


EL PASO COUNTY
COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Planning Commission
 Stan VanderWerf, Chair**

**FROM: John Green, Planner II
 Daniel Torres, PE Engineer II
 Craig Dossey, Executive Director**

**RE: Project File #: CS-20-002
 Project Name: 12265 Highway 94 Rezone
 Parcel No.: 4400-000-237**

OWNER:	REPRESENTATIVE:
Udon Holdings, LLC 5801 N Union Blvd Ste 100 Colorado Springs CO, 80918	Thomas & Thomas Jim Houk 702 North Tejon Street Colorado Springs, CO 80903

Commissioner District: 4

Planning Commission Hearing Date:	3/18/2021
Board of County Commissioners Hearing Date:	4/13/2021

EXECUTIVE SUMMARY

A request by Udon Holdings, LLC, for approval of a map amendment (rezoning) from RR-5 (Residential Rural) to CS (Commercial Service). The 40-acre property is located on the south side of Highway 94, approximately one-half (1/2) mile west of the Highway 94 and Franceville Coal Mine Road intersection.

A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION

Request: A request by Udon Holdings, LLC, for approval of a map amendment (rezoning) of 40 acres from RR-5 (Residential Rural) to CS (Commercial Service).



Waiver(s)/Deviation(s): There are no waivers associated with the map amendment (rezone) request.

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

B. Planning Commission Summary

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

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

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

D. LOCATION

North:	RR-5 (Residential Rural)	Agricultural
South:	RR-5 (Residential Rural)	Agricultural
East:	RR-5 (Residential Rural)	Agricultural
West:	RR-5 (Residential Rural)	Agricultural

E. BACKGROUND

The unplatted subject parcel was legally created by deed on March 16th, 1954 (Book 1421, pg. 175). The property was initially zoned A-4 (Agricultural) on April 13, 1983 when zoning was initiated for this portion of El Paso County. Due to changes in

the nomenclature of the Land Development Code, the A-4 zoning district has been renamed to the RR-5 (Residential Rural) zoning district.

The existing improvements on the property include a pre-1976 modular home built in 1971, a 1,314 square-foot accessory building constructed in 1971, a 522 square-foot utility building built in 1976, and a 1,380 square-foot quonset hut built in 2000. The existing dwelling on the property is currently occupied and is being utilized for residential purposes. The applicant has stated that the dwelling will be vacated, and the property redeveloped for the proposed use as a wholesale and retail nursery, agricultural stand, and general retail sales if the map amendment (rezone) is approved.

F. ANALYSIS

1. Land Development Code Analysis

The subject parcel is currently zoned RR-5 (Residential Rural) and is surrounded by other RR-5 zoned properties. A node of commercial-zoned land is located approximately 3.25 miles east of the subject property at the intersection of Curtis Road and Highway 94. No other commercial zoning is in the immediate vicinity of the subject property.

Although the parcel is surrounded by properties zoned RR-5, there are more intense non-residential uses located within one-quarter (1/4) of a mile of the subject parcel that preclude the area from being considered solely rural residential in nature. Just under one-half (1/2) mile east of the site is the Aztec Family Raceway, which is an existing nonconforming off-road motorcross racetrack that was established prior to zoning. Just to the east of the raceway is the RAM Off-Road Park, which was approved through a variance of use in 2016 (PCD File # VA-16-001). On the south side of Highway 94, approximately one-quarter (1/4) mile east of the subject parcel is a vehicle recycling center, which obtained a permanent variance of use in 2013 (PCD File # VA-13-005). On the north side of Highway 94, approximately 1.25 miles east of the subject parcel is a landfill which was approved as a special use in 1989 (PCD File # AL-89-011). All of the uses listed above are located on properties zoned as either A-5 (Agricultural) or RR-5 (Rural Residential).

Should the request for a map amendment (rezone) be approved, the applicant will need to complete a site development plan prior to initiation of any new use on the subject parcel. The site development plan will need to demonstrate compliance with the dimensional standards of the CS zoning district as well as the development standards included in Chapter 6 of the Land Development Code. Some of these standards include landscaping, lighting, signage, and parking standards and are in place to mitigate the potential impacts of new uses to on those existing uses in the area. A 15-foot buffer is required with plantings of 1 tree every 25 feet, with 1/3 of the trees being evergreen, when adjacent to a residential property. In addition, a 25-foot landscape buffer is required along the Highway 94 frontage and will require with plantings of 1 tree per 20 feet for the length of the frontage. The development

standards are in place to limit potential impacts to adjacent property owners and promote proper buffering and transition from use to use.

2. Zoning Compliance

The applicant is requesting approval to rezone a 40-acre parcel zoned RR-5 to the CS (Commercial Service) zoning district. The CS (Commercial Service) zoning district is intended to accommodate retail, wholesale or service commercial uses that serve the general public. The density and dimensional standards for the CS (Commercial Service) zoning district are as follows:

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

The area included in the map amendment (rezone) request is comprised of 40 acres, which exceeds the two (2) acre minimum lot size requirement of the CS zoning district. A site development plan will be required prior to initiation of any new use or prior to building permit authorization to ensure that the development complies with the dimensional standards of the CS zoning district as well as the General Development Standards in Chapter 6 of the Code and the requirements of the Engineering Criteria Manual.

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

Policy 6.1.6 – *Direct development towards areas where the necessary urban-level supporting facilities and services are available or will be developed concurrently.*

Policy 6.1.8 – *Encourage incorporation of buffers or transitions between areas of varying use or density where possible.*

Policy 6.4.6 - *Allow for the accommodation of necessary supporting commercial uses within or in proximity to rural residential areas in a manner that preserves the rural character of these areas.*

The anticipated development is proposed to utilize well and septic and not centralized services, which does satisfy some elements of the Policy Plan. At the time of request for approval of the site development plan, the applicant will be required to supply a copy of the State well permit and proof of an adequate septic on site wastewater treatment system (OWTS).

The subject parcel is located within a largely rural and agricultural area of the County. The subject property is surrounded by properties zoned RR-5. The proposed map amendment (rezone) appears to be incompatible with the surrounding residentially zoned properties. However, within two miles of the subject parcel are more intense non-residential uses that were established on properties zoned as either A-5 (Agricultural) or RR-5 (Rural Residential) and preclude the nearby vicinity from being considered solely rural residential in nature. The approval processes that were required to establish each of these uses are described above in the Land Development Code Analysis section of the report; they include two different off-road racetracks, a vehicle recycling center, and a landfill.

If the rezone request is approved, it is possible that the property could be subdivided into two-acre lots in the future. Compared to the potential for residential 5-acre parcels which immediately surround the subject parcel, the proposed change in allowed uses and density of development would not be considered consistent with the character of the surrounding neighborhood. Should the map amendment (rezoned) be approved, a site development plan or plans, will be required prior to building permit authorization. The site development plan should demonstrate compliance with the dimensional standards of the CS zoning district as well as the development standards included in Chapter 6 of the Land Development Code. Some of these standards include landscaping, lighting, signage, and parking standards. A 15-foot buffer is required with plantings of 1 tree every 25 feet, with 1/3 of the trees being evergreen, when adjacent to a residential property. In addition, a 25-foot landscape buffer is required along the Highway 94 frontage and will require with plantings of 1 tree per 20 feet for the length of the frontage. The purpose of the site development plan review is to ensure the commercial development is functionally and aesthetically integrated within the context of adjoining properties and uses through proper planning

techniques and utilization of appropriate site-specific screening and buffering mechanisms as required by the Land Development Code.

4. Small Area Plan Analysis

The property is located within the boundaries of the Highway 94 Comprehensive Plan (2003), and specifically within the Corral Bluffs subarea. The Plan identifies the subject property as appropriate for 35-acre rural densities. The proposed commercial rezoning and anticipated commercial land use and allowed lot sizes within the CS zoning district is not consistent with this portion of the Plan.

While the applicant is not proposing to subdivide the property at this time, a map amendment (rezone) from RR-5 to CS would allow for subdivision of the property into two-acre lots in the future, which if that occurred would significantly exceed the recommended density outlined in the Plan. The existing zoning of RR-5 is also inconsistent with those recommendations included within the Plan as the RR-5 allows for lot sizes of five (5) acres.

The Plan includes goals and objectives which apply to the overall comprehensive plan and not each specific sub area. Relevant goals and objectives are as follows:

Goal 1- Guide growth in a manner that respects the emerging needs of the community and enhances the existing rural character.

Goal 4- Ensure commercial development is appropriate for the Planning Area.

Objective 4.2- Accommodate service and commercial development within the Planning Area, which are oriented to local residents and employees, provide support services to Schriever AFB, or generally meet a demonstrated need.

Objective 4.4- Regulate design features to encourage low profile advertising signs, indigenous landscaping, shared parking facilities, shared access points, and sensitive façade treatment.

As growth continues east within the City of Colorado Springs, there is anticipated to be a greater need for commercial services in the eastern portions of the County, particularly those areas with direct access to a major roadway. Additionally, Schriever AFB continues to expand, adding additional need for commercial services in the vicinity as well as additional housing options. The subject parcel is immediately south of Highway 94 and approximately four (4)

miles northwest of Schriever AFB. As discussed in the sections above, the applicant will be required to receive approval of a site development plan prior to initiation of a new use or authorization of a building permit. The purpose of the site development plan review is to ensure the commercial development is in compliance with the Land Development Code requirements pertaining to signage, landscaping, parking, access, and dimensional standards. The proposal is inconsistent with those recommendations specified for the Corral Bluffs sub-area. However, the proposed map amendment may be found to be in general conformance with the Plan due to it being consistent with several of the general goals and objectives. Specifically, the proposed nursery is a commercial use that is consistent with the rural charter of the surrounding neighborhood and provides services and employment to residents of the neighborhood. The proposed use is in keeping with the goals and objectives outlined under the cited sections of the Plan above.

5. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.2 – *Integrate water and land use planning.*

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

Policy 6.0.4 – *Encourage development that incentivizes and incorporates water efficient landscaping principles.*

Policy 6.1.3.3 – *Encourage sustainable landscaping that is tailored to the variations of climate zones across the County.*

The subject parcel is located in Region 8 of the El Paso County Water Master Plan where there are a limited number of central water providers. In 2018, Region 8 had a water supply of 299-acre feet per year and a demand of 299-acre feet per year. The 2040 water supply is projected to be 299-acre feet per year and the projected demand is 396-acre feet. The 2060 water supply is projected to be 299-acre feet per year, whereas the demand is anticipated to be 484-acre feet

per year. It should be emphasized that a potential shortage of water supplies for this region is expected as early as 2040.

A finding of water sufficiency is not required with a map amendment (rezone) but will be required with any future subdivision request. The proposed map amendment (rezone) is proposed to be served by well. Should the request be approved, the applicant will seek approval from the State for a commercial well permit. A copy of the well permit will be provided to Planning and Community Development as part of the site development plan review. During the site development plan review, staff will review the proposed landscape plan and encourage the utilization of water efficient landscaping principles, which should also be tailored to the specific soils and climate.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. The El Paso County Environmental Division was sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies potential floodplain deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, severed mineral rights exist. The mineral rights owner has been notified of the application and hearing date.

Please see the Parks section below for information regarding conformance with The El Paso County Parks Master Plan (2013).

Staff did not identify any inconsistencies with the 2016 Major Transportation Corridor Plan (MTCP). Consistency with the MTCP related to right-of-way dedication and roadway improvements will be analyzed with the proposed future development. Transportation impacts are addressed under subsection 5 below in more detail.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of the proposed map amendment (rezone).

2. Wildlife

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

3. Floodplain

The property is not located within a defined floodplain as determined from review of the FEMA Flood Insurance Rate Map panel number 08041C0780G, dated December 7, 2018.

4. Drainage and Erosion

The property is located within the Jimmy Camp Creek (FOFO2000) drainage basin. Drainage and bridge fees are not assessed with rezone requests but will be due at the time of final plat recordation should the applicant subdivide in the future. It is anticipated that a drainage report providing hydrologic and hydraulic analysis to identify and mitigate the drainage impacts of the development as well as a grading and erosion control plan will be required with the subsequent land use applications (e.g. site development plan) based on the proposed uses.

5. Transportation

The property is located along Highway 94, west of Franceville Coal Mine Road. Highway 94 is a Colorado Department of Transportation (CDOT) state highway that is categorized as a Non-Rural Principal Highway. The submitted traffic study identifies that the primary access to the site will be from Highway 94. Currently there are two access locations from Highway 94 to the site. Per comments provided by CDOT on August 26, 2020, an access permit will be required to record the currently undocumented access at mile point 5.57. CDOT recommends closure of the second access located on Highway 94 at approximately mile point 5.5. The traffic study also identifies that the second access is anticipated to be closed.

Off-site improvements have been identified in the traffic study should the site develop to the full extent indicated in the traffic study. Further analysis of the improvements and access locations will be provided with additional traffic impact studies associated with the subsequent land use applications.

The 2016 Major Transportation Corridors Plan Update (MTCP) identifies 2040 roadway improvements to Highway 94 along the property frontage. The MTCP indicates that Highway 94 is to be improved from a 2-lane Principal Arterial Road to a 4-lane Principal Arterial Road.

The subdivision 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 subsequent land use approval.

H. SERVICES

1. Water

Water is proposed to be provided by a well, which will need to be permitted with the State.

2. Sanitation

Wastewater is to be provided by a proposed onsite wastewater treatment system (OWTS), which will need to be reviewed and permitted by El Paso County Public Health.

3. Emergency Services

The property is within the Ellicott Fire Protection District. The District was sent a referral and has responded with no objections to the zoning change as described.

4. Utilities

Mountain View Electric Association currently provides electrical service and Colorado Springs Utilities provides natural gas service to the property.

5. Metropolitan Districts

The subject parcels are included within the boundaries of the Ellicott Metropolitan District. The Ellicott Metropolitan District was formed in 1995 (PCD File No. ID95003). The Ellicott Metropolitan District provides recreational services and facilities to residents of the District. The District does not collect a mill levy, but instead is financially supported with Colorado Lottery funds.

6. Parks/Trails

The 2013 El Paso County Parks Master Plan identifies a proposed secondary regional trail adjacent to Highway 94. A trail easement adjacent to Highway 94 will be requested by El Paso County as a dedication associated with any future subdivision request(s).

7. Schools

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

I. APPLICABLE RESOLUTIONS

Approval Page 27

Disapproval Page 28

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

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

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. The applicant shall receive approval of a Colorado Department of Transportation (CDOT) access permit prior to scheduling a pre-construction meeting with the El Paso County Planning and Community Development Department Inspections Division.

NOTATIONS

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

of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

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

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eight (8) adjoining property owners on March 2, 2021, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Rezone Map

El Paso County Parcel Information

File Name: CS-20-002

PARCEL	NAME
4400000237	UDON HOLDINGS LLC

Zone Map No. --

Date: February 26, 2021



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



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November 30, 2020

LETTER OF INTENT: UDON REZONE

PROPERTY/OWNER INFORMATION:

OWNER: UDON Holdings, LLC
ADDRESS: 5801 N. Union Blvd, Ste 100
Colorado Springs, CO 80918
PARCEL ID: 44000-00-237
ZONING: RR-5 (Residential Rural) District
ACREAGE: 40 Acres

REQUEST:

UDON Holdings, LLC requests the BOCC rezone the 40-acre property, identified as Parcel ID 44000-00-237, from RR-5 to the CS (Commercial Service) zone. The property is located on the south side of State Highway 94 (SH94) approximately one-half mile west of the SH94 and Franceville Coalmine Road intersection, Colorado Springs, Colorado.

SITE CONTEXT:

The property is bound by State Highway 94 on the north together with an existing auto salvage yard and outdoor commercial motocross park on the north side of Highway 94, large tract (40 acre) single family residential to the west, large tract (40 acre) vacant agricultural properties to the south, and large tract (40 acre) single family residential and an auto recycling facility to the west. The project is anticipated to be accessed by a primary driveway on State Highway 94. The property currently has two driveways accessing the state highway; one of which is may be closed or revoked under the discretion of the Colorado Department of Transportation (CDOT). A single driveway from the permanent (existing) driveway access from SH 94 will be extended into the site to provide access to the primary use areas. The driveway will be improved to meet Code and Fire District access criteria unless otherwise modified.

EXISTING USES:

Existing site improvements include a pre-1976 modular home unit (currently occupied), a 4,168 SF commercial building/repair garage (Cir. 1976), a ±3,600 SF Quonset Hut approved as an agricultural building (PCD File No AG-16-031), and a ±500 SF utility building (Cir. 1976). The AG building is leased to a local rancher who grazes livestock on the unimproved portions of the site. Use of the modular unit as a residence will be discontinued upon approval of the rezone to the CS zone district. The modular structure will be utilized as a caretaker's quarters or office if retained on the site. If utilized for a non -residential use, all required permits and verifications of required modifications to remove kitchen appliances will be provided or otherwise documented to verify conformance with the zoning and building codes. Remaining buildings will be integrated into future uses on the site subject to

conformance with regional building codes and compliance with County zoning and subdivision ordinance.

An Approximately 8.7 acres located along the eastern ± 312 feet of the property are burdened by a mineral rights reservation easement. This area will remain largely unimpacted by development activity on the remaining portion of the site. The mineral rights owners and available contact information have been identified as such to the rezone map exhibit. The area identified on the rezone map exhibit that is burdened by the mineral rights reservation will not be included within impact analysis to respect existing mineral rights and future exercise thereof.

The property is characterized by 50' grade changes and slopes in excess of 15 %. Commercial development of the entire 40 acres is greatly impacted by the existing grades and elevations. Due to these constraints, development impacts and activities will be primarily limited to two (2) approximately one (1) acre development/disturbance areas (cumulative ±2.0 acres) located in the northeast quarter of the site. Uses outside of the designated areas will be limited to commercial horticultural (nursery related) activities and uses.

Figure No. 1 depicts the development impact areas within the overall site context as seen on the rezone map exhibit. Figure No. 2 provides an aerial context of the planned activity areas.

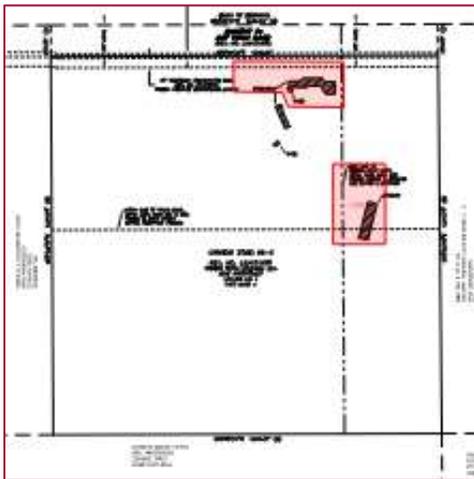


Figure 1



Figure 2

PROPOSED USES:

Planned uses will be conducted in a low impact manner within the existing structures and outdoor areas designated on the rezone map exhibit to limit ground disturbing activities, run off impacts, and reduce water consumption on the site. Uses identified herein represent the highest and best “reasonable” use on the site and NOT the most intensive use available within the proposed zone district.

For the purposes of this discussion and analysis of the rezone request, the “highest and best use” of the site is defined as “the reasonably probable and legal use of the property, which is physically possible, appropriately supported, and financially feasible”. Until such time as a public water/wastewater system is available along the Highway 94 corridor, commercial development of the site should be limited to that which may be sustainably served by the existing well and OWTS system. Prior to initiation of any commercial use or during the site development plan review, the El Paso County Department of Health will be consulted by the applicant as well as be a referral agency to comment on applicable water/wastewater considerations through the County development review process.

Additionally, any change in use after the approval of site development plan required to initiate the uses identified herein, shall require an amended site development plan accompanied by the appropriate traffic impact study and drainage report.

In accordance with the permitted and allowed uses in the CS zone district, the applicant intends to conduct the following uses on the site within the development limits identified herein and on accompanying site exhibits and rezone map:

- Nursery, Retail & Wholesale (to be conducted within existing greenhouse and outdoors on unimproved portions of the site)
- Store/Retail Sales
- Accessory Outdoor Storage (accessory to nursery, store, and/or vehicle repair garage)
- Peddler/Produce Sales (seasonal, subject to Temp Use Permitting)

Land uses which will be initiated first will be the nursery and retail sales/store. These uses will be conducted primarily within the existing structures as identified on the rezone map exhibit. Some accessory storage of equipment and vehicles used in association with the retail/store, nursery, and/or general maintenance of the site may be stored on site and undergo maintenance repairs within the designated area of the nursery. Parking, storage, and repair of vehicles and/or equipment associated with permitted and allowed uses on the site and within the CS zone will be conducted in accordance with applicable outdoor storage requirements in Section 5.2.37, Outside Storage, of the Code.

Outdoor storage associated with the nursery activities will be stored within areas designated for the nursery use. Some nursery activities will occur within the remaining un-developed portions of the site. These uses will be limited to horticultural activities and uses associated with the nursery and shall conform to applicable stormwater management requirements of the Code and County stormwater requirements.

Future land use opportunities on the site may include contractor’s equipment yard, mini-warehouse storage, and/or vehicle repair garage. These uses may require additional site, environmental, and stormwater management planning prior to application, approval, and implementation. Prior to initiation of any permitted or allowed uses within the CS zone, a site

development plan will be required to evaluate the proposed uses and potential impacts to be mitigated and incorporated into the site plan submittal documents, plans, and reports. Any additional proposed use will require submission of the appropriate level of traffic study to evaluate traffic impacts generated by any proposed use on the property.

The uses identified above represent those uses which capture the applicants land use plan for the property, are within their financial ability to implement, are permitted within the zone district, and preserve most of the property in an undisturbed and natural condition. Topographical constraints, required environmental and stormwater impacts from significantly altering and/or grading the site, the lack of readily available central services (water and wastewater) to serve the site limit both the site's capacity for commercial development as well as the intensity of commercial development which may occur on the site.

The low impact use of the property and uses identified from the permitted and allowed uses in the CS zone represent the applicants efforts to respect the environmental, topographic, and geologic conditions, constraints, and hazards that impact the site and surrounding and downstream properties.

Prior to the initiation of any identified use, a site development plan shall be approved by the PCD Director which plan shall conform to all required zoning, general and use specific standards, and grading and erosion control/stormwater requirements of the Code and Engineering Criteria Manual.

Proposed uses will be primarily contained within identified development envelopes with a cumulative total of approximately 2 acres located around existing building improvements on the site which will contain indoor activities associated with the identified uses. Activities outside the designated 2 acres land use areas shall be limited to agricultural uses and activities associated with the retail/wholesale nursery. Outside storage of equipment and/or materials will comply with the outdoor storage requirements of the Code, any use specific outdoor storage criteria, and applicable screening, buffering, and landscaping requirements of the Code.

The applicant requests authorization for the agricultural building to remain together with the grazing activities occurring on the southern three-quarters of the site. Integration of any remaining commercial structures will be in conformance with RBD requirements for occupancy and safety.

Access into the site will be from a single access onto a private driveway providing extending from State Highway 94 to the designated commercial areas. At the time of site development plan review and approval, construction drawings will be provided which detail planned driveway improvements that reflect the Ellicott Fire Protection Districts needs to access the site and provide necessary emergency services.

APPROVAL CRITERIA/JUSTIFICATION

In approving a Map Amendment, the following findings shall be made:

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

Master Plan Compliance – 2000 Highway 94 Comprehensive Plan

The property is located within the Corral Bluffs (Sub-Area 1) Planning Area which is located in the western portion of the current Highway 94 Comprehensive Plan. No major sketch plans have been approved or implemented within the planning area since its adoption in 2000. The last major rezoning activities in the planning area were the 1999 zoning of the unincorporated eastern El Paso County. At that time, properties were blanket zoned A-35 (and in some cases RR-3, currently classified as RR-5) as a holding zone to permit property owners time to develop a land use plan that more accurately reflected the land uses conducted on their property. As a result, many non-conforming land uses and structures exist within the area. Currently the County is in the process of updating the Master Plan to include updates to the Highway 94 Comprehensive Plan as a coordinated element of the overall County long range plan.

According to Section 8.2, Overall Land Use Scenario, of the Plan, “ the emerging trend in the northern and western portions of the Planning Area is away from agricultural lands and toward increased residential use along with some commercial use”. Land uses within close proximity to the site include the Corral Bluffs and City of Colorado Springs Land Fill; automotive salvage (junk) yards including automotive recycling and salvage facilities (American & Import Auto Recyclers & All Auto Recyclers) and private conforming and non-conforming auto salvage and/or antique automobile storage; contractor and service trade businesses and yards; outdoor recreation including: Pikes Peak Gun Club (Isaak Walton shooting range), RAM Off-Road Park, Aztek Family Raceway; and rural residential and agricultural density developments.

Referring to the topographical conditions within the Plan area and specifically near the Corral Bluffs area, the Plan states the following in Section 4.2, Topography:

“Topography and natural drainage provide both opportunities and constraints to future land development. Topographical constraints to development include steep and unstable slopes. South facing slopes offer the potential for effective wind breaks or the utilization of solar energy. Natural drainage ways may present flooding problems”...

Due to topographic constraints, which were previously identified and discussed, development of the site will be limited approximately 2 acres located around the existing improved structures and developed areas in the northeast quarter of the site. (See zoning map exhibit for details). This limitation on the development impacts to the site are intended to respect the topography and develop the site in a manner consistent with and proportionate to the commercial and recreation activities in the vicinity of the property.

According to the Plan discussion of Sub-Area 1 – Corral Bluffs, the following is stated in relation to the former Franceville Coal Mine and flooding:

“The former mine contains areas of subsidence and strip-mined areas prone to flooding.”

Substantial grading of the UDON parcel may have unintended impacts on the existing subsidence conditions downstream at the former mining site and surrounding properties which may have underlying mine shafts or be otherwise impacted by the proximity of abandoned mine shafts.

The following policies from the Highway 94 Comprehensive Plan and responses have been provided to demonstrate the general conformance of the request with the recommendations of the Plan:

- ***Goal 2. Achieve a desirable and efficient use of the land while enhancing the physical environment through functional and compatible land use configurations***
- ***Objective 2.1. Develop with due recognition of the unique site characteristics of each sub-area***
- ***Policy 2.1.1. Consider physical site characteristics for all development proposals, with particular attention to mineral deposits, moderate and steep slopes, mining subsidence, debris fans, drainage ways, floodplains, and soils***
- ***Policy 2.1.2. Assess soils based on permeability, erodibility, flooding frequency, and high water tables***
- ***Policy 2.1.3. Respect the integrity of existing landforms, minimize cut and fill operations, and avoid moderate and steep slopes***

As previously discussed, development of the site, including an identification of the “highest and best use” of the site is within the context of this goal and associated objective and policies. Planned uses are identified as low impact within limited development areas to respect the existing topographic, geologic, and environmental considerations identified by the Plan for property within the planning area and which characterize both the site and surrounding properties

- **Policy 2.2.1: *New developments should demonstrate compatibility with surrounding land uses in terms of general use, connectivity, building heights, scale, overall densities, dust, and noise and feature gradual transitions in densities and/or appropriate buffers***

Surrounding land uses include conforming & non-conforming auto recycling, salvage, and (junk) storage, open space and recreation land uses, outdoor shooting range, contractor equipment storage & businesses, and a mix of rural residential and agricultural land uses.

- **Policy 2.2.2. *Accommodate a compatible mix of industrial, office, commercial, residential, open space, and recreational land uses***

Approval of the CS zone will create opportunities to provide low impact retail and service-related uses to support commercial activity within the general area. More intense development plans for the site may evolve in response to ongoing development within the Highway 94 corridor.

- **Objective 4.1: *Develop a Rural Commercial Zone for small scale commercial uses in areas without reasonable access to central water and sewer***

No rural commercial zone exists for properties without access to central water and sewer. Water resources available under the existing well permit (after re-permitting) can provide adequate water in support of small-scale commercial land uses on the site.

- **Objective 4.3: *Encourage commercial developments to locate in the nodes identified in the Land Use Map***

The property is located approximately 1.5 miles west of the 0.5 mile radius of activity node centered at Curtis Road and SHW 94 as depicted on the Concept Map. However, existing commercial uses are located adjacent to the property against both sides of SHW 94 and extending southward along Franceville Coalmine Road.

- **Objective 4.4: Regulate design features to encourage low profile advertising signs, indigenous landscaping, shared parking facilities, shared access points, and sensitive façade treatment**

Site design and development standards will be addressed in specific detail with any site development plan required to initiate any uses or activities which require a building permit or other required development permit. All site development plans will be required to conform to applicable zoning, use, stormwater, access, and/or master plan or policy requirements.

Access will be determined by CDOT in coordination with El Paso County and in accordance with the recommendations of approved Traffic Impact Study.

Master Plan Compliance – 1998 Policy Plan

The following policies from the El Paso County Policy Plan (1998) have been cited for consideration of the rezone request:

- **Policy 6.1.3 Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.**

Surrounding land uses include: A non-conforming auto salvage/storage yard is located on the adjacent property immediately east of the UDON property. All Auto Recycling located one parcel east at the southwest intersection of State Highway 94 and Franceville Coalmine Road. The Aztec Family Raceway and the American & Import Auto Recyclers are located opposite of the property on the north side of State Highway 94. Additional land uses include RR-5 zoned properties which contain a combination of residential, agricultural, and non-conforming commercial and auto salvage/storage uses. The proposed use of the site for retail and nursery activities is not inconsistent or incompatible with identified uses surrounding the site.

- **Policy 6.1.4: Encourage the logical timing and phasing of development to allow for the efficient and economical provision of facilities and services.** Long term development and utility master planning within the area provide for future water and wastewater utility services within the area. Water is available to serve the property via an existing exempt well which can be re-permitted to provide service for small scale commercial usage. Development plans for the site which would require central water/sewer service will be evaluated with any PUD, preliminary plan, and/or final plat application for the site or future planned development requiring additional water/wastewater service needs beyond what can be supported with the existing well (after reissuance of permit) and OWTS on site.

Policy 6.1.2 Discourage the location of small discontinuous land development projects where these might not develop the [critical land area](#) and density necessary to be effectively provided with services or remain viable in the face of competing land uses.

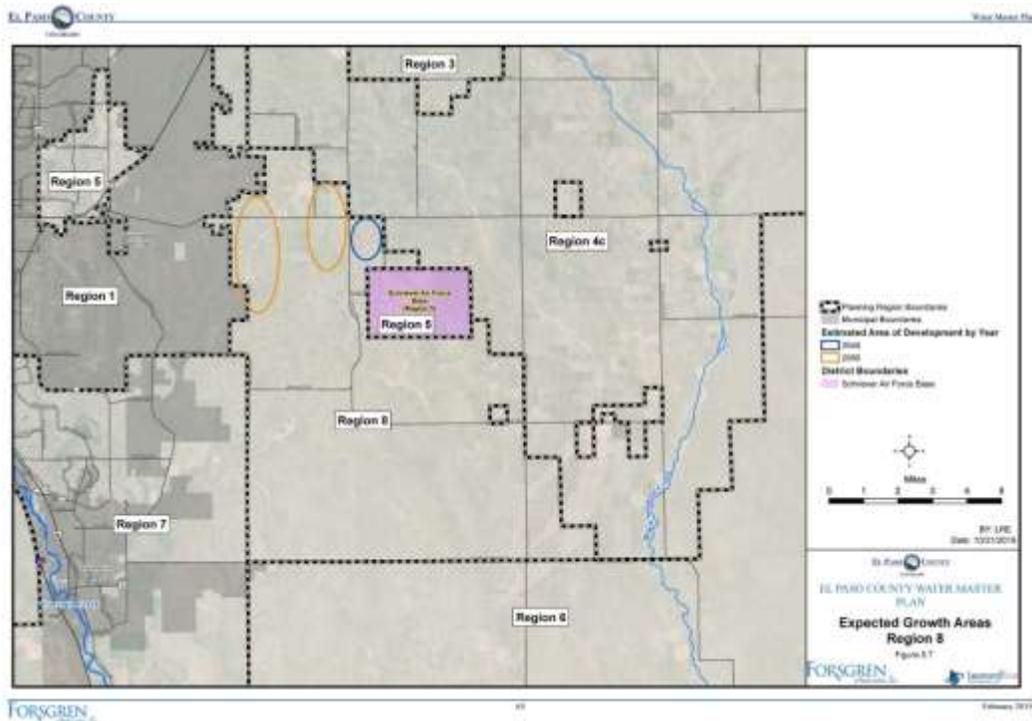
The area/acreage of the rezone parcel (± 40 acres) and the areas depicted therein as planned for commercial development (± 2 AC) is sufficient to initiate and conduct permitted uses allowed within the zone district use at the previously described proposed intensity and scale.

- Nursery, Retail & Wholesale (to be conducted within existing greenhouse and outdoors on unimproved portions of the site)
- Store/Retail Sales
- Accessory Outdoor Storage (accessory to nursery, store, and/or vehicle repair garage)
- Peddler/Produce Sales (seasonal, subject to Temp Use Permitting)

These uses can function and operate both efficiently and economically on the site with the available and existing services. The proposed uses on the site are complementary of the surrounding rural/agricultural land uses (previously identified) and is anticipated to remain a viable land use in the short and mid-range terms while development patterns in the area are becoming more defined and established.

Master Plan Compliance – 2018 Water Master Plan (WMP)

The property is located in Region 8 on the Water Master Plan Planning Regions Map. According to the WMP, no water providers are within Region 8. Currently, water is provided via an existing well Permit # 274299, issued 7/9/2007. This permit may require reissuance by the State to authorize commercial withdrawal. According to the Water Master Plan, Region 8 has three projected areas of development along Highway 94 near Schriever Air Force Base. One development is expected by 2040, just north of the Base and south of Highway 94. Additional developments are projected by 2060 along the Highway 94 corridor, west of the Base. See Figure 5.7 for the Region 8 growth map.



Per the WMD, “Cherokee Metropolitan District lies adjacent to large areas that could potentially develop with higher density residential growth along the Highway 94 corridor. It is anticipated that Schriever Air Force Base will continue to grow over the next several years, which may require increased service.” Planned uses do not require extensive utility improvements, extensive site grading, or significant water consumption/use.

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.

Goal 5.5 – Identify any water supply issues early on in the land development process. Water for future uses may be supplied from existing water rights subject to use and permit limitations.

5.3.1 - CURRENT SUPPLIES The current (2018) water supply for all of El Paso County is estimated at approximately 146,070 AF per year. For the purpose of estimating the water supply associated with exempt and non- exempt wells, the current water supply is assumed to be sufficient to satisfy the current demand and, therefore, current supply

equals current demand. Table 5-2 presents the current water supplies by planning region. The current water supplies by region are also shown in Figure 5-8. Distribution of the current supply by planning region shows a pattern similar to that observed for the water demands, with available water supplies in El Paso County greatest along the I-25 corridor.

Planned Low Impact Development on the site is not anticipated to generate additional demand beyond the projected 2060 groundwater “Build-Out Supplies” as identified in the WMP.

Policy 6.0.11 – Continue to limit urban level development to those areas served by centralized utilities.

Based on the planned low impact use of the site within limited identified development areas, plans to ensure adequate future water supply on the site focus on limiting development of the site which reduces the amount of water needed for construction and erosion control activities, landscaping and required irrigation, and/or uses which require a higher number of employees or attract large numbers of guests/patrons.

2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;

The application has been submitted in conformance with the County Zoning Ordinance and in conformance with the referenced statutory provisions.

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

The proposed zoning district and land uses are compatible with the existing and permitted land uses and zoning districts in all directions. The surrounding parcels in all directions are currently zoned RR-5 with commercial and non-conforming uses. Existing commercial uses are assumed to be in those permissible within the RR-5 or through grant of a variance permit.

Adjacent and surrounding land uses around the UDON parcel include: automotive salvage (junk) yards including automotive recycling and salvage facilities (American & Import Auto Recyclers & All Auto Recyclers) and private conforming and non-conforming auto salvage and/or antique automobile storage; contractor and service trade businesses and yards; outdoor recreation including: Pikes Peak Gun Club (Isaak Walton shooting range), RAM Off-Road Park, Aztek Family Raceway; and rural residential and

agricultural density developments. Corral Bluffs and the City of Colorado Springs Land Fill are also within proximity to the site.

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

The site is suitable for low impact commercial uses which will not require significant site alteration or significantly impact stormwater runoff or unmitigated drainage and/or grading impacts. The grades and slopes impacting the property would require extensive grading and stormwater improvements which exceed the current development goals of the applicant. Development of the site will conform to the standards for the CS zoning district including any applicable or general development standards.

OWNER: JOHN BUSCHMANN & RUSSELL STILSON
 APN: 4400000475
 ZONING: RR-5
 AGRICULTURAL

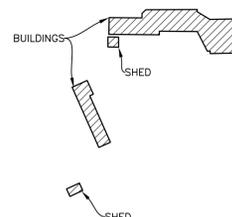
APPROX. LOCATION
 SANITARY SEWER FORCE MAIN ESMT.
 (REC. NO. 201107850)
 OWNER: CHEROKEE METROPOLITAN DISTRICT

OWNER: HARMON L. JONES
 APN: 4400000185
 ZONING: RR-5
 WAREHOUSE/STORAGE, SERVICE GARAGE

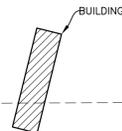
OWNER: CITY OF COLORADO SPRINGS
 APN: 4400000506
 ZONING: RR-5
 PUBLIC/EXEMPT

(BASIS OF BEARINGS)
 N89°49'21"E 1242.32' (M)
HIGHWAY 94
 (100' PUBLIC R.O.W.)
 (REC. NO. 219151478)
 N89°49'21"E 1242.62'

30' TEMPORARY CONSTRUCTION ESMT.
 (REC. NO. 201107850)
 OWNER: CHEROKEE METROPOLITAN DISTRICT



EAST LINE OF MINERAL RIGHT LIMITS
 (BOOK 1998, PAGE 253)
 OWNER: HORACE L. BOUCHER
 AND ESTHER L. BOUCHER



SOUTH LINE OF UTILITY ESMT.
 (BOOK 2404, PAGE 587 & 588)
 OWNER: EL PASO COUNTY
 MUTUAL TELEPHONE COMPANY

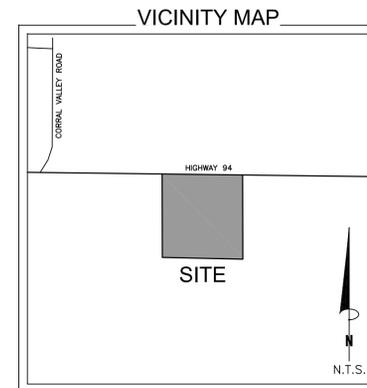
OWNER: FAIR DINKUM TRUST
 APN: 4400000239
 ZONING: RR-5
 RESIDENTIAL

CURRENT ZONE: RR-5
 REC. NO. 219151478
 OWNER: UDON HOLDINGS LLC.
 APN: 4400000237
 1,511,848 S.F. ±
 34.71 ACRES ±

REC. NO. 213111125
 OWNER: EMPRISE ACQUISITIONS, LLC
 APN: 4400000066
 ZONING: RR-5
 RESIDENTIAL

OWNER: MARIE VETTE
 APN: 4400000061
 ZONING: RR-5
 AGRICULTURAL

OWNER: GARY MILLER
 APN: 4400000310
 ZONING: RR-5
 AGRICULTURAL

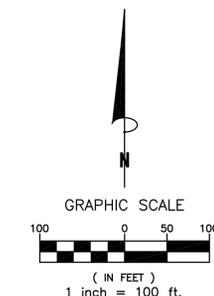


PROPERTY DESCRIPTION:

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 14 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, EXCEPT ANY PORTION THEREOF WITHIN THE RIGHT OF WAY FOR HIGHWAY 94.

NOTES:

- Easements and other record documents shown or noted on this survey were examined as to location and purpose and were not examined as to restrictions, exclusions, conditions, obligations, terms, or as to the right to grant the same.
- This site is zoned "RR-5" (Residential Rural) per El Paso County Planning Department.
 Building Setbacks:
 Front: 25', Side: 25', Rear: 25'
 No zoning information provided by the client. Zoning setbacks shown hereon are the interpretation of the surveyor. For clarification of exact zoning designations and setback locations, please, contact the El Paso County Planning and Zoning Department at 719.520.6300.
- Petitioner:
 Name: UDON HOLDINGS LLC.
 Address: 12265 Highway 94, Colorado Springs, CO 80929
- Mineral Rights Estate Holder(s): The following were identified as holding an undivided one-half interest in all oil, gas, and other minerals as reserved by the estate of Kathryn M. Fairley in deed recorded February 13, 1964 in Book 1998 at Page 253, and any and all assignments thereof or interest therein. Current estate holders have been identified as Esther L. and Horace L. Boucher. No estate address or contact information found. Notification of the map amendment (rezoning) request was provided via publication in the Ranchland News Publication on July 11, 2020.**



No.	Description	By	Date

Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within the first year after the first date of the defect in any way any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

REZONE PLAN

A PORTION OF THE NW1/4 OF SECTION 18,
 TOWNSHIP 14 SOUTH, RANGE 64 WEST, OF THE 6TH P.M.,
 EL PASO COUNTY, COLORADO

Project No. **200051** Drawn By: DWK Date: 5/27/2020
 Checked By: SLM Sheet 1 of 1

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 www.clarkls.com