

see one minor comment on the policy plan analysis.



October 28, 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:**

94

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 US 24 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.

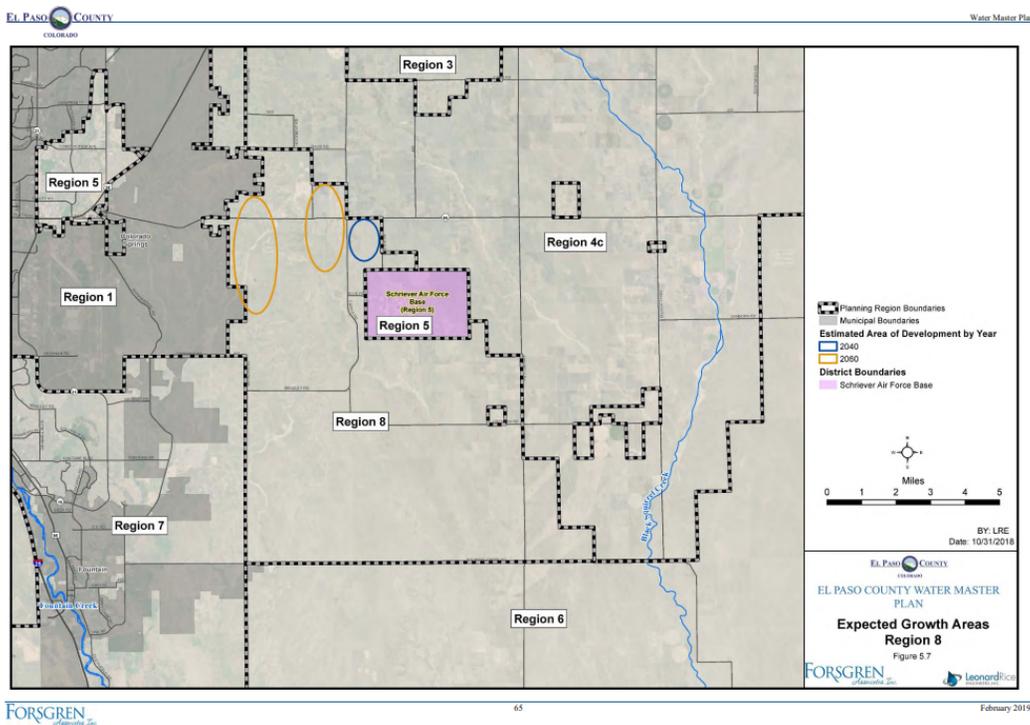
- **Policy 6.1.4: Encourage the logical timing and phasing of development to allow for the efficient and economical provision of facilities and services.** Long term development and utility master planning within the area provide for future water and wastewater utility services within the area. Water 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.

no analysis has been provided on this policy

- 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.

**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 exiting 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.