



EL PASO COUNTY

COMMISSIONERS:
STAN VANDERWERF (CHAIR)
CAMI BREMER (VICE-CHAIR)

COLORADO

HOLLY WILLIAMS
CARRIE GEITNER
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Board of County Commissioners
Stan VanderWerf, Chair

FROM: Kylie Bagley, Planner II
Lupe Packman, IE Engineer I
Kevin Mastin, Interim Executive Director

RE: Project File #: CS-21-002
Project Name: Fuel Station Rezone
Parcel No.: 34120-00-015

OWNER:	REPRESENTATIVE:
Pushpinder Brar KB Fuel LLC, 1901 N Academy Blvd Colorado Springs, CO 80909	Baseline Engineering Corporation Alyssa Rivas 112 N Rubey Dr, Suite 210 Golden, CO 80403

Commissioner District: 4

Planning Commission Hearing Date:	11/17/2022
Board of County Commissioners Hearing Date:	12/6/2022

EXECUTIVE SUMMARY

A request by Baseline Engineering Corporation for approval of a map amendment (rezoning) from A-35 (Agricultural) to CS (Commercial Service). The 4.5 acres property is located 0.05 miles west of the intersection of North Ellicott Hwy and State Highway 94 and within Section 12, Township 14 South, Range 63 West of the 6th P.M. (Parcel No.34120-00-015)

A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION

Request: A request by Baseline Engineering Corporation for approval of a map amendment (rezoning) 4.5 acres from A-35 (Agricultural) to CS (Commercial Service).

Waiver(s)/Deviation(s): No waivers are being requested with this request.

2880 INTERNATIONAL CIRCLE
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

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

B. Planning Commission Summary

Request Heard: As a Consent Item at the November 17th, 2022, hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 8 - 0

Vote Rationale: N/A

Summary of Hearing: The Planning Commission draft minutes are attached.

Legal Notice: Advertised on November 9th, 2022, in *The Shopper's Press*.

C. APPROVAL CRITERIA

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

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

D. LOCATION

North:	A-35 (Agricultural)	Agricultural
South:	A-35 (Agricultural)	Commercial
East:	A-35 (Agricultural)	Residential and Commercial
West:	CS (Commercial Service)	Commercial

E. BACKGROUND

The subject property consists of one (1) unplatted lot that contains 4.5 acres. The parcel was created in 1936 and is considered exempt from the subdivision regulations and is therefore considered a legal division of land.

If the request for a map amendment (rezone) is approved, the applicants intend submit a site development plan to expand the existing convenience store and gas station.



F. ANALYSIS

1. Land Development Code Analysis

The applicant is requesting to rezone 4.5 acres 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.

2. Zoning Compliance

The density and dimensional standards for the CS (Commercial Service) zoning district are as follows:

- Minimum lot size: 2 acres
- Minimum Lot Size: 1 acre ¹¹
- Minimum setback requirement: front 25 feet ^{1,3,11}, rear 25 feet ^{1,2,3,11}, side 25 feet ^{1,2,3,11}
- Maximum lot coverage: None
- Maximum height: 45 feet

¹ Gasoline pumps and canopies shall be at least 15 feet from the front property line or public right-of-way, except where the landscaping regulations require a greater setback.

² The minimum setback is 25 feet from the perimeter boundary of the district, but no minimum setback is required from any internal side or rear lot line within the same district.

³ Temporary uses shall be setback at least 25 feet from all property lines and 100 feet from Residential zoning districts.

¹¹ If the building is established as or converted to condominium units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements.

In order to expand any commercial uses on the property, the applicant will need to obtain site plan approval.

G.MASTER PLAN ANALYSIS

1. Your El Paso Master Plan

- a. **Placetype:** Rural Center



Placetype Character:

Rural Centers often act as the heart of rural areas, providing a mix of uses to support rural residents (including those living in surrounding Rural and Large-Lot Residential placetypes) such as grocery and convenience stores, restaurants, commercial services, schools, places of worship, and post offices. Rural Centers are organized in compact blocks with a mix of residential and nonresidential development that form a recognizable district or destination within the large rural expanses of El Paso County.

As a gathering place and town center for rural areas, development within the Rural Center placetype should be located along a community's main street or near the intersection of an area's most-frequented roadways. The Rural Center placetype is primarily auto-oriented but may include pedestrian and bicycle infrastructure to provide for a walkable environment. Examples of existing Rural Centers include Peyton, Calhan, and Ellicott.

Recommended Land Uses:*Primary*

- Restaurant
- Commercial Retail
- Commercial Service
- Institutional
- Single-family Detached Residential

Supporting

- Single-family Attached Residential
- Multifamily Residential



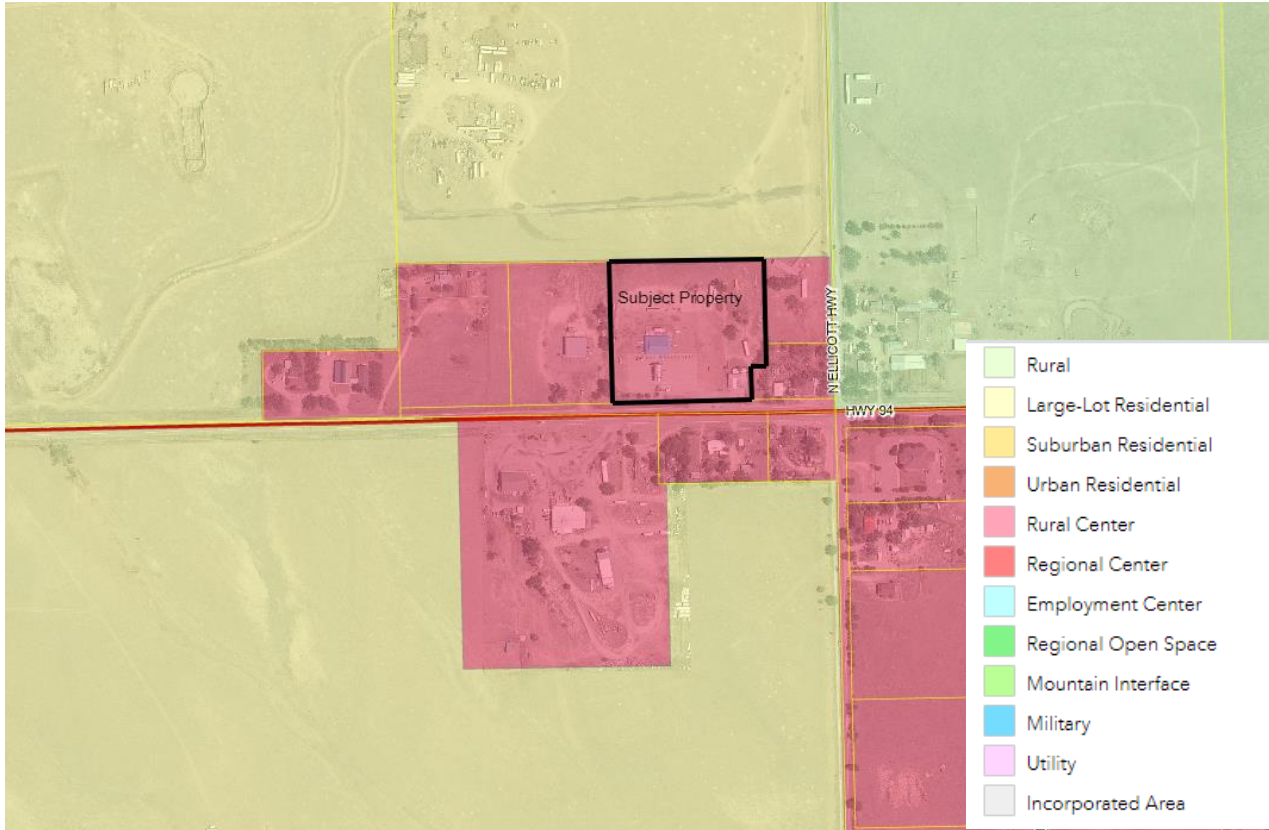


Figure G.1: Placetype Map

Analysis:

The Rural Centers placetype provides rural residents vital access to goods, services, and public facilities and serve as the cultural anchor for the community. Relevant goals and objectives are as follows:

Goal ED3 – Encourage the development of commercial districts in underserved areas.

Objective ED3-5 – Prioritize commercial development within or near rural communities and within the Rural Center placetype to limit barriers to shopping districts and employment centers.

The proposed rezone would reallocate approximately 4.5 acres of existing commercial land from the A-35 zoning district to the CS zoning district, which would support the commercial service within the Rural Center placetype. The rezone would allow the existing gas station and convenience store to expand to help serve the surrounding community.

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.

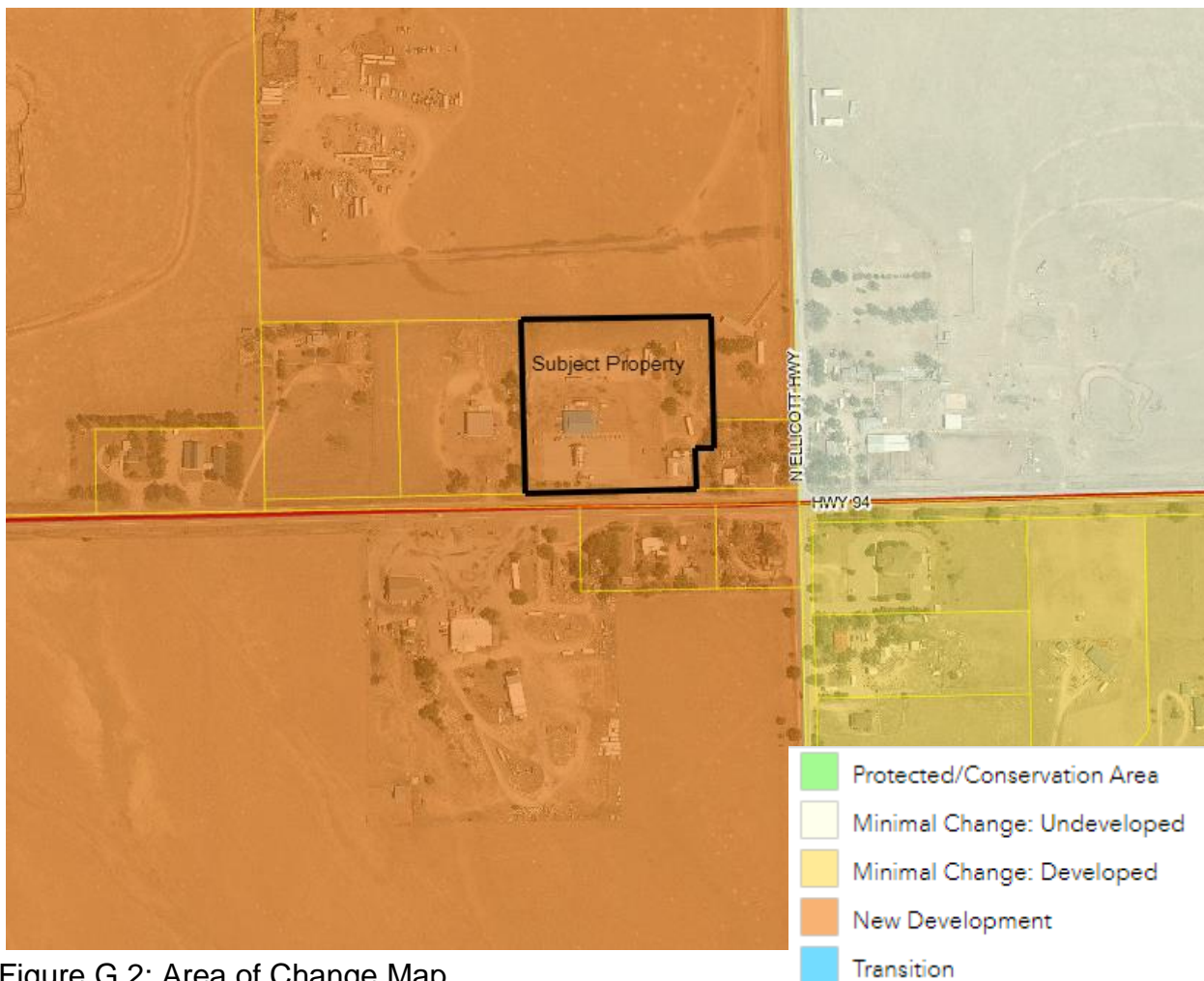


Figure G.2: Area of Change Map

Analysis:

The proposed rezone will allow the existing commercial business to expand and serve the surrounding residents.

c. Key Area Influences: Small Towns and Rural Communities

This Key Area includes both incorporated and unincorporated communities in El Paso County. Incorporated towns including Calhan, Green Mountain Falls, Palmer Lake, and Ramah have their own established identities that support neighboring rural residents. Similarly, unincorporated rural communities have commercial uses and community facilities that serve surrounding residents and create a sense of community even without a formalized municipal governmental boundary. The unincorporated areas that comprise this Key Area are Black Forest, Ellicott, Hanover, Peyton, Rush, Truckton, and Yoder. Regardless of municipal status, all of these places function as a community that supports the needs of a significant portion of the County’s rural population. To better serve this population, additional commercial development should be prioritized in the unincorporated places, or where appropriate, additional commercial development should be annexed by the municipalities. Additional commercial uses within these communities improves access to necessary goods and services such as grocery stores and gas stations.

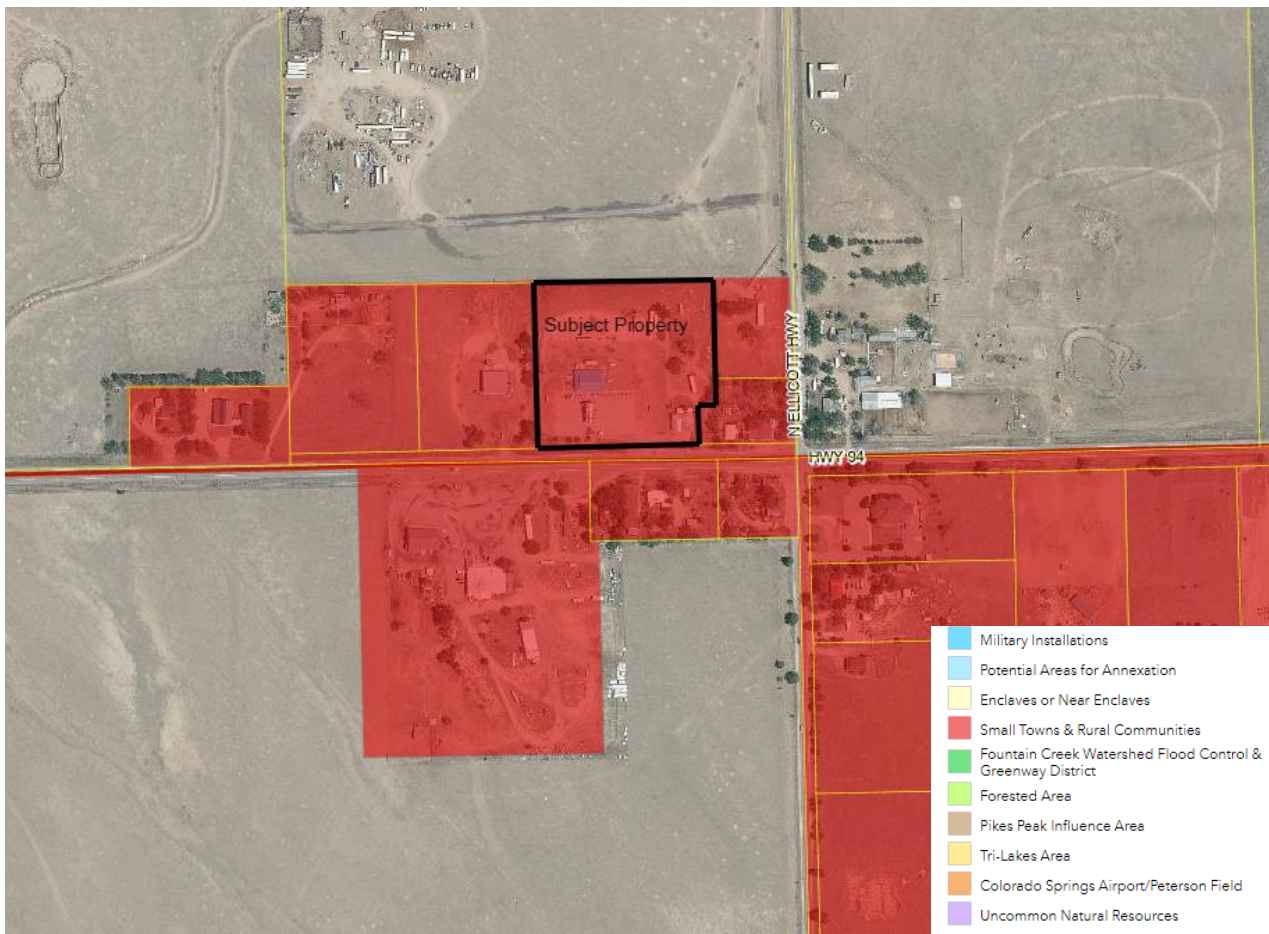


Figure G.3: Key Area Map

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

The subject property is located within a Priority Development Area and a Commercial Development Area.

3. Water Master Plan Analysis

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

***Goal 1.1** – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.*

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

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

The property is located within Region 4c of the El Paso County Water Master Plan. The Plan identifies the current demands for Region 4c to be 2,970 acre-feet per year (AFY) (Figure 5.1) with a current supply of 2,970 AFY (Figure 5.2). The projected demand in 2040 is at 3,967 AFY (Figure 5.1) with a projected supply in 2040 of 3,027 AFY (Figure 5.2). The projected demand at build-out in 2060 is at 4,826 AFY (Figure 5.1) with a projected supply in 2060 of 3,027 AFY (Figure 5.2). This means that by 2060 a deficit of 1,800 AFY is anticipated for Region 4c.

A finding of water sufficiency is not required with a map amendment (rezone) but will be required with any future subdivision request. A finding of water sufficiency is required with subsequent plat application(s). The area subject to the proposed map amendment (rezone) is proposed to be served by on-site wells. Should the request be approved, a site plan application will be required to initiate any expansion of the commercial use on the property.

4. Other Master Plan Elements

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



The Master Plan for Mineral Extraction (1996) identifies 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, no severed mineral rights exist.

H. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards have been identified as part of this application.

2. Floodplain

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0809G which has an effective date of December 7, 2018, indicates the subject property is located within Zone X, area of minimal flood hazard outside of the 100 to 500-year floodplain

3. Drainage and Erosion

The area of the proposed map amendment (rezoning) is located within the Ellicott Drainage Basin. This drainage basin is not included in the El Paso County drainage basin fee program. Drainage and bridge fees will not be applicable with any application. A final drainage report is required with the subsequent site development plan to analyze drainage patterns.

4. Transportation

The subject property is located immediately north of U.S. Highway 94 west of Ellicott Highway. U.S. Highway 94 is a two-lane highway under the jurisdiction of CDOT (Colorado Department of Transportation). Ellicott Highway is a two-lane major collector and is owned and maintained by El Paso County.

A traffic impact analysis (TIS) was received with the map amendment (rezoning) request addressing the anticipated traffic generation of the proposed project, impacts, and anticipated necessary improvements. Transportation improvements necessary due to site development will be further defined with the site development plan. The applicant is responsible for obtaining an access permit from CDOT, as well as building necessary improvements that are needed per the State Highway Access Code.

The development is subject to the El Paso County Road Impact Fee program (Resolution No. 19-471).

I. SERVICES

1. Water

Water is provided by an existing well.



2. Sanitation

Wastewater is provided by an existing on-site wastewater treatment systems (OWTS).

3. Emergency Services

The property is within the Ellicott Fire Protection District. The District was sent a referral and has no outstanding comments.

4. Utilities

Electrical service is provided by Mountain View Electric Association (MVEA) and natural gas service is provided by Black Hills Energy. Both MVEA and Black Hills Energy were sent referrals and have no outstanding comments.

5. Metropolitan Districts

The property is not located within the boundaries of a metropolitan district.

6. Parks/Trails

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

7. Schools

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

J. APPLICABLE RESOLUTIONS

See attached resolution.

K. STATUS OF MAJOR ISSUES

There are no major issues associated with the rezone.

L. 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 (2021), 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.

M. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified six (6) adjoining property owners on October 28, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

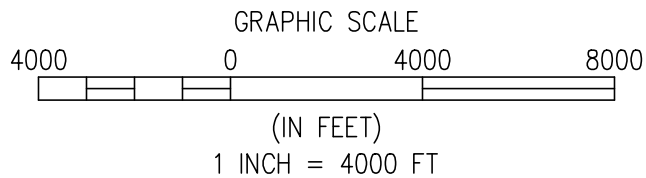
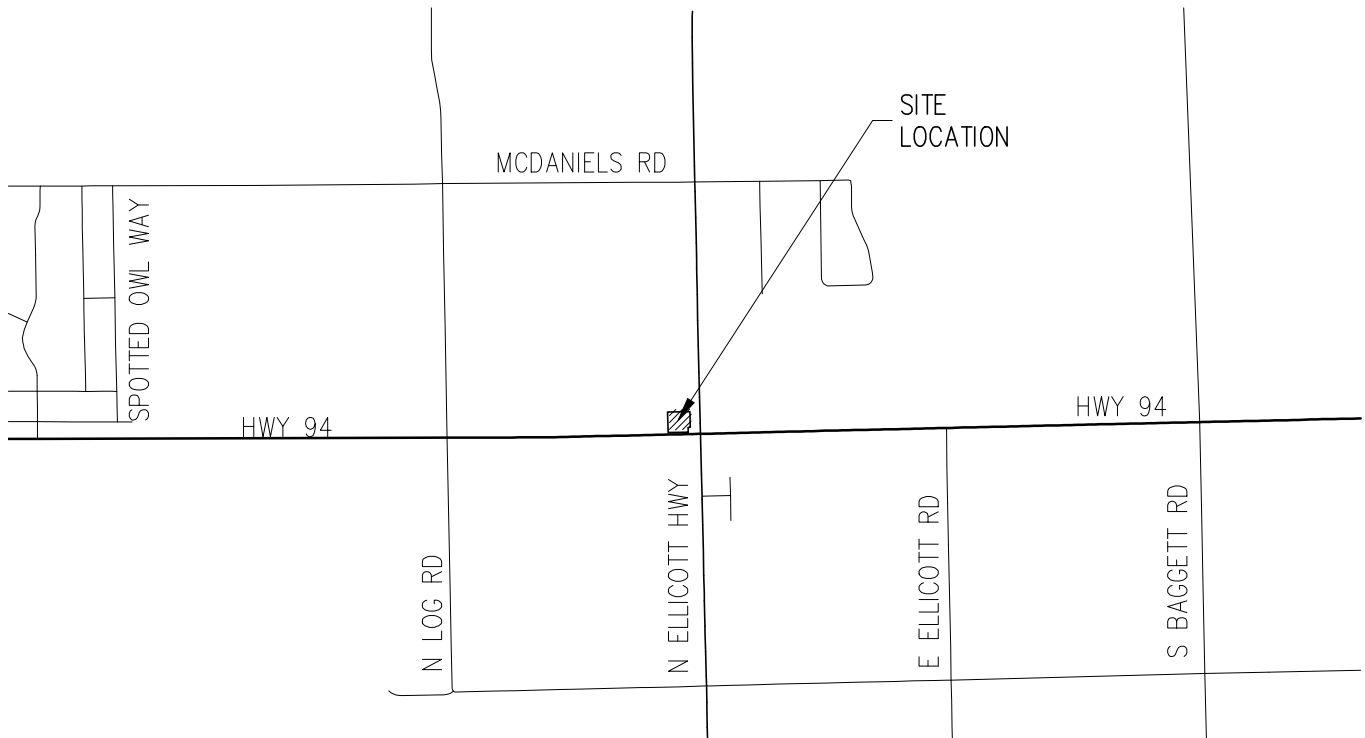
N. ATTACHMENTS

Vicinity Map
Letter of Intent
Rezone Map
Signed PC Resolution
Draft PC Minutes
Draft BOCC Resolution



VICINITY MAP FUEL B'S

LOCATED IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12,
TOWNSHIP 14 SOUTH, RANGE 63 WEST
OF THE 6th PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO



N:\PLANNING LLC\475 Ellicott Fuel Station\Drawings\Planning Documents\Zoning Map\475 ZONING MAP.dwg, 9/7/2021 10:43:16 AM, Lauren Richardson

BASELINE
Engineering - Planning - Surveying

112 N RUBEY DRIVE, SUITE 210 - GOLDEN, COLORADO 80403
P: 303.940.9668 • F: 303.940.9669 • www.baselinecorp.com

BRAR, LLC

FUEL B'S
23580 HIGHWAY 94

EL PASO COUNTY

DESIGNED BY	INITIAL SUBMITTAL	XX/XX/XX
LAR	DRAWING SIZE	8.5" X 11"
	SURVEY FIRM	SURVEY DATE
	FOR TH LAND SURV.	05/15/2020
DRAWN BY	JOB NO.	475
LAR	DRAWING NAME	475 ZONING MAP.dwg
CHECKED BY	SHEET	01 OF 01
XXX		01

December 17, 2021

John Green
Planner II
El Paso County Planning & Development
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Letter of Intent to Rezone 23580 Highway 94 from A-35 to CS

Baseline Engineering Corporation, on behalf of Pushpinder Brar of KB Fuel LLC, dba Fuel-B's (the "Applicant"), is requesting to rezone 23580 Highway 94 Calhan, CO, (the "Subject Property") from A-35 (Agricultural) to CS (Commercial Services). The existing convenience store and gas station is currently zoned A-35 and is classified as a legal non-conforming use.

Site Location, Size and Zoning:

23580 Highway 94, Calhan, CO 80808 – north of Highway 94, west of Ellicott Highway. Zoned A-35 (Agricultural); 4.5 acres.

Request and Justification:

The applicant is requesting to rezone the property from A-35 (Agricultural) to CS (Commercial Services). The rezone is being requested in order to address the legal nonconforming use of the property, as fuel stations are not permitted in agricultural zones. The request complies with the Criteria for Approval of a Map Amendment (Rezoning) as stated in Section 5.3.5(B) of the Land Development Code:

- **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.**

The proposed rezone from A-35 to CS fulfills the prescribed goals identified in the El Paso County Master Plan, which states that supporting commercial uses should be considered particularly along Highway 94. The Subject Property is located in the existing Rural Center, which has some commercial uses including a small grocery store and restaurant. The Master Plan states that the County should work to expand this Rural Center with additional commercial uses to help support the surrounding growing residential. Approval of the rezoning will allow the business to continue serving nearby residents while operating as a permitted use. The proposed rezone from A-35 to CS also fulfills the prescribed objectives identified in the Ellicott Valley Comprehensive Plan.

- **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 rezoning is in compliance with C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116; as well as all other applicable statutory provisions known to the applicant.

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

The subject property is directly adjacent to a parcel zoned CS, which has a similar density and acreage. The proposed (existing) land use is compatible with other local developments in terms of density, access, scale, and aesthetics. The property is also compatible with nearby land uses; including a restaurant, church, grocery store, auto service shop, and bank.

- **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 proposed use remains the same as the existing use (fuel station). Future improvements to the site can and will comply with the standards described in Chapter 5 of the Land Development Code. The proposed rezoning does not request a new use of the property, and if approved, will classify the legal nonconforming gas station as a permitted use. There will be no adverse impacts to the health, safety, and welfare of surrounding businesses and residences with the proposed rezoning.

Existing and Proposed Facilities, Structures, Roads:

The subject property has an existing fuel station and a 3,524 square foot convenience store. The associated Site Development Plan proposes a new canopy to be built above the new diesel pumps. There are also two existing sheds/trailers on the southeast corner of the site that are approximately 17.5'x13.5' each. The southeast corner of the site also contains an existing single story 2,340 square foot stucco garage building that is leased by the Ellicott Fire Protection District. The property abuts Highway 94. No new roads are proposed.

Waiver Requests and Justification:

No proposed waiver requests.

The Purpose and Need for Change in Zone Classification:

The property's use as a fuel station is considered legal nonconforming in the A-35 Zone. The applicant is proposing to rezone the property to CS in order to address the legal nonconforming status. If approved, the rezoning will be followed by a Site Development Plan, in which the applicant proposes to install new diesel pumps and a diesel tank under a new canopy.

Total Number of Acres in Requested Area:

The subject property is 4.5 acres.

Total Number of Residential Units and Densities:

No new residential units proposed. The subject property is located adjacent to two existing single family residential properties to the south across Highway 94, and directly to the east.

Number of Industrial or Commercial Sites Proposed:

No new commercial or industrial sites proposed. The applicant is not requesting to change the existing use as a fuel station.

Approximate Floor Area Ratio of Industrial and/or Commercial Uses:

Existing convenience store is 3,524 square feet; new canopy is proposed to meet minimum size requirement to avoid labeling the property as "high risk" for drainage.

The Number of Mobile Home Units and Densities:

No new mobile home units proposed. The subject property is located adjacent to one existing mobile home to the southwest, on the south side of Highway 94.

Typical Lot Sizes – Length and Width:

Typical lot sizes adjacent to the property range from 0.9 acres to 67 acres.

Type of Proposed Recreational Facilities:

No proposed recreational facilities.

Phased Construction Schedule:

All planned improvements will be constructed in a single phase.

Anticipated Schedule of Development:

The property owner anticipates beginning construction in Spring 2022, and completing construction by Summer 2022.

How Water and Sewer Will Be Provided:

Water and sanitation permits will be submitted so that the EPC can verify that the thresholds will not be exceeded with the expansion of the fuel station. If thresholds are exceeded, new permits will be applied for. The property has an existing well permit and a septic permit (permit #12931).

Proposed Uses; Relationship Between Uses and Densities:

The proposed use remains the same as existing (fuel station). Adjacent properties include single-family residential, agriculture/vacant land, retail/merchandising, and warehouse/storage. The subject property has a similar density and acreage to the adjacent property to the west, also zoned CS.

Areas of Required Landscaping:

Landscaping is required on south side of the property along the expressway at 25-foot depth; one tree required per 20 feet. Parking lot landscaping required; one island per every 15 parking spaces. Minimum of 5% of the lot shall be landscaped; minimum of one tree required for every 500 square feet of required internal landscape area. Landscaping is required to meet the standards in Section 6.2.2 of the Land Development Code. The well permit for the property will dictate whether the landscaping requirements from Chapter 6 can be met, or if an alternative landscaping plan will be required.

Proposed Access Locations:

A second access point is being proposed on the southwest corner of the property to convert the traffic direction to one-way; and to address the limited turn around space in front of the gas station. The existing access point will remain off of Highway 94 near the southeastern corner of the property, but will be modified subject to CDOT review and approval.

Traffic Impact Study Findings:

The site is projected to generate approximately 33 new morning peak hour trips, with 17 inbound and 16 outbound. Approximately 75% of these trips will be pass-by trips. The site is projected to generate approximately 52 new afternoon peak hour trips, with 25 inbound and 27 outbound. Approximately 75% of these trips will be pass-by trips. Total trips, including existing and new, would be 143 during the morning peak hour and 224 during the afternoon peak hour.

An additional access point is being proposed to allow for easier access and circulation through the site; particularly for semi-trucks. The Traffic Impact Study (TIS) acknowledges that the existing configuration of the site with a single access point makes it difficult or nearly impossible for trucks to circulate through the property.

The TIS suggests that a combined access point with the property to the west could address circulation issues, as well as the Access Code criteria and Access Guidelines contained in the Highway 94 Access Management Plan. It notes that the existing east and proposed west access designs would need to be modified to eliminate the configuration with one outbound lane between two inbound lanes. The TIS states that if a second access is permitted, a design waiver would be necessary because Access Code Section 4.4 requires 400 feet of spacing between access points. However, no additional auxiliary lanes are required for the site.

Finally, the TIS suggests that an access easement should be provided for the properties to the east, near the corner of SH 94 and Ellicott Highway, as it would allow future options for access if turn-movement restrictions are implemented due to the proximity of the property to the intersection. An access easement would assist with the goals of the Highway 94 Access Management Plan.

Approximate Acres and Percent of Land to be Set Aside as Open Space (Not to Include Parking, Drive, and Access Roads):

Will meet minimum requirements in the Land Development Code.

Thank you for your consideration,

Pushpinder Brar (Property Owner)
KB Fuel LLC, dba Fuel-B's
1901 N Academy Blvd
Colorado Springs, CO 80909
sinclairkb@yahoo.com
(916) 690-0040

Alyssa Rivas (Applicant/Consultant)
Baseline Engineering Corporation
112 N Rubey Dr, Suite 210
Golden, CO 80403
alyssa.rivas@baselinecorp.com
(719) 332-3928

December 17, 2021

John Green
Planner II
El Paso County Planning & Development
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Response to Request for Revised Zoning Map

The Applicant acknowledges the review comment provided by the Ellicott Fire Protection District on 10/26/2021, regarding the 2,340 square-foot building and property line near the southeast corner of the site. After further research, it appears that the comment was intended to be informational only. Further, Rick VanDyke in the El Paso County GIS Department confirmed that there is no record of a boundary change at this location, and that the property line should remain as shown on the original rezoning map.

Thank you,



Alyssa Rivas
alyssa.rivas@baselinecorp.com
719-332-3928

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

Carlson moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. CS-21-002
FUEL STATION REZONING

WHEREAS, Baseline Engineering Corporation 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 A-35 (Agricultural) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by this Commission on November 17, 2022; 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;
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, in approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Baseline Engineering Corporation for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the A-35 (Agricultural) 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.

Merriam seconded the adoption of the foregoing Resolution.

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

Brian Risley	<u>aye</u> / no / abstain / absent
Thomas Bailey	<u>aye</u> / no / abstain / absent
Tim Trowbridge	<u>aye</u> / no / abstain / absent
Joan Lucia-Treese	aye / no / abstain / <u>absent</u>
Becky Fuller	<u>aye</u> / no / abstain / <u>absent</u>
Sarah Brittain Jack	aye / no / abstain / <u>absent</u>
Jay Carlson	<u>aye</u> / no / abstain / absent
Eric Moraes	<u>aye</u> / no / abstain / absent
Joshua Patterson	aye / no / abstain / <u>absent</u>
Bryce Schuettpelz	aye / no / abstain / <u>absent</u>
Christopher Whitney	<u>aye</u> / no / abstain / absent
Brandy Merriam	<u>aye</u> / no / abstain / absent

The Resolution was adopted by a vote of 8 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 17th day of November 2022, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: Brian Risley
Brian Risley, Chair

DATED: November 17, 2022

EXHIBIT A

Legal Description – 23580 Highway 94, Calhan, CO 80808

THAT PART OF SE4SE4 OF SEC 12-14-63 DESC AS FOLS, BEG AT SW COR OF THAT ONE ACRE TRACT DESC IN BK 854-261, TH N 28.28 RODS (466.62 FT), TH W 28.28 RODS (466.62 FT), TH S 28.28 RODS (466.62 FT), TO S LN OF SE4, TH E ON SD S LN 28.28 RODS (466.62 FT) TO POB, EX THAT PORTION BK 3594-598, EX PT CONV TO HWY BY BK 978-99

Kevin Mastin, Interim Executive Director
El Paso County Planning & Community Development
O: 719-520-6300
KevinMastin@elpasoco.com
2880 International Circle, Suite 110
Colorado Springs, CO 80910

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

PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, November 17th, 2022
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: BRIAN RISLEY, TOM BAILEY, JAY CARLSON, TIM TROWBRIDGE, BECKY FULLER, BRANDY MERRIAM, CHRISTOPHER WHITNEY, AND JOAN LUCIA-TREESE (BEGINNING WITH ITEM 4A).

PC MEMBERS VIRTUAL AND VOTING: ERIC MORAES.

PC MEMBERS PRESENT AND NOT VOTING: SARAH BRITTAIN JACK (BEGINNING WITH ITEM 4A).

PC MEMBERS ABSENT: JOSHUA PATTERSON, AND BRYCE SCHUETTPELZ.

STAFF PRESENT: KEVIN MASTIN, JUSTIN KILGORE, KARI PARSONS, DAN TORRES, CHARLENE DURHAM, PETRA RANGEL, MIRANDA BENSON, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING: NONE.

1. REPORT ITEMS

A. Planning Department. Next PC Hearing is Thursday, December 1st, 2022, at 9:00 a.m.

DISCUSSION

Mr. Mastin advised the PC of the Flying Horse North Sketch Plat BOCC results. He stated the next step for that project will be a Preliminary Plan before PC. It is expected that there will be significant public input again. Emotion runs high with that project, but PCD has been able to build relationships with members of the public regarding their concerns. PCD is looking into offering classes to help educate the public on how this process works. Many people believed approval of the Sketch Plan would allow the applicant to break ground on the hotel, but that is not the case. There was confusion about at what point water becomes a concern brought before BOCC. The reason water is not addressed at sketch plan stage is because there needs to be a set plat or plan establishing the number of lots, for example, to make the

determination of what the water requirement should be. PCD is also working with our Public Information Office to offer an interactive online experience to better understand the project application process at any scale. PCD is in the process of interviewing for the Executive Director. One of the PCD planners has accepted a position as a code enforcement officer. PCD has also made an offer to a new planner hopefully starting in a couple weeks. There is another round of interviews for other planner positions about to open, as well as filling two additional planner vacancies when the 2023 budget is approved. In addition to the planner positions, PCD is in the process of getting a full-time employee for code enforcement to focus primarily on homeless camps.

Ms. Fuller stated she appreciates the efforts that PCD is making to inform the public on this process.

Mr. Mastin stated that walking through the full application process from PCD front counter all the way through a PC Hearing would allow a greater experience and understanding. Once the conference room at PCD is completed, there may be monthly community classes offered.

Mr. Risley stated he thinks it's outstanding that PCD is making this information, while already available to the public, more easily consumable. The problem (with how the public can access information) now, is that nearly 60 hours must be dedicated to read through all the documents available to understand this process. As it relates to this process, procedures are clearly spelled out in County Code and other documents like State Statute. The PCD and PC does not have much latitude.

Ms. Merriam added that it took herself nearly a year as a member of the Board to understand this planning process. She stated she has seen online options, possibly with transportation, where the public can submit opinions. The process described by Mr. Mastin will be enormously helpful.

Mr. Mastin responded that he hopes opinion feedback will be based on actual experience with the PCD application process. There has been discussion at PCD that a questionnaire will be offered to customers that have gone through the process. He hopes to get feedback based on fact, not feelings. The Hack, established ~1975 before internet or email, is no longer active, but was previously the only avenue of opinion feedback. Something similar to the intent of The Hack and available now, is Citizen Connect.

B. Call for public comment for items not on hearing agenda - NONE.

2. CONSENT ITEMS

A. Adoption of Minutes of meeting held November 3rd, 2022.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT. (8-0)

B. SF-22-006

PARSONS

FINAL PLAT CITIZEN AT CONSTITUTION

A request by Feathergrass Investments, LLC for approval of a final plat to create one (1) multi-dwelling residential lot totaling 12.264-acres. A 10.54-acre portion of the property is zoned RM-30 (Residential, Multi-Dwelling) and a 1.72-acre portion of the property is zoned CS (Commercial Service) and is located at the southwestern corner of the Constitution Avenue and Marksheffel Road intersection, and are within Section 5, Township 14 South, Range 65 West of the 6th P.M. (Parcel Nos. 54051-04-074 and 54051-04-075) (Commissioner District No. 2).

PC ACTION: TROWBRIDGE MOVED / MERRIAM SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, SF-22-006 FOR A FINAL PLAT, CITIZEN AT CONSTITUTION, UTILIZING THE

RESOLUTION ATTACHED TO THE STAFF REPORT, WITH SIXTEEN (16) CONDITIONS AND THREE (3) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).

C. CS-21-002

BAGLEY

**MAP AMENDMENT (REZONE)
FUEL STATION REZONING**

A request by Baseline Engineering Corporation for approval of a map amendment (rezoning) from A-35 (Agricultural) to CS (Commercial Service). The 4.5 acres property is located 0.05 miles west of the intersection of North Ellicott Hwy and State Highway 94 and within Section 12, Township 14 South, Range 63 West of the 6th P.M. (Parcel No.34120-00-015) (Commissioner District No. 4).

DISCUSSION

Ms. Fuller asked why this property was coming before PC now to come into compliance when it appears as if it was a grandfathered use?

Ms. Parsons answered that gas station currently on the site is a Diamond Shamrock, but this rezone will expand the property being zoned commercial from Residential Rural. The existing gas station will be removed and rebuilt to current standards. There will likely also be an additional lot that will be platted to provide commercial services to the citizens in that area.

PC ACTION: CARLSON MOVED / MERRIAM SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2C, CS-21-002 FOR A MAP AMENDMENT (REZONE), FUEL STATION REZONING, 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 (8-0).

D. P-22-005

BAGLEY

**MAP AMENDMENT (REZONE)
6855 CONSTITUTION AVE REZONE TO CS**

A request by Galloway and Company for approval of a map amendment (rezoning) from RM-30 (Residential, Multi-Dwelling) to CS (Commercial Service). The 3.72-acre property is located directly southeast of the intersection of Constitution Avenue and Peterson Road and within Section 5, Township 14 South, Range 65 West of the 6th P.M. (Parcel No. 54061-14-001) (Commissioner District No. 2).

DISCUSSION

Mr. Trowbridge asked why this project was prefixed with P instead of CS like the previous file?

Ms. Parsons answered that Ms. Bagley may have entered P as the prefix because the property was already zoned residential, going to commercial. It could have been prefixed as a commercial file, but she set it up as a standard P file. Semantics. It's not incorrect, just what she chose to use when setting the project up in EDARP.

PC ACTION: BAILEY MOVED / TROWBRIDGE SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2D, P-22-005 FOR A MAP AMENDMENT (REZONE), 6855 CONSTITUTION AVE REZONE TO CS, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH ONE (1) WAIVER, 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 (8-0).

3. CALLED UP CONSENT ITEMS - NONE.

DISCUSSION

Mr. Risley stated for the record that Ms. Lucia-Treese has joined the meeting and will be established as a voting member.

Ms. Lucia-Treese apologized for her tardiness.

Mr. Risley added that Ms. Brittain Jack has also joined the meeting but would put voting members at 10.

Ms. Brittain Jack volunteered to not vote

Mr. Risley restated the newly established 9 voting members.

4. REGULAR ITEMS

A. P-22-014

PARSONS

**MAP AMENDMENT (REZONE)
MONUMENT HILL (CALIBER AT WOODMOOR)**

A request by Greater Europe Mission for approval of a map amendment (rezoning) of 15.2 acres from CC (Commercial Community) to RM-30 (Residential, Multi-Dwelling). The parcel is located northeast of the intersection of Monument Hill Road and Deer Creek Road, and are within Section 11, Township 11 South, Range 67 West of the 6th P.M. (Parcel Nos. 71110-00-018 and 71113-03-004) (Commissioner District No. 1).

DISCUSSION

Ms. Parsons stated the applicant has requested to withdraw this application indefinitely, meaning there is no need for a motion or vote by this Body. If the applicant chooses to resubmit this item, PCD staff would need to resubmit public notification in the mail and newspaper.

Mr. Risley asked if the PC would need a motion to continue the item?

Ms. Parsons stated that would not be required for a withdrawn item.

Ms. Seago agreed and reiterated that this is not a continuance, it is a withdrawal.

MEETING ADJOURNED at 9:28 a.m.

Minutes Prepared By: Miranda Benson

RESOLUTION NO. 22-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO

STATE OF COLORADO

APPROVAL OF MAP AMENDMENT (REZONE) TO CS
FUEL STATION REZONING (CS-21-002)

WHEREAS, Baseline Engineering Corporation 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 A-35 (Agricultural) 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 17, 2022, 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 December 6, 2022; and

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

1. The application was properly submitted for consideration by the Board of County Commissioners.
2. 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. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The proposed land use will be compatible with existing and permitted land uses in the area.

6. 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.
7. Changing conditions clearly require amendment to the Zoning Resolutions.
8. 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.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Baseline Engineering Corporation 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 A-35 (Agricultural) 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.

Resolution No.

Page 3

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

DONE THIS 6th day of December 2022, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____

Chair

By: _____
County Clerk & Recorder

EXHIBIT A

Legal Description – 23580 Highway 94, Calhan, CO 80808

THAT PART OF SE4SE4 OF SEC 12-14-63 DESC AS FOLS, BEG AT SW COR OF THAT ONE ACRE TRACT DESC IN BK 854-261, TH N 28.28 RODS (466.62 FT), TH W 28.28 RODS (466.62 FT), TH S 28.28 RODS (466.62 FT), TO S LN OF SE4, TH E ON SD S LN 28.28 RODS (466.62 FT) TO POB, EX THAT PORTION BK 3594-598, EX PT CONV TO HWY BY BK 978-99