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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: Planning & Community Development
DATE: 11/30/2023
RE: CS232, ABTR Storage CS Rezone

Project Description

A request by Anthio Properties, LLC, for approval of a Map Amendment (Rezoning) of 38.9 acres from RR-5 (Residential Rural) to CS (Commercial Service).

Notation

Please see the Planning Commission Draft Minutes from November 2, 2023, and the project manager's staff report for staff analysis and conditions. There was no discussion regarding this project at the Planning Commission hearing.

Planning Commission Recommendation and Vote

Ms. Fuller moved / Ms. Brittain Jack seconded to recommend approval of item CS232 utilizing the resolution attached to the staff report with two (2) conditions and two (2) notations. The motion was **approved (9-0)**. The item was heard as a consent item at the Planning Commission hearing. There was no public opposition.

Discussion

This item was heard as a consent item and no there was no further discussion about the project.

Attachments

1. Planning Commission Draft Minutes from 11/2/2023.
2. Signed Planning Commission Resolution.
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, November 2, 2023
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: THOMAS BAILEY, SARAH BRITTAIN JACK, JIM BYERS, JAY CARLSON, BECKY FULLER, KARA OFFNER, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS REMOTE AND VOTING: ERIC MORAES.

PC MEMBERS PRESENT AND NOT VOTING: BRYCE SCHUETTPELZ AND WAYNE SMITH.

PC MEMBERS ABSENT: JEFFREY MARKEWICH AND BRANDY MERRIAM.

COUNTY STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, ASHLYN MATHY, JEFF RICE (REMOTE), JOSHUA PALMER, VICTORIA CHAVEZ, HOWARD SCHWARTZ, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: STEPHEN JACOBS SR., CATHY LANE, JOHN OGREN, RICHARD HEADRICK, DANA KING, PAM MCMANUS, AARON HORN, CHRISTINE MOHR, MARK STRUB, RANDY NEGAARD, SUSAN SANDERS, STEPHEN JACOBS JR. (REMOTE), BRIAN FRANK (REMOTE).

1. REPORT ITEMS

A. Planning Department. The next PC Hearing is Thursday, November 16, 2023, at 9:00 A.M. There are three items to be heard. The two informal code amendments were pulled to be revised.

2. Call for public comment for items not on the hearing agenda. (NONE)

3. CONSENT ITEMS

A. Adoption of Minutes of meeting held October 19, 2023.

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

**MAP AMENDMENT (REZONE)
ABTR STORAGE CS REZONE**

A request by Jim Hawkins for approval of a Map Amendment (Rezone) modifying 38.9 acres from RR-5 (Residential Rural) to CS (Commercial Service). The property is located at 415 North Franceville Coal Mine Road, at the intersection of North Franceville Road and Highway 94 (Parcel No. 440000565) (Commissioner District No. 4).

NO PUBLIC COMMENT OR DISCUSSION.

PC ACTION: MS. FULLER MOVED / MS. BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM NUMBER 3B, FILE NUMBER CS232 FOR A MAP AMENDMENT (REZONE), ABTR STORAGE CS REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

4. CALLED-UP CONSENT ITEMS (NONE)

5. REGULAR ITEMS

**MASTER PLAN
BRIARGATE / STAPLETON CORRIDOR PRESERVATION PLAN
AND ACCESS CONTROL PLAN**

The El Paso County Department of Public Works requests adoption of the Briargate Parkway/Stapleton Road Corridor Preservation Plan and Access Control Plan (“Plan”) into the El Paso County Master Plan. With adoption, this Plan will become the principal Plan for further planning and development of the Briargate Parkway/Stapleton Road corridor within unincorporated El Paso County. The Plan area begins at Black Forest Road, which is the eastern boundary of the Wolf Ranch subdivision and coincides with the eastern boundary of the City of Colorado Springs. The terminus of the Plan area is along Stapleton Road at Meridian Road (All Commissioner Districts).

APPLICANT PRESENTATION

Ms. Fuller asked if it is fair to state there were missteps in the early stage of public communication.

Ms. Maureen Paz de Araujo, with Wilson & Co., disagreed. She described that there was extensive outreach using stakeholder focus groups, the website, and advertising at every stage of the project. She stated there is a perception they were not transparent because of the delays in the project. The project was first delayed by pursuit of the IGA. There was a second delay in early 2023 but comments were replied to in June 2023 and August 2023.

Ms. Fuller asked what caused the 2023 delay.

Ms. Paz de Araujo replied that the delay was caused by the review and finalization of the revisions to the document.

Ms. Fuller stated that her concern was that the public had access to the plans, had the ability to be heard, and understood what was going on. She wants to make sure it was a fair process.

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

Fuller

moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. CS232
ABTR STORAGE CS REZONE

WHEREAS, Athio Properties, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the RR-5 (Residential Rural) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by this Commission on November 2, 2023; and

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

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice 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 and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

CS232

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a Map Amendment, 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.B (Map Amendment, Rezoning) of the El Paso County Land Development Code ("Code") (as amended):

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 Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Athio Properties, LLC, for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the RR-5 (Residential Rural) zoning district to the CS (Commercial Service) zoning district be approved by the Board of County Commissioners with 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.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

Brittain - Jack recoded 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	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	aye / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / absent
Eric Moraes	<u>aye</u> / no / non-voting / recused / absent
Kara Offner	<u>aye</u> / no / non-voting / recused / absent
Bryce Schuettpelez	aye / no / non-voting / recused / absent
Wayne Smith	aye / 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 Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 2nd day of November 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: 
Thomas Bailey, Chair

CS232

EXHIBIT A

A parcel of land being a part of the Northwest 1/4 of Section 17 and part of the Northeast 1/4 of Section 18, Township 14 South, Range 64 West of the 6th P.M., El Paso County, Colorado, being more particularly described as follows:

COMMENCING at the corner common to Sections 7, 8, 17 and 18, Township 14 South, Range 64 West of the 6th P.M., thence S89°41'55"E along the north line of said Section 17 a distance of 2,577.58 feet to the N1/4 corner of said Section 17 (said call being the basis of bearings for this description, monumented on both ends with a No. 6 rebar with a properly marked 3.25" aluminum cap, LS 38231), thence S84°47'23"W a distance of 1,378.53 feet to the southerly right-of-way of Highway 94 and the POINT OF BEGINNING:

thence S01°05'25"E a distance of 1,205.80;

thence N88°49'08"W a distance of 1,391.93 feet to a No. 5 rebar with a 2.5" aluminum cap, PLS 19586;

thence N01°05'25"W a distance of 1,205.80 feet to the southerly right-of-way fence of Highway 94;

thence S88°49'08"E along said right-of-way fence a distance of 1,391.93 feet to the POINT OF BEGINNING, having an area of 1,677,069 square feet or 38.500 acres, more or less.

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

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Ashlyn Mathy
Edward Schoenheit, DPW, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File Number: CS232
Project Name: ABTR Storage CS Rezone
Parcel Number: 4400000521, 4400000565

OWNER:	REPRESENTATIVE:
Athio Properties, LLC Mike Jacobson 719-235-8195 Mike@FlyingHorseRealty.com 11745 Howells Road Colorado Springs, CO 80908	Terra Nova Engineering, Inc. Mike Jacobson mike@flyinghorserealty.com (719) 235-8195

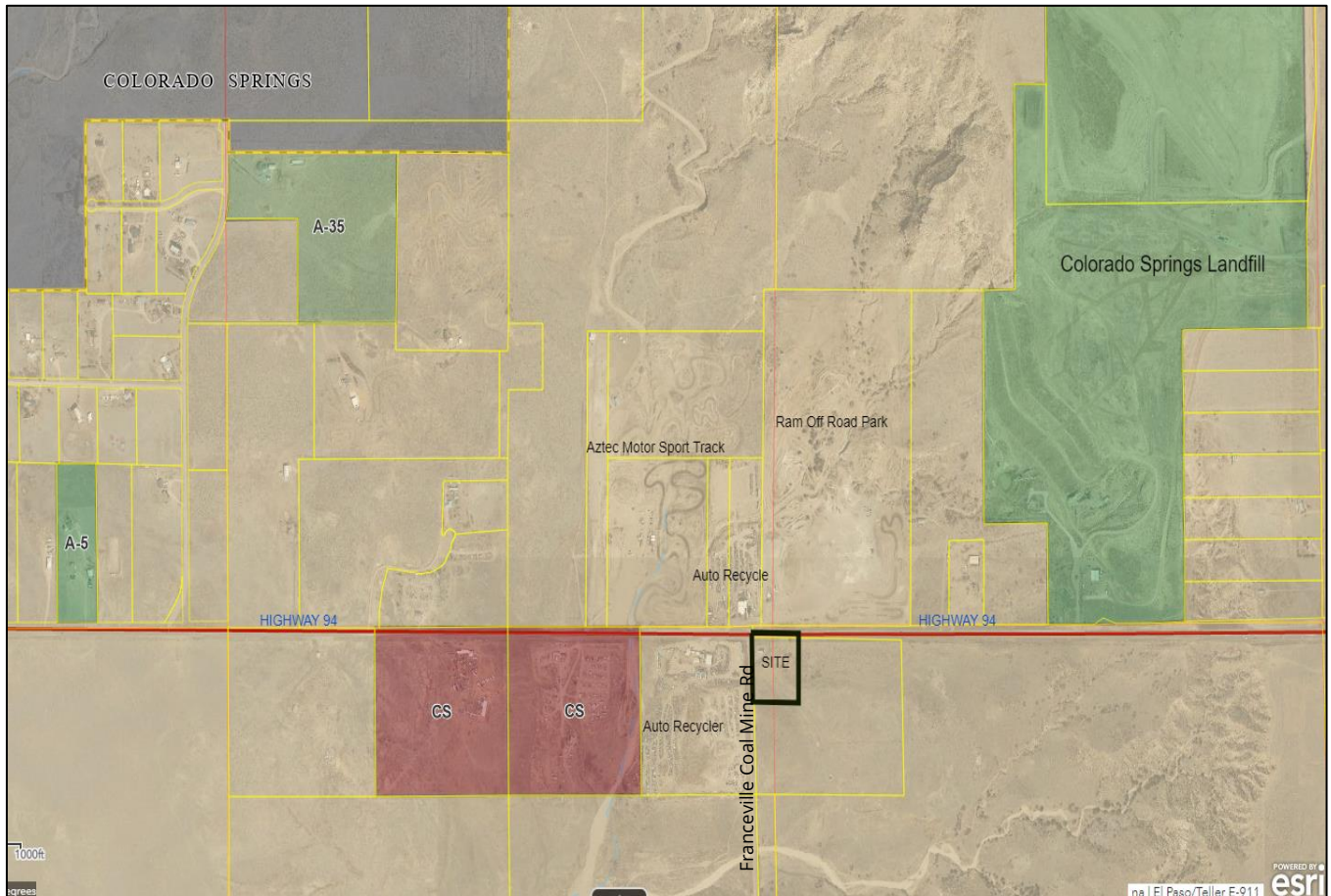
Commissioner District: 4

Planning Commission Hearing Date:	11/2/2023
Board of County Commissioners Hearing Date:	11/30/2023

EXECUTIVE SUMMARY

A request by Athio Properties, LLC for approval of a Map Amendment (Rezone) of 38.9 acres from RR-5 (Residential Rural) to CS (Commercial Service). The property is located at 415 North Franceville Coal Mine Road, at the intersection of North Franceville Road and Highway 94.

CONTEXTUAL AREA MAP:



A. WAIVERS AND AUTHORIZATION

Waiver(s):

There are no waivers associated with this request.

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

B. APPROVAL CRITERIA

In approving a Map Amendment (Rezoning), 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 ("Code") (as amended):

- 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;

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- 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 proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Code, for the intended zone district.

C. LOCATION

North:	RR-5 (Residential Rural)	Off Road Vehicle Park/Track
South:	RR-5 (Residential Rural)	Agricultural Grazing Land
East:	RR-5 (Residential Rural)	Agricultural Grazing Land
West:	RR-5 (Residential Rural)	Auto Recycler/Salvage Yard

D. BACKGROUND

The subject property and surrounding area were initially zoned RR-5 on April 13, 1983, per the GIS database. The parcel is considered a legal lot due to its date of creation and being over 35 acres. An early assistance meeting (EA2240) was held on March 9, 2022. The owner discussed plans to rezone and utilize the property as RV storage. Initiation of the use requires approval of the rezone and a site development plan. The required site development plan is currently being reviewed administratively and will be eligible for approval if the rezone request is approved by the Board of County Commissioners.

The rezoning and request for RV storage appears to be in conformance with current surrounding zoning and land uses. The two properties to the west of the subject property are zoned CS (Commercial Service). Address 12455 Highway 94 was rezoned to CS last year at the January 17, 2023, BoCC hearing. Additionally, property 12265 Highway 94 was rezoned to CS on April 13, 2021 at the BoCC hearing.

There are other surrounding properties being utilized for commercial and industrial-type uses. Directly to the north is an off-road vehicle track and a motocross track. There is also another salvage yard to the north of Highway 94. To the northwest is the Colorado Springs, LLC landfill. Staff estimates that these uses were initiated prior to zoning of the area and are considered legal nonconforming.

Based on these uses, the rezone and subsequent site development plan are a similar characteristic to the area. Most of these uses can be found within commercial and industrial use and provide services to the community. The applicant has demonstrated



there is a need for the RV and boat storage in the area. Due to various uses in the area being commercial or industrial in nature, rezoning from residential to CS would fit with the character.

E. ZONING DISTRICT COMPARISON

The applicant is requesting to rezone 38.9 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 existing and proposed zoning districts are as follows:

	Existing Zoning District: RR-5 (Residential Rural)	Proposed Zoning District: CS (Commercial Service)
Maximum Density	n/a	n/a
Minimum Lot Size	5 acres	n/a
Minimum Width at Front Setback	200 ft	n/a
Front Setback	25 ft	25 ft
Rear Setback	25 ft	25 ft
Side Setback	25 ft	25 ft
Maximum Lot Coverage	25%	n/a
Maximum Height	30 ft	45 ft

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. Placetype Character: Suburban Residential

Suburban Residential is characterized by predominantly residential areas with mostly single-family detached housing. This placetype can also include limited single-family attached and multifamily housing, provided such development is not the dominant development type and is supportive of and compatible with the overall single-family character of the area. The Suburban Residential placetype generally supports accessory dwelling units. This placetype often deviates from the traditional grid pattern of streets and contains a more curvilinear pattern.

Although primarily a residential area, this placetype includes limited retail and service uses, typically located at major intersections or along perimeter streets. Utilities, such as water and wastewater services are consolidated and shared by clusters of developments, dependent on the subdivision or area of the County.



Some County suburban areas may be difficult to distinguish from suburban development within city limits. Examples of the Suburban Residential placetype in El Paso County are Security, Widefield, Woodmen Hills, and similar areas in Falcon.

Recommended Land Uses:

Primary

- *Single-family Detached Residential with lots sizes smaller than 2.5 acres per lot, up to 5 units per acre*

Supporting

- *Single-family Attached*
- *Multifamily Residential*
- *Parks/Open Space*
- *Commercial Retail*
- *Commercial Service*
- *Institutional*

Analysis:

The proposed rezone to CS can be found within the “Supporting” uses of the Master Plan. The surrounding area does have two CS zoning districts within half a mile of the subject property. Additionally, the master plan states while there is residential to be expected, retail services are expected too. In the surrounding area, there are many commercial and retail uses. This rezone would be consistent with the area not only based on zoning but use wise this proposed project matches the character too.

b. Area of Change Designation: New Development

These areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built-out area will be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one such as an employment hub or business park adjacent to an urban neighborhood.

Analysis:

The subject property falls within the New Development area of change within the Master Plan. New development expected on large parcels that are vacant or



agricultural in nature. The proposed rezone supports this intent, in the surrounding area there are various commercial and industrial uses. By the subject property rezoning to CS, it does have support from the Master Plan and would not be considered “spot zoning”.

c. Key Area Influences: Potential Areas for Annexation

A significant portion of the County’s expected population growth will locate in one of the eight incorporated municipalities. As the largest municipality in El Paso County, Colorado Springs is expected to grow in population over the next several decades. As a result of this growth, Colorado Springs, and other municipalities including Fountain and Monument, will need to annex parts of unincorporated County to plan for and accommodate new development. This will either occur through new development within existing municipal limits or the annexation of subdivisions in unincorporated parts of the County.

This Key Area outlines the portions of the County that are anticipated to be annexed as development occurs. It is imperative that the County continue to coordinate with the individual cities and towns as they plan for growth. Collaboration with the individual communities will prevent the unnecessary duplication of efforts, overextension of resources, and spending of funds. The County should coordinate with each of the municipalities experiencing substantial growth the development of an intergovernmental agreement similar to that developed with Colorado Springs.

Analysis:

This area is within the interest of annexation for the City of Colorado Springs. Staff had reached out to City Planning at the early assistance meeting stage and they informed staff that they did not need to be in the meeting. Due to the heavy commercial nature of the surrounding uses and more rural storage uses, it is unlikely that Colorado Springs would annex this specific area.

d. Other Implications (Priority Development, Housing, etc.)

There are no other implications associated with this project.

2. 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 5.4 – Promote the long-term use of renewable water.

Goal 6.1.2 – Promote water conservation.

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 8 of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 8 for central water providers:

The Plan identifies the current demand for Region 8 to be 299 acre-feet per year (AFY) (Figure 5.1) with a current supply of 299 AFY (Figure 5.2). The projected demand in 2040 for Region 8 is at 396 AFY (Figure 5.1) with a projected supply of 299 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region 8 is at 4,84 AFY (Figure 5.1) with a projected supply of 299 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 185 AFY is anticipated for Region 8.

A finding of water sufficiency is not required with a Map Amendment.

3. Other Master Plan Elements

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

The Master Plan for Mineral Extraction (1996) identifies alluvial fan deposits and upland 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.

G. PHYSICAL SITE CHARACTERISTICS

- 1. Hazards:** There are no hazards associated with the project.
- 2. Floodplain:** The FEMA Flood Insurance Rate Map # 08041C0780G indicates the parcel is not located in a floodplain and is within Zone X, an area of minimal flood hazard outside the 500yr floodplain.

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- 3. Drainage and Erosion:** The property is located within the Jimmy Camp Creek drainage basin (FOFO2000), which is a studied drainage basin with drainage and bridge fees. Drainage and bridge fees are not assessed with Map Amendment (Rezoning) requests but would be applicable if the property were to be subdivided. A grading and erosion control plan as well as a drainage report providing hydrologic and hydraulic analysis to identify and mitigate the drainage impacts of the development has been submitted as part of the site development plan.

- 4. Transportation:** The property is located at the southeast corner of Franceville Coal Mine Road and Highway 94. Highway 94 is a Colorado Department of Transportation (CDOT) owned and maintained roadway classified as a Principal Arterial. Franceville Coal Mine Road is an unimproved gravel County maintained local road. The submitted ABTR Storage Traffic Impact Study (TIS) identifies that the primary access to the site will be via a private driveway entrance located along Franceville Coal Mine Road, 1230 feet south of Highway 94. Based on the trip generation estimate for the proposed RV Storage development, the site is projected to generate about 129 vehicle trips on the average weekday. The TIS provides recommended off-site improvements along Highway 94. Continued analysis is being performed with the review of the site development plan.

CDOT will require the applicant to obtain an access permit and will specify required improvements at the site development plan stage and/or as part of the Access Permit process. The property will be required to obtain a County driveway access permit during the site development plan stage. County Road Impact Fees will be applicable as approved by Resolution 19-471, (as amended) and would be assessed during the site development phase.

H. SERVICES

1. Water

A finding of water sufficiency is not required with a Map Amendment. Water is planned to be provided by a well.

2. Sanitation

Wastewater is planned to be provided by an onsite wastewater treatment system.

3. Emergency Services

The property is within the Ellicott Fire Protection District.



4. Utilities

Mountain View Electric Association, Inc.
Black Hills Energy-Aquila

5. Metropolitan Districts

Ellicott Metro

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a Map Amendment (Rezoning) application. El Paso County Department of Parks and Community Services were each sent a referral and have the following comments:

Parks staff provides notice that the Highway 94 Primary Regional Trail is planned for 25' south of the right-of-way of Highway 94. The County encourages the landowner to provide a 25-foot-wide public trail easement along the south side of Highway 94 that allows for the construction and maintenance by El Paso County of the Highway 94 Primary Regional Trail.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a Map Amendment (Rezoning) application.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no major issues with the proposed project.

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 (as amended), 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.

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 8 surrounding property owners on October 16, 2023, for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

M. ATTACHMENTS

Maps Exhibit
Vicinity Map
Letter of Intent
Rezone Map
Draft Resolution

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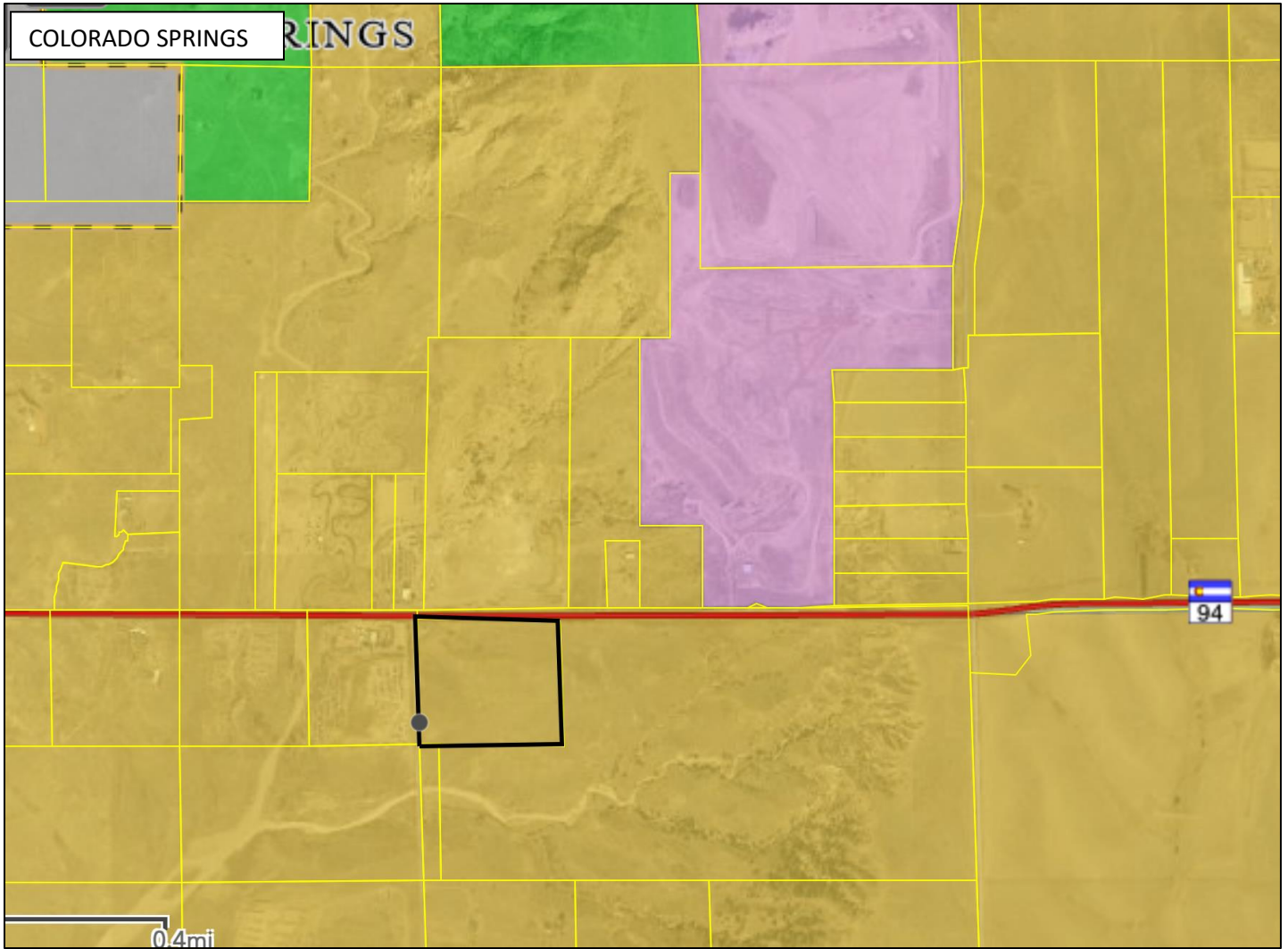


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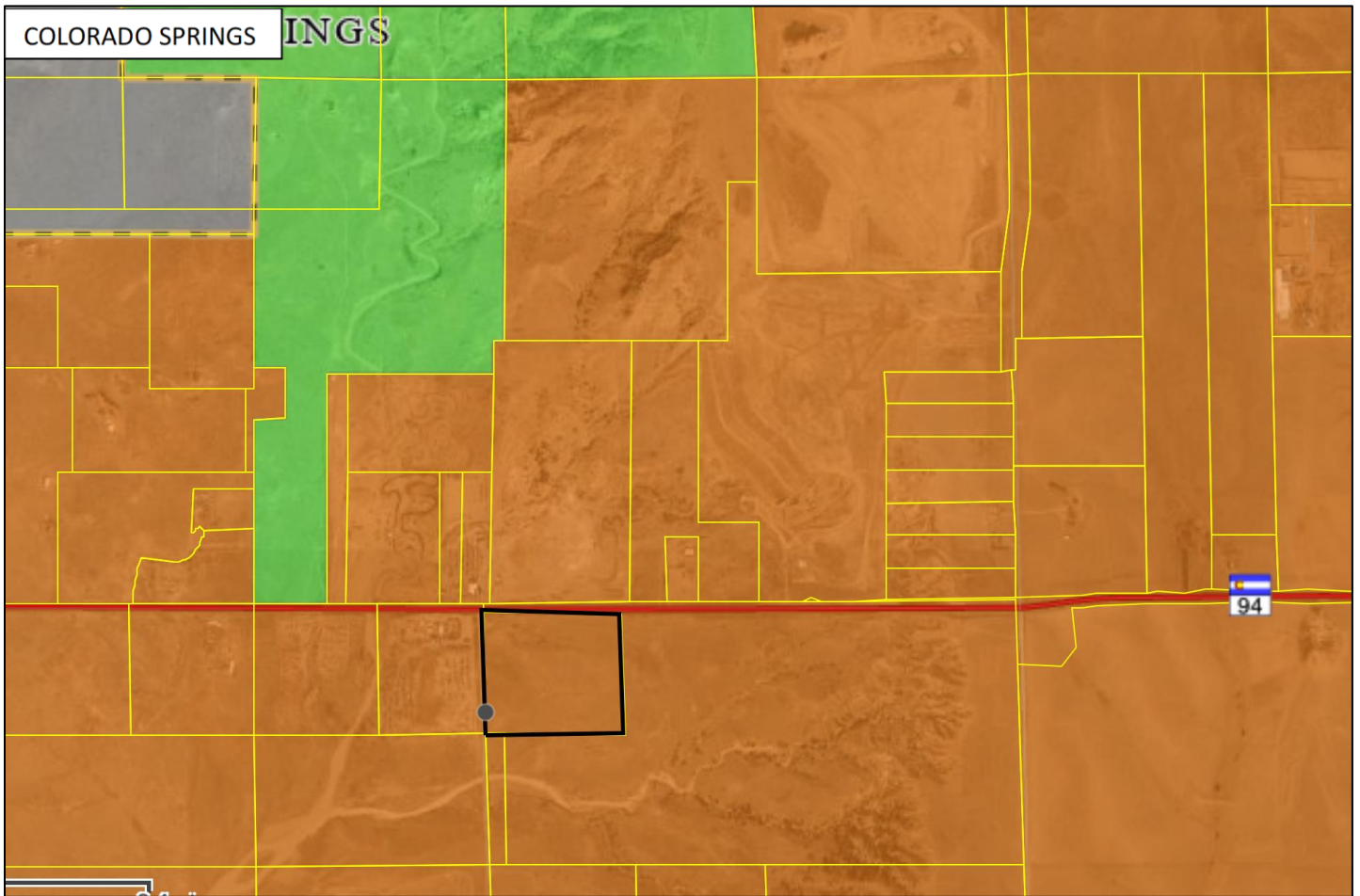
Map Exhibit

CS232

Placetype: Suburban Residential

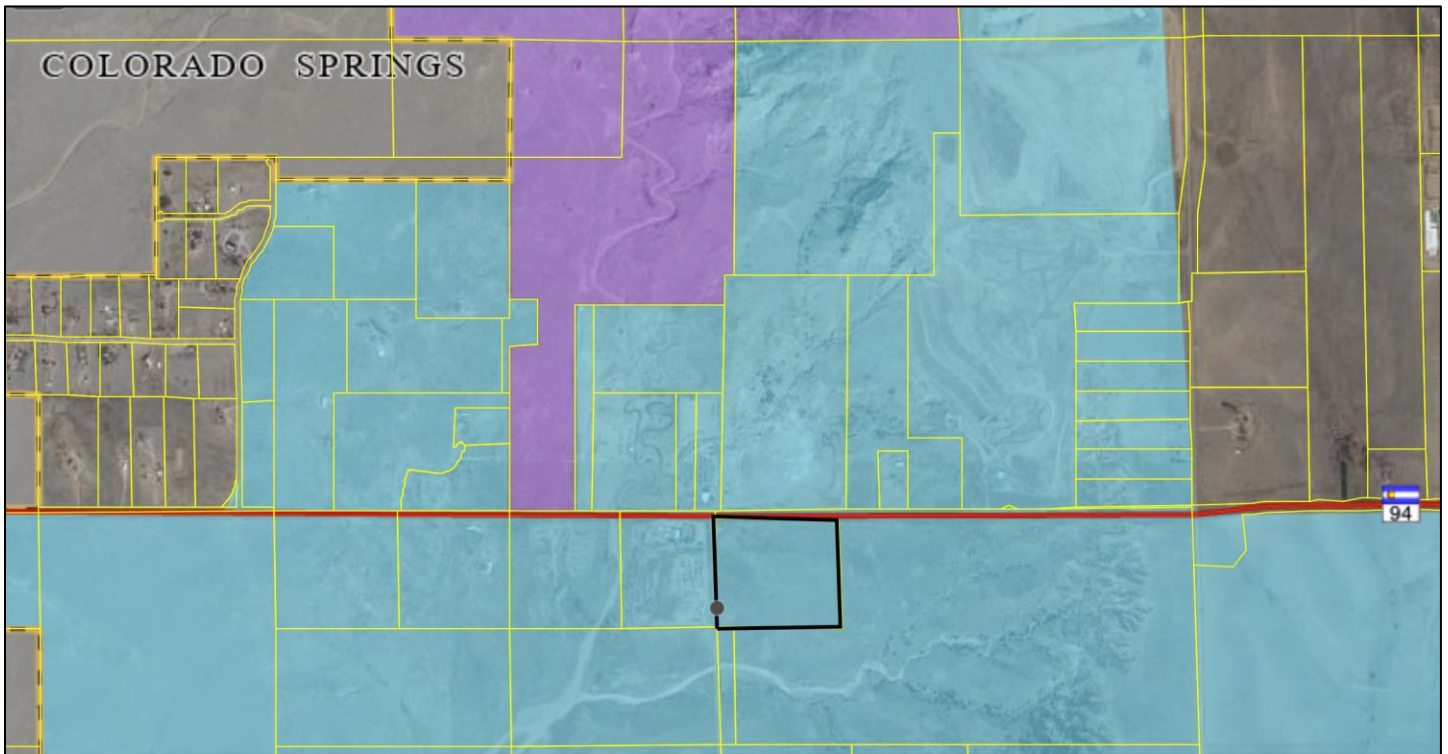


Areas of Change: New Development

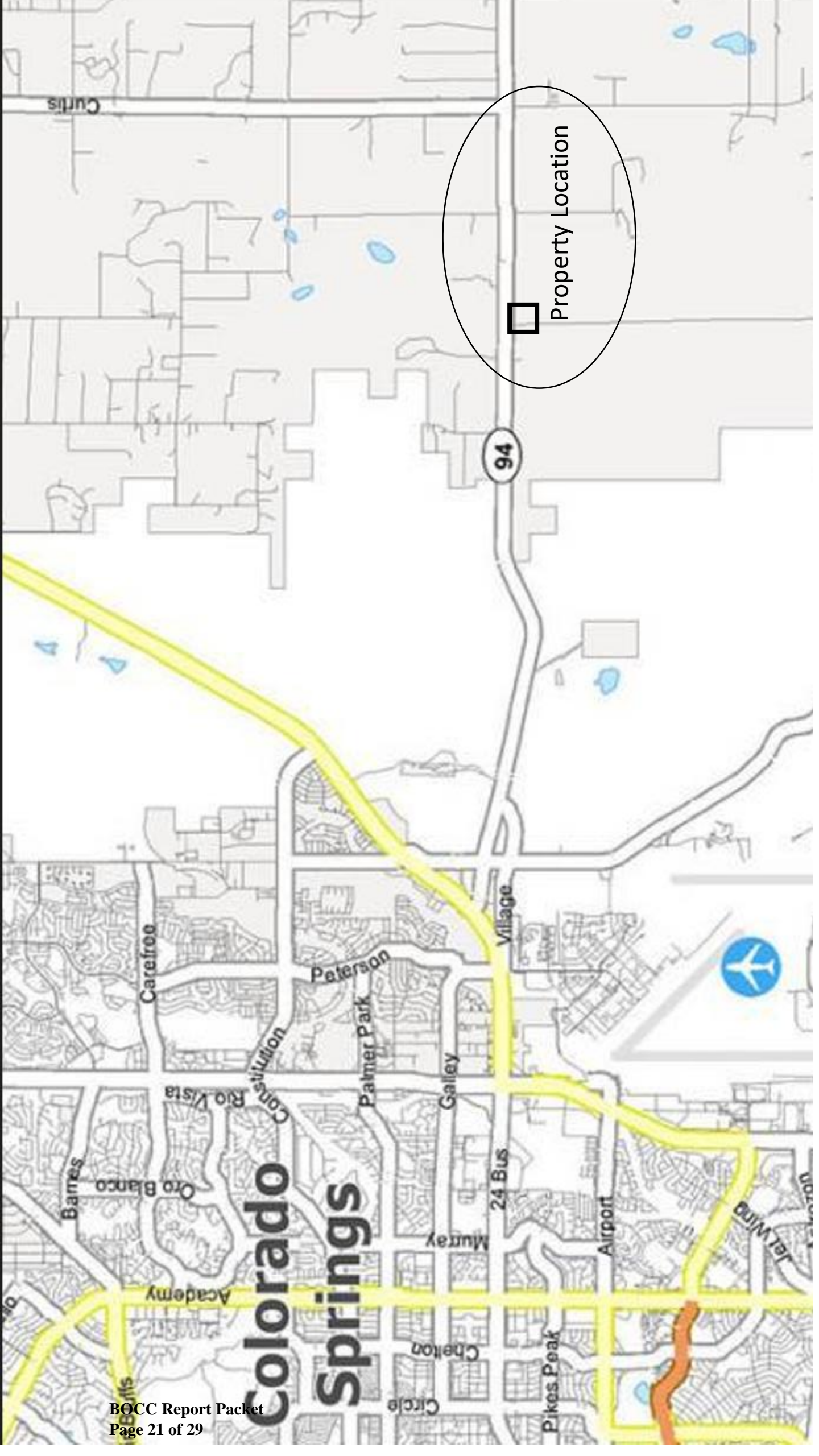


- Protected/Conservation Area
- Minimal Change: Undeveloped
- Minimal Change: Developed
- New Development**
- Transition

Key Areas: Potential Areas for Annexation



- Military Installations
- Potential Areas for Annexation
- Enclaves or Near Enclaves
- Small Towns & Rural Communities
- Fountain Creek Watershed Flood Control & Greenway District
- Forested Area
- Pikes Peak Influence Area
- Tri-Lakes Area
- Colorado Springs Airport/Peterson Field
- Uncommon Natural Resources



Property Location

Colorado Springs

September 13, 2023

El Paso County
Planning and Community Development Department
2800 International Circle, Suite 110
Colorado Springs, Colorado 80910

MAP AMENDMENT (REZONING) APPLICATION LETTER OF INTENT

Athio Properties, LLC. (“Applicant”) is the owner of real property located at 415 N. Franceville Coal Mine Road, in the unincorporated County of El Paso (the “County”), State of Colorado, with a Tax Parcel No. 4400000565 (the “Property”). Applicant is requesting approval of rezoning the Property from the RR-5 to the CS, Commercial Services District (the “Rezoning Application”). The purpose of this letter is to accompany Applicant’s Rezoning Application, wherein Applicant is proposing to operate outdoor RV, BOAT and VEHICLE STORAGE.

1. Current Property Owner

Athio Properties, LLC
11745 Howells Road
Colorado Springs, CO 80908
Mike@FlyingHorseRealty.com

2. Applicant

Owner: Athio Properties, LLC.
Michael W. Jacobson
Manager/Member
11745 Howells Road
Colorado Springs, CO 80908
719-235-8195
Mike@FlyingHorseRealty.com

Applicant/Consultant: Terra Nova Engineering, Inc.
L. Ducett, P.E.
President, Terra Nova Engineering, Inc.
721 S. 23rd Street
Colorado Springs, CO 80904
719-635-6422
l@tnesinc.com

3. Property Address

415 N. Franceville Coal Mine Rd
Colorado Springs, CO 80929

4. Tax Parcel No. - 4400000565

5. Current Zoning - RR-5

6. Rezoning Request

Applicant requests the County approve a rezone of the Property from the RR-5, Residential Rural District-5, to CS, Commercial Services District, to allow the proposed development of the Project on approximately 38.5 acres of undeveloped land. The CS District is intended to accommodate retail, wholesale or service commercial uses that serve the general public. Code, § 3.2.5.C. The Project proposes outdoor RV, BOAT and VEHICLE STORAGE on approximately 20 acres, an “Allowed Use” in the

CS District, per the El Paso County Land Development Code Chapter 5, but not allowed in the RR-5 – therefore, the Property must be rezoned to accommodate the Project.

7. Overlay Districts - The Property is not within an Overlay District.

8. Criteria of Approval - As discussed below, a rezoning of the Property to the CS District meets the approval criteria outlined in Chapter 5 of the Code. See Code, § 5.3.5.B.

• **5.3.5.B. Bullet 1** - The application is in general conformance with the Master Plan, including applicable Small Area Plans.

A rezoning of the Property to the CS District is consistent with the Master Plan.

The vision of the County, as depicted in the Master Plan is to accommodate growth, while maintaining the special character, unique places, and environmental and natural amenities that have helped define the region. Master Plan, pg13. The County is interested in responsible development to provide complete communities with the necessary housing, commercial opportunities and public services to allow current and future residents to experience a high quality of life. Master Plan, pg 13. The Project provides a needed service to the community in support of this vision to help accommodate growth with applicable and useful commercial services in the area. This area of the County has land uses in operation which already line up with the type of use intended for this property. The special character of the area surrounding the intersection of Highway 94 and Franceville Coal Mine Road is an outdoor industrial recreation feel. This is a unique area of the County and contains nearby dirt bike and ATV race tracks as well as multiple auto-salvage yards, at the intersection, plus a gun range just to the south. Commercial activities of this subject property, at the south-east corner of the intersection, will complete the interaction of these unique uses and incorporate perfectly into the special character of the area. Rezoning the subject parcel to CS will promote and align with the environmental and natural amenities surrounding the intersection. A CS zoning of this parcel will encourage and keep similar type uses near each other and types that already exist. This will preserve other areas of the County and keep them available to accentuate other more natural beauty and environmentally specialized areas like the Corral Bluffs to the north and Wild Horse Ranch to the south.

This Project directly supports the Master Plan, Core Principle 1. Land Use and Development, to manage growth to ensure a variety of compatible land uses that preserve all character areas of the County. Master Plan, pg 14. It specifically supports Goal 1.1. of this Core Principle of the Plan to ensure compatibility with established character of the area and infrastructure capacity. This project does so by incorporating commercial service uses compatible to the uses already in place in the surrounding area and in alignment with the established outdoor industrial recreation character which currently exists near the intersection of Hwy 94 and Franceville Coal Mine Road. The primary intended use for Automobile and RV Storage will provide additional capacity of a land use maxed out across the County with fewer and fewer suitable locations possible to blend well into the currently established character of other areas. This project also supports Goal 1.3. to encourage a range of development types to support a variety of land uses. Master Plan, pg 14. Approval of CS on this property allows for a large variety of potential uses which can all improve the access to a multitude of services near this intersection for the surrounding area. The proposed land use fits hand-in-glove to current land uses in the area even though it does not take up the entire property. CS zoning of the property offers a wide variety of other potential land uses in the future on other portions of the property.

Regarding land use, the Master Plan aims to identify the different development and land use characteristics for areas of the County that make up the various Placetypes that will serve as the base for long-range planning. Master Plan, pg 15. This Project is in a Key Area, per the Plan pg 17, of Potential Annexation with New Development Area of Change likely, pg 20 and a Placetype of Suburban Residential, pg 22. Land uses under CS zoning compliment these two Placetypes perfectly for this area.

The Suburban Residential Placetype has a supporting Land Use of Commercial Service, the Zoning this Project seeks. Although Suburban Residential is characterized predominantly by residential areas with mostly single-family detached housing, this area is exceptionally more aligned with a supporting land use of Commercial Service because it is situated directly along a major highway and surrounded by land uses compatible with CS as described below in Bullet 3.

The Project complies with this Vision of the Plan by providing a needed commercial use that also suits the land use of the surrounding area and accordingly, rezoning the Property to CS is consistent with the Master Plan.

- **5.3.5.B. Bullet 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 § 30-28-111-116.

This application has been submitted and a rezoning of the parcel to the CS District complies with the referenced statutory provisions above and is in conformance with the County Zoning Ordinance.

- **5.3.5.B. Bullet 3** - The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions.

The Project Land Use is very compatible with the established character of the surrounding area.

The land uses and zoning to the northeast, north, west and southwest are commercial and/or industrial type uses. They include two motor cross/off-road race tracks to the north, as well as auto-salvage yards to the north and west and an outdoor gun-range to the southwest. Further west from the auto-salvage yards are two parcels already updated to CS zoning, one undeveloped and one for vehicle and RV storage as well.

The Property is bordered to the east and south by cattle ranch pasture zoned RR-5 with an agricultural use. The CS makes a smooth transition between commercial and agriculture uses. The auto and RV storage use is specifically compatible with its outdoor openness, similar to agriculture uses and any proposed uses within the CS will incorporate applicable zone to zone buffer and screening requirements. Although not adjacent, further south down Franceville Coal Mine Road, to be considered "in the area" there exist already, outdoor parking yards for gravel dump trucks with similar storage next to agricultural uses for comparison.

The Project's RV, boat and vehicle storage use is uniquely compatible to the surrounding area uses and provides a high-demand service to County residents. Fewer and fewer neighborhoods allow storage of these vehicles which rapidly results in increased need for more and more outdoor vehicle storage. Additionally, the El Paso County Board of County Commissioners recently approved County Ordinance 22-002, an updated Model Traffic Code, which took effect in March and now prohibits the parking of specialized vehicles on public property or the same area of the public right-of-way for more than 72 hours in a week, punishable by fine and/or towing and impoundment. "Specialized Vehicles" are

defined in the County's Model Traffic Code and includes all the types of vehicles and trailers this project efforts to provide parking and storage service for. This project meets the ever-increasing need (by population growth demand and now also County law) in an area of the County already compatible to the use.

Furthermore, the Agricultural use in the RR-5 zoned properties to the south and east also fall in the same Master Plan Key Area and Placetype as the Property - Potential Annexation with New Development Area of Change Likely and Suburban Residential. This is because of the currently existing land uses of the surrounding areas north, west and south, as described above near this intersection of HWY 94 and Franceville Coal Mine Rd. These RR-5 zoned lots have a very high likelihood of future rezoning to CS in order to meet upcoming needs of the community. Changes to these properties will enable residential areas to grow and develop in other more suitable areas which are not already surrounded or used for commercial and industrial type uses.

Accordingly, both the Project and a rezoning of the Property to the CS District are compatible with the surrounding zone districts and land uses.

- **5.3.5.B. Bullet 4** - The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Code for the intended zone district.

The Property is right next to a major state highway, Highway 94, and is in an exceptional location for commercial zoned properties. The current zoning of RR-5, and any potential residential use, is much less than optimal use along a busy highway such as this. Residents very understandably want, and argue for, space between their homes and the highways and the significant traffic noise that accompanies them. Commercial zoning has a long-standing correlated establishment alongside highways because of this desire from residents. A rezone to CS for this parcel will match this commonly accepted zoning standard for properties near highways and provide the desired buffer between the highway and any potential residential uses to the south.

The Property – which is currently primarily undeveloped land – is suitable for CS uses as well as the potential RV, Boat and Vehicle Storage because such use meets the standards of the CS District pursuant to Chapter 5 of the Code. As previously mentioned, RV, Boat and Vehicle Storage is an allowed use (a use permitted by right) in the CS District. Code, Table 5-1. Thus, the Project is a use in the CS District envisioned by the Code.

Additionally, the current plan for physical development of the site is to create gravel parking areas for the RV, Boat and vehicle storage and all future development will comport with the Code's standards.

The minimum zoning district area for the CS District is 2 acres. The Property – which is approximately 38.9 acres – meets this minimum, of which approximately 20-acres of which will be utilized for the storage area. Additionally, the Project proposes a 25-foot setback, which comports with the Code's minimum setback in the CS District of 25 feet as well as all other landscaping requirements. See Code, Table 5-5.

Applicant also has no intention of requesting any relief from the dimensional standards of the CS District.

9. Compliance with the Code - As outlined herein and further detailed in the SDP, Applicant's request to rezone the Property to the CS District is compliant with the applicable requirements and development standards of the Code.

- **Landscaping** - Applicant will adhere to all landscaping requirements set forth by LDC 6.2.2. Specifically, Applicant intends to provide a 25-foot buffer along the south and east boundaries between its CS and neighboring RR-05, a 25-foot buffer along Hwy 94 and a 15-foot buffer along Franceville Coal Mine Road, as required by the Code. Additionally, the interior landscape requirements will be met in any site-development plan submitted.

- **Parking** – Any site-development plan will be in compliance with the Code requirements. Any specific details for proposed use will be incorporated at the time of site-development plan, per LDC Table 6-2, Vehicle Storage, for example. All parking areas proposed by the Project will provide all the required number of spaces, handicap spaces, turn radius requirements and circulation needs per the code.

- **Truck Loading** - The LDC does not require a truck loading area for vehicle storage, however, aisles within the storage area will be a minimum 30' and provide minimum turn radius for emergency vehicles and abundant truck turn around area. Any truck loading requirements determined will meet all code requirements for emergency vehicles and truck turn around minimums.

- **Lighting** - Pursuant to Section 6.2.3.A.4. of the Code, Applicant will provide a Lighting Plan of the Project, which includes no greater than 10 foot candles anywhere on the property and a max height of lighting, 15 feet, except parking areas, 20 feet.

10. RV, Boat and Vehicle Storage Specific Standards

The Code defines Automobile and Boat Storage Yard as, "A lot, parcel, or structure used for temporary storage of operable automobiles, trucks under 5 tons rated capacity, campers, recreational vehicles, trailers, or boats, not owned by the property owner, where typically the storage occurs when they are not in use and for a fee. The term shall not include scrap metal processing yards, vehicle dismantling yards, or salvage yards." Code, § 1.15.

The Project meets this definition. The Project's primary purpose is to provide outdoor vehicle and boat storage, spaces which are individually leased.

Table 5-1 allows Recreational Vehicle and Boat Storage as an allowed use in the CS District

11. Consistency with Master Plan

As discussed above in Section 8, a rezoning of the Property to the CS District is consistent with the Master Plan. The Property is not within an Enterprise Zone.

The proposed rezoning of the Property to the CS District is also consistent with the El Paso County Water Plan (the "Water Plan"), because it aligns with the Water Plan's goals. The Property is within the Water Plan's Region 8, and although not within the Cherokee Metro District's established district boundaries, it is adjacent to Cherokee ROW along Hwy 94 for ease of access if required for "Out of District" connection in the future. Applicant's projected water is extremely limited for this project and only use will be for

the code required landscaping using Well Permit 86828-A. The Project promotes the Water Plan's goals of sustainability and water conservation.

The proposed rezoning of the Property to the CS District is also consistent with the El Paso County Parks Master Plan (the "Parks Plan"). The vision of the Parks Plan is to "provide a vision for the future of El Paso County parks, trails, and open space along with recreation and cultural services programs." Parks Plan, 2. The Parks Plan identifies the following priorities: maintain and upgrade existing facilities and enhance communication with park users; provide for connectivity with other regional trails; identify open space areas; building on recreational and cultural services to expand opportunities that focus on natural and cultural resources and agricultural heritage. Parks Plan, 2-3.

The Property is located near or on the border of the "Urban Core Area", which the Parks Plan identifies as "generally within the City of Colorado Springs" and the "Southeast Area." In either area, it is located in unincorporated El Paso County with potential future annexation.

The El Paso County Parks Master Plan identifies two master-planned trails adjacent to the property. The proposed Highway 94 Bicycle Route runs east and west along Highway 94. This proposed trail will not be impacted by the project because it will be accommodated within the public right-of-way. The proposed Highway 94 Primary Regional Trail also runs east and west along Highway 94. This proposed trail would be impacted by the proposed facility because its alignment is on the south side of Highway 94.

Parks staff provided notice that the Highway 94 Primary Regional Trail is planned for 25' south of the right of way of Highway 94. The project will provide the County's requested 25-foot-wide public trail easement along the south side of Highway 94 to allow for the construction and maintenance by El Paso County of the Highway 94 Primary Regional Trail.

There is no open space adjacent to the Property, and the Property is outside of the areas identified by the Parks Plan for parks and recreation, and open space dedication. No regional park fees are required since the Board of County Commissioners has elected to not require park fees for commercial subdivisions. Furthermore, the Project has no negative impact on the Parks Plan.

12. Provision of Utilities

The plan for the Property, as it is, for RV storage will operate off-grid solar, well and septic with very little requirement for electricity, water or sewer. Any future additions or adjustments to the Property will be served by all applicable utilities. Gas is in the Colorado Springs Utilities service area, electric in the Mountain View Electric service area, and future water and sanitary sewer would be provided by the Cherokee Metro District.

Fire Department access will be shown on the SDP.

13. Sensitive Natural or Physical Features

There are no identifiable potentially sensitive natural or physical features on the Property.

14. Community Outreach Efforts

The Applicant mailed notices by certified mail informing adjacent property owners of its intent to rezone the Property on February 22, 2023. Applicant has engaged with neighbors and will continue to engage the neighborhood community while the Application is under review.

15. Traffic Study

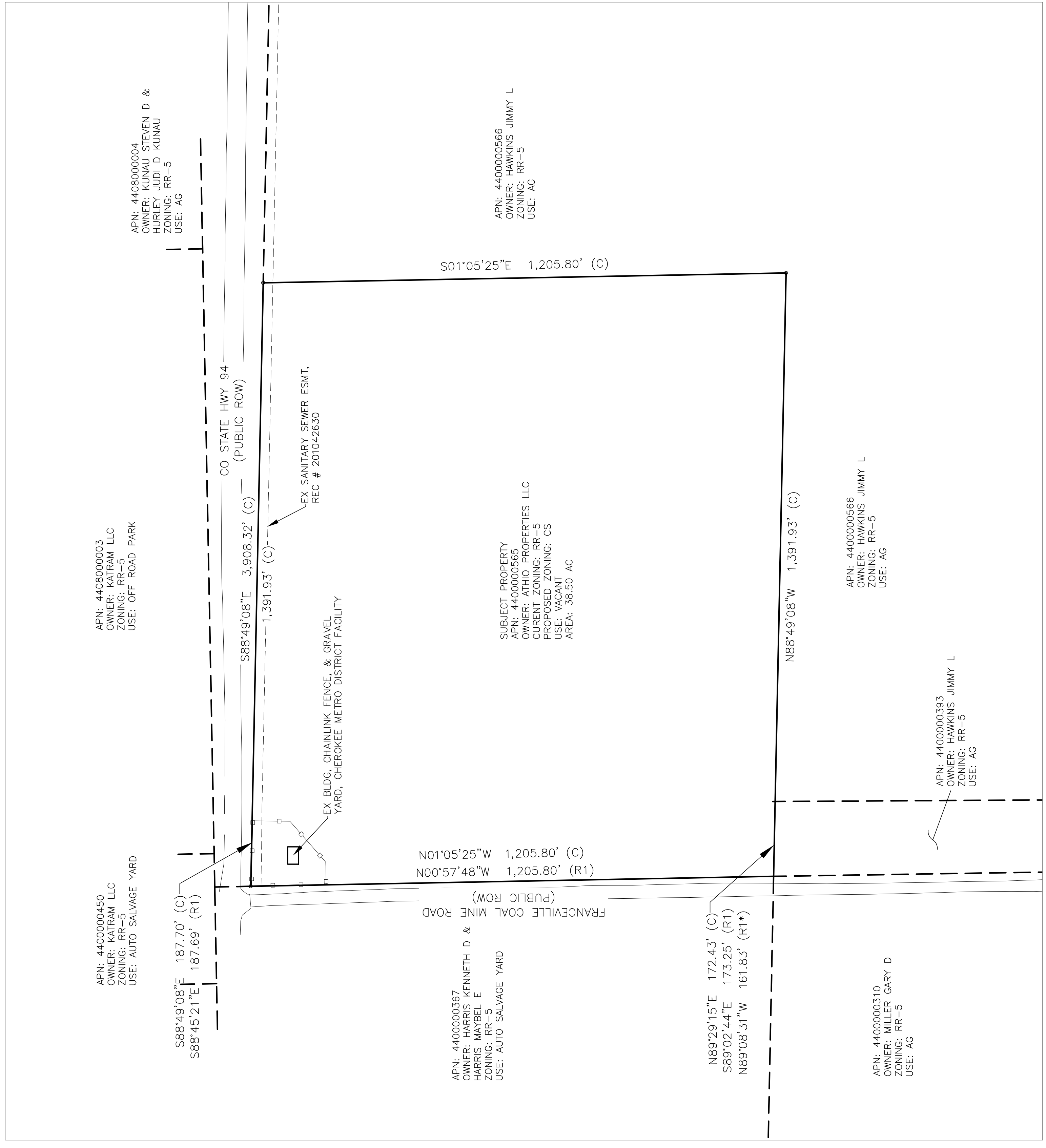
Per CDOT rep at EA meeting, CDOT access permit not required since access will only be via Franceville Coal Mine Road. Per the code a traffic study has been completed and provided within the package to request this Rezoning to CS.

In alignment with the above facts and considerations, the Applicant respectfully requests that its request to rezone the Property to the CS District be approved.

Sincerely,

Michael W. Jacobson
Manager, Athio Properties, LLC.

ABTR STORAGE REZONE MAP



LEGAL DESCRIPTION

UNPLATTED: TR OF LAND IN THE NW4 SEC 17 AND NE4 SEC 18-14-64 DESC AS FOLS: COM AT THE COR COMMON TO SECS 7,8,17 AND 18, TH S89-41-55E ALG THE LN OF SD SEC 17 2577.58 FT, TH S84-47-23W 1378.53 FT TO THE SLY ROW LN OF HWY 94, AND THE POB; TH S01-05-25E 1205.80 FT, TH N88-49-08W 1391.93 FT, TH N01-05-25W 1205.80 FT TO THE SLY ROW FENCE OF HWY 94, TH S88-49-08E ALG ROW FENCE 1391.93 FT TO THE POB

CONTACT INFO

OWNER: ATHIO PROPERTIES LLC
11745 HOWELLS RD, COLORADO SPRINGS, CO 80908

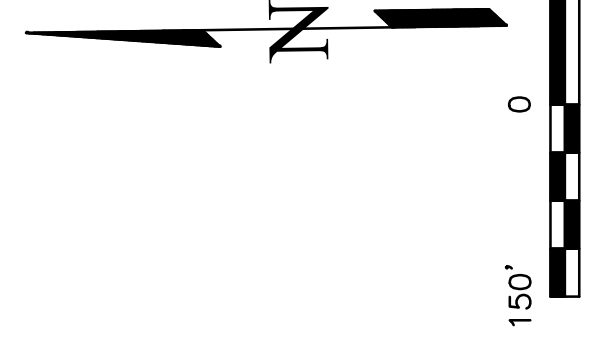
DEVELOPER/APPLICANT: ATHIO PROPERTIES, LLC
11745 HOWELLS RD
COLORADO SPRINGS, CO 80908
MIKE JACOBSON
719.235.8195
MIKE@LYNGHORSEREALTY.COM

MINERAL RIGHTS HOLDER: HAWKINS JIMMY L
470 S BLANEY RD
COLORADO SPRINGS, CO 80929

PREPARER: TERRA NOVA ENGINEERING, INC.
721 S. 23RD STREET
COLORADO SPRINGS, CO 80904
DANE FRANK
719.635.6422
DANE@TNESINC.COM

NOTES

1. MINERAL RIGHTS HOLDERS: THE SUBJECT PROPERTY MINERAL RIGHTS ARE HELD BY JIMMY HAWKINS.



NO.	DESCRIPTION	DATE

UNTIL SUCH TIME AS THESE DRAWINGS ARE APPROVED BY THE APPROPRIATE REVENUE AGENCIES. TERRA NOVA ENGINEERING, INC. APPROVES THEIR USE ONLY FOR THE PURPOSES DESIGNATED BY WRITTEN AUTHORIZATION.

PREPARED FOR:
ATHIO PROPERTIES LLC
ATTN: MIKE JACOBSON
11745 HOWELLS RD
COLORADO SPRINGS, CO 80908
719.235.8195



721 S. 23RD STREET
COLORADO SPRINGS, CO 80904
OFFICE: 719-635-6422
FAX: 719-635-6426
www.tnesinc.com

ABTR STORAGE
REZONE MAP

DESIGNED BY DLF
DRAWN BY DLF
CHECKED BY JD
H-SCALE AS SHOWN
V-SCALE N/A
JOB NO. 2309.00
DATE ISSUED 09/21/23
SHEET NO. A OF A

RESOLUTION NO. 23-

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

APPROVAL OF MAP AMENDMENT (REZONE) TO CS
ABTR STORAGE CS REZONE (CS232)

WHEREAS, Athio Properties, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the RR-5 (Residential Rural) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on November 2, 2023, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on November 30, 2023; 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. That the application was properly submitted for consideration by the Board of County Commissioners.
2. That proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters, and issues were submitted and reviewed, and that all interested persons were heard at those hearings.
4. That all exhibits were received into evidence.
5. That the proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
6. That the proposed land use will be compatible with existing and permitted land uses in the area.

7. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
8. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.5 of the El Paso County Land Development Code, as amended, in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

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 Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Athio Properties, LLC, to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the RR-5 (Residential Rural) zoning district to the CS (Commercial Service) zoning district ;

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

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered

Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

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

NOTATIONS

- 1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
- 2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

DONE THIS 30th day of November 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

A parcel of land being a part of the Northwest 1/4 of Section 17 and part of the Northeast 1/4 of Section 18, Township 14 South, Range 64 West of the 6th P.M., El Paso County, Colorado, being more particularly described as follows:

COMMENCING at the corner common to Sections 7, 8, 17 and 18, Township 14 South, Range 64 West of the 6th P.M., thence S89°41'55"E along the north line of said Section 17 a distance of 2,577.58 feet to the N1/4 corner of said Section 17 (said call being the basis of bearings for this description, monumented on both ends with a No. 6 rebar with a properly marked 3.25" aluminum cap, LS 38231), thence S84°47'23"W a distance of 1,378.53 feet to the southerly right-of-way of Highway 94 and the POINT OF BEGINNING:

thence S01°05'25"E a distance of 1,205.80;

thence N88°49'08"W a distance of 1,391.93 feet to a No. 5 rebar with a 2.5" aluminum cap, PLS 19586;

thence N01°05'25"W a distance of 1,205.80 feet to the southerly right-of-way fence of Highway 94;

thence S88°49'08"E along said right-of-way fence a distance of 1,391.93 feet to the POINT OF BEGINNING, having an area of 1,677,069 square feet or 38.500 acres, more or less.