

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
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2. Applicant

Owner: Athio Properties, LLC.
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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.