads would harm local businesses and that they should remain open.

APPLICANT DISCUSSION: **Ms. Frayer** acknowledged the neighbors' concerns but stated there is no legal basis to deny the application regarding Nevada Lane. She emphasized that Nevada Lane is a private easement in public records, with only the Sedlak family and her client holding rights to it. She disagreed with Mr. Kirby's interpretation of the public highway statute and clarified that the Quiet Title process followed all legal requirements, including court approval and public notice. **Ms. Frayer** explained that if neighbors wish to challenge this, they can pursue legal action in court. She reassured the Planning Commission that no access would be unlawfully cut off, as alternative access via recorded easements is available, and her client only claims ownership of their portion of Nevada Lane.

Ms. Frayer clarified that to establish a prescriptive easement under Colorado law, the claimant must go to court to have it recognized in the public record, which has not yet been done. She noted that if neighbors pursue this, the application accounts for it, and the project would be subject to any valid court order. **Mr. Carlson** asked if the client was willing to take the risk of developing the property, knowing that future legal action might require changes. **Ms. Frayer** confirmed they were. When asked about the Quiet Title process, **Ms. Frayer** stated it began in 2021, and the order was recorded in May 2022. She also explained that the plan was to install gates on Nevada Lane, but the current easement remains unchanged, and if a neighbor establishes a prescriptive easement, they would be given access in the same way as the current easement holder.

Mr. Moraes suggested seeking legal advice and entering executive session. **Mr. Bailey** proposed the applicant finish her rebuttal first.

Mr. Smith asked about whether the proposal would allow access to a regular roadway for business owners. **Ms. Frayer** clarified that the proposal does not aim to make Nevada Lane a public roadway

and emphasized that prescriptive easements differ from public roadways. **Mr. Whitney** asked if, as a citizen with a prescriptive easement, he would be given a key to Nevada Lane, to which Ms. Frayer confirmed that keys would be provided to easement holders but not the general public. **Mr. Carlson** clarified that he was asking about the statute that allows a road to become public after 20 years of use, and **Ms. Frayer** stated the public the interpretation of the law. **Ms. Frayer** read a letter she had written to Mr. Kirby, explaining that specific criteria must be met to establish a public highway, and in this case, those criteria were not satisfied. She emphasized that simply using a road for 20 years does not automatically make it a public highway, as the law requires more than that.

PLANNING COMMISSION DISCUSSION: Ms. Seago proposed a motion that the Planning Commission go into executive session in pursuant to CRS24-6-402 4B conferences with an attorney for the public local body for the purposes of receiving legal advice on specific legal questions the subject matter would be legal questions related to the status of Nevada Lane as an access.

PC ACTION: MORAES MOVED / WHITNEY SECONDED MS. SEAGO'S PROPOSED MOTION THAT THE PLANNING COMMISSION GO INTO EXECUTIVE SESSION IN PURSUANT TO CRS24-6-402 4B CONFERENCES WITH AN ATTORNEY FOR THE PUBLIC LOCAL BODY FOR THE PURPOSES OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS. THE SUBJECT MATTER WOULD BE LEGAL QUESTIONS RELATED TO THE STATUS OF NEVADA LANE AS AN ACCESS. MS. SEAGO STATED THAT THE PLANNING COMMISSION DOES NEED A ROLL CALL VOTE THE MOTION DOES NEED TO PASS BY A TWO THIRDS MAJORITY FOR IT TO PASS. THE MOTION TO RECOMMEND APPROVAL PASSED (8-1).

IN FAVOR: (8) Moraes, Byers, Whitney, Brittain Jack, Carlson, Schuettpelz, Smith and Bailey.

IN OPPOSITION: (1) Trowbridge stated he does not believe that this question is pertinent or hits on any aspect to the criteria we are supposed to consider.

Meggan Herington, Erika Keech (El Paso County Attorney), Lori Seago (El Paso County Attorney), Justin Kilgore, Daniel Torres, Thomas Bailey, Sarah Brittain Jack, Jay Carlson, Eric Moraes, Wayne Smith, Christopher Whitney, Jim Byers, Tim Trowbridge and Bryce Schuettpelz attended the Executive Session. Executive session start time: 11:24 A.M Executive session end time: 11:38 A.M.

Mr. Trowbridge moved, and **Mr. Moraes** seconded to come out of Executive session back to regular session.

IN FAVOR: (9) Moraes, Byers, Whitney, Brittain Jack, Trowbridge, Carlson, Schuettpelz, Smith and Bailey.

IN OPPOSITION: (0)

Ms. Seago said an Executive session was held for the purposes stated on the record and no decisions were made.

ADDITIONAL DISCUSSION: Mr. Carlson disagreed with fellow commissioners, saying that the approval criteria for the Variance state it should not be detrimental to the surrounding area or to the health, safety, and welfare of the community. Based on the 10 negative inputs received, including concerns about the road's importance for safety during inclement weather, the speaker believes the variance would indeed be detrimental to the area.

PC ACTION: BRITTIAN JACK MOVED / SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 5B, FILE NUMBER VA244 FOR A VARIANCE OF USE UTAH- NEVADA LANE UTILIZING THE ATTACHED RESOLUTION WITH THREE (3) CONDITIONS AND FOUR (4) NOTATIONS AND A RECOMMEND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-2).

IN FAVOR: (7) Bailey, Brittain Jack, Moraes, Schuettpelz, Trowbridge, Whitney, Smith
IN OPPOSITION: (2) Byers and Carlson stated the application does not meet the approval criteria.

5A. LDC243

HERINGTON

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT
NATURAL MEDICINE**

A request by the El Paso County Planning and Community Development Department to amend Chapters 1 and 5 of the El Paso County Land Development Code (2022) as it pertains to definitions and use standards for Natural Medicine. The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts).

STAFF PRESENTATION.

DISCUSSION: Mr. Trowbridge asked whether it is possible to require that testing and manufacturing facilities be collocated, meaning they cannot be separate. **Ms. Herington** said that **Ms. Terry Sample (El Paso County Attorney)** would look into the regulatory language to determine what can or cannot be required in this regard. Mr. Herington clarified that multiple licenses can be applied for, suggesting that collocating these facilities might be feasible, similar to how medical marijuana operations work.

Mr. Carlson raised concerns about whether a product, such as mushrooms, can be grown and sold directly or if it requires additional processing to be useful. **Ms. Herington** explained that for patients at a Natural Medicine healing facility, treatment must occur on-site, and personal cultivation of a limited amount is allowed. She also explained that "manufacturing" involves more than just growing the product—there is a process involved to make it suitable for use.

Mr. Bailey added that natural medicine products are infused with natural medicine, implying additional steps are involved beyond simply consuming mushrooms. **Mr. Moraes** noted that the definitions suggest cultivation and manufacturing can be combined at one center.

Ms. Brittain Jack asked if all licensed healing center providers are also licensed professionals (like nurses). **Ms. Herington** confirmed that both facilitators and establishments are licensed by the state, as required by the Regulatory Act.

Mr. Whitney raised a question about the 1000-foot buffer requirement around colleges, asking if it should be based on the "principal campus" or something else, as he wasn't sure what a principal campus is compared to a satellite campus. **Ms. Herington** explained that the term "principal campus" comes from the Medical Marijuana licensing regulations, and the County Clerk uses this term to refer to a main campus. She clarified that this excludes satellite campuses, such as a downtown night school, and is more like a full campus, such as UCCS.

Mr. Carlson asked for clarification on how the 1000-foot distance is measured, particularly regarding pedestrian access. **Ms. Herington** explained that it is measured from the nearest property line of the school to the closest portion of the Natural Medicine business, with the route determined by the most direct pedestrian access. She acknowledged that there could be disagreements over the measurement, which might require using GIS or physically measuring the route.

Mr. Moraes asked about situations where a school and a Natural Medicine business might be close to each other, with their property lines touching, but the 1000-foot distance requiring a longer walk due

to the layout of the block. **Ms. Herington** confirmed that the buffer requirement applies to the property lines and not just proximity, meaning the distance could exceed 1000 feet depending on the layout. **Mr. Moraes** also raised a concern about whether a Child Care Center could be established within the CS (Commercial Services) zone if there is already a Natural Medicine business within 1000 feet. **Ms. Herington** confirmed that the answer would likely be no but asked to hold off on a definitive response until further discussions and review of maps.

Mr. Moraes asked if the zoning requirements for Natural Medicine businesses could mandate rezoning to CS (Commercial Services) in areas with obsolete zoning districts like C1, C2, and M1. **Ms. Herington** explained that when the Land Development Code (LDC) is updated the obsolete zones will likely be converted to industrial zones. She noted that requiring a rezone to CS for Natural Medicine businesses might not be appropriate, and while recommendations to change zone districts could be made to the Board of County Commissioners, she was unsure why industrial zoning wouldn't be considered.

Mr. Trowbridge raised a question about storage requirements for Natural Medicine businesses, specifically if storage should be required within a licensed facility. **Ms. Herington** clarified that storage in a licensed facility is required, but personal cultivation is separate and not subject to the same regulations. She further explained that businesses could not store their inventory in outside units like storage facilities unless related to cultivation materials like topsoil, which do not require licensed storage. **Mr. Trowbridge** also inquired about security and secure disposal, asking if it was defined anywhere. **Ms. Herington** explained that security and disposal protocols are defined in the state's Regulatory Act, which businesses must follow.

Mr. Moraes asked about the personal cultivation space requirement, specifically whether it should be a separate enclosed area, such as a small shed or greenhouse not exceeding 12x12 feet. **Ms. Herington** confirmed this interpretation but emphasized that personal cultivation rules may be further clarified based on state regulations.

Ms. Herington discussed the personal cultivation of Natural Medicine, explaining that a locked-off space, such as a basement, could be used if it meets the necessary requirements (e.g., light and water). However, she noted that the interpretation of these rules is largely based on state licensing regulations, and she wasn't sure how far those regulations would go.

Mr. Moraes asked about the disposal of personal cultivation, noting that there was no specific guidance on whether the products could just be thrown away. **Ms. Herington** acknowledged that she did not have an answer for that, as personal cultivation doesn't require a state license, and enforcement on disposal and locked space details isn't clear.

Mr. Bailey mentioned that properties already zoned could be used starting January 1st, but other areas could be rezoned to allow for Natural Medicine businesses. **Ms. Brittian Jack** inquired if such zoning changes would be reviewed by their committee. **Ms. Herington** confirmed that any zoning changes would be heard by the Planning Commission but noted that the exact use of the rezone (e.g., for a Natural Medicine business) might not be known at the time. If a rezoning request for CS (Commercial Services) was made, the county would need to review the zoning and buffer requirements to determine if the business could be established at the location.

Ms. Herington addressed whether the City's regulations will mirror those of the county. She mentioned that while the City's proposal includes a similar one-mile buffer from schools, their approach is different in classifying a Natural Medicine Healing Center as a medical clinic, which would be permitted in any zone district allowing medical clinics. Manufacturing, cultivation, and testing are considered industrial uses, permitted in industrial zones.

Ms. Herington also provided insight into other cities' regulations, mentioning that Fountain uses a 1000-foot buffer from schools, and other cities like Manitou, Monument, and Castle Rock are considering similar approaches. Local jurisdictions can adjust buffer requirements, sometimes including residential areas.

Mr. Carlson asked about the definition of religious institutions, with Ms. Herington confirming that a religious institution is defined by zoning, even if it's located in a shopping center.

Ms. Terry Sample clarified the legal limits on personal use of natural medicine under Colorado criminal statute 18-18-434 and mentioned restrictions on ownership of more than three medicine businesses by one person.

Mr. Bailey asked about the timeline for revising the LDC, and Ms. Herington confirmed that changes could be made in the future if necessary. She also explained that the current framework for regulating natural medicine is largely modeled after medical marijuana, as there is limited guidance available, especially with psilocybin still being a federal issue.

Mr. Smith asked about synthetic alternatives, and **Ms. Herington** clarified that the current regulations focus on natural plant-based psychedelics, though the future might involve synthetic substances.

PLANNING COMMISSION DISCUSSION: (NONE)

STAFF COMMENTS: (NONE)

APPLICANT COMMENTS: (NONE)

PUBLIC COMMENTS: (NONE)

PC ACTION: MORAES MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 5A, FILE NUMBER LDC243 FOR EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT NATURAL MEDICINE UTILIZING THE ATTACHED RESOLUTION AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

IN FAVOR: (9) SMITH, SCHUETTPELZ, CARLSON, TROWBRIDGE, BRITTIAN JACK, WHITNEY, BYERS, MORAES AND BAILEY.

IN OPPOSITION: (0) NONE

6. NON-ACTION ITEMS – MP232 – Jimmy Camp Creek hearing moved to January 16th, 2025

NON-ACTION ITEMS – Discussion of format for the minutes.

MEETING ADJOURNED at 12:40 P.M.

Minutes Prepared By: MM

AMENDMENT TO THE LAND DEVELOPMENT CODE (Recommend Approval)

MORAES moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. LDC243
EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT
NATURAL MEDICINE

WHEREAS, the Planning and Community Development Department of El Paso County requests approval of Amendment(s) as represented on attached Exhibit "A":

WHEREAS, a public hearing was held by this Commission on Thursday, December 5, 2024; 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 Planning Commission Members during the hearing, this Commission finds as follows:

1. The proposed amendment(s) to the El Paso County Land Development Code were properly submitted for consideration by the Planning Commission.
2. Proper publication and public notice were 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. All data, surveys, analyses, and studies, as are required by the State of Colorado and El Paso County have been submitted, reviewed, and were recieved into evidence and found to meet the intent of the Introductory Provisions of the Land Development Code.
5. For the above-stated and other reasons, the proposed Amendment(s) are 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 El Paso County Planning Commission recommends approval of the proposed amendment(s) as describe above of the El Paso County Land

Development Code, including other conforming amendments as represented on the attached Exhibit "A" by underlining (additions) and strike-through (deletions):

AND BE IT FURTHER RESOLVED that, in the case of any inconsistency with these amendment(s) and any previous Zoning Regulations, these revision(s) shall prevail.

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

AND BE IT FURTHER RESOLVED that the Commission recommends that the Board of County Commissioners direct the Executive Director of Planning and Community Development to develop procedures as required by state law for public notice of and the submission of written comments on applications for administrative plat approval and for the appeal of administrative plat approval or denial to the Board of County Commissioners.

SMITH seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Thomas Bailey	<u>aye</u> / no / non-voting / recused / absent
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent
Jim Byers	<u>aye</u> / no / non-voting / recused / absent
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / <u>absent</u>
Jeffrey Markewich	aye / no / non-voting / recused / <u>absent</u>
Eric Moraes	<u>aye</u> / no / non-voting / recused / absent
Bryce Schuettepelz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

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

DONE THIS 5th day of December 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: 
Thomas Bailey, Chair

EXHIBIT A

1.15. DEFINITIONS OF SPECIFIC TERMS AND PHRASES

The following represent the definitions of the terms and phrases used in this Code. The terms are in alphabetical order.

Natural Medicine - Psilocybin or psilocyn and other substances described in the Regulatory Act as natural medicine.

Natural Medicine Business - Any of the following entities licensed under the Regulatory Act and includes a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, or a natural medicine testing facility, or another licensed entity created by the state licensing authority.

Natural Medicine Cultivation Facility - Cultivates natural medicine for transfer and distribution to natural medicine healing centers, natural medicine product manufacturers, or other natural medicine cultivation centers. (Senate Bill 23-290 also clarified that natural medicine is not a farm product).

Natural Medicine Facilitator - An individual who is twenty-one years of age or older; has the necessary qualifications, training, experience, and knowledge, as required pursuant to C.R.S. Title 12, Article 170 or rules promulgated pursuant to Article 170, to perform and supervise natural medicine services for a participant; and is licensed by the director to engage in the practice of facilitation.

Natural Medicine Healing Center - A facility licensed by the state licensing authority pursuant to C.R.S. Title 44, Section 50 that permits a facilitator to provide and supervise natural medicine services for a participant, which includes a participant consuming and experiencing the effects of regulated natural medicine or a regulated natural medicine product under the supervision of a facilitator.

Natural Medicine Product - A product infused with natural medicine that is intended for consumption.

Natural Medicine Product Manufacturer - Manufactures regulated natural medicine products (following state statute and state rules); may be combined with a cultivation center.

Natural Medicine Services - A preparation session, administration session, and integration session provided pursuant to C.R.S. Title 12, Article 170.

Natural Medicine Testing Facility - Performs testing and research on natural medicine.

5.2. USE-SPECIFIC DEVELOPMENT STANDARDS

The use-specific development standards provided in this Section are those specific requirements that shall be met when establishing a use or conducting an activity within

a particular zoning district. Specific uses may be subject to more than one set of standards.

5.2.5. Agricultural Structure Exemption from the Building Code

Agricultural structures in the A-35 zoning district with a minimum lot size of 35 acres are not subject to the requirements of this section. All other agricultural structures may receive an agricultural structure exemption from the Building Code if the following standards are met:

(D) Prohibited Structures, Materials, and Uses.

1. The following types of structures are prohibited:
 - Portable or temporary structures,
 - Shipping or storage containers,
 - Carports,
 - Canopies,
 - Mobile homes, and/or
 - Semi-trailers
2. The following types of construction materials are prohibited:
 - Tires,
 - Fabric, and/or
 - Tarpaulins
3. The following uses are prohibited in an agricultural structure that is exempt from the Building Code:
 - Commercial and/or non-commercially related uses allowing public access,
 - Marijuana related uses,
 - Natural medicine business.
 - Residential (personal storage, vehicle storage, etc.), and
 - Non-agricultural related uses
4. The PCD Director may prohibit any other structures, materials and uses if it is determined that it does not meet the intent of this Section.

5.2.38 Natural Medicine Business

(A) A Natural Medicine Business is prohibited within a residential zone district or dwelling unit.

(B) A Natural Medicine Business shall hold a valid State license and local and state Sales Tax licenses, as applicable.

(C) A Natural Medicine Business shall not collocate with any establishment that sells or serves alcohol or marijuana-related services.

(D) Natural Medicine shall not be cultivated outdoors.

(E) **Setbacks to other uses.**

1. A Natural Medicine Business shall not be on the same lot, parcel or tract as, shall not be adjacent to, and shall not be within 1000 feet of the following:
 - a lot, parcel or tract where a residential use exists or is a principal allowed use under the Land Development Code
 - the principal campus of a college, university or seminary
 - a public park
 - a religious institution
 - a state-licensed drug or alcohol treatment facility
 - a state-licensed childcare facility or home
 - a military installation
2. A Natural Medicine Business shall not be on the same lot, parcel or tract as, shall not be adjacent to, and shall not be within 1-mile of an elementary, secondary, or high school.
3. Distances shall be computed by direct measurement from the nearest property line of the land use set forth above to the nearest portion of the building in which the Natural Medicine Business is located, using a route of direct pedestrian access.

(F) **Hours of operation.** A Natural Medicine Business shall only operate between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

(G) **Public view of natural medicine businesses.** All doorways, windows and other opening of natural medicine business buildings shall be located, covered, or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area. All activities of natural medicine businesses shall occur indoors.

(H) **Lighting of natural medicine businesses.** Primary entrances, parking lots and exterior walkways shall be clearly illuminated with downward facing security lights to provide after-dark visibility for facilitators, participants, and employees.

(I) **Storage of natural medicine businesses.** All storage for natural medicine businesses shall be located within a permanent building and may not be located within a trailer, tent, or motor vehicle.

(J) **Odor from natural medicine businesses.** Natural medicine businesses shall use an air filtration and ventilation system designed to ensure that the odors from natural medicine and natural medicine products are confined to the premises and are not detectable beyond the property boundaries on which the facility is located.

(K) **Natural medicine businesses secure disposal.** Natural medicine businesses shall provide secure disposal of natural medicine and natural medicine product remnants or by-products. Natural medicine and natural medicine product remnants or by-products shall not be placed within the facilities' exterior refuse container.

5.2.39 Natural Medicine Personal Cultivation

(A) **Accessory to a Residential Use.** Personal cultivation of Natural Medicine shall only be an accessory use to a dwelling unit and may only occur in those zone districts where a residential use is allowed.

(B) **Located in Primary Residence.** Personal cultivation of Natural Medicine may only occur in the primary residence where all occupants are over 21 years old, or in an accessory structure on the same property.

(C) **Location within Primary Residence.** All personal cultivation of natural medicine must occur in a separate, enclosed, locked space, not to exceed 12 feet by 12 feet for a single-family dwelling.

(D) **Cannot be Considered a Home Occupation.** In no instance may personal cultivation of natural medicine qualify as a home occupation.

(E) **Cannot be Perceptible.** The odor of natural medicine shall not be detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit. Personal cultivation of natural medicine shall not be perceptible from the exterior of the dwelling unit or accessory structure visually or as a result of undue parking or vehicular or foot traffic.

5.2.3840. Oil and/or Gas Operations

5.2.3941. Outdoor Sales and Display

5.2.4042. Outside Storage

5.2.4143. Over The Air Reception Devices

5.2.4244. Parking, Storage and Repair of Vehicles and Machines, Personal

5.2.4345. Peddler Sales

5.2.4446. Public Building, Project, Way, Place, or Space

5.2.4547. Residential Accessory Structures and Uses

The following structures and uses are considered accessory to a residential use, as further detailed in Table 5-2:

- Detached private parking garage or carport;
- Storage shed;
- Gazebo;
- Deck (attached or detached, covered or uncovered);

- Pets;
- Agricultural Structures;
- Swimming pool, hot tub, tennis court or similar private recreational facility;
- Personal greenhouse;
- Personal cultivation of marijuana;
- Personal cultivation of natural medicine;
- Fence, wall and hedge;
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code;
- Yard sales;
- Solar energy systems and wind-powered generator; and
- Airplane hangar for personal use on property 2.5 acres or greater, where the property owner can demonstrate authority to utilize an adjacent or nearby airport or private airport.

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6.

5.2.4648. Retail Sales, Accessory

5.2.4749. Salvage Yards

5.2.4850. Seasonal Produce Sales

5.2.4951. Sexually-Oriented Businesses

5.2.5052. Shipping Containers

5.2.5153. Shipping Containers, Temporary

5.2.5254 Solar Energy System

5.2.5355. Temporary Housing

5.2.5456. Tiny House, Recreational Vehicle Park

5.2.5557. Tiny House, Single Lot

5.2.5658. Tower, Commercial (Non-Commercial Mobile Radio Service Facility)

5.2.5759. Tower, Private (Non-CMRS)

5.2.5860. Vehicle Repair Garage, Commercial (Including Truck and Recreational Vehicle Repair)

5.2.5961. Waste Disposal, Hazardous Waste, and Recycling Facilities

5.2.6062. Wholesaling, Accessory Use

5.2.6163. Wildlife Rehabilitation

5.2.6264. Wind Energy Generation Facilities (see Section 4.3.5 Wind and/or Solar Energy Generation Plan Overlay District)

5.2.6365. Wind-Powered Generators

5.2.6466. Wind/Meteorological Measuring Facility

5.2.6567. Yard Sales

Table 5-1. Principal Uses.

Use Type	Agricultural Zoning Districts		Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use	Site Development Site Plan Required to	
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M			R-4
Natural Medicine Business																			A			A	A	A		YES	YES



EL PASO COUNTY

COLORADO

COMMISSIONERS:
CARRIE GEITNER (CHAIR)
CAMI BREMER (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

**TO: El Paso County Planning Commission
Thomas Bailey, Chair**

FROM: Meggan Herington, AICP, Executive Director

**RE: Project File Number: LDC243 - Land Development Code Amendment
Amendments to the El Paso County Land Development Code related to Natural
Medicine**

Commissioner District: All

Planning Commission Hearing Date	12/05/2024
Board of County Commissioners Hearing Date	12/17/2024

EXECUTIVE SUMMARY

A request by the El Paso County Planning and Community Development Department to amend Chapters 1 and 5 of the El Paso County Land Development Code adding language pertaining to natural medicine uses. The purpose of the amendment is to:

1. Add definitions for natural medicine-related uses, including defining Natural Medicine Business, Natural Medicine Healing Center, Natural Medicine Cultivation Facility, Natural Medicine Product Manufacturer, and Natural Medicine Testing Facility,
2. Add use specific development standards for Natural Medicine Business and Natural Medicine Personal Cultivation to include time, place, and manner regulations, and

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3. Add Natural Medicine Business to the table of principal uses establishing that the use of Natural Medicine Business is allowed in the CS, C-1, C-2, and M zone districts subject to development standards and site development plan approval.

A. BACKGROUND

In November 2022, Colorado voters approved Proposition 122. This citizen-initiated measure legalized the supervised use of natural medicine at state-licensed facilities and decriminalized the use of certain plants or fungi for people 21 years of age and older. From this, the Governor signed Senate Bill 23-290, Natural Medicine Regulation and Legalization, and the rulemaking process as it relates to the regulation of the natural medicine program in Colorado. The bill explicitly limits the County's ability to prohibit these uses outright. It does enable the County to regulate time, place, and manner of the operation of natural medicine-related facilities.

On December 31, 2024, the Colorado Department of Revenue (DOR) will begin licensing natural medicine businesses including cultivation, manufacturing, testing, storing, distribution, and dispensing. Currently, the term "natural medicine" includes psilocybin and psilocin. There is a recommendation to include Dimethyltryptamine (or DMT), Ibogaine, and Mescaline in the future through this same State licensing process.

Senate Bill 23-290 does not permit local jurisdictions to adopt regulations deemed unreasonable or in conflict with the Senate Bill. The local jurisdiction is not permitted to prohibit state licensed natural medicine businesses or prohibit a state licensed facilitator from providing natural medicine services.

The State regulations impose a distance requirement of 1,000 feet from a healing center license to a childcare center, preschool, elementary, middle, junior, or high school, or a residential childcare facility. The distance is calculated using a route of direct pedestrian access, and not a radius from the facility (44-50-302(d) (II) C.R.S.). However, a local jurisdiction may vary the distance requirement or eliminate one or more of these types of schools or facilities from the requirement.

Finally, Senate Bill 23-290 addresses private grows when describing various offenses relating to natural medicine and natural medicine products (18-18-434 C.R.S.). That section of the bill creates a drug petty offense if a person knowingly cultivates natural medicine in a cumulative area larger than 12 feet by 12 feet. The cultivation area must be within an enclosed and locked space (which can be a residence



or a locked room within a residence). All occupants of the home must be 21 years of age and over. Local jurisdictions may expressly permit larger cultivation areas on private property, but the statute does not expressly allow reducing the cultivation areas.

Psilocybin remains a Class 1 substance regulated by the Federal Government. Only Oregon and now Colorado have decriminalized and allowed psilocybin for clinical use.

Staff has reviewed natural medicine regulations from neighboring jurisdictions including the City of Colorado Springs, the City of Fountain, Arapahoe County, Douglas County, the Town of Castle Rock, and the Town of Parker. Since the State rule making only concluded recently, a majority of these communities are still working their way through the local ordinance and regulation process. Below is a summary of other local regulation processes as of November 22, 2024.

The City of Fountain Town Council passed a final ordinance on November 19, 2024. The ordinance restricts locations of natural medicine businesses to areas of the city zoned as Planned Industrial zone district, limits operating hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, and requires a natural medicine business to be a minimum of 1,000 feet away from property used or zoned for residential dwellings, schools or childcare facilities. The ordinance includes design criteria including air filtration, storage, and secure disposal.

The City of Colorado Springs has briefed the City Council and has a formal recommendation from the City Planning Commission. The staff is recommending allowing cultivation, manufacture, and testing in heavy mixed-use and industrial zones and classifying natural medicine healing center as a “medical office” with the additional restriction of a 1-mile buffer from schools, daycares, and drug and alcohol treatment facilities.

The Parker regulations separate uses by permitting natural medicine healing centers in the Business District and Commercial Zone Districts. The cultivation, manufacturing, and testing uses are allowed in the Light Industrial Zone District. The ordinance restricts the operating hours of natural medicine businesses to 8 a.m. to 5 p.m. Monday through Friday, requires screening the interior views of these businesses, and the mitigation of odors emitted by natural medicine businesses to a level undetectable beyond property boundaries. Parker regulations also require a 1,000-foot separation distance from residential areas for all natural medicine-related facilities.



The Town of Castle Rock has proposed similar regulations to Parker but is considering restricting natural medicine-related businesses, including Healing Centers, to the I-1 Light Industrial and I-2 General Industrial Zone Districts within their municipal code. Castle Rock also extended the 1,000-foot distance requirement to residential areas.

Douglas and Arapahoe counties are also considering regulations comparable to Parker and Castle Rock.

B. REQUESTED AMENDMENTS

The current proposal closely follows the County medical marijuana licensing policies for location and buffer. The proposed amendment establishes Natural Medicine Businesses as allowed uses in the CS, C-1, C-2, and M zone districts within the County. To establish a Natural Medicine Business in one of these zones, a site development plan is required that meets the design criteria outlined in 5.2.38.

A Natural Medicine Business is defined as Any of the following entities licensed under the Regulatory Act and includes a natural medicine healing center, a natural medicine cultivation facility, a natural medicine products manufacturer, or a natural medicine testing facility, or another licensed entity created by the state licensing authority.

The amendment also includes setbacks to other uses as described in the medical marijuana licensing policy:

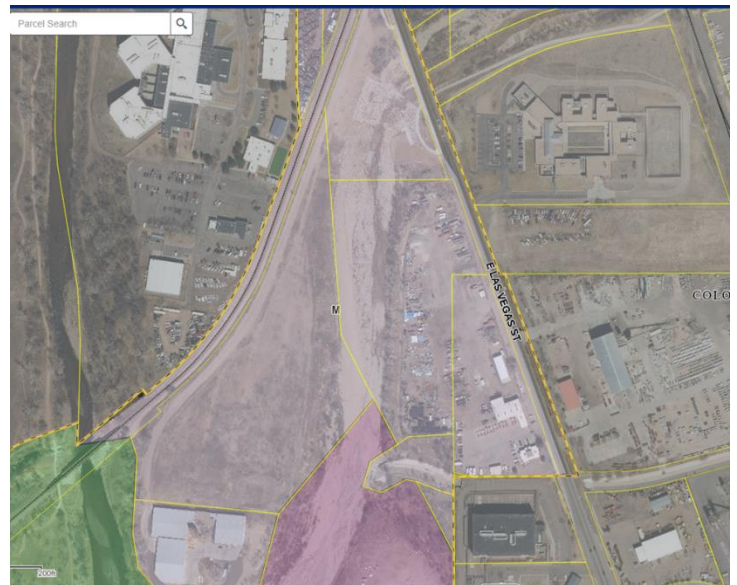
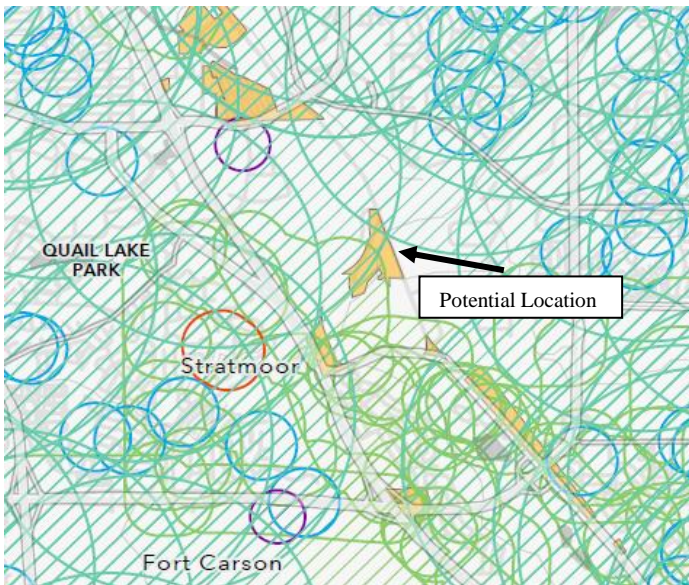
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- a lot, parcel, or tract where a residential use exists or is a principal allowed use under the Land Development Code
- the principal campus of a college, university, or seminary
- a public park
- a religious institution
- a state-licensed drug or alcohol treatment facility
- a state-licensed childcare facility or home
- a military installation



One new concept for natural medicine regulation is the inclusion of a 1-mile setback/buffer from an elementary, secondary, or high school. Hours of operation, lighting, storage, and odor are also addressed in the code amendment proposal as described in figures 1, 2, and 3 attached to the staff report and made part of the proposed resolution.

Based on the locational recommendations outlined above, staff completed a mapping exercise to determine areas eligible to support Natural Medicine Businesses. There are properties within unincorporated El Paso County that could support a Natural Medicine Business. Those properties are dispersed; with properties on the east side of the City of Colorado Springs and more centralized to unincorporated El Paso County. Those potential areas are highlighted below on the map insets. County-wide maps applying the recommended buffers and zone district allowances are attached to the staff report.

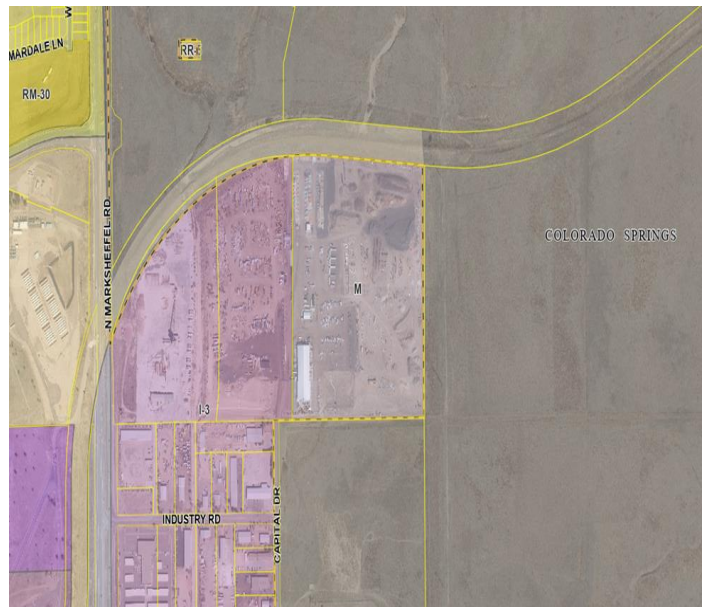
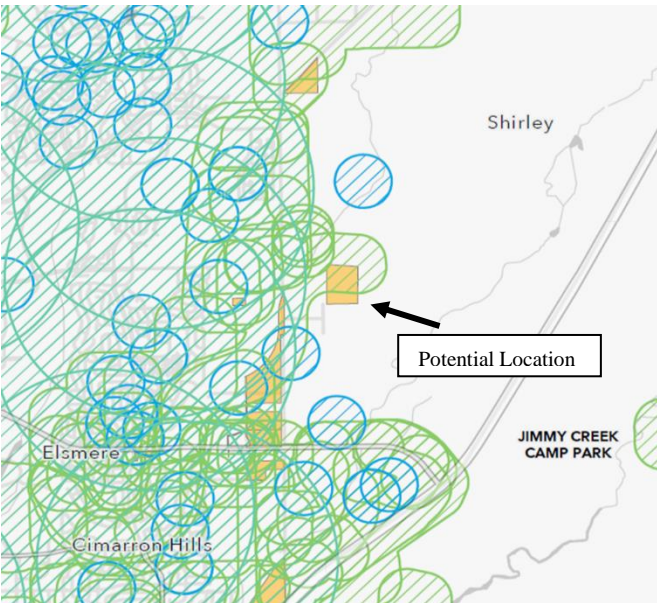
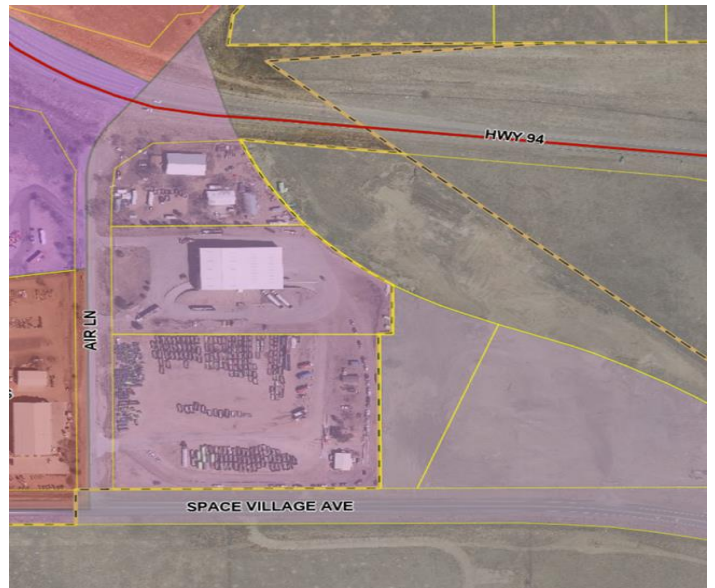
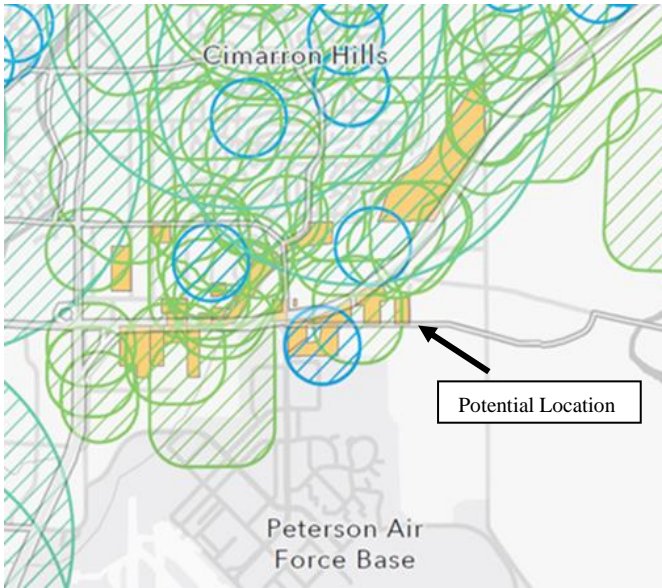


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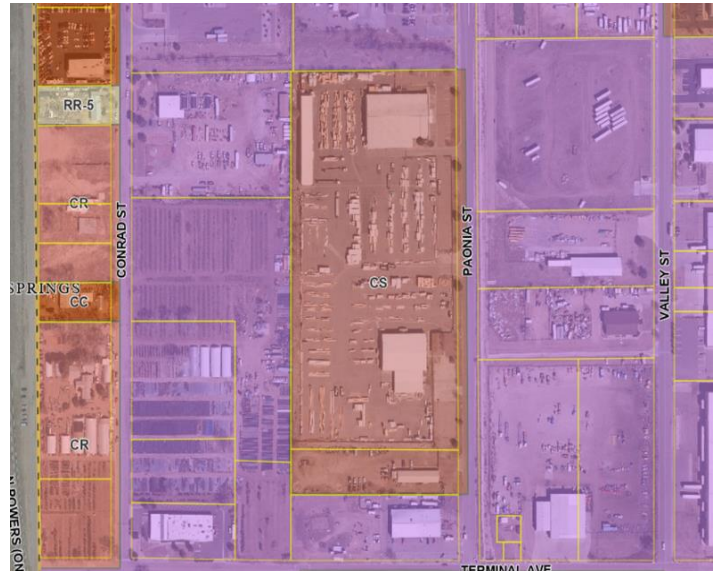
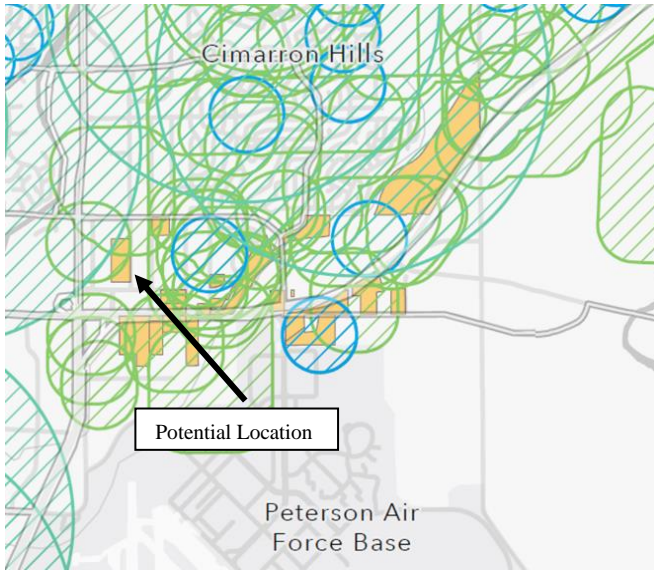


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C. MASTER PLAN ANALYSIS

The County's Land Development Code governs the use and development of property and provides a legal framework for implementing the Master Plan's recommendations. The purpose of the County's Land Development Code is to preserve and improve the public health, safety, and general welfare of the citizens and businesses of El Paso County, and to:

- o Implement the Master Plan and related elements.
- o Promote predictability, consistency, and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests.
- o Ensure appropriate opportunities for participation and involvement in the development process by all affected parties.
- o Be fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals, and the rights of the community as a whole.
- o Guide the future growth and development of the County in accordance with the Master Plan.

More specifically, the Master Plan identifies the need for periodic amendments to El Paso County's Land Development Code as stated below:

Code Amendments and Updates

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Your El Paso Master Plan establishes the overall vision for the character and intensity of land use and development throughout the County as well as the policies and goals related to infrastructure, transportation, facilities and services, the natural environment, and much more. To ensure the Land Development Code remains an effective tool for Master Plan implementation it should be reviewed and amended as necessary, particularly the zoning and development standards, to ensure consistency and alignment with the principles, goals, and recommendations of the Master Plan.

D. APPLICABLE RESOLUTIONS

See the attached Resolution.

E. STATUS OF MAJOR ISSUES

There are no major issues.

F. RECOMMENDED CONDITIONS AND NOTATIONS

No conditions or notations.

G. PUBLIC COMMENT AND NOTICE

The proposed Code amendments are posted to the Planning and Community Development Department's website for public comment.

A summary of the proposed Code amendments and the date of the Board of County Commissioner hearing will be published in Gazette News pursuant to Colorado Revised Statute § 30-28-116.

H. ATTACHMENTS

Figures 1, 2, and 3 - redlines of updated code language
Buffer Map - with 1-mile from schools
Planning Commission Draft Resolution
Exhibit "A" to the Draft Resolution



Proposed language in RED

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 - Residential (personal storage, vehicle storage, etc.), and
 - Non-agricultural related uses
4. The PCD Director may prohibit any other structures, materials and uses if it is determined that it does not meet the intent of this Section.

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(E) Setbacks to other uses.

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 - the principal campus of a college, university or seminary
 - a public park
 - a religious institution
 - a state-licensed drug or alcohol treatment facility
 - a state-licensed childcare facility or home
 - a military installation
2. A Natural Medicine Business shall not be on the same lot, parcel or tract as, shall not be adjacent to, and shall not be within 1-mile of an elementary, secondary, or high school.
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(D) **Cannot be Considered a Home Occupation.** In no instance may personal cultivation of natural medicine qualify as a home occupation.

(E) **Cannot be Perceptible.** The odor of natural medicine shall not be detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit. Personal cultivation of natural medicine shall not be perceptible from the exterior of the dwelling unit or accessory structure visually or as a result of undue parking or vehicular or foot traffic.

5.2.4547. Residential Accessory Structures and Uses

The following structures and uses are considered accessory to a residential use, as further detailed in Table 5-2:

- Detached private parking garage or carport;
- Storage shed;
- Gazebo;
- Deck (attached or detached, covered or uncovered);
- Pets;
- Agricultural Structures;
- Swimming pool, hot tub, tennis court or similar private recreational facility;
- Personal greenhouse;
- Personal cultivation of marijuana;

• Personal cultivation of natural medicine;

- Fence, wall and hedge;
- Antennas, radio facilities, and satellite dishes, subject to the requirements of this Code;
- Yard sales;
- Solar energy systems and wind-powered generator; and
- Airplane hangar for personal use on property 2.5 acres or greater, where the property owner can demonstrate authority to utilize an adjacent or nearby airport or private airport.

Accessory uses shall meet the general accessory structure and use standards, any applicable specific accessory use standards, and the general development standards in Chapter 6.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use	Site Developme	Site Plan Required to		
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4					
Acid Manufacturing																					S			S				YES		
Adult Care Home	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴													YES	YES	
Agricultural Business		S																											YES	
Agricultural Structure Exemption from the Building Code	A	A	A	A																								YES	YES	
Agricultural Stand	A	A	A	A																								YES	YES	
Agritainment	A ⁷	A ⁷	A ⁷	A ⁷																								YES	YES	
Airstrip, Personal		S																												YES
Amusement Center, Indoor																	S	A	A				A	A	A				YES	
Amusement Center, Outdoor	S	S	S ¹														S	S	S				S	S	A				YES	
Animal Refuge	S	S	S	S																									YES	
Auction Facility		S	S														S	A	A					A	A			YES	YES	
Automobile and Boat Storage Yards																	S		A	A	A				A			YES	YES	
Automobile and Trailer Sales																	S	S	A	S	S				A				YES	
Bakery, Retail																	A	A	A						A				YES	
Bakery, Wholesale																			A	A	A				A				YES	
Bar																	A	A	A				A	A	A				YES	
Barber/Beauty Shop																	A	A	A				A	A	A				YES	
Batch Plant																					S				S				YES	
Batch Plant, Temporary	T	T	T	T	T	T	T	T	T	T	T	T					T	T	T	T	T	T	T	T	T	T		YES	YES	
Bed and Breakfast Inn	S	S	S	S	S	S	S	S	S	S	S	S																YES	YES	
Billiard Parlor																	A	A	A				A	A	A				YES	
Boarding House										A	A						S	S	A				S	S	A				YES	

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Bottling Works																		A	A	A		A	A			YES			
Business Event Center	S ¹	S	S														A	A	A			S	S	A			YES		
Car Wash																	A	A	A			A	A	A			YES		
Carnival or Circus																	T	T	T							YES	YES		
Cement Manufacturing																					S			S			YES		
Cemetery	S	S	S	S	S	S																					YES		
Child Care Center	S ⁴	S ⁴	S ⁴	S ⁴	S ⁴	S ⁴	S ⁴	S ⁴	S ⁴	A	A	S ⁴	S ⁴	S ⁴	S ⁴		A	S	A			A	A	S		YES	YES		
Christmas Tree Sales																	T	T	T			T	T	T				YES	
Club	S		S														A	A	A			A	A	A			YES		
CMRS Facility, Freestanding		S															S	S	S	S	S	S	S	S		YES	YES		
CMRS Facility, Small Cell	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
CMRS Facility, Stealth	S	A	S	S	S	S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A	A	A	YES	YES		
Commercial or Retail as Part of Overall Shopping Center																	A	A	A			A	A	A			YES		
Community Building	S	S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A			S	S	A			YES		
Composting Facility																					S			S			YES		
Construction Equipment Storage and Field Offices, Temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	T	YES	YES		

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Contractor's Equipment Yard																			S	S	A		S	A			YES		
Convenience Store																	A	A	A			A	A	A			YES		
Copy Shop																	A	A	A			A	A	A			YES		
Dairy		A ³	A ³	A ³																				S			YES		
Dry Cleaning Plant																			A	A			A				YES		
Dwelling, Attached Single-Family								A ⁸	A ⁸	A ⁸	A ⁸															YES		YES	
Dwelling, Detached Single-Family	A	A	A	A	A	A	A	A	A	A ⁸	A ⁸	A												S				YES	
Dwelling, Multifamily										A ⁸	A ⁸																YES		
Dwelling, Two-Family	S ⁸	A ⁸	S ⁸	S ⁸		S ⁸				A ⁸	A ⁸		S ⁸															YES	
Educational Institution, Private	S	S	S	S	S	S	S	S	S	S	S	S	S				S	S	S			S	S	A			YES		
Educational Institution, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A		YES	
Electronic, Electrical, Communication Equipment Manufacturing																				A	A			A			YES		
Emergency Facility, Private	S	S	S	S	S	S	S	S	S	S	S	S	S	S			A	A	A	A	A	S	S	S			YES		
Emergency Facility, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		YES	
Energy Generation Facilities less than 50 MW																					S			S			YES		
Explosives Manufacturing																					S			S			YES		

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Family Care Home	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴																					YES		YES				
Farm	A ³	A ³	A ³	A ³																																					
Fertilizer Manufacturing																						S				S										YES					
Financial Institution																																					YES				
Firewood Sales		S ²	S ²																																		YES				
Fireworks Sales																																						YES	YES		
Flea Market																																						YES			
Food Processing																																							YES		
Freight Terminal																																							YES		
Fuel Sales and Storage																																							YES		
Funeral Home																																							YES		
Garbage Service Facility																																							YES		
Gas Station																																							YES		
Glue Manufacturing																																							YES		
Golf Course	S	S	S	S																																			YES		
Greenhouse	A	A	A	A																																			YES		
Greenhouse (>1 acre)	S	S	S	S																																			YES		
Group Home	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴	A ⁴																							YES		YES	
Half-Way House	S	S	S	S																																				YES	
Hazardous Material Storage																																								YES	
Hazardous Waste Disposal Facility																																							YES	YES	
Health Club																																							YES		

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Heavy Equipment Rental, Sales or Storage																			S	S	A		A	A			YES		
Home Improvement Center																		S	A	A	A	A		A	A			YES	
Hospital											S							A	A	S			S	S	A			YES	
Hospital, Convalescent	S	S	S							S	S							S	S	S			S	S	A			YES	
Hospital, Veterinary	S	S	S	S														S	S	S			S	S	A			YES	
Hotel																		S	S	A			A	A	A			YES	
Human Service Shelter																		S	S	A			S	S	S			YES	
Inert Material Disposal Site	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		YES		YES
Inert Material Disposal Site-Minor	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES
Infectious Waste Transfer Station																					S	S			S		YES	YES	
Institution, Philanthropic	S		S	S	S	S												A	A	A			S	S	A			YES	
Kennel, Major	S	A ²	S	S							S							S	A	A	A		A	A	A		YES	YES	
Kennel, Minor	A ¹	A ¹	A ¹	A ¹	S	S	S	S	S			A ¹						A	A	A	A		A	A	A		YES		YES
Laboratory																		S		S	A	A	A	A	A			YES	
Laundromat																		A	A	A					A			YES	
Library	S		S	S						S	S							A	A	A			S	S	A			YES	
Light Industry																				S	A	A		S	A			YES	
Light Manufacturing																				S	A	A		S	A			YES	
Liquor Store																		A	A	A			A	A	A			YES	
Livestock	A	A	A	A	A	A ⁵						A													A		YES		

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Livestock Feed Yard		S ³	S ³																	S			S			YES	
Livestock Sales Yard		A ³	S ²																	S		S	S			YES	
Lumber Yard		S	S													S	S	S	A	A		A	A			YES	
Manufactured Home	A	A	A	A	A	A	A	A	A			A		A									S				YES
Marijuana Club ⁶																											
Marijuana Land Use, Medical																			A			A	A	A			YES
Meat Processing, Custom		S	S																A	A	A						YES
Medical Clinic																A	A	A					A			YES	
Metal Processing Plant																					S			S			YES
Mineral and Natural Resource Extraction Operations, Commercial	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	YES	YES
Mineral Processing Plant																					S			S			YES
Mining, Construction-Related	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES	YES
Mini-Warehouse																S		A	A	A			A			YES	
Mixed-Use Residential Units																S	S	S								YES	YES
Mobile Home, Post-1976		A	A	A									A	A	A											YES	YES
Model Home/Subdivision Sales Office	T	T	T	T	T	T	T	T	T	T	T		T													YES	YES
Museum	S	S	S													A	A	A				S	S	A		YES	

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

<u>Natural Medicine Business</u>																			<u>A</u>			<u>A</u>	<u>A</u>	<u>A</u>		<u>YES</u>	<u>YES</u>		
Night Club																	S	A	S					A				YES	
Nursery, Retail																	A	A	A				A	A	A			YES	
Nursery, Wholesale	A	A ¹	A	A												S		A	A	A				A			YES		
Office, General																	A	A	A	S			A	A	A		YES		
Off-Premise Sign																	S		S		S		S	S	S		YES	YES	
Outdoor Concert			S ²																						A			YES	
Outside Storage																				S	A			A		YES	YES		
Over the Air Reception Devices	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		
Parking Garage																	A	A	A					A			YES		
Parking Lot																	A	A	A				A	A	A		YES		
Peddler Sales																	T	T	T				T	T	T		YES		YES
Petroleum Refining																					S			S			YES		
Plaster Manufacturing																					S			S			YES		
Prison, Private		S															S		S	S	S			S			YES		
Proprietary School																	A	A	A	S				A			YES		
Public Building, Way or Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Public Park and Open Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		
Publishing Companies																			S	A	A			A			YES		
Race Track		S ²	S ²																		S			A			YES		
Ranch	A ³	A ³	A ³	A ³																									
Recreation Camp	S	S	S	S								S															YES		

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Recreational Vehicle and Boat Storage																		S		A	A	A			A			YES	
Recycling Facility																						A			A			YES	YES
Rehabilitation Facility									S	S								A	A	A			A	A	A				YES
Religious Housing		S							A	A																			YES
Religious Institution	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				A	A	A				YES
Rendering Plant		S	S ²																			S			S				YES
Rental Services																		A	A	A	S	S	A	A	A				YES
Repair Shop																		A	A	A			A	A	A				YES
Restaurant																		A	A	A			A	A	A				YES
Retail Sales, General																		A	A	A	S	S	A	A	A				YES
Retirement Center									A	A																			YES
Riding Academy	S ²	A ²	S ²	S ²							S ²													A				YES	
Rodeo		S ²	S ²																					A					YES
Salvage Yard																						S			S			YES	YES
Sawmill	S ²	S ²	S ²																			A			A				YES
Seasonal Produce Sales																		T	T	T			T	T	T			YES	YES
Sexually-Oriented Business																		A		A			A	A	A			YES	YES
Shooting Range, Outdoor	S ²	S ²	S ²																										YES
Shopping Center																			A	A					A				YES
Slaughterhouse																						S			S				YES
Smelter																						S			S				YES
Solar Farm		S																				S							YES
Solid Waste Disposal Site and Facility		S	S																			S			S			YES	YES

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Stables, Commercial	S ²	A ²	S ²	S ²																			A			YES	
Stables, Private	A	A	A	A	A	A ⁵																				YES	YES
Store															A	A	A	S	S	A	A	A				YES	
Studio															A	A	A			A	A	A				YES	
Tannery																			S				S			YES	
Temporary Housing	T	T	T	T																						YES	YES
Theater															S	A	A			A	A	A				YES	
Theater, Outdoor	S		S												S	S	S			S	S	A				YES	
Tiny House, Recreational Vehicle Park														A												YES	
Tiny House, Single Lot	A	A	A	A											A	A	A	A								YES	YES
Tower, Commercial (non CMRS)		S													S	S	S	S	S	S	S	S			YES	YES	
Trash Transfer Facility																			S				S			YES	YES
Tree Farm	A	A	A	A																							
Truck and Recreational Vehicle Repair Garage																	A	S	A				A			YES	YES
Truck Farm		A ²	A																								
Truck Stop		S ²															S ²		S ²							YES	
Vehicle Repair Garage, Commercial															S	S	A	S	S			A	A			YES	YES
Warehouse															S		A	A	A			A	A			YES	
Warehouse, Flammable Material																			S				S			YES	
Waste Tire Recycling			S																S				S			YES	YES

El Paso County, Colorado, Land Development Code
Table 5-1. Principal Uses.

Wholesale Business																	S		A	A	A		A	A			YES	
Wind/Meteorological Measuring Facilities	S	S	S	S									S							S				S		YES		YES
Wood Sales (Firewood)	S	S	S																S								YES	
Yard Sales	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	YES		

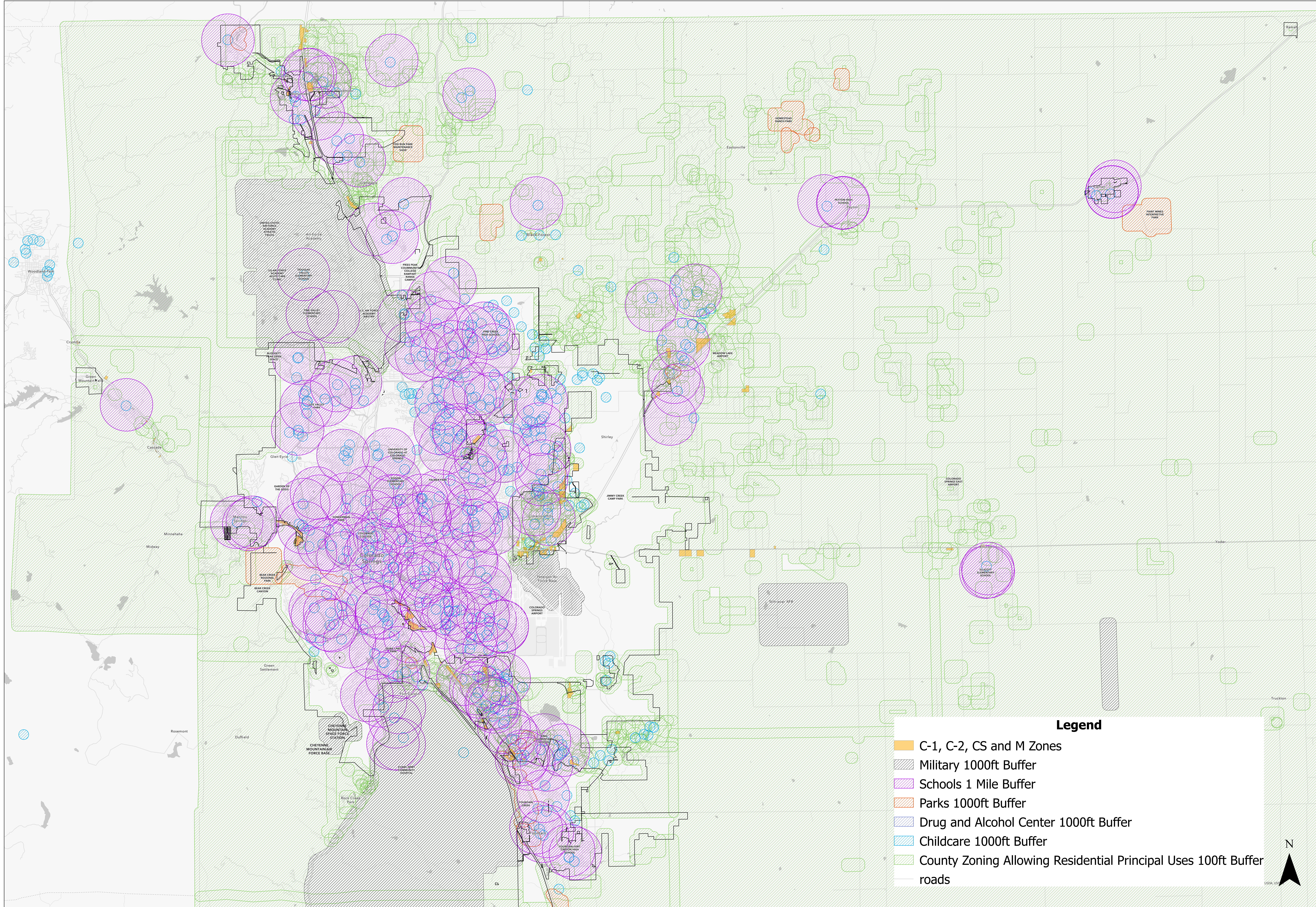
**Table 5-1.
Principal
Uses.**

Notes:

"A" = Allowed Use, "S" = Special Use, "T" = Temporary Use

- ¹ Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status.
- ² Minimum lot area of 10 acres irrespective of nonconforming lot or parcel status.
- ³ Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status.
- ⁴ Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.
- ⁵ A minimum of 1 acre is required.
- ⁶ Marijuana Club is prohibited in all zoning districts.
- ⁷ Minimum area of 35 acres. When less than 35 acres a special use is required.
- ⁸ Use requires central water and wastewater services.
- ⁹ The 1 acre size limitation shall be a combined total footprint of all greenhouses on the subject lot or parcel.

Natural Medicine Centers Separation



Legend

- C-1, C-2, CS and M Zones
- Military 1000ft Buffer
- Schools 1 Mile Buffer
- Parks 1000ft Buffer
- Drug and Alcohol Center 1000ft Buffer
- Childcare 1000ft Buffer
- County Zoning Allowing Residential Principal Uses 100ft Buffer
- roads

N

RESOLUTION NO. 24-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO

STATE OF COLORADO

APPROVAL OF AMENDMENT TO THE LAND DEVELOPMENT CODE
NATURAL MEDICINE (LDC243)

WHEREAS, the People of the State of Colorado approved the citizens' initiative known as Proposition 122: Access to Natural Psychedelic Substances, which is now codified in Colorado Revised Statute 12-170-101 through 115 (the "Enabling Act"); and

WHEREAS, the Enabling Act decriminalizes the personal possession, growing, sharing, and use, but not the sale, of five (5) natural psychedelic mushrooms (psilocybin and psilocin) and three (3) plant-based psychedelic substances (dimethyltryptamine, ibogaine, and mescaline); and

WHEREAS, the Enabling Act allows the supervised use of psychedelic mushrooms by individuals aged 21 and over at licensed facilities and requires the state to create a regulatory structure for the operation of these licensed facilities; and

WHEREAS, the Enabling Act allows the state to expand the type of substances that may be used in licensed facilities to include plant-based psychedelic substances (dimethyltryptamine, ibogaine, and mescaline), starting in 2026; and

WHEREAS, the Enabling Act prohibits local governments from banning licensed facilities, services, and use of natural psychedelic substances permitted by the Enabling Act, while allowing local governments to regulate the time, place and manner of operation of these facilities; and

WHEREAS, the State Legislature enacted Senate Bill 23-290, which is codified in Colorado Revised Statute 44-50-101 through 904 (the "Regulatory Act"), to create the regulatory structure for the operation of these licensed facilities, which includes the licensing and registration of facilities and related businesses that provide for the use, cultivation, manufacture and testing of these substances; and

WHEREAS, the Regulatory Act also provides that local jurisdictions, such as El Paso County, may enact ordinances or regulations governing the time, place, and manner of the operation of licenses issued within its boundaries; and

WHEREAS, the Regulatory Act provides that the "state licensing authority" as defined by the Regulatory Act, will not receive or act upon an application for the issuance of a natural

medicine business license” ... “[f]or a location in an area where the cultivation, manufacturing, testing, storage, distribution, transfer, and dispensation of natural medicine or natural medicine product as contemplated is not permitted under the applicable zoning laws of the local jurisdiction”; and

WHEREAS, the Planning and Community Development Department of El Paso County requests approval of Amendments to Chapters 1 and 5 of the Land Development Code as herein described, including other conforming amendments throughout the Code; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on December 5, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the proposed amendments; and

WHEREAS, a public hearing was held by this Board on December 17, 2024; 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 proposed amendments to the El Paso County Land Development Code were properly submitted for consideration by the Planning Commission.
2. Proper publication and public notice were 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. All data, surveys, analyses, and studies, as are required by the State of Colorado and El Paso County have been submitted, reviewed, and were received into evidence and found to meet the intent of the Introductory Provisions of the Land Development Code.
5. For the above-stated and other reasons, the proposed Amendments are 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 the El Paso County Board of County Commissioners hereby approves the amendment(s) to Chapters 1 and 5 of the El Paso County Land Development Code,

including other conforming amendments throughout the Code, as represented on the attached Exhibit "A" by underlining (additions) and strike-through (deletions):

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 17th day of December 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder