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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of County Commissioners
 Chair**

**FROM: Ryan Howser, Planner I
 Elizabeth Nijkamp, PE Engineering Manager
 Craig Dossey, Executive Director**

**RE: Project File #: AL-19-006
 Project Name: 1425 Burnham St. Workzone Special Use
 Parcel Nos.: 65102-14-001 and 65102-14-018**

OWNER:	REPRESENTATIVE:
RAJ, LLC/Work Zone Traffic Control, Inc. 1115 Fir St. Pueblo, CO, 81001	Mulliken Weiner Berg & Jolivet P.C. 102 South Tejon, Suite 900 Colorado Springs, CO, 80903

Commissioner District: 4

Planning Commission Hearing Date:	12/17/2020
Board of County Commissioners Hearing Date	1/26/2021

EXECUTIVE SUMMARY

A request by Work Zone Traffic Control, Inc., for approval of a special use for a contractor's equipment yard in the CS (Commercial Service) zoning district. The 0.53-acre property is zoned CS (Commercial Service) and is located at the southeast corner of the Welton Drive and Burnham Street intersection, approximately 500 feet north of the South Academy Boulevard and Interstate 25 interchange and within Section 10, Township 15 South, Range 66 West of the 6th P.M. The property is not located within the boundaries of a small area plan.

The contractor's equipment yard consists of outside storage of equipment and traffic control devices. The use is existing and is currently the subject of a Code Enforcement



action (PCD file no. CE-19-049). On January 16, 2019, a Code Enforcement complaint was submitted regarding the use on the property. The owner submitted an application for special use on February 28, 2019. Due to project inactivity, a revised notice of violation was sent to the property owner on May 14, 2020.

The El Paso County Planning and Community Development Department sent notification to the adjacent property owners for the administrative special use process on June 23, 2020. One complaint was received from an adjacent landowner. Section 5.3.2(H) of the El Paso County Land Development Code (2019) specifies that “Any special use may be acted upon by the PCD Director. The PCD Director, in his sole discretion, is authorized to elevate a special use application to a public hearing”. In this instance, a letter of opposition was received, and the special use application was elevated by the Director on November 2, 2020.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Work Zone Traffic Control, Inc., for approval of a special use for a contractor’s equipment yard in the CS (Commercial Service) zoning district.

Waiver(s)/Deviation(s): There are no waivers being requested in association with the special use request.

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

B. PLANNING COMMISSION SUMMARY

Request Heard: As a Regular item at the December 17, 2020 hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 10 to 0

Vote Rationale: N/A

Summary of Hearing: The applicant was represented at the hearing. PC minutes are attached.

Legal Notice: N/A

C. APPROVAL CRITERIA

Pursuant to Section 5.3.2.C of the Land Development Code, the Board of County Commissioners may consider the following criteria in approving a special use:

- The special use is generally consistent with the applicable Master Plan;

- The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
- The special use will not create unmitigated traffic congestion or traffic hazards on the surrounding area, and has adequate, legal access;
- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

D. LOCATION

North: RS-6000 (Residential Suburban)	Residential
South: CS (Commercial Service)	Auto Body Shop
East: CS (Commercial Service)	Vacant
West: CS (Commercial Service)	Auto Repair /Storage Yard

E. BACKGROUND

The two parcels, totaling 0.53 acres, were originally zoned C-2 (Commercial) on May 10, 1942, when zoning was first initiated for this area of unincorporated El Paso County (Resolution No. 669212). The subject parcels were rezoned to PBP (Planned Business Park) as part of a County-initiated rezone on May 24, 1990 (Resolution No. 90-148). Lot 2 was rezoned to PBD (Planned Business District) on June 24, 1993 (Resolution No. PBD-93-001). In 2007, due to changes in the nomenclature in the Code, the PBD zoning district was renamed as the CS (Commercial Service) zoning district. A subsequent rezone on August 8, 1994 of nearby parcels 6510214010, 6510214011, 6510214014, and 6510214015 (Resolution No. 94-253) shows Lot 1 within the PBD zoning district; however, staff researched when Lot 1 was rezoned to PBD but could not find a record of that action in the County’s database.

The subject parcels were platted as Lots 1 and 2 of the Walbrach Subdivision on December 30, 1980 (Plat No. 5597). Configuration of these lots has not changed since subdivision, and they are considered legal zoning lots.

The current use was established in 2013 without prior approval. The contractor's equipment yard consists of two existing industrial buildings, which are being utilized for storage and manufacturing of traffic control devices. The contractor's equipment yard also includes the outside storage of equipment and traffic control devices. The existing structures were constructed in 1983.

The use is currently the subject of a Code Enforcement action (CE-19-049). On January 16, 2019, a Code Enforcement complaint was submitted regarding the use on this property. On December 6, 2018, the owner and applicant met with Planning and Community Development Department staff for an Early Assistance meeting regarding the special use. The applicant submitted an application on February 28, 2019 to legalize the contractor's equipment yard through the special use process. Due to project inactivity, a revised notice of violation was sent to the property owner on May 14, 2020.

The El Paso County Planning and Community Development Department sent notification to the adjacent property owners for the administrative special use process on June 23, 2020. One complaint was received from an adjacent landowner. Section 5.3.2(H) of the El Paso County Land Development Code (2019) specifies that "Any special use may be acted upon by the PCD Director. The PCD Director, in his sole discretion, is authorized to elevate a special use application to a public hearing". In this instance, a letter of opposition was received, and the special use application was elevated by the Director on November 2, 2020.

If the special use request is approved, the applicant will be required to submit a site development plan in order to demonstrate compliance with the development standards of the Code and to allow the use to continue on the property. The site development plan will need to be substantially consistent with the site plan provided with the special use application and will need to provide a more detailed depiction of the proposed use, including landscaping, parking, and lighting.

F. ANALYSIS

1. Land Development Code Analysis

The El Paso County Land Development Code (2019) identifies a "Contractor's Equipment Yard" as a special use in the CS (Commercial Service) zoning district. The use is not allowed in the CS zoning district without approval of a special use. The purpose of the special use process is to address potential impacts of certain land uses on existing and allowed uses in the area. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.

Section 1.15 of the Code defines a “Contractor’s Equipment Yard” as:

“A service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or outdoor storage of tools, equipment, materials, and vehicles used by the establishment.”

The subject use consists of a contracting company that manufactures and places traffic control devices, such as barricades, on roads to divert traffic during construction. The business includes components of both indoor and outdoor storage of tools, equipment, materials, and vehicles to support the business.

The application meets the special use criteria identified in Section 5.3.2(C) of the Code. The surrounding properties are mainly utilized for vehicle repair and storage uses. The property to the west is utilized as a storage yard for car parts and machinery. To the south is located Auto Hail Zone, which is an automobile dent removal business, and to the southwest is located All Hours Mobile Auto Repair, an automobile repair shop, and Aspen Sign Co., a sign shop. Single-family detached residences are located to the north of the subject parcels. Staff recommends that the use is compatible with the surrounding non-residential uses which incorporate storage and are generally industrial in nature. The subject use is not compatible with the nearby residential uses; additional screening will be necessary to reduce visual clutter and noise.

From a transportation perspective, a contractor’s equipment yard could be considered less impactful than many uses allowed by right in the CS zoning district such as bars, liquor stores, and restaurants. Each of these other uses would likely generate much greater volumes of traffic and noise on the property than the proposed/existing contractor’s equipment yard. Additionally, regular hours of operation for many of the other uses would likely extend later than the hours of operation of the contractor’s equipment yard use. The applicant has indicated in the letter of intent that general operating hours for the business are 7:00 AM to 5:00 PM. However, the business also provides an on-call service and may provide traffic control for various incidents including traffic accidents, water/gas breaks from utility companies, and construction projects and may have trucks entering and existing the property at any time of day or night. Welton Drive, which runs directly adjacent to the property to the north, is primarily a residential street; however, existing road connections allow traffic generated by

the business to reach major roadways with minimal travel through residential areas.

In addition to potential traffic impacts, an outside storage facility could result in visual clutter as seen from the adjacent residential properties to the north if the storage areas are not properly screened from view. The applicant's proposed site plan confines all outside storage uses to the interior of the property to use the building placement to screen much of the material storage from view of the residential properties. Additionally, the applicant is proposing to construct a solid, opaque fence to screen the property from the roadway facing the residential properties. If the special use request is approved, the applicant will be required to submit and receive approval of a commercial site development plan. The site development plan will need to be substantially consistent with the site plan provided with the special use application.

2. Zoning Compliance

The subject property is zoned CS (Commercial Service). The CS zoning district is intended to accommodate retail, wholesale or service commercial uses that serve the general public. The density and dimensional standards for the CS zoning district are as follows:

- Minimum lot size – N/A
- Minimum zoning district area – 2 acres
- Setbacks – front 25 feet, sides 25 feet / 0 feet internal to the CS district, and rear 25 feet / 0 feet internal to the CS district
- Maximum lot coverage – N/A
- Maximum building height – 45 feet

The two (2) existing structures do not meet the dimensional standards of the CS zoning district. The two structures are located 14 feet and 16 feet from the north property boundary. The property to the north is zoned RS-6000 (Residential Suburban). The CS zoning district requires a side setback of twenty-five (25) feet from the perimeter boundary of the zoning district. The property was zoned C-2 (Commercial) when the structures were constructed in 1983. The C-2 zoning district at the time required a side setback of five (5) feet. The structures met all of the dimensional standards of the C-2 zoning district in place at the time of construction.

On November 24, 2020, a determination of nonconformity was made by the Planning and Community Development Director identifying the setback

encroachment as a legal nonconformity (See attached PCD File No. ADM-20-048).

The applicant is not proposing any additional construction or disturbance of land at this time. The use is existing, and the applicant's intent is to continue the use with the current site layout.

3. Policy Plan Analysis

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

***Policy 6.1.11** – Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.*

***Policy 6.3.4** – Commercial, office, industrial and, residential development should be compatible with surrounding land uses in terms of scale, intensity and potential impacts.*

The subject property is zoned CS (Commercial Service) and is located within a subdivision comprised of properties also zoned CS. The use as a contractor's equipment yard is substantially consistent with the other uses within the general vicinity, including vehicle repair and storage uses. The property is located in close proximity to major transportation routes and is located within 500 feet of the South Academy Boulevard and the Interstate 25 interchange. Welton Drive provides connections to these major roadways, enabling traffic generated by the business to reach them without requiring traffic to travel through the neighboring residential areas.

The applicant has indicated approximately 60-70 average daily trips occur to and from the property and that general operating hours for the business are 7:00 AM to 5:00 PM but may also consist of trucks entering and exiting the property at any time of day or night. Despite the on-call nature of the business, the trips generated by the business are less than many other uses permitted by right in the CS zoning district and the likelihood of additional trips after 5:00 PM is much less than what would ordinarily be generated on a daily basis from a restaurant, bar, or retail-type of use. Additionally, these on-call trips do not occur every day. The applicant will need to provide 100% opaque screening of the outside storage

component of the use along Welton Drive in order to minimize visual impacts to residential properties on the north side of the road.

The applicant is not proposing to expand, increase, or change the nature of the existing business.

4. Small Area Plan Analysis

The property is not located within the boundaries of a small area plan.

5. Water Master Plan Analysis

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

***Goal 1.1** – 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 subject property is located within Planning Region 7, Fountain Area, which is expected to have the largest growth demand in the County by 2060. Specifically, the Plan states:

“Areas projected to develop by 2040 are located south of Fountain (City) on the north and south sides of Link Road. Areas northwest of Fountain along the east and west sides of Marksheffel Road are also expected to grow by then, as well as the area south of Fountain on the west side of I-25.”

The property is not located within an estimated area of future development. Region 7 does not draw from the Denver Basin aquifer and is not identified as potentially having issues regarding long term sustainable draw. The Plan identifies the current demands for Region 7 to be 10,141 AFY (Figure 5.1) with the projected need at build-out in 2040 at 15,845 AFY (Figure 5.2) and the projected need at build-out in 2060 at 26,969 AFY (Figure 5.3). Region 7 currently has 15,376 AFY in supplies and is projected to have 27,840 AFY in

supplies in 2060, which means by 2060 there is anticipated to be a surplus of 871 AFY (Table 5-2).

The property is serviced by the Stratmoor Hills Water District. The District was sent a referral and did not have any concerns with the proposal. Additionally, the applicant is not proposing any additions, expansions, or changes to the use at this time; therefore, there will not be an increase in water usage as a result of the special use approval. Additionally, the use has a low level of water consumption in comparison to other uses that are permitted by right in the CS zoning district such as restaurants, car washes, offices, and retail establishments.

6. Other Master Plan Elements

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

The Master Plan for Mineral Extraction (1996) identifies sand and gravel with minor amounts of silt and clay deposited by water along present stream courses 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.

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

Please see the Transportation section below for information regarding the 2016 Major Transportation Corridor Plan (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of this project.

2. Wildlife

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

3. Floodplain

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0744 shows the property lies within the zone X area, which is determined to be outside the 500-year floodplain.

4. Drainage and Erosion

The property is located within the Fishers Canyon (FOMO3600) drainage basin. Although the Fishers Canyon drainage basin is a fee basin, no drainage or bridge fees are required for a special use. No public drainage improvements will be required. No land disturbance is being proposed at this time; therefore, erosion control measures will not be necessary.

5. Transportation

The site is accessed from Burnham Street. A traffic impact study was not required due to the subject use not expected to generate 100 daily vehicle trips. The 2016 Major Transportation Corridor Plan does not show any improvements required in this area.

H. SERVICES

1. Water

Water is provided by the Stratmoor Hills Water District. The District was sent a referral and did not have any comments.

2. Sanitation

Wastewater is provided by the Stratmoor Hills Sanitation District. The District was sent a referral and did not have any comments.

3. Emergency Services

The property is within the Stratmoor Hills Fire Protection District. The District was sent a referral and did not have any comments.

4. Utilities

Electrical and natural gas services are both provided by Colorado Springs Utilities (CSU). CSU was sent a referral and did not have any comments.

5. Metropolitan Districts

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

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a special use application. The El Paso County Parks Master Plan (2013) does not identify any park lands or trails on the property.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a special use application.

I. APPLICABLE RESOLUTIONS

See attached Resolution.

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.2 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

CONDITIONS

1. Approval shall be limited to the use as described in the applicant’s letter of intent and as shown on the site plan. Any subsequent addition or modification to the operation or facility beyond that described in the applicant’s letter of intent or depicted on the site plan shall be subject to administrative review, and if the Planning and Community Development Department Director determines that it constitutes a substantial addition or modification, than such addition or modification shall be subject to a new special use application.
2. Within ninety (90) days of special use approval, the applicant shall apply for and receive approval of a commercial site development plan. The deadline for receipt of approval of the site development plan may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.
3. Within 120 days of special use approval, the applicant shall provide 100% screening in the form of an opaque barrier, such as a solid wall or privacy fence (not chain link fencing), along Welton Drive to screen the use from residential properties. The barrier shall be a minimum of six (6) feet in height and shall meet all applicable criteria as specified in the El Paso County Land Development Code.

NOTATIONS

1. Special use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement,

intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.

2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on November 30, 2020, for the Board of County Commissioners' meeting. Responses received to date are attached; others may be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
ADM-20-048
Neighbor Response
Planning Commission Minutes
Planning Commission Resolution
Board of County Commissioners' Resolution

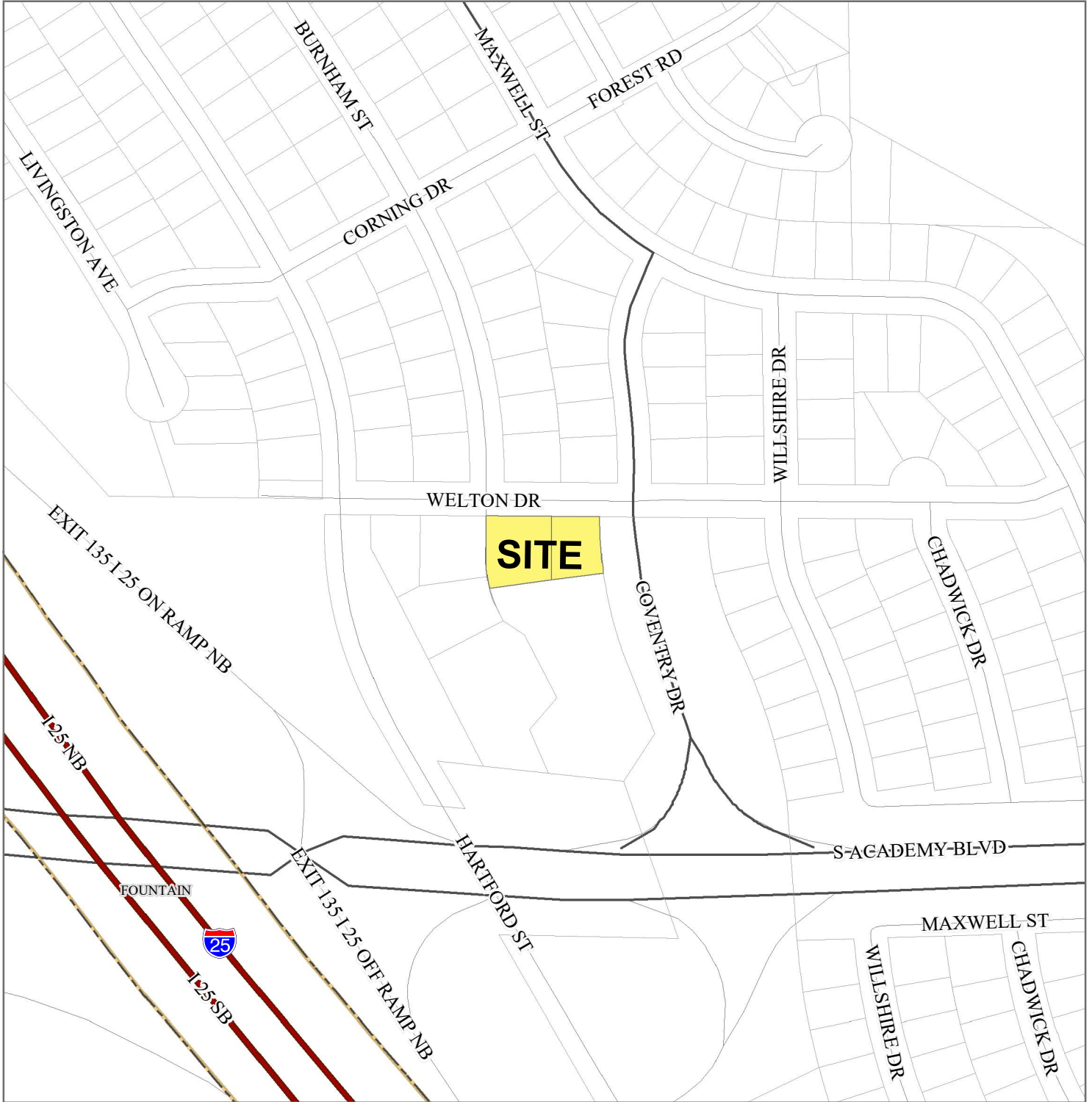
El Paso County Parcel Information

File Name: AL-19-006

PARCEL	NAME
6510214018	RAJ LLC
6510214001	RAJ LLC

Zone Map No. --

Date: November 25, 2020



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



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**1425 Burnham St.
Colorado Springs, CO 80906
(719) 296-0222
F (719) 296-0333**

July 14, 2020

Planning and Community Development Department
2880 International Circle
Colorado Springs, CO 80910

RE: Letter of Intent

RAJ, LLC/Work Zone Traffic Control, Inc owned and operated by John Volk III and Richard Robinson Jr., are requesting a special use permit authorization for a contractor's equipment yard on the parcel owned by our traffic control business. The location is at 1425 Burnham Street. Our business has been at this site since 2013 and has done made major upgrades to include a fully paved yard, privacy fence installation, and consistent upkeep of the trees and surrounding ground that is not our property, as well as maintaining the city bus stop near our business.

We consistently utilize this facility to store our traffic control devices when they are not on the roadways. We take all aspects of a business reputation highly. With that being said, we ensure that our traffic control devices are constantly neatly stacked and organized within our yard. We utilize our buildings as interior storage, as well as, a small sign manufacturing facility to make our own traffic control signs. The types of materials we store range from traffic cones, drums, signage and we also store our equipment being Message Boards, Arrow Boards and our trucks. Our buildings are also our office space to run daily office procedures through. Our office hours are 7am-5pm, however we are a 24/7 on call business as well. We can be called out at any time to provide traffic control to accidents on roadways, water/gas breaks from utility companies, and some of our construction projects require night shifts. With that being said, our company trucks will enter and exit the facility at any given time throughout the day/night. The in and out traffic of our vehicles, 60-70 average daily trips. This number is an at most for vehicles. These are typically the same trucks entering and exiting but each traffic site requires its own specific setup so we will have to return to load more devices for each site. This also

includes the breakdown of these sites and returning the devices to the yard at the end of the day, if the construction is a daily setup.

The special use will be in harmony with the character of the neighborhood and will generally be compatible with the existing and allowable land uses in the surrounding area. The impact of the special use will not overburden or exceed the capacity of public facilities and services or in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area and has adequate legal access. The special use will comply with all local, state, and federal laws and regulations regarding air, water, light, or noise pollution. The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County and or conforms or will conform to all other applicable County rules, regulations or ordinances.

The drainage from the proposed use will not adversely impact the adjacent properties.

Our site is again located at 1425 Burnham St. Zoning is under Commercial Service (CS). We are located directly off of I-25 South Academy Exit. Please see supporting vicinity maps for our exact building/yard location.

PCD FILE NUMBER AL196.

All questions and concerns can be directed to the Owner, Rich Robinson.

Mailed Questions can be sent to our headquarters office 1115 Fir St. Pueblo, CO 81001

Phone Number (719)296-0222 or via email rich_wztci@hotmail.com

We have strong intent to maintain our building location for all future years to come. We guarantee we will not be any sort of eye soar to any surrounding persons and will ensure that we are a handicap friendly business with our added designated parking space and ADA compliant rails and access entries. Our yard will maintain neatly organized and weed, tree, and ground maintenance will remain pristine. The location of this yard is very convenient for our Colorado Springs business. We are centrally located to easily commute to all surrounding traffic control requests and able to run business out of this office. We would like to continue to utilize this yard, as we have intended to do so for many years, for our business to continue to benefit the traveling public daily on roadways.

We thank you for your time and consideration in our request for a special use permit.



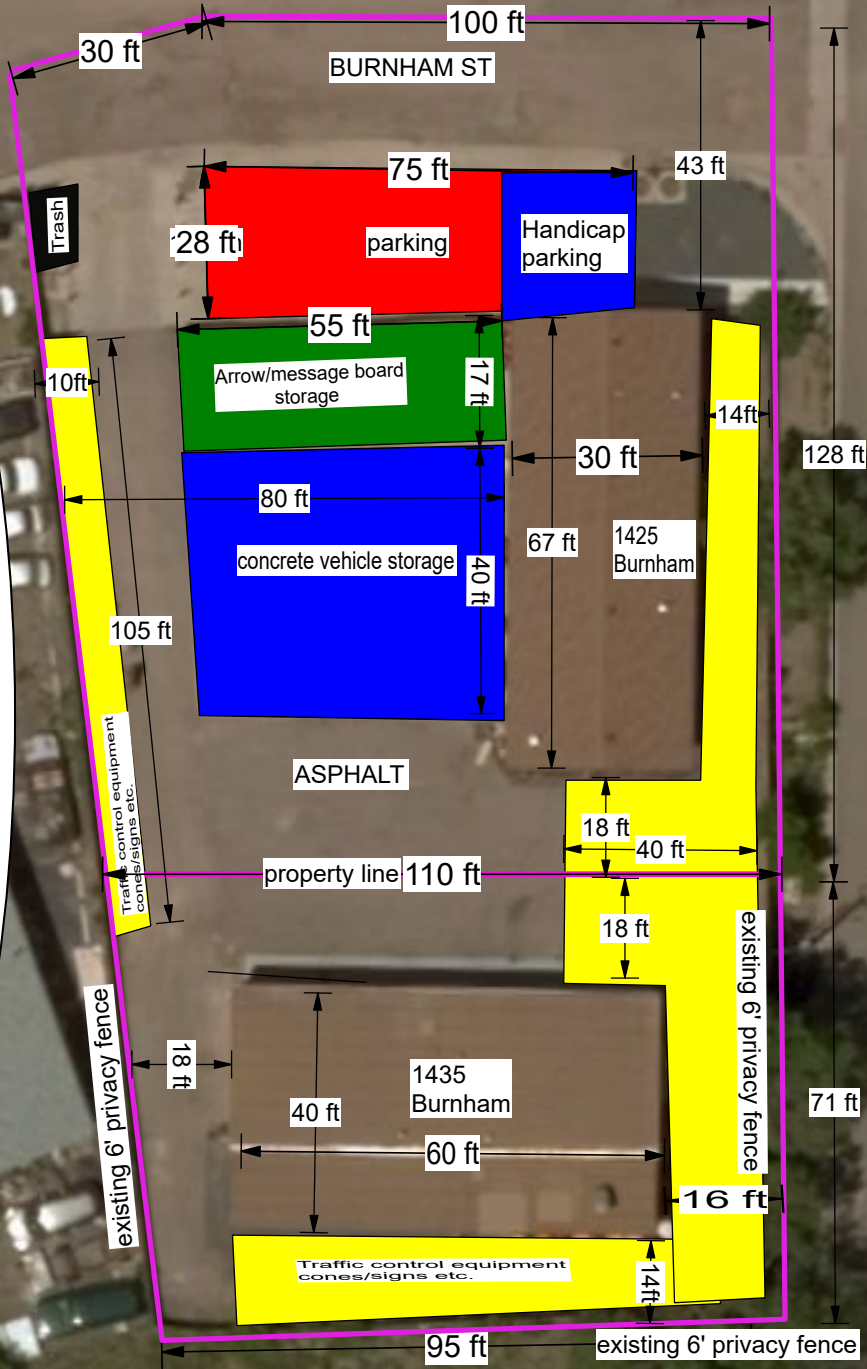


frankie portera

cimmaron mountain properties

PLOT PLAN / SPECIAL USE DRAWING
PCD file No. AL196

Burnham Partners LLC.



Brenda Soto

nancy sawall

lisa demaree

El Paso County

COMMISSIONERS:
MARK WALLER (CHAIR)
LONGINOS GONZALEZ, JR. (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

November 24, 2020
ATTN: Work Zone Traffic Control, Inc.

RE: Administrative Determination for 1425 Burnham St.

File: ADM-20-048
Parcel ID: 6510214001; 6510214018

To Whom It May Concern:

A request has been made for an interpretation regarding the above referenced parcel to confirm that the structures located on the property are considered nonconforming pursuant to the El Paso County Land Development Code (2019). The property must first be confirmed as a legal lot.

Section 1.15 of the Code defines a “Legal Lot” as:

“A lot, parcel or tract of land created by a legal conveyance of the lot, parcel or tract prior to July 17, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to July 17, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by legally prepared survey dated prior to July 17, 1972; a lot, parcel or tract created by approval of the County commissioners in conformance with the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by a contract for deed or signed but unrecorded deed, each dated prior to July 17, 1972; a parcel exempted from subdivision by the Board of County Commissioners (BoCC), or any parcel of 35 acres or more, which, when created, did not cause a parcel of less than 35 acres to remain; a parcel created by any court pursuant to the law of eminent domain, operation of law, or by order of any court if the BoCC has been given timely notice and opportunity to join in the action; a parcel modified or reduced in size due to land acquisition by a governmental entity.”

The property was legally platted on December 30, 1980 as Lots 1 and 2, Walbrach Subdivision (Plat #5597). The legal description and acreage of the parcels have remained unchanged since the creation date; therefore, the parcels are considered legal lots.

Compliance with Zoning Regulations:

The property was zoned C-2 (Commercial) on May 10, 1942, when zoning was first initiated for this portion of the County. The property was rezoned to PBP (Planned Business Park) as part of a County-initiated rezone on May 24, 1990 (Resolution No. 90-148). The property is presently zoned CS (Commercial Service).

Section 1.15 of the Code defines a “Structure, Nonconforming” as:



“Any legally existing structure which does not conform to the “location and bulk” regulations of this Code, either at the effective date of this Code or as a result of subsequent amendments which may be incorporated into this Code.”

In order to be considered nonconforming structures, the structures on this property would either need to have been constructed prior to the establishment of zoning or complied with the applicable regulations at the time of construction.

The structures on the property were constructed in 1983. The two existing structures are located 14 feet and 16 feet from the north property boundary, where adjacent to the RS-6000 zoning district. Today, the CS zoning district has a 25-foot setback where adjacent to other zoning districts.

The property was zoned C-2 when the buildings were constructed. At that time, the required side setback was 5 feet. The structures met all dimensional standards at the time of construction and conformed to the C-2 zoning district.

Discussion and Conclusion:

As a result of subsequent amendments to the Code, the two structures on this property no longer meet the side setback requirement. Therefore, the Planning and Community Development Department Director has made a determination that the structural setback can be considered legally nonconforming.

Any proposed development shall comply with all other applicable County, State, and Federal Regulations.

If you have any questions or concerns regarding this determination, please contact myself or Ryan Howser, Planner I, at (719) 520-6049 or ryanhowser@elpasoco.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Craig Dossey".

Craig Dossey
Executive Director
El Paso County Planning and Community Development Department

Nancy Sawall
1312 Coventry Dr
Colorado Springs
Colorado 80906
June 30, 2020

To Whom is in charge: Dale Seigny
I just saw Nancy Sawall at 1312 Coventry Dr.
Corner of Coventry and Welton. I said my
neighbors are against a contractors equipment
yard here. This is a residential area. My
neighbors wish as I do that no trucks are
parked on Welton Drive. I already have
large trucks and buses going in front
of my house. These trucks should be going
around on 85-87 instead of cutting thru
a residential area. Also it is difficult
getting into middle lane onto Academy.
Cars like to run into my yard and I am
always repairing my fence.

Thank you
Nancy, Sawall

File AL-19-006
PARCEL ID 65102-14-001

by Sawall
Coventry Dr.
rado Springs
rado 80906

RECEIVED
JUL 13 2003
BY:

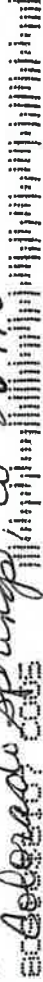
MEMBER 000 8002



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*Labe Seigny, Planner II
El Paso Planning and
Community Development
2880 International Circle
Suite 110
Colorado Springs, Co 80910-3127*



COMMISSIONERS:
MARK WALLER (CHAIR)
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, December 17, 2020
El Paso County Planning and Community Development Department
200 S. Cascade Ave – Centennial Hall Hearing Room
Colorado Springs, Colorado

REGULAR HEARING

1:00 p.m.

PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, SARAH BRITTAIN JACK, TIM TROWBRIDGE, BECKY FULLER, JAY CARLSON AND JOAN LUCIA-TREESE

PRESENT VIA ELECTRONIC MEANS AND VOTING: GRACE BLEA-NUNEZ, THOMAS GREER, AND ERIC MORAES

PRESENT AND NOT VOTING: NONE

ABSENT: NONE

STAFF PRESENT: CRAIG DOSSEY, NINA RUIZ, RYAN HOWSER, LINDSAY DARDEN, RAD DICKSON (VIA REMOTE ACCESS), GILBERT LAFORCE, JACK PATTON (VIA REMOTE ACCESS), ELIZABETH NIJKAMP (VIA REMOTE ACCESS), AND EL PASO COUNTY ATTORNEY LORI SEAGO (VIA REMOTE ACCESS)

OTHERS SPEAKING AT THE HEARING: SARAH FREER, MIKE HARRIS, CASEY LOHRMEYER, TOM DAVIS, ROB HADDOCK, TERRY STOKKA, JAKE SKIFSTAD, GREG BELWINE, JUDY VON AHLEFELDT, M. JANE SHIRLEY, JEFF BROCK, JEFFREY ZINK, KATHARINE ZINK, MARIA WILSON, NIKKI UPCHURCH, TRIPP FALL, GALE GOODMAN FLOYD,

Report Items

- 1. A. Report Items -- Planning and Community Development Department – Mr. Dossey -- The following information was discussed:**

- a) The next scheduled Planning Commission meeting is for **Thursday, January 7, 2021 at 1:00 p.m.**
- b) **Mr. Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.
- c) **Mr. Dossey** gave a brief presentation of the EPC Engage industry-focused work session series that the PCD department will be implementing in 2021, with cooperation from other County departments. Learn more at <https://bit.ly.EPCengage.com>

B. Public Input on Items Not Listed on the Agenda - NONE

2. Pulled Consent Items to Regular

A. Approval of the Minutes – December 3, 2020

The minutes were unanimously approved as presented. (10-0)

B. SF-20-003

RUIZ

**FINAL PLAT
WINSOME FILING NO. 1**

A request by Winsome, LLC, for approval of a final plat to create 47 single-family residential lots. The 164.4 acre property is zoned RR-2.5 (Residential Rural) and is located at the northwest corner of the Hodgen Road and Meridian Road intersection and within Sections 13, 19, and 24, Township 11 South, Range 65 West of the 6th P.M. (Parcel No.51000-00-496) (Commissioner District No. 1)

Mr. Trowbridge – I'd like more information on the waiver and the Hodgen Road access as well as the requested deviation. **Mr. LaForce** – The deviation request includes a mailbox kiosk, and our criteria noted that type 3 boxes must be located within a ROW and pull-off area. They have submitted that it doesn't have to be inside of a ROW but it will be inside a tract. People will be able to park and get out to get their mail safely. The parking is for the trailhead within their development. As far as the turn lane off Hodgen, the TIS shows the majority of traffic will go Winsome Way first, so a middle left-turn lane will be required. Site distance does meet the requirements.

PC ACTION: TROWBRIDGE MOVED/LUCIA-TREESE SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, SF-20-003, FOR A FINAL PLAT FOR WINSOME FILING NO. 1, UTILIZING RESOLUTION PAGE NO. 19, CITING 20-060 WITH TWELVE (12) CONDITIONS AND TWO (2) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR WATER

QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (10-0).

C. CS-20-003

DARDEN

**MAP AMENDMENT (REZONE)
HIGHWAY 94 AND CURTIS ROAD**

A request by Land View, LLC, for approval of a map amendment (rezoning) of 35.11 acres of a larger 99.97 acre parcel from RR-5 (Residential Rural) to CS (Commercial Service). The property is located at the southeast corner of the Highway 94 and Curtis Road intersection and within Section 15, Township 4 South, Range 64 West of the 6th P.M. (Parcel No. 44150-00-021) (Commissioner District No. 4)

PC ACTION: BAILEY MOVED/BRITTAIN JACK SECONDED APPROVAL OF CONSENT ITEM 2C, CS-20-003, FOR A MAP AMENDMENT (REZONE) FOR HIGHWAY 94 AND CURTIS ROAD UTILIZING RESOLUTION PAGE NO. 27, CITING 20-061, WITH THREE (3) CONDITIONS, AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (10-0).

Regular Items

3. AL-19-006

HOWSER

**SPECIAL USE
1425 BURNHAM ST. WORKZONE SPECIAL USE**

A request by Work Zone Traffic Control, Inc., for approval of a special use for a contractor's equipment yard. The 0.53-acre property is zoned CS (Commercial Service) and is located at the southeast corner of Welton Drive and Burnham Street, approximately 500 feet north of the intersection of South Academy Boulevard and Interstate 25 and within Section 10, Township 15 South, Range 66 West of the 6th P.M. (Parcel Nos. 65102-14-001 and 65102-14-018) (Commissioner District No. 4)

Mr. Howser gave a brief overview of the project and asked **Ms. Seago** to go over the review criteria for a special use. **He then asked the applicants' representative, Ms. Sarah Freer, to give their presentation.**

Mr. Trowbridge – I see where the first complaint was filed two years ago. **Ms. Freer** – There was a lot of confusion and a misunderstanding that they were trying to build

something on the property. They really did attempt to work through this themselves. When they knew there was a hearing, they brought me into the process.

Mr. Risley – As far as site circulation and traffic flow, Welton does not continue to the west, is that correct? Typically, is traffic going to the south? The County staff may address this as well. **Mr. Mike Harris** – Most of the traffic exits towards I-25, Welton dead ends to the west but we take Hartford to I-25 South. We don't tie up any intersections. We don't park on Welton, we leave that area specifically for the residents.

Mr. Howser then gave his full presentation and answered questions from the Planning Commission.

Mr. Trowbridge – One letter of opposition talks about the traffic going through the neighborhood. Could you point out her property? **Mr. Howser** – She (person in opposition) is north of the location. It is not anticipated that there will be any additional impacts. **Mr. Trowbridge** – I don't see a direct access either.

Mr. Carlson – The complainant mentions trucks parked on Welton. **Mr. Harris** – The lady that complained was assuming that we were going to do some kind of construction and tear up her neighborhood. We explained to her that it wasn't the case. The trucks that she mentioned are on Hartford. Over the road truckers often park in the areas she mentions, but they are not our vehicles.

Mr. Carlson – The screening that is required is specifically in what location? What good is a fence if your building is located up gradient of that fence area? **Mr. Harris** – It is required on the side of our building adjacent to South Academy. The banners cover our chain link fence, but it will be a 6 ft wooden fence. The fence would shield the cones. Honestly, I think they will feel better that it's an actual fence. It's not ugly currently, but we will build at the grade where the building is and not at street grade.

Ms. Fuller – We had an applicant here a couple of weeks ago that did not comply with what they were supposed to do. Is the applicant ready and willing to comply to the requirements put forth today? **Mr. Harris** – Yes, we are very willing to comply. **Ms. Casey Lohrmeyer** – WE have been very confused. The issue came about from the violation we received. From that point, you go to the website [EDARP] with zero instructions. There's no link to the applications on the website. Then you go to their site and try to locate the applications. I basically just had to figure it out. Due to staff turnover we went through several different planners. Then they were wanting elevations, and we weren't building anything. Finally, we were told we needed a special use and we are where we are now. I struggled, and I'm computer savvy. It was not an easy process.

Mr. Bailey – I agree staff needs to work with the applicants to identify and address problems in the process. I'd like to address the fencing condition specifically. It says to install the fence along Welton Drive to screen the use from residential properties. Has it been articulated clearly to the applicants that this condition is what is required or is there something more? **Mr. Howser** – As the applicant indicated, this has changed hands several times. I can't speak to anyone who worked on this in the past, but I will make my best effort to communicate those requirements. It seems like the applicant thought a fence was required along two sides and not just on one side. **Mr. Dossey** – I understand this project has changed hands a few times with the turnover of staff, but at any point if they feel confused or uninformed, they can contact me. Some conditions are trickier than others, but these are pretty straight forward. When we write conditions, we try to impose the least restrictive things possible. Certainly, if you feel like an additional side needs to be screened, then you can add or revise that condition.

Mr. Carlson – There is fencing up high on the east side, and to the right is a retaining wall. Right now, it is written that the fence will be improved. **Mr. Howser** – The condition is written to require a fence on the north.

Mr. Trowbridge – The applicant said they store old barrels; is that what they are trying to screen? If they don't store the barrels there, is a fence still required? **Mr. Harris** – You can see some yellow material, some barrels. We could move that material.

Mr. Trowbridge – If the applicants move that material, do they still need a fence? **Mr. Howser** – In order to provide 100% screening as required by the Code, the fence guarantees that screening.

Mr. Bailey – Does it have to be a solid wood fence? **Mr. Dossey** – It does cost more, but it's more of a long-term solution. Slats in a chain link fence end up blowing away, and then it becomes a code enforcement issue down the road. They can do any type of solid fence- wooden, concrete, or other similar solid fence. **Mr. Bailey** – I think it's a good faith effort to have the fence and be a good neighbor to those few neighbors who might see some of the material.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION: NONE

**PC ACTION: FULLER MOVED/LUCIA-TREESE SECONDED FOR APPROVAL
REGULAR ITEM NUMBER 3, AL-19-006, FOR A SPECIAL USE FOR 1425
BURNHAM ST. WORKZONE, UTILIZING RESOLUTION PAGE NO. 39, CITING**

20-062, WITH THREE (3) CONDITIONS, THREE (3) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (10-0)

4. CC-20-001

DICKSON

**MAP AMENDMENT (REZONE)
HADDOCK METAL ROOF**

A request by Black Forest, LLC, for approval of a map amendment (rezoning) from A-5 (Agricultural) to CC (Commercial Community). The 4.77 acre property is located on the west side of Black Forest Road, approximately 980 feet north of Shoup Road and within Section 7, Township 12 South, Range 65 West of the 6th P.M. (Parcel No. 52070-00-004) (Commissioner District No. 1)

Mr. Dickson gave a brief overview of the project and asked **Ms. Seago** to go over the review criteria for a map amendment (rezone). He then asked the applicant and representative, **Mr. Tom Davis and Mr. Rob Haddock**, to give their presentation.

Mr. Trowbridge – What did you hear from neighbors at the community outreach meeting and what accommodations you’ve made relative to that meeting? **Mr. Haddock** -- It was mostly attended by adjacent property owners that were noticed. There were 23 people who attended. They voiced various concerns and we feel like we answered all their questions. The only request was that we should deconstruct the barn that we are building. We are well aware that this has been a very aggressive opposition movement. We are prepared to address all the concerns voiced by the opposition.

Mr. Carlson – Were the complaints mostly that they don’t want commercial use there? **Mr. Haddock** – All the above and much more. There was mention of depleting the aquifer, and many other things, but I think they just don’t want us there.

Mr. Dickson then gave his full presentation and answered questions from the Planning Commission.

IN FAVOR:

Mr. Terry Stokka – Black Forest Land Use Committee – (provided handout) We look at conformance with the preservation plan and impact. The Plan advocates for centralized commercial activity. The impact of this building will be minimal. There will only be 8-10 people working at any given time. We look at traffic, lighting, noise, and if there is appropriate screening. The buildings have natural earth tones and materials and will blend in nicely. This has met the criteria of conformance of the preservation plan, and has minimal impact, and we recommend you approve this rezone.

Ms. Fuller – Is the Black Forest Land Use Committee a volunteer committee or elected committee? How many people of the committee participated or were active in your review? **Mr. Stokka** – We are a volunteer committee and we consider ourselves guardians of the preservation plan and of the land. We have 20-25 members. I send out pictures and information to them and they give me feedback. We look at “Is it more than just I don’t like it, or do they have valid concerns?” We measure it against the plan and also the Land Development Code. I received responses from at least half of the members in order to present these findings.

Mr. Greg Belwine – I am in favor of this project. I believe they have met all zoning regulations for this project. This will provide area residents with a good service. Commercial property needs to develop according to the Black Forest Preservation Plan and this meets the requirements. It will support at least 6 families in the area. They are a strength and asset to the community. We have lived there for 7 years. Mr. Haddock grew up in this community and he would never do anything that would be a detriment to us. I can attest to his generosity to our community as well. I fully support this request.

Mr. Jake Skifstad – I am a resident of Black Forest. I am thankful to someone going above and beyond to what was there before visually. This is so superior to what was there. They is a nice looking barn with mature trees. Rob Haddock and his family are of high integrity and moral character. He has been called a liar among other things. This is not true. I am thankful they want to bring this to our community. I’m in great support of their application.

Ms. Judy Von Ahlefeldt – I am in favor of this proposal. I agree with Mr. Stokka. It is basically a request for a rezone and is in conformance with the Black Forest Preservation Plan. (Slides shown) This will not set a precedent and will not ruin the community. However, I think it’s unfortunate that there was nothing on EDARP until September. All the commotion started because people did not have access to the information. Had they been given the correct information; they might have come better informed and not opposed as strongly as they did.

Ms. Nikki Upchurch – (from emailed statement) My property shares the east boundary with the land we are discussing today. I was informed by people at the gate of the Black Forest Farmer's Market about the commercial project on this land that had been dormant since the Black Forest fire in 2013. They had a table set up to sign a petition and there were many others there who, like me, wanted to find out about it. To say the least, I was alarmed and concerned by what I was told. I had recently purchased my land with plans to build a modest home near peaceful neighbors I had met and liked... and still do like. I was told the following about this commercial project:

- The person who purchased the land was a wealthy developer from out of state who didn't care about the community of Black Forest and that he would run possibly 3 businesses from the property.
- There would be 2 buildings on the property to run businesses from: one would be for metal building distribution and possibly manufacturing. The other building would be used for the development of technological security devices for ID recognition like retinal scans and hand printing (biometric authentication). I was given a name of a website (I did not write down and do not recall any longer) When I looked it up, the technology was affiliated with criminal justice and involved similar devices as the FBI uses.
- I was told there would be much traffic coming in and out of the property such as trucks transporting the metal buildings for distribution. The security technology employees would be on the premises in the office building for their full-time jobs.
- This commercial development could cause much disruption in the community and decrease land value.

I was a bit panicked by this and seriously considered selling my land since it was directly connected to the west boundary of this proposed commercial property. Since that time, I have investigated this development plan further and realize it to be very different from the information shared with me back in the summer. I have learned that the owner and his family have, in fact been residents of Black Forest for almost 50 years and have a family-owned small business-- not a disconnected out of state developer. I have seen first-hand how tastefully the owner is improving this property. I now realize there will be no manufacturing or distribution of metal buildings or anything else, nor will there be any mysterious security device development for biometric authentication. I am relieved to know that traffic will actually be minimal, and the project is within Black Forest Preservation Guidelines. As far as the concern of this development causing disruption and decrease in land value, I even expect it to increase the value of my lot. The covenant that will follow the land in potential future sales will protect this lot from becoming something of the nature I (and many others) were originally informed it would be. I fully support what Mr. Haddock is proposing and believe he will be a good neighbor.

IN OPPOSITION:

Mr. Jeff Brock – I live across the road from this property. My property was the highest price property to close in 2020. I have followed this on every website devoted to this project. I have not heard anyone call Mr. Haddock a liar. There are 47 non-duplicated opposition letters and 517 non-duplicated petition signatures. There were only 3 letters supporting it. Planning seems to think it meets all the criteria, that is not accurate. The CC zone district, according to LDC Section 3.2.5, is intended to accommodate retail sales establishments that serves the adjoining and contiguous neighborhood. His business will not serve the community with his wholesale business. His driveway creates a cross-intersection at an already dangerous area.

Accidents will increase due to this intersection. Mr. Haddock downplays the 12,000 square foot building. It's 2.5 times larger than my home. These buildings will absolutely not blend in with the area. Due to the drought, we are drinking heavily sedimented water. We don't need more people using that water. The value of my home will decrease. I'm against this rezone.

Ms. Gayle Goodman Floyd – Since the barn is already built, what will it be used for since he mentioned it will be used for meetings. Will traffic increase because of this commercial use? Does it set a precedent for other zoning changes that would not be welcomed? This is not contributing to the Black Forest Community like we would like it to. I was not notified as a neighbor. This serves one person and not the community.

In Summary: (sent by email)

What is the barn used for, if the development use is simply used for "meetings" what is the barn for?

Worry about any precedent being set for future businesses wishing to develop Black Forest properties.

What tax implications will follow for Black Forest residents?

The business is single server, not providing any service to the community.

This is a special community, not a place for office space or wholesale production.

Once this happens it cannot be undone. It only opens the door to future problems.

Ms. M. Jane Shirley – (submitted petitions, letters of opposition. All part of permanent record). There are 517 signatures opposing this project. Mr. Haddock company does business with 39 states and 29 foreign companies. This is over 12,000 square feet of space. Construction started prior to permitting. The well permit has several restrictions. There are no covenants, minutes, hearing notices that we can locate. This impacts all the surrounding neighbors.

Email statement: I would like to go on record because I strongly object to the rezoning of this parcel. If rezoning is approved a precedent will be set for any large corporation to follow suit. This project does NOT belong in the heart and historical district of Black Forest. It has already had a negative impact on the adjacent RR-5 zoned residents as well as the visitors who come to this area of the Forest for rest and relaxation. When major activities are held at the Community Center, cars are parked along both sides of Black Forest Road in addition to filling the parking lot. All of us in the Forest look forward to community events.

While compiling the Forest's opposition to this rezoning, four 'unusual' things occurred. One may or may not have been related to this project. It occurred during the time I was assisting with gathering petition signatures. At the Farmer's Market in late July, a gentleman in a three-piece suit with a loud abusive voice tried to intimidate me and another woman into ceasing our legal collection of signatures on the petition against rezoning. He did not visit the Market. After the tirade he got in his car and left. The following morning, I received a phone call. The man repeatedly asked what my plans were for the rest day. The voice was quite suggestive. Coincidence or not? On four different occasions, four different men at four different times made the statement: "Well, It's (the project) is better than a Kum & Go," I found that to be highly unusual.

On three different occasions, three different people at three different times made this statement: "Black Forest is going to become part of Colorado Springs in the very near future anyway. What's the big deal?" Again...this seemed odd. Residents in the Forest DO NOT want to be part of the large metropolis of Colorado Springs. We moved here to get away from that lifestyle. (I do possess emails with these two statements.) Number four are emails I received from Mr. Stokka and then Mr. Haddock. A copy of both emails is attached. I frankly do not appreciate the biblical references made to me by Mr. Haddock.

Mr. Haddock owns a nice home on Table Butte Road in northern Black Forest. He also owns 69.5 acres at 8750 Walker Road. This acreage appears to be grassland. I could see no structures from the road. WHY, why couldn't the S-5! corporate offices be built there? Thank you for your time and consideration. Parcel # 5207000004 should not be rezoned to Community Commercial.

Ms. Maria Wilson – I live next door. The CC zoning does not accommodate retail sales. This is a corporate office building. The one that comes after is what worries me. This will set a precedent. I implore you to consider the repercussions. This is spot zoning. The Historical Society has indicated that this will negatively impact the area. It will reduce the value of my home. This project will cause extensive impact to the enjoyment of my property. There are over 500 opposing this project. It's beyond obvious that this is not acceptable. The biggest fear is the precedent that it will set. We don't want corporate office buildings. We moved here to be away from that.

Mr. Jeffrey Zink – My property is across from Black Forest Road. We have been here for 20 years. We lost our house and all our trees and took 3 ½ years to rebuild. To get a commercial building across the street is insult to injury. Please consider the emotional impact that it has on us and our surrounding community.

The applicant had an opportunity for rebuttal. **Mr. Haddock** – There have been many things posted on EDARP for this project. The opposition has been extremely

aggressive. Terry Stokka sent out information through the Black Forest Land Use Committee. The historical site comment is completely undocumented. The opposition was very well organized. However, there were misstatements, and those signatures were solicited with their side and no chance for rebuttal. There are 6500 households, so it's a very small number in opposition. Only 29% were affirmed Black Forest residents. Others were in Calhan and even out of state. The purpose and spirit of the rezone is total transparency. Opposition used social media to post statements.

Mr. Tripp Fall – (from email correspondence)

Re-addressing my concerns for the record:

1. It does not serve the community
2. Efforts were made to notify the entire community, not just the immediate neighbors.
3. Are the petitions and letters being properly weighed in the decision? Are they valid?
4. We, as a community, do not want the precedent set that would allow more businesses that would not serve the community.

DISCUSSION:

Mr. Trowbridge -- When I first reviewed this, it seemed like the entrance might not be ¼ mile away, and then I looked and saw it was a commercial use there before. I find it ironic that they oppose because it claims retail, but I think a true retail space would bring so much more traffic than what this is proposing. If you look at the zoning, he could have many more uses in the A-5 zone district. He could have a group home, or a contractor's equipment yard, or an inert materials disposal site. Barns are also permitted as a principal structure in A-5. I think he's done a lot to help the Forest with the effort of replanting trees and reshaping the land. The structure itself does not look much different than a high-end home. I will be supporting this.

Ms. Lucia-Treese – The presentation was done well. You are doing above and beyond what the Code requires, and the structure does look like a high-end modern home and the use is compatible in the CC zone district. I am in support.

Mr. Moraes – for the Attorney – The applicant says he will put a covenant in place requiring that the character of the building will not change in the future. How hard will that be for a future owner to change that covenant? **Ms. Seago** – Because the County cannot enforce covenants, I'm not sure how it could be removed in the future. The document that imposes the restriction will be specified in how it is worded and its intent.

Mr. Moraes – In the future, if the business is repurposed into another use that is allowed in the CC zoning district, like a retail nursery, a store, or a business events

center, which are all all in CC that requires larger parking and lighting for later evening business, can that be modified? My biggest concerns are for the future. If the property gets sold and used as an events center, there would be more traffic, more parking, etc. **Mr. Dickson** – A site development plan would be required for any change in use to address the proposed/future use(s). We look at the highest and best use of the property. **Mr. Moraes** – Right now there are 22 spots allocated to this project because of the proposed use. However, the use may intensify like a business event center or medical clinic, 22 spots is too few or there might be business hours later than the applicant proposes. Therefore, my concerns are not for this application. I am more concerned about the future. Once rezoned CC, all those uses that are allowed in LDC Table 5-1 are allowed. I want to look ahead to what a rezoning will do to that area. **Mr. Dossey** – When we look at commercial uses and the site-specific improvements that are required, we do it based on the proposed use and layout of the site. If the use changes, the new use must accommodate for the parking, lighting etc. that is relative to the Land Development Code. This is not a special use, so I think the applicant is prepared to do covenants vs. conditions of approval. However, the County does not enforce either. If a future owner comes in, we would look at the Land Use Table to see if it is allowed in CC zoning. We try to write staff the staff report not to the use at hand but look at every use that could be in a requesting zoning district. So that's the important thing to consider, the Planning Commission should be concerned about not only the use presented but also be concerned about the future, now. Those are the uses effectively being requested. While we are considering the applicants' intent today, the intent tends to change, **Mr. Moraes** - That is my concern, while it is A-5 today, a change to CC may present in the future all the issues that come with it like traffic and lighting and hours of operation. **Mr. Dossey** – Quite honestly, some uses allowed in CC by the LDC will never happen on this piece of land as the land is too valuable. **Ms. Brittain Jack** – There are three uses that he could use according to the Land Use Chart. I would assume that the impacts were taken into consideration with regard to the impacts such as traffic when those allowed uses were tabled as they are. Is that right? **Mr. Dossey** – That is correct. It's an extensive look at all the impacts. We look at traffic impacts, hours of operation, etc.

Mr. Bailey – I believe that the staff report highlights that the CC zoning district is the least impactful zoning districts that the applicant could have requested. The Black Forest Plan at least recognizes the potential for commercial nodes, and the applicant bought land in a commercial node and chose something that wasn't going to impact the neighbors in a negative way. **Mr. Dossey** – The CS zone district is more service oriented and will have more traffic; CR will be the big box retail. So yes, CC is definitely the appropriate, least impactful zone for the intended use.

Ms. Fuller – I echo what **Commissioner Trowbridge** was saying. This is in a pocket where commercial uses can go. For those testifying, we realize that land use, particularly commercial going into a neighborhood is very emotional. When you come

into a hearing, it's not helpful to talk about personalities or how honest someone is or is not. I would encourage going forward that those things are not brought up for either side. I will be in support of this, and I can appreciate the neighbors and the effort they put in, but the opposition didn't change my view. When you come to a hearing with over 500 signatures, it gets our attention.

Mr. Moraes – I am not against this project itself; I think it would be better suited as a variance of use vs. a rezone.

Mr. Risley – We are really bound to looking at the review criteria and making a case based purely on that. The only bullet point that can be called into question is “does the proposed land use compatible with the surrounding land and zones.” My opinion is that the applicant did a good job at being sensitive to the context and surrounding area and mitigated any impacts that it could have had to the surrounding area.

Mr. Carlson – With regard to blending in with adjacent properties, it means something that it falls within that commercial development node that was designated as such. I'm in support of this.

PC ACTION: BRITAIN JACK MOVED/LUCIA-TREESE SECONDED FOR APPROVAL REGULAR ITEM NUMBER 4, CC-20-001, FOR A MAP AMENDMENT (REZONE) FOR HADDOCK METAL ROOF, UTILIZING RESOLUTION PAGE NO. 27, CITING 20-063, WITH TWO (2) CONDITIONS, THREE (3) NOTATIONS, AND ONE (1) WAIVER, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-1). MORAES WAS A NAY VOTE.

Mr. Moraes – I was opposed due to future possible uses versus what was proposed. I would rather see a variance in A-5 instead of the rezone to CC

5. El Paso County Master Plan – Information Update – No Action Needed – No update was given at today's hearing.

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

SPECIAL USE (Recommend Approval)

Commissioner Fuller moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. AL-19-006
1425 Burnham St. Workzone Special Use

WHEREAS, Work Zone Traffic Control, Inc., did file an application with the El Paso County Planning and Community Development Department for approval of a special use to allow a contractor's equipment yard within the CS (Commercial Service) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on December 17, 2020; 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. For the above-stated and other reasons, the proposed special use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County; and

WHEREAS, pursuant to Section 5.3.2 of the El Paso County Land Development Code, as amended, in approving this special use, the El Paso County Planning Commission considered one or more of the following criteria:

1. The special use is generally consistent with the applicable Master Plan;
2. The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
3. The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
4. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
5. The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
6. The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
7. The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends approval of the special use to allow a contractor's equipment yard within the CS (Commercial Service) zoning district.

AND BE IT FURTHER RESOLVED that the El Paso County Planning Commission recommends the following conditions and notations be placed upon this approval:

CONDITIONS

1. Approval shall be limited to the use as described in the applicant's letter of intent and as shown on the site plan. Any subsequent addition or modification to the operation or facility beyond that described in the applicant's letter of intent or depicted on the site plan shall be subject to administrative review, and if the Planning and Community Development Department Director determines that it constitutes a substantial addition or modification, than such addition or modification shall be subject to a new special use application.

- 2. Within ninety (90) days of special use approval, the applicant shall apply for and receive approval of a commercial site development plan. The deadline for receipt of approval of the site development plan may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.
- 3. Within 120 days of special use approval, the applicant shall provide 100% screening in the form of an opaque barrier, such as a solid wall or privacy fence (not chain link fencing), along Welton Drive to screen the use from residential properties. The barrier shall be a minimum of six (6) feet in height and shall meet all applicable criteria as specified in the El Paso County Land Development Code.

NOTATIONS

- 1. Special use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
- 2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or special use conditions/standards are being violated, preceded by notice and public hearing.
- 3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

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

Commissioner Lucia-Treese seconded the adoption of the foregoing Resolution.

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

Commissioner Risley	aye
Commissioner Bailey	aye
Commissioner Trowbridge	aye
Commissioner Lucia-Treese	aye
Commissioner Fuller	aye
Commissioner Brittain Jack	aye
Commissioner Blea-Nunez	aye
Commissioner Carlson	aye
Commissioner Greer	aye
Commissioner Moraes	aye

The Resolution was adopted by a vote of 10 to 0 by the El Paso County Planning Commission, State of Colorado.

DATED: December 17, 2020

Brian Risley, Chair

EXHIBIT A

RE: Legal Description

1425 Burnham Street, Colorado Springs, CO 80906
6510214018
LOT 5 S S C SUB

1435 Burnham Street, Colorado Springs, CO 80906
6510214001
Lot 1 Walbrach SUB NO 1 SECURITY

RESOLUTION NO. 21-

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF
COLORADO

APPROVAL OF A SPECIAL USE TO ALLOW A CONTRACTOR'S EQUIPMENT YARD
WITHIN THE CS (Commercial Service) ZONING DISTRICT
(AL-19-006)

WHEREAS, Work Zone Traffic Control, Inc., did file an application with the El Paso County Planning and Community Development Department for approval of a special use to allow a contractor's equipment yard within the CS (Commercial Service) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on December 17, 2020, upon which date the Planning Commission did by formal resolution recommend approval of the application with conditions and notations; and

WHEREAS, a public hearing was held by this Board on January 26, 2021; 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 Planning Commission.
2. Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.
3. That the hearings before the Planning Commission and 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 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.

WHEREAS, pursuant to Section 5.3.2 of the El Paso County Land Development Code, as amended, in approving this special use, this Board considered one or more of the following criteria:

1. The special use is generally consistent with the applicable Master Plan;
2. The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
3. The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
4. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
5. The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
6. The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
7. The special use conforms or will conform to all other applicable County rules, regulations or ordinances.
8. That for the above-stated and other reasons, the proposed special use 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, that the El Paso County Board of County Commissioners, Colorado, hereby approves the application for a special use to allow a contractor's equipment yard within the CS (Commercial Service) zoning district.

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

CONDITIONS

1. Approval shall be limited to the use as described in the applicant's letter of intent and as shown on the site plan. Any subsequent addition or modification to the operation or facility beyond that described in the applicant's letter of intent or depicted on the site plan shall be subject to administrative review, and if the Planning and Community Development Department Director determines that it constitutes a substantial addition or modification, than such addition or modification shall be subject to a new special use application.

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NOTATIONS

1. Special use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

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

DONE THIS 26th day of January, 2021 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

RE: Legal Description

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LOT 5 S S C SUB

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Lot 1 Walbrach SUB NO 1 SECURITY