

El Paso County Appeal Hearing Summation Presentation

A Comprehensive, Fact-Based Evaluation of the “Convenience Store” Use Classification
Under El Paso County Land Development Code

Legal Definitions

Objective LDC
criteria

Master Plan

County long-term
vision

PCD Staff Findings

Technical
evaluation

Common Sense

Factual
interpretation

Angela Fike

Procedural History - Why are we even here today?

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Initial County Direction (May 2024)

During the Early Assistance Program, El Paso County PCD Department provided clear, unambiguous direction to the applicant:

- **Rezone the land** to an appropriate commercial category.
- **Comply fully** with the County's 300-year water rule.

Subsequent Circumvention Attempts

Rather than following PCD direction, the applicant initiated alternative actions:

- A **21-month controversial flagpole annexation** process with Palmer Lake that ultimately failed.
- A series of **piecemeal, segmented administrative filings** to circumvent original County requirements.



LDC Section 1.15 Definition
Requirement

"An establishment for the purpose of offering for sale to the neighborhood in which it is located..."

- ✓ **Neighborhood Focus:** The code explicitly defines a convenience store as a local neighborhood market serving surrounding residents.
- ✗ **Failure of Proof:** The applicant has failed to establish that the primary purpose of the facility is to serve the immediate surrounding neighborhood.

“Applicant Admissions On Record”

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Statements by Stan Beard (Director of Real Estate, Buc-ee's) at Palmer Lake Meeting (Dec 3, 2024):

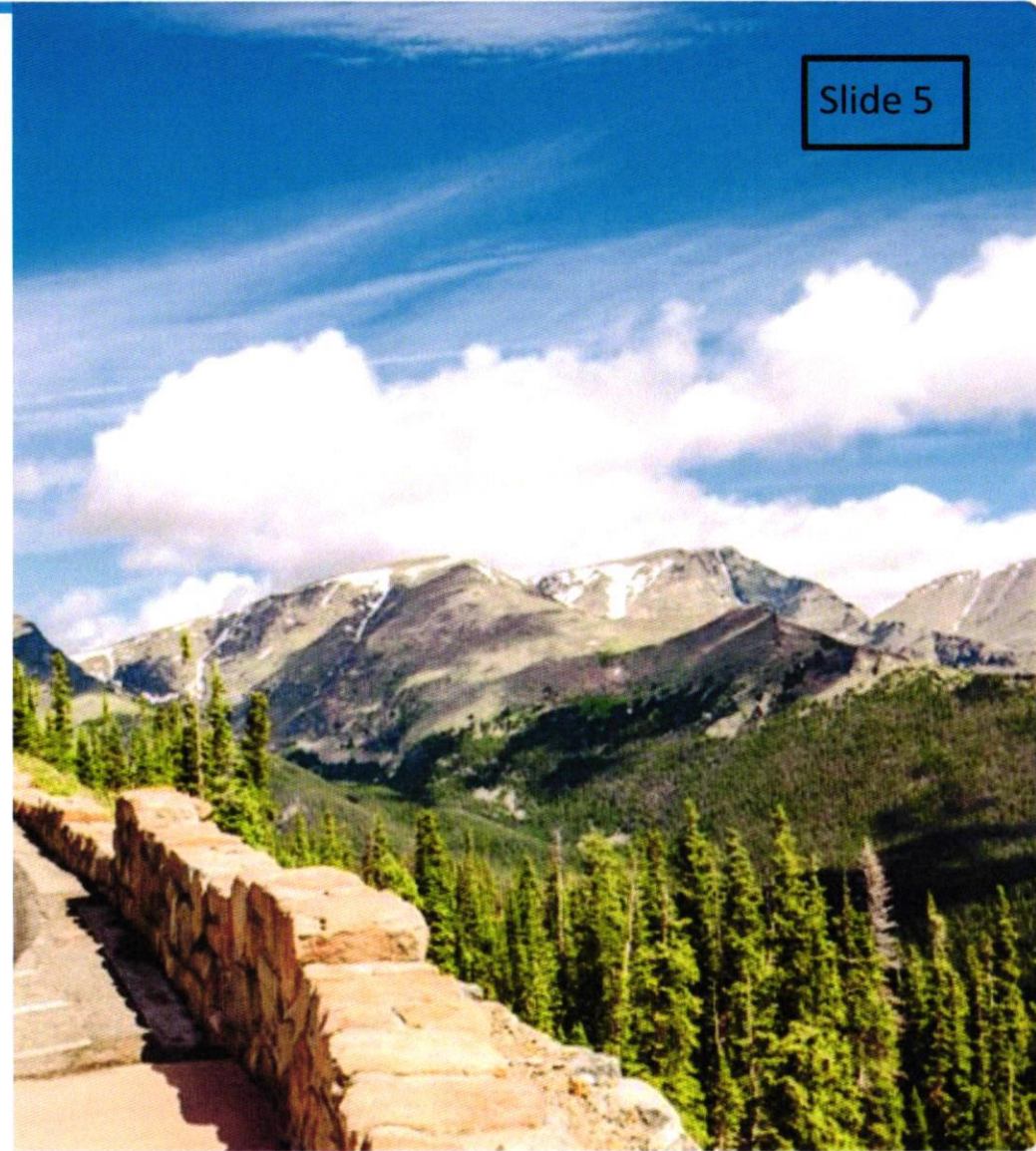
- "We locate adjacent to major freeways for a reason. 90% of our customers are visiting us from well outside of El Paso County, in this instance. More than 70% of them are coming from outside the state." [17:30]
- "The point of our stores is if you are on a road trip, you can pretty much get whatever you need for that road trip in the store." [24:35]
- "So our customers, like I said, come from miles away. We are stopping a car that is already on the freeway." [26:07]
- "Again, most of our customers are not local." [28:00]



Neighborhood Incompatibility

- ✗ **Flawed Logic:** Connecting to local utility infrastructure does not constitute "serving the local community."
- ✗ **Pass-Through Motorists:** Interstate commuters cannot be legally interpreted as part of the local neighborhood.
- ✗ **Character Conflict:** Ignores LDC neighborhood criteria regarding shared spatial characteristics and design themes.

Nothing could be more fundamentally out of character with Monument Hill and Tri-Lakes than a massive regional Travel Center.



Target Market & Scale Limitations

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Market Misclassification

The applicant asserts the "general public" is the target base because access isn't limited strictly to adjacent homes.

Direct Conflict:

This contradicts the LDC definition requiring an establishment focused specifically on serving the local neighborhood.

Absence of Size Cap Argument

The applicant wrongly claims that because LDC lists no specific square footage ceiling, a convenience store can be any size.

Legal Principle:

The absence of a numerical cap does **NOT** erase the core standard that the facility must intend to serve the local neighborhood.

95%

Sales Outside Local Zip Code

Consistent Self-Categorization Across All Platforms

-  **Corporate Website:** Designated officially as a "Travel Center."
-  **Media & Press:** Consistently promoted as regional Travel Centers.
-  **Government Planning:** Filings during 2024 Early Assistance identified project as a "Travel Center."

Scale of Fuel Sales vs. Incidental Standard

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Historical C-1 Intent (1991)

Before C-1 zoning became obsolete, convenience stores explicitly **excluded all fuel sales**. Gas stations and truck stops were prohibited in C-1 zones to maintain small-scale commercial harmony.

Modern LDC & 120 Pumps

Current LDC allows fuel sales only as an *optional, small-scale, incidental accessory*.

120 Filling Stations cannot be interpreted as small-scale or incidental to a neighborhood store.

Restaurant & Food Processing Inconsistency

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LDC Convenience Store

Limited strictly to selling **ready-to-eat foods** and packaged items for off-premises consumption.



Onsite Food Prep

Proposed facility includes massive commercial kitchens, barbecue production, and onsite food processing operations.



Distinct LDC Uses

LDC categorizes **Restaurants** and **Food Processing** as separate land uses exceeding Convenience Store scope.

⊘ 'Similar Use' - Criteria 1 Failure: Inconsistent with Purpose

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LDC Section 5.3.6 Criteria 1: The proposed use must be consistent with the purpose of the zoning district.

- ✗ C-1 was designed as the most restrictive commercial district before becoming obsolete.
- ✗ Fuel storage, gas stations, and food processing were explicitly shifted to C-2 / CS zones.

Holistic Code Interpretation

The applicant claims C-1's general wording allows unlimited scale. However, LDC provisions cannot be read in isolation; C-2 zones specifically exist to accommodate large-scale regional commercial activities.

'Similar Use' - Criteria 2 Failure: Incompatible Impacts

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Traffic Impact Comparison

Average Convenience Store: 3,212 daily trips

Proposed Travel Center: 22,150 daily trips (7× Traffic Intensity)

The applicant provided zero quantifiable assessment regarding vibration, smoke, fumes, or dust, failing their legal burden of proof.



Excessive Environmental & Operational Impacts

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Noise & Pollution

Continuous vehicular noise and concentrated engine emissions far beyond local commercial thresholds.



Light Pollution

Massive 24/7 canopy lighting causing severe glare and dark-sky disruption to surrounding homes.



View Obstruction

Significant visual corridor blockages impairing iconic Monument Hill mountain views.

☰ Summary of Key Findings

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- ✗ **Incompatible with C-1:** Buc-ee's is a large-scale, high-intensity regional development that fails the LDC Convenience Store definition.
- ✗ **Unmet Burden:** The applicant FAILED to prove compliance with administrative determination criteria for C-1 allowable uses.
- ✗ **Unclear Regulatory Path:** Travel Centers lack a definition in the LDC. "Destination" Travel Centers like Buc-ee's should be classified under Commercial Services (CS) zoning due to their large-scale, high-intensity and high-impact to the surrounding communities.



Fact-Based Determination Request

The citizens of Tri-Lakes respectfully urge the Board of County Commissioners to render a defensible decision based on facts, code compliance, and common sense:

The proposed Buc-ee's Travel Center does NOT meet the definition of, or qualify as similar to, a "Convenience Store."

Thank you for your time, consideration, and common sense.