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## PLANNING & COMMUNITY DEVELOPMENT

**TO:** El Paso County Planning Commission  
Thomas Bailey, Chair

**FROM:** Kylie Bagley, Planner III  
Edward Schoenheit, Engineer I  
Meggan Herington, AICP, Executive Director

**RE:** Project File Number: P242  
Project Name: Apex Village Rezone  
Parcel Number: 4122000002

OWNER:	REPRESENTATIVE:
Richard & Winifred Holmes 16888 Elbert Road Peyton, CO 80831	Holmes Enterprises LLC 16888 Elbert Road Peyton, CO 80831

**Commissioner District: 2**

<b>Planning Commission Hearing Date:</b>	<b>7/18/2024</b>
<b>Board of County Commissioners Hearing Date:</b>	<b>8/8/2024</b>

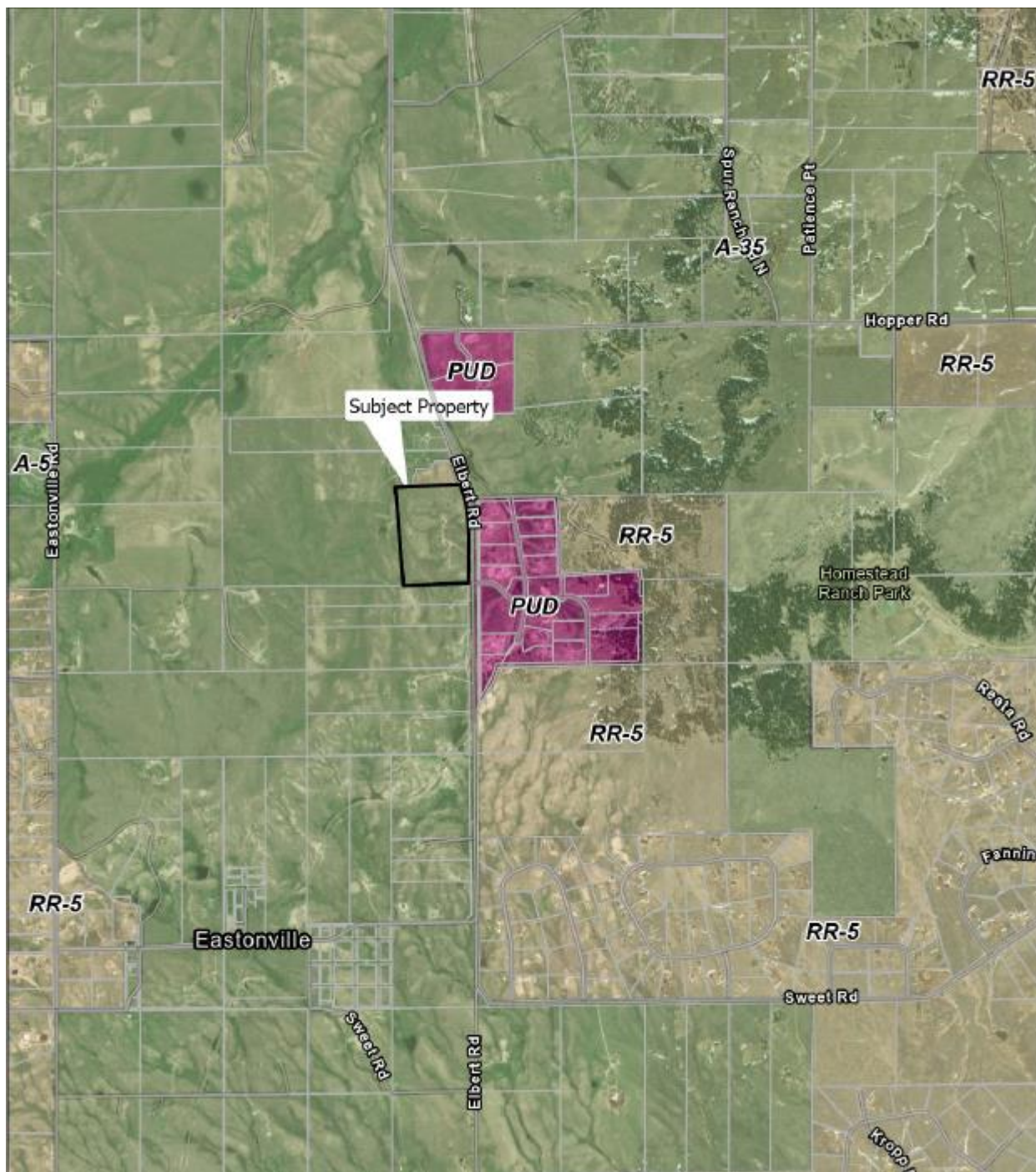
### EXECUTIVE SUMMARY

A request by Richard Holmes for approval of a Map Amendment (Rezoning) of 37.47 acres from A-35 (Agricultural) to CC (Commercial Community). The property is located at 16888 Elbert Road, one-half mile south of the intersection of Elbert Road and Hopper Road. (Parcel No. 4122000002) (Commissioner District No. 2)

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## A. WAIVERS AND AUTHORIZATION

**Waiver(s):** There are no waivers associated with this request.

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

## B. APPROVAL CRITERIA

In approving a Map Amendment (Rezoning), the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 Map Amendment (Rezoning), of the El Paso County Land Development Code (As Amended):

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

## C. LOCATION

North:	RR-5 (Residential Rural)	Single-family Residential
South:	A-35 (Agricultural)	Single-family Residential
East:	PUD (Planned Unit Development)	Single-family Residential
West:	A-35 (Agricultural)	Single-family Residential

## D. BACKGROUND

The applicant is requesting a rezone from the A-35 (Agricultural) zoning district to the CC (Commercial Community) zoning district. The property is 37.47 acres and is improved with a single-family dwelling and accessory agricultural buildings. The subject property is directly west of the Apex Ranch development which is currently zoned RR-5 and Overlook at Homestead which is in the process of developing 5 acre lots on 350 acres. The nearest commercially zoned property is 4.75 miles southeast of the subject property, and is located 0.10 miles north of Highway 24.

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The applicant is requesting a rezone to the CC zoning district to bring commercial development to the existing and proposed residential developments along Elbert Road. The applicant believes that commercial services are lacking in this part of the County and that his property would be able to serve the commercial needs. The applicant is proposing to phase the commercial development with the first phase being a Business Event Center. The applicant has not expressed what types of commercial development will occur with the additional phases.

#### **E. ZONING DISTRICT COMPARISON**

The applicant is requesting to rezone 37.47 acres to the CC (Commercial Community) zoning district. The CC (Commercial Community) zoning district is intended to accommodate retail sales and service establishments that generally require freestanding or small center type buildings and that primarily serve adjoining neighborhoods. The CC zoning district allows for the following uses, but not limited to: commercial or retail shopping centers, community buildings, gas stations, health clubs, material disposal sites, offices, rehabilitation facilities, and retail sales. The density and dimensional standards for the existing and proposed zoning districts are as follows:

	Existing Zoning District: A-35 (Agricultural)	Proposed Zoning District: CC (Commercial Community)
Density	Minimum of 35 acres	Minimum of 1 acre
Minimum Lot Size	-	-
Minimum Width at Front Setback	500 feet	-
Front Setback	25 feet	50 feet
Rear Setback	25 feet	25 feet
Side Setback	25 feet	25 feet
Maximum Lot Coverage	None	None
Maximum Height	30 feet	40 feet

Any future commercial uses will need to meet the dimensional standards of the CC zoning district and will require approval of a site development plan. At the site development stage, the applicant will be required to comply with all sections of the Land Development Code including landscaping and parking requirements.





## F. MASTER PLAN COMPLIANCE

### 1. Your El Paso County Master Plan

#### a. Placetype Character: Rural

*The Rural placetype comprises ranchland, farms, and other agricultural uses. The primary land use in this placetype is agriculture however residential uses such as farm homesteads and estate residential are allowed as support uses. Residential lot development within the Rural placetype typically cover 35 acres or more per two units with the minimum lot area consisting of 5-acres per unit. The Rural placetype covers most of the eastern half of the County.*

*Rural areas typically rely on well and septic and parcels for residential development tend to be substantial in size. Rural areas are remotely located and distant from high activity areas or dense suburban or urban places, making access to regional transportation routes, such as Highway 24 and Highway 94, vital to the quality of life for rural community residents.*

*The agricultural lands that Rural areas contain represent a valuable economic resource and unique lifestyle that should be preserved. The Rural placetype includes agricultural lands which represent a valuable economic resource and allow for a unique lifestyle that should be preserved. As growth occurs, some Rural areas may develop and transition to another placetype, however leapfrog development should be discouraged, by pro-actively permitting changing areas contiguous to existing development to another placetype.*

#### Recommended Land Uses:

##### Primary

- Agriculture
- Parks/Open Space
- Farm/Homestead Residential

##### Supporting

- Estate Residential (Minimum 1 unit/5-acres)
- Institutional

#### Analysis:

The applicant is requesting to rezone the property from the A-35 zoning district to the CC zoning district to allow for future commercial development. The rural

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placetype does not recommend commercial development within its recommended land uses.

**b. Area of Change Designation:** Minimal Change: Undeveloped

*The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall, there will be no change to the prioritized rural and natural environments.*

**Analysis:**

If the proposed rezone is approved, the applicant proposes to develop a business event center in the first phase and additional commercial uses with each additional phase. The applicant also intends to develop higher residential density. The applicant states the proposed development will serve the growing residential properties in the area.

**c. Key Area Influences:** The property is not located within a key area.

**2. Water Master Plan Analysis**

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

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

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

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 4c of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 4c for central water providers:

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The Plan identifies the current demand 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 for Region 4c is at 3,967 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 4c is at 4,826 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 1,799 AFY is anticipated for Region 4c.

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

### **3. Other Master Plan Elements**

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

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

Hazards were not identified as part of this application.

### **2. Floodplain**

The property is not located within a floodplain as determined by a review of the FEMA Flood Insurance Rate Map number 08041C0350G, effective December 7<sup>th</sup>, 2018. The property is in Zone "X" which is an area of minimal flood hazard determined to be outside the 500-year flood zone.

### **3. Drainage and Erosion**

The property is in the East Kiowa Creek drainage basin. This is an unstudied basin with no applicable drainage or bridge fees. A drainage report and grading erosion control plan is not required with a Map Amendment (Rezoning) request but will be reviewed with the subsequent development application.



#### **4. Transportation**

The property is located off Elbert Road which is a County maintained paved rural arterial road. Access to the property is anticipated to be via private drive access off Elbert Road approximately ¼ mile north of Apex Ranch Road. With the proposed development the existing driveway access 400 feet north of Apex Road is planned to be closed.

A Traffic Impact Study was submitted with the rezone application evaluating the existing single-family dwelling and the proposed business event center. The Traffic Impact Study projects the proposed development will generate approximately 60 total vehicle trips on the average weekday with 3 of those occurring in the morning peak hour and 5 of those occurring in the afternoon peak hour. This traffic generation includes the existing three single-family homes on the parcel. Any future uses, or expansion of the proposed business event center, would require a new Traffic Impact Study.

No turn lanes on Elbert Road are anticipated for the new driveway access into the development based on the Traffic Impact Study analysis and Engineering Criteria Manual thresholds. A County commercial driveway access permit will be required with development.

El Paso County Road Impact Fees as approved by Resolution 19-471 are applicable to the development and will be assessed at the last land-use approval or when the applicant applies for a building permit.

#### **H. SERVICES**

##### **1. Water**

A finding of water sufficiency is not required with a Map Amendment. Water is provided by an onsite well. The applicant will need to receive approval for a commercial well if the rezone is approved.

##### **2. Sanitation**

Wastewater is provided by an onsite wastewater treatment system (OWTS) that was issued and approved for a 4-bedroom house. El Paso County Health Department noted that future development beyond Phase 1 will likely involve regulatory authority by the Colorado Department of Public Health and Environment, Water Quality Control Division. This includes oversight of OWTS flows of 2,000 gallons/day





or more, and the water treatment system required for the proposed commercial operations depending on the population to be served.

### **3. Emergency Services**

The property is within the Falcon Fire Protection District. The Falcon Fire Protection District had no outstanding comments.

### **4. Utilities**

Electricity will be provided by Mountain View Electric Association (MVEA). MVEA was sent a referral and has no objection to the rezone application.

### **5. Metropolitan Districts**

The property is not within 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.

## **I. APPLICABLE RESOLUTIONS**

See attached resolution.

## **J. STATUS OF MAJOR ISSUES**

There are no outstanding major issues.

## **K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (As Amended), staff recommends the following conditions and notations:

### **CONDITIONS**

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable

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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 CC (Commercial Community) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

## **NOTATIONS**

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

## **L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 9 adjoining property owners on July 3, 2024 for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

To date, staff has received two letters of opposition stating commercial development on this property does not meet the Master Plan, has fire risk, and increases traffic. They also mention water and wastewater concerns with the lack of central services available.



## **M. ATTACHMENTS**

Map Series

Letter of Intent

Rezone Map

Public Comments

Draft Resolution

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# Aerial Map

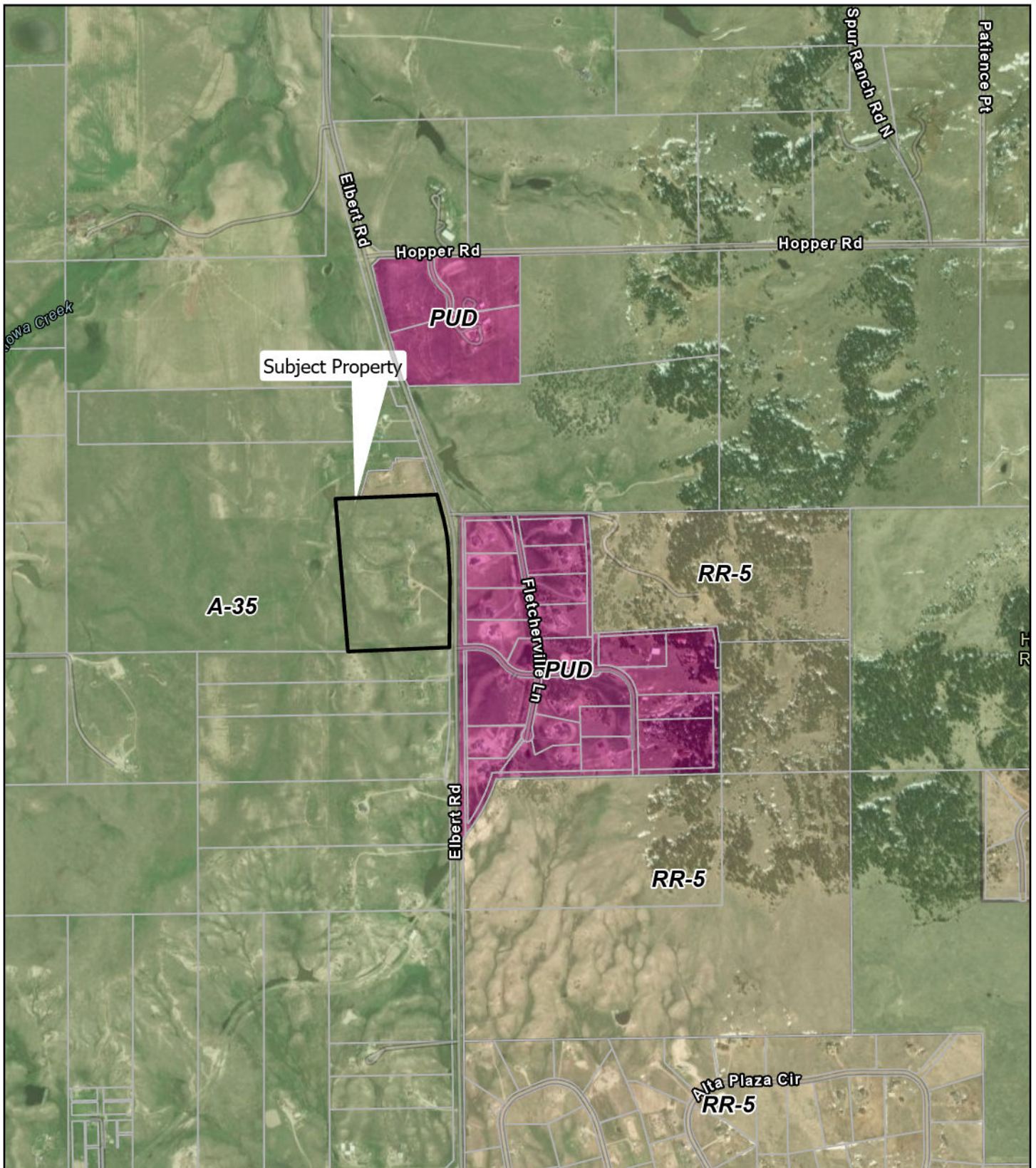
File No. P242

Map Series No. 1



0 0.10.1 0.2 Miles

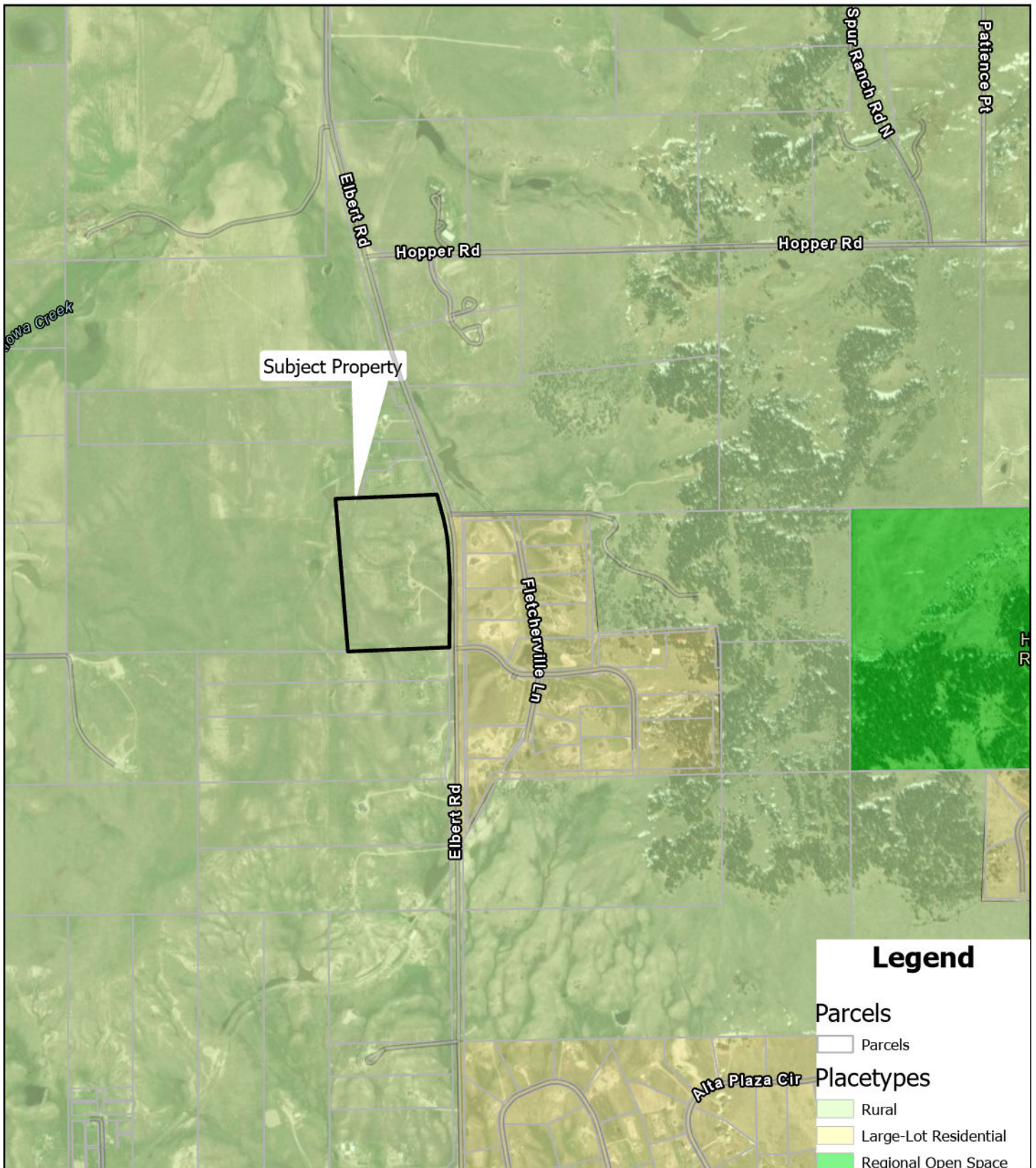




# Zoning Map



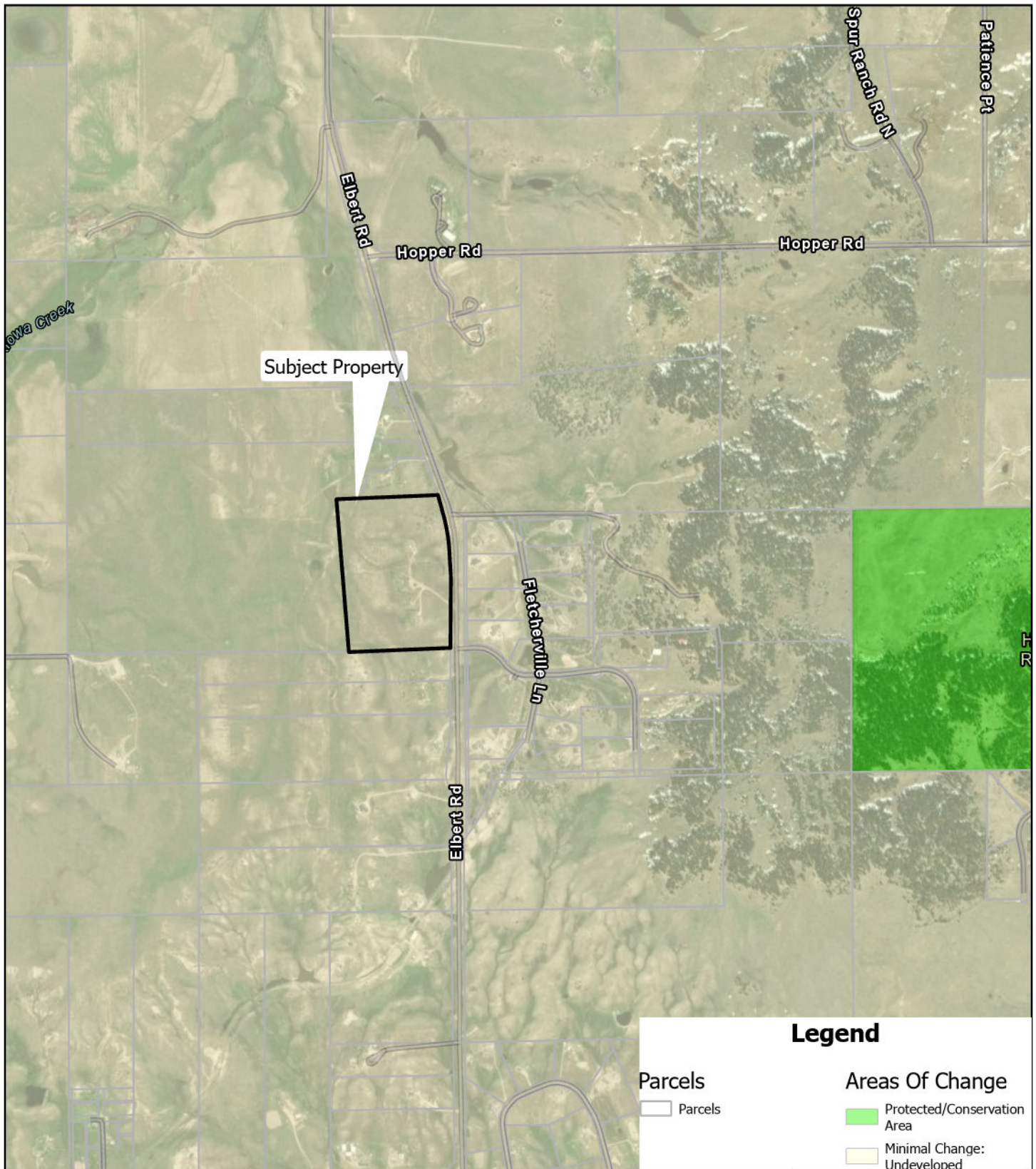




# Placetype Map







### Legend

Parcels  
 Parcels

Areas Of Change  
 Protected/Conservation Area  
 Minimal Change: Undeveloped



# Area of Change Map



# **APEX VILLAGE MAP AMENDMENTS AND REZONE**

## **LETTER OF INTENT**

**May 2024**

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### **OWNER:**

Richard & Winifred Holmes  
16888 Elbert Rd  
Peyton, CO 80831

### **APPLICANT:**

Holmes Enterprises LLC  
16888 Elbert Rd  
Peyton, CO 80831

### **SITE DETAILS:**

**TSN:** 4122000002

**ADDRESS:** 16888 Elbert Road, Peyton, CO 80831

### **ACREAGE:**

37.45 Acres

### **CURRENT ZONING: A-35**

### **CURRENT USE: SINGLE FAMILY RESIDENTIAL**

### **FILE #: Rezone PCD File #P242**



## **REQUEST**

Holmes Enterprises LLC, on behalf of Richard & Winifred Holmes, requests Rezone approval of the following applications:

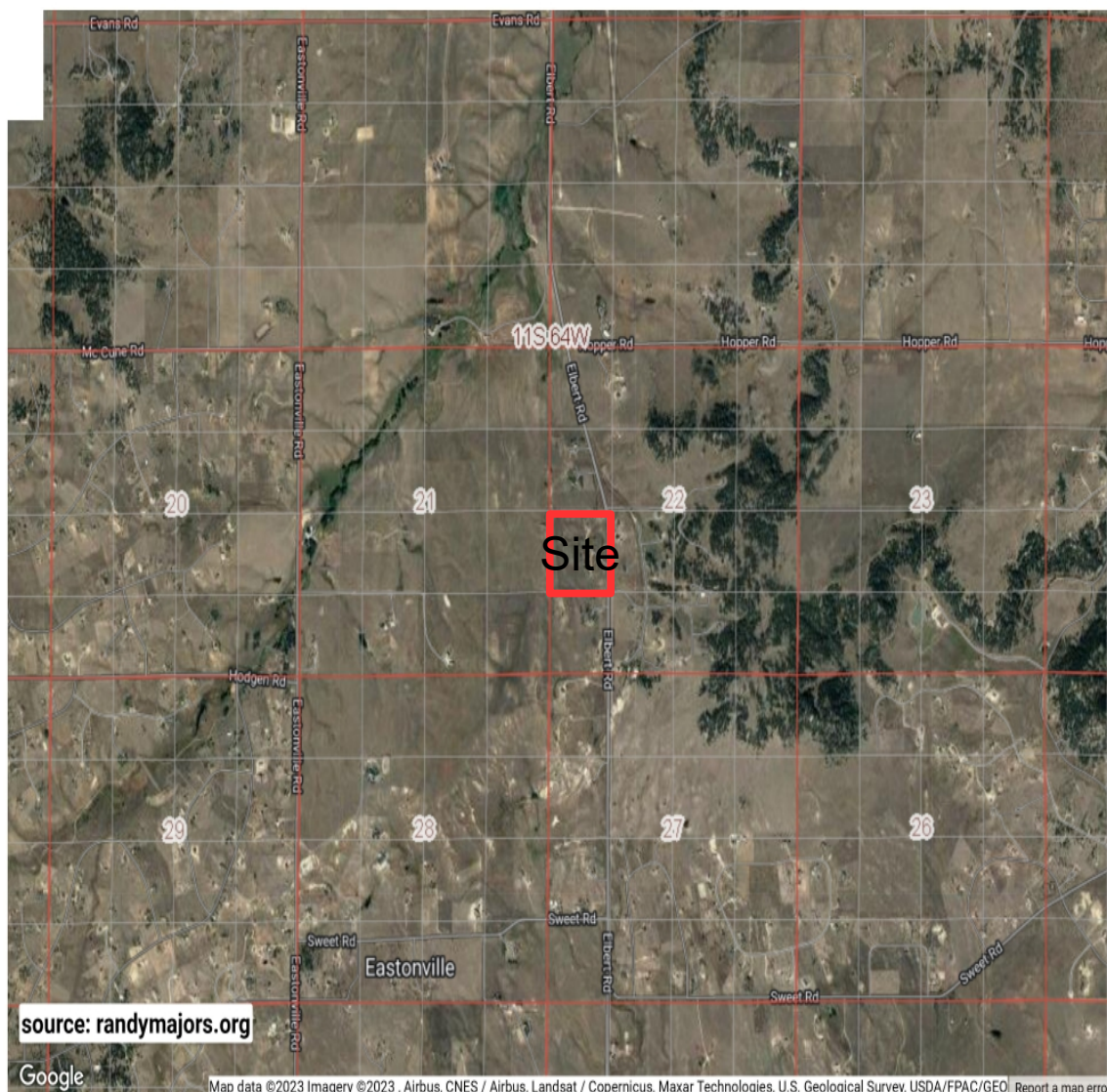
1. Map Amendments (Rezoning) of the area is 35.47 acre A-35 to Community Commercial (CC).

## SITE LOCATION

Apex Village lies west side of Elbert Road between Apex Ranch Road and Apex “dirt road” on north boundary of Apex Ranch subdivision. The property is surrounded by a growing residential area along the Elbert Road **corridor** in El Paso County. See Figure 1 – Site Location (below).

rmrhregmaptools

<https://rlmcony.users.earthengine.app/view/rmrhregmaptools?tool=plsstool&fips=08041&labe...>



1 of 1

9/30/2023, 9:53 AM

Figure 1 – Site Location

## SURROUNDING LAND USE

- To the north is a 5 acre parcel zoned RR-5 a single-family residence.
- To the east is the Apex Ranch subdivision and per the El Paso County Master Plan is designated as Large-Lot Place Type with 25, ~5-acre RR-5 lots. Immediately south the Apex Ranch subdivision is the Overlook planned subdivision to be approximately 60-65 2.5- to 5-acre lots.
- South of this parcel is 35 acre parcel zoned A-35 with a single-family residence.
- West of this parcel is 160 acre parcel zoned A-35. This parcel also includes has a strip of land 30'-70' wide by 1,021' long connecting to Elbert Road on the southern boundary line of the property. See Figures 2 & 3 – Placetype and Zoning Surrounding Area (below).

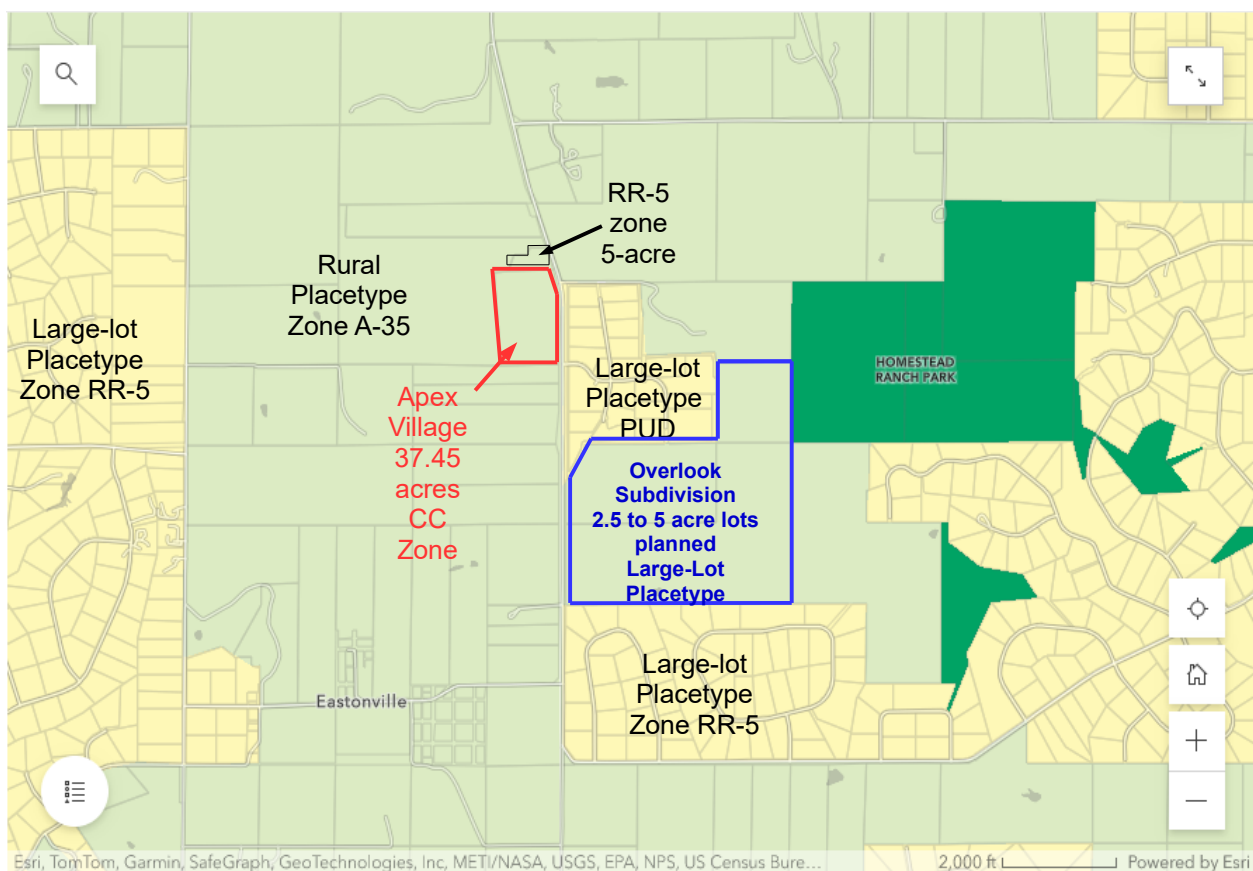


Figure 2 – Placetype and Zoning Surrounding Area



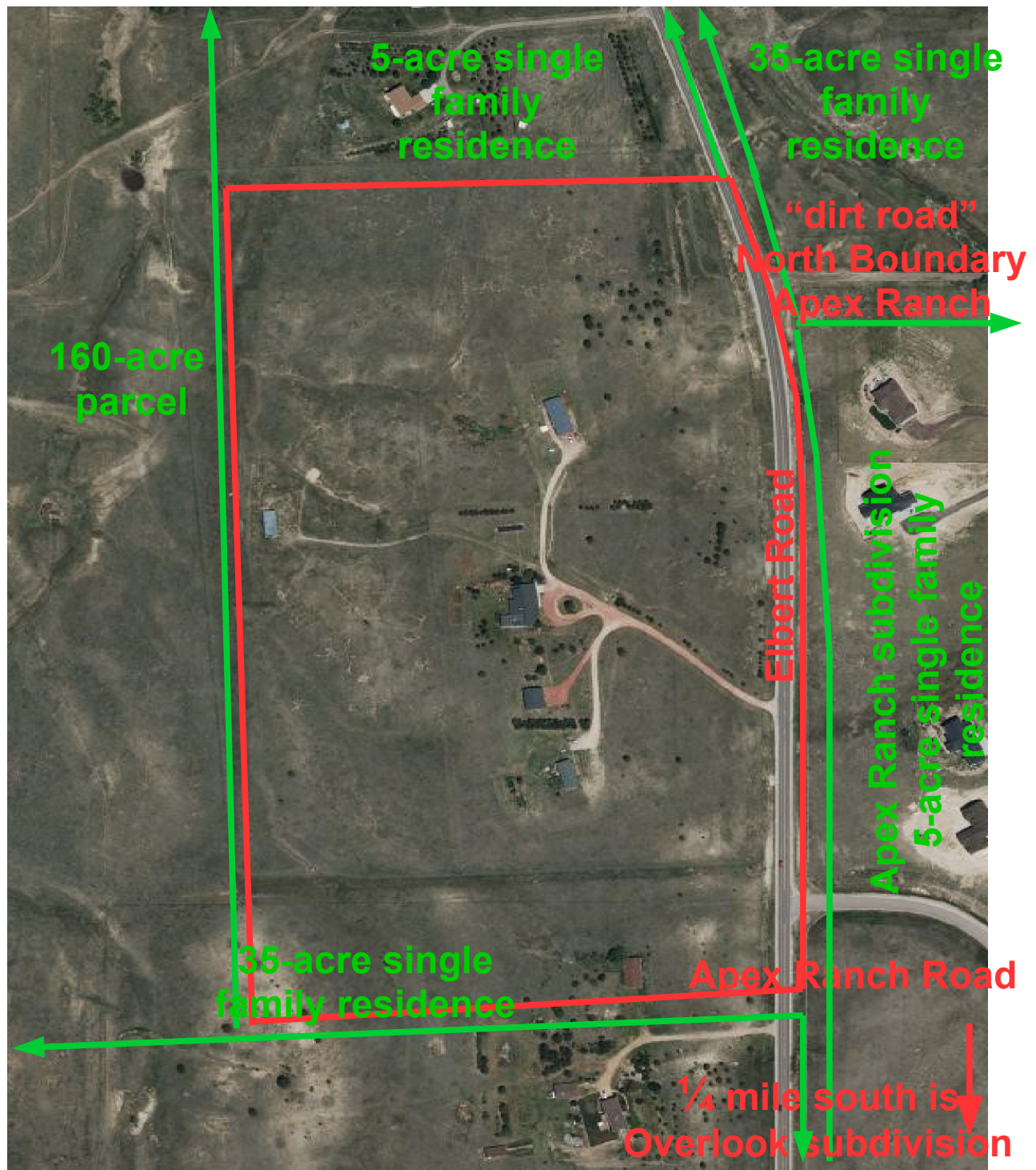


Figure 3 – Placetype and Zoning Surrounding Area



## **ZONING CONTEXT**

The property is currently zoned A-35, Rural Placetype. Surrounding zoning includes A-35 to the west and south. PUD to the east Large-Lot Placetype, and RR-5 to the north. In conjunction with the Apex Village, the following map amendments (rezones) Community Commercial (CC) rezone is requested.

This rezoning creates Commercial Community zoned parcel. Figure 4 is survey conducted by Centennial Land Survey showing the placement of all structures, utilities, and elevations.



Figure 4 – Structures, Utilities, and Elevations.

## **PROJECT DESCRIPTION**

Apex Village is an commercial and higher residential density development to support the growing needs of the area.

**ACCESS AND CIRCULATION:** The Apex Village includes adding entrance from Elbert Road, improving the intersection with a east-side access point that is in alignment with the northern boundary line of Apex Ranch subdivision and Elbert Road. There is currently a currently a 'dirt road' servicing the 3 homes along the road along the northern boundary of Apex Ranch subdivision. Also, a private frontage road with 60' ROW, running north-south along Elbert Road to be created to service the commercial and residential uses.

**COMPATIBILITY/TRANSITIONS:** The following measures have been implemented to ensure the proposed Apex Village is compatible with the adjacent zoning and provides effective land use transitions.

The property is to be reassigned as a Large-Lots Placetype, similar to the Apex Ranch Subdivision PUD directly east. The Apex Ranch subdivision contains 25 lots, of which most now have single-family residences. Also, there is the Overlook Large-Lot subdivision of ~65 homes being developed directly south of the Apex Ranch subdivision. The Overlook subdivision is nested between two existing Large-Lots placetype areas with RR-2.5 and RR-5 zoning.

The Apex Village configuration of land uses and densities continues the gradual transition from the Rural Residential areas on the east and south. In addition, the Apex Village is to provide needed commercial services that are lacking in the area as well as dwelling units.

**TRAFFIC:** A Traffic Impact Study (TIS) for Phase 1 of the project is included in this submittal. Phase 1 limits the development to adding a Business Event Center, adding storm water pond, and 60' ROW road. The Average Daily Traffic (ADT) from the Business Event Center is limited to 100.

Follow-on phases to be submitted as the commercial development proceeds to include Elbert Road roadway widening and auxiliary lane improvements as well as additional of commercial uses and dwelling units.

**NOISE:** The noise level coming from Elbert Road is not enough to warrant adding any noise barriers.

## COUNTY MASTER PLAN COMPLIANCE

Applicable plans for the County comprise the Your Master Plan, the Water Master Plan, the 2040 Major Transportation Corridor Plan, and the El Paso County Parks Master Plan.

### YOUR EL PASO MASTER PLAN

Apex Village is denoted as “Rural” on the Placetypes Map, see Figure 2 – Placetype and Zoning Surrounding Area in the Master Plan. The primary land use in the Rural placetype is agricultural with single-family detached residential, lot sizes 35 acres and up to 2 units per parcel. The local area has grown to now include Large-Lots Placetypes with adjacent properties to the east and continuing south from to Apex Ranch subdivision.

The proposed Apex Village is to be CC zoned allowing for commercial uses and higher-density units.

The Apex Village is seeks to develop neighborhoods with a mix community services and mixed-use residential/dwelling units.

### WATER MASTER PLAN

The proposed development satisfies the following policies of the Water Master Plan.

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

*Goal 4.2 – Support the efficient use of water supplies.*

*Policy 4.3.6 – Encourage well monitoring throughout the County, with an emphasis on the Denver Basin aquifer fringe areas.*

*Policy 4.1.2 – Encourage more systematic monitoring and reporting of water quality in individual wells.*

*Goal 6.2.2 – Fully reuse all water that can be economically reused.*

The project is located within Region 3, the Falcon area. This growth area is projected to experience significant growth by 2040. By 2060, a 14% increase in supply is needed.

### Water Access

The Apex Village is unable to access central water as there are none locally. In Phase 1, the new and existing uses will be the 2 existing wells on the parcel. In follow-on phases.

### Sewer Access

The Apex Village is unable to access central sewer services as there are none locally. In Phase 1, the existing residences will be served by their existing 3 OWTS . One additional OWTS to be added for the Business Event Center. In follow-on phases, the Apex Village development needs to centralize the sewer services with the added goal of water re-use for landscaping and other non-potable water uses.

#### **2040 MAJOR TRANSPORTATION CORRIDOR PLAN (MTCP)**

The 2040 Functional Classification map in the MTCP shows Elbert Road as a Minor Arterial connection as a 2-lane principal arterial by 2040 and will be continue to be uncongested.



## **PROJECT JUSTIFICATION**

### **Map Amendment (Rezone) Approval Criteria-Chapter 5.3.5 (B)**

**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 relevant County Plans for the Apex Village map amendments are Your El Paso County Master Plan, the County Water Master Plan, and the 2040 Major Transportation Corridor Plan. The Apex Village is in conformity with these plans as described above adding commercial services to the local community.

**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;**

As the proposed map amendments fulfill the goals of the County Master Plan as described under criterion (1) and therefore complies with the statutory provisions that allow County's to establish, limit, regulate, or amend zoning within the unincorporated parts of El Paso County in the interests of public health, safety and welfare.

There are 4 lots proposed the Apex Village subdivision, size 37.45 acres. The proposed rezone is Community Commercial (CC). By adding Mixed-Use Family Residential Units (Special Uses in Table 5.1 of LDC), the Apex Village becomes self-sustaining. The dwelling unit (du) density to not exceed 1.5 du/ac.

**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.**

Future development of Apex Village will meet the use and dimensional standards for the respective CC zone, as set out in Chapter 5 of the Land Development Code (LDC).

A map showing the proposed site location. The site is marked with a small square and labeled "Site". It is located at the intersection of Eastonville Rd and Apex Ranch Rd. Surrounding roads include Meridian Rd, Evans Rd, Elbert Rd, Hopper Rd, McCune Rd, Hodgden Rd, Sweet Rd, and Murphy Rd. A north arrow is shown in the upper right corner, pointing upwards, with the letter "N" and the text "N.T.S." (Not To Scale) below it.

SECTION 22, IN TOWNSHIP 11, RANGE 64 WEST OF THE 6TH  
PRINCIPAL MERIDAN, EL PASO COUNTY, COLORADO  
**CC REZONE**

**OWNER:**  
Richard & Winifred Holmes  
16888 Elbert Rd  
Peyton, CO 80831

**PREPARED BY:**  
Holmes Enterprises LLC  
16888 Elbert Rd  
Peyton, CO 80831

Tax ID Number: 4122000002

Current Zoning: A-35

Proposed Zoning: CC  
Total Area: 37.45 ac

A tract of land in the Southwest quarter of the Northwest quarter and the Northwest quarter of the Southwest quarter of Section 22, Township 11 South, Range 64 West of the 6th P.M., described as follows:

Commencing at the Northwest corner of said Section 22;

thence S 0° 31'30" E, 1283.35 feet;

thence N 8° 27'15" E, 646.84 feet;

thence S 17° 27'16" E, 160 feet;

thence S 84° 51'16" E, 63.30 feet to a point on the West R.O.W. line of State Highway #217;

thence S 19° 13' E along said R.O.W. line of State Highway #217;

thence S 13° 45' E along said R.O.W., 339.83 feet to the Point of Beginning of the tract to be described;

thence along said R.O.W. S 15° 37'30" E, 197.8 feet, to a point of curve;

thence along a curve to the right whose chord bears S 8° 49'30" E, a chord distance of 440.46 feet, having a radius of 1860 feet and an arc distance of 441.4 feet;

thence continuing along said R.O.W. S 3° 48'30" E, 197.8 feet;

thence along said R.O.W. S 0° 05' W, 711.1 feet;

thence S 87° 21'30" W, 1021 feet;

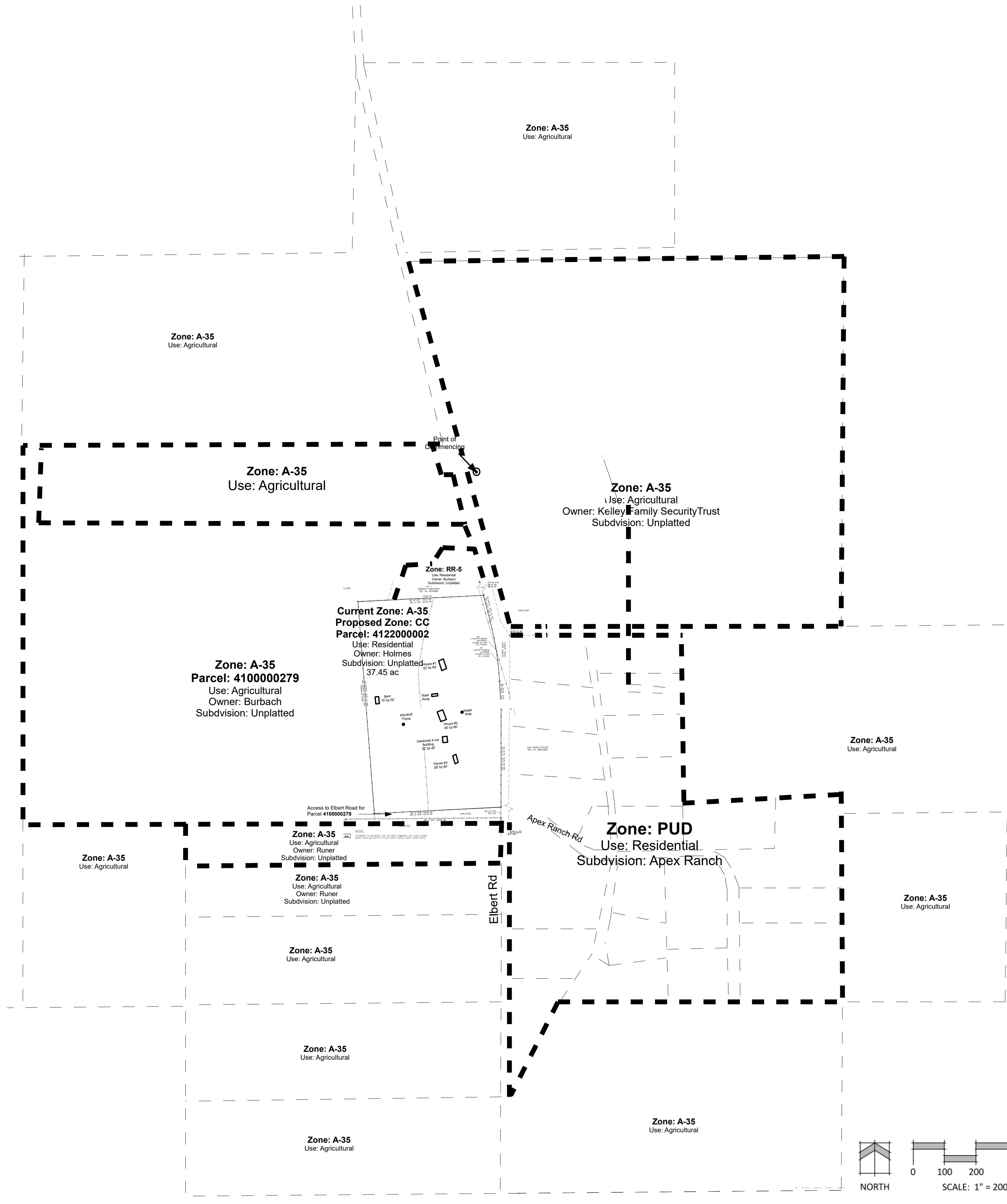
thence N 4° 57' W, 1539.95 feet;

thence N 37° 21', 1021 feet to the Point of Beginning.

Property Boundary

Adjacent Parcels

Surrounding Parcels



**From:** Thomas Swaim <swaimtp@msn.com>  
**Sent:** Tuesday, April 23, 2024 6:25 PM  
**To:** Kylie Bagley  
**Subject:** PCD P242 Rezone 35.47 Ac from A-35, Agricultural to CC, Commercial Community

**CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.**

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Re: PCD 242 16888 Elbert Rd

Kylie,

Commercial Community zoned property at the proposed location is incompatible with the EPC Master Plan.

Additionally reference is made to Apex Village as a large lot place type— this does not seem to fit the definition.

“The property is to be reassigned as a Large-Lots Placetype, similar to the Apex Ranch Subdivision PUD directly east”.

I do not see how a Commercial Community/ Mixed Use Residential development can be compared to the existing zoning/ development.

What is being proposed also does not fit the intent of the EPC Master Plan. Review of the County Master Plan does not suggest that a Commercial Community Zoned parcel is compatible with the rural nature of this area.

This project would be more suitable for the US 24 corridor or the EPC Master Plan designated development priority areas generally South of Murphy Road. According to the Master Plan, emphasis on development of commercial and higher density residential and mixed use development in the County is designed to fall in corridors or zones with existing, developing or planned infrastructure.

There are serious concerns about the actual density of Residential housing based on references in the proposal to small square footage land requirements for dwelling development, and density of 1.5 dwelling units per acre, which could mean around 55 residential units on 37 acres.

The application states:



“By adding Mixed-Use Family Residential Units (Special Uses in Table 5.1 of LDC), the Apex Village becomes self-sustaining. The dwelling unit (du) density to not exceed 1.5 du/ac. “

According to Wikipedia, “Mixed use is a type of **urban development**, urban design, urban planning and/or a zoning classification that blends multiple uses, such as residential, commercial, cultural, institutional, or entertainment, into one space, where those functions are to some degree physically and functionally integrated, ...”

This project is clearly not matched to rural, or large-lot place type; rather more suited to urban areas. The densities are clearly not a fit for a rural or large lot residential area.

The placement of an assisted living facility that is suggested for the development is not a rational plan—emergency services are not optimal for this remote location, again supporting other locations preferred in the Master Plan.

The scope of potential businesses to be included in this development is almost without limits, which is concerning. Given the lack of water and sewer infrastructure it is questionable that an OWTS can safely handle loads from the suggested car wash, commercial laundry, medical and assisted living facilities and food preparation without high risk to the underlying groundwater. The geology of this area can be problematic for even simple rural large lot residential OWTS. Given the high density of residential as well as high risk commercial waste, this commercial community in an area without the appropriate infrastructure would present unacceptable risks to our health and the environment. Given the nature of adjacent properties it is not conceivable that any sort of centralized treatment system could be affordably supported, even long term.

The size of the area to be zoned CC does not make sense in the context of zoning of surrounding properties. Development of 37 acres into a commercial and high density residential zone without potential to fit into a larger integrated business district will likely not be sustainable. Again the reason for the Master Plan prioritizing certain areas for commercial and mixed use is to create sustainable and responsible development.

Would the Planning Department provide a survey of similarly CC zoned developments in the County, with size and location for a better public perspective on this?

We are further concerned about the risk that this development brings for Wildland Fires. Increased vehicle traffic, residential and business activity concentrated in a relatively small area surrounded with grassland fuels, subjected to high and persistent winds, and well removed from fire fighting assets poses unacceptable risk. Commercial development needs to be in areas with sufficient fire protection infrastructure- ie fire stations nearby, fire hydrants and water supply.

Signage for the multitude of proposed businesses, and uncontrolled generation of trash likely to be blown over the countryside will create visual blight. Light and noise pollution

generated by activities and added traffic will disrupt the peaceful rural environment that we currently enjoy.

This development will adversely affect Wildlife in the area - the presence of food service operations and human generated trash will attract undesirable animals and promote scavengers, rodents, insects that will lead to disease and consequences to wildlife native to the area.

Apex Ranch Estates allows horses and chickens, and there are at least three adjacent lots to the proposed project with horses and/or chickens. This emphasizes the incompatibility of use between existing and proposed development. As a result, conflict between residents, businesses and patrons is inevitable due to nuisance. A nuisance is created when a person repeatedly allows the escape of noxious things onto someone else's property. Smells, sounds, insects, animals, and many other things can be nuisances if their presence interferes with the reasonable use or enjoyment of another's property. Nuisances are likely to be mutual. Responsible zoning is intended to prevent these situations.

There have been multiple attempts to have this land rezoned for purposes inconsistent with this location and against desires of local residents. The planned development is unrealistic and profit motivated, and not supported by evidence that such development has a strong business case or financial backing to be successful or sustainable. The result of failure could be a serious blight on our community and detrimental to our County. Development on CC zoned property calls for experienced and well-financed development companies and their responsible placement within the framework of the County Master plan

I appreciate your attention to these concerns.

Thanks

Tom Swaim  
15020 Apex Ranch Rd

Sent from my iPhone

PROJECT FILE NUMBER P242, APEX VILLAGE  
SUBMITTED BY ROGER AND JOANN LUND, TRUSTEES OF THE LUND FAMILY  
REVOCABLE LIVING TRUST, OWNERS OF APEX RANCH ESTATES LOTS 15 AND 16  
SUBMITTED MAY 7, 2024

We are submitting these comments regarding the above-named proposal and request that they be entered into the record as opposing the request for rezoning from the current A35 to Community Commercial/Mixed Residential Use.

- 1) The applicant in its Letter of Intent has misrepresented the character of the recent rezoning of the Overlook at Homestead project on the east side of Elbert Road as allowing 2.5 and 5 acre parcels. This is absolutely incorrect; the El Paso County Board of County Commissioners at their January 11, 2024 meeting approved a rezoning from A35 to RR5, not the 2.5 as applicant alleges. This is a matter of public record and should have been easily ascertainable. The applicant relies heavily on the argument of smaller lot sizes for adjoining properties for its request, so this is a material misstatement of fact.
- 2) We heartily disagree with the applicant's statement in their Letter of Intent that their proposed project would provide a "gradual transition" from the surrounding existing rural residential zoning to their proposed commercial and mixed residential usage.

First, lot sizes initially proposed for residential (7,000 sq ft for the first 2 units, 2,500 sq ft for additional units) is a drastic densification compared to the surrounding properties, most of which are A35 or RR5, or in the case of Apex Ranch Estates PUD, approximately 4 to 5 acres). Again, see #1 above, no 2.5 acre parcels as applicant asserts.

Second, the conversion to Community Commercial is an abrupt and unwelcome change in the character of the area from rural residential to inclusion of the very type of activity and congestion that those of us who have chosen to live here have done so to avoid. The applicant's reference to "needed commercial services" that we currently have to travel 12 miles to Falcon to obtain is a gross assumption on their part; again, having chosen a rural lifestyle means that we're willing to accept the fact that we need to travel into town for such services instead of having them placed next door to us with the attendant traffic, noise, and congestion.

- 3) We feel that the Traffic Plan submitted needs a crucial review by the County Traffic Engineer. The proposed density and certain increase in vehicle traffic entering and exiting the sole entrance off Elbert Road will likely result in crashes at this intersection. We base this on the following:
  - a) The proposed point of entry will be across Elbert Road from the "dirt road" applicant describes in his proposal (the "unnamed access road" in the Traffic Impact Study), which will place it at the top of a hill and on a curve in the road. While we do not dispute that this is the logical place for the access point, it is sufficient to accommodate the current level of residential traffic of the Holmes property, but certainly not the increased usage by the proposed activity if rezoned.
  - b) The Traffic Plan may or may not take into account the increased usage which will occur with the development of the Overlook at Homestead which has been approved by the County and will begin soon. Particularly, traffic at the intersection of Apex



Ranch Road and Elbert Road will significantly increase once this happens, as Apex Ranch Road will be one of two access points to the new Overlook development, besides being the sole access point to the 19 residences in Apex Ranch Estates.

- c) Another point for the County Engineer to consider in reviewing the Traffic Plans for both Apex Village and Overlook: In the 14 years that we have lived in Apex Ranch Estates, there have been 2 separate fatal accidents on Elbert Road just in the stretch from Apex Ranch Road north to the “dirt road” that the applicant references in his proposal. A house on Lot 7 of Apex Ranch Estates directly across from the Holmes property was struck and suffered major damage from a southbound car failing to negotiate the curve near the “dirt road” and leaving Elbert Road before striking the house. This portion of Elbert Road was also temporarily blocked for a Flight for Life Helicopter to land on it to transport a person severely injured in a traffic accident on this roadway. This is not to mention the multiple times a vehicle has driven off the road and onto our HOA-owned tract paralleling Elbert Road, causing property damage.
- 4) We heartily agree with the comments on this proposed development submitted to you by Tom Swaim, a fellow resident of Apex Ranch Estates, and have been entered into the record. He has very concisely presented the case that the Apex Village project is incongruent with the El Paso County Master Plan, so we will not belabor the point other than to say that the points he raises are valid and require that the Planning Commission and Board of County Commissioners fulfill their obligation to honor the letter and spirit of the Master Plan in denying this application for rezoning.

In conclusion, the applicant has been less than forthcoming in his presentation of his ultimate plans for the uses of the property if rezoned. His May 2024 Letter of Intent posted on the County website now only has vague references to “higher residential density development” and “needed commercial services”; previous iterations of his plans for a learning center, business event center, convenience store, bed and breakfast facilities on 2500 to 7000 square foot lots, car washes, ad infinitum have been removed. Only upon reading the April 2024 Traffic Impact Study does one find more detailed reference to the business event center and bed and breakfast facility. Even then, such ambiguous phrases as “at such time as new uses are proposed and defined” (page 1), a “concept plan...for illustrative purposes only” (page 1), “Figure updated pursuant to latest available plan provided by owner” (page 3), “the conceptual nature of the current development application” (page 5) in this document affirm that his intentions are unclear and fluid at best. If applicant wants a rezone, the appropriate choice would be for RR5, which incidentally could bring the current use (3 homes on A35/single family residential) into compliance.

MAP AMENDMENT (REZONING) (RECOMMEND APPROVAL)

\_\_\_\_\_ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P242

16888 ELBERT ROAD MAP AMENDMENT (REZONING) CC

WHEREAS, Richard Holmes did file an application with the El Paso County Planning and Community Development Department for approval of a Map Amendment (Rezoning) to amend the El Paso County Zoning Map for property in the unincorporated area of El Paso County as described in Exhibit A and depicted in Exhibit B, attached hereto and incorporated herein by reference, from the A-35 (Agricultural) zoning district to the CC (Commercial Community) zoning district; and

WHEREAS, a public hearing was held by this Commission on July 18, 2024; 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, when 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.B of the El Paso County Land Development Code (as amended):

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Richard Holmes for approval of a Map Amendment (Rezoning) to amend the El Paso County Zoning Map for property located in the unincorporated area of El Paso County from the A-35 (Agricultural) zoning district to the CC (Commercial Community) 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 Choose an item. 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.

\_\_\_\_\_ seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	aye / no / non-voting / recused / absent
Sarah Brittain Jack	aye / no / non-voting / recused / absent
Jim Byers	aye / no / non-voting / recused / absent
Jay Carlson	aye / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / absent
Jeffrey Markewich	aye / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / absent
Bryce Schuettpeiz	aye / no / non-voting / recused / absent
Wayne Smith	aye / no / non-voting / recused / absent
Tim Trowbridge	aye / no / non-voting / recused / absent
Christopher Whitney	aye / no / non-voting / recused / absent

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

DONE THIS 18th day of July 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: \_\_\_\_\_  
Chair

EXHIBIT A

TRACT IN SW4NW4 AND IN NW4SW4 SEC 22-11-64 DES AS FOLS; COM AT NW COR OF SD SEC, TH S 0°31'30" E 1288.35 FT, N 89°27'15" E 646.84 FT, S 17°27'16" E 160.0 FT, S 84°51'16" E 63.60 FT TO A PT ON W R/W LN OF HWY 217, S 19°13' E ALG SD R/W LN 939.83 FT FOR POB, TH ALG SD R/W LN S 15°37'30" E 197.8 FT, TH ALG A CUR TO R WHOSE CHORD BEARS S 8°49'30" E CHORD DIST 440.46 FT, HAVING A RAD OF 1860.0 FT AN ARC DIST OF 441.4 FT, S 3°48'30" E 197.8 FT, S 0°05' W 711.1 FT, S 87°21'30" W 1021.0 FT, N 4°57' W 1539.95 FT, N 87°21' E 1021.0 FT TO POB

EXHIBIT B

VICINITY MAP



SITE DATA

**OWNER:**  
Richard & Winifred Holmes  
16888 Elbert Rd  
Peyton, CO 80831

**PREPARED BY:**  
Holmes Enterprises LLC  
16888 Elbert Rd  
Peyton, CO 80831

Tax ID Number: 4122000002

Current Zoning: A-35

Proposed Zoning: CC  
Total Area: 37.45 ac

LEGAL DESCRIPTION

A tract of land in the Southeast quarter of the Northeast quarter and the Northwest quarter of the Southwest quarter of Section 22, Township 11 North, Range 64 West of the 6th Principal Meridian, El Paso County, Colorado, described as follows:  
Commencing at the Northwest corner of said Section 22;  
thence S 01° 27' 07" E, 1266.35 feet;  
thence S 17° 27' 07" E, 180 feet;  
thence S 88° 13' 17" E, 83.30 feet to a point on the West R.O.W. line of State Highway #517;  
thence S 19° 12' 13" E along said R.O.W. line of State Highway #517;  
thence S 19° 12' 13" E along said R.O.W. line 250.00 feet to the Point of Beginning of the tract to be described;  
thence along said R.O.W. line S 19° 12' 13" E, 187.0 feet, to a point of survey;  
thence along a curve to the right whose chord bears S 8° 42' 57" E, a chord distance of 480.45 feet, having a radius of 1985 feet and an arc distance of 437.4 feet;  
thence continuing along said R.O.W. line S 19° 12' 13" E, 187.0 feet;  
thence along said R.O.W. line S 19° 12' 13" E, 711.1 feet;  
thence S 67° 27' 07" E, 1021 feet;  
thence S 18° 12' 07" E, 1039.00 feet;  
thence S 17° 27' 07" E, 1021 feet to the Point of Beginning.

LINE LEGEND

- Property Boundary
- Adjacent Parcels
- Surrounding Parcels

APEX VILLAGE ON ELBERT ROAD

SECTION 22, IN TOWNSHIP 11, RANGE 64 WEST OF THE 6TH  
PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO  
CC REZONE

