

PBD-04-001

533.29

**REZONING: RR-3 TO PBD
MULE DEER INVESTMENTS**

A request by Mule Deer Investments, LLC to rezone 5.07 acres from RR-3 (Rural Residential) District to PBD (Planned Business District). The property is located south of North Carefree Road, approximately 1/3 mile west of Marksheffel Road. The property is not in a small area plan. Assessor's Tax Schedule #53294-00-001 (part of).

PREPARED BY

Barry Holmes
6/7/04

APPLICABLE RESOLUTIONS

Approval Page 21
Disapproval Page 22

PLANNING DIVISION RECOMMENDATION: The Planning Division of the Development Services Department recommends **approval**, with the following notations:

NOTATIONS

1. The property falls under the 40:1 Approach Surface and as a result the developer will be required to execute an approach surface avigation easement at the time of final plat.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

PUBLIC NOTICE: The property was posted prior to July 6, 2004.

PUBLIC NOTIFICATION: The Planning Division last notified adjoining property owners of applicant's intent prior to July 6, 2004. A summary of their responses will be given at the meeting.

SITE: The site is five (5) acres in the southeast corner of a larger, 37.9-acre site, south of North Carefree Circle and approximately 1,500 feet west of Marksheffel Road.

ADJOINING LAND USE AND ZONING

North	Vacant, Undeveloped	RR-3 (Rural Residential) District
South	DOT Main Facility, Vacant	PID (Planned Industrial) District
East	Colorado Springs Utilities Natural Gas Facility	RR-3 (Rural Residential) District
West	Vacant, Undeveloped	RR-3 (Rural Residential) District

HISTORY/ BACKGROUND: This area is in the Pronghorn Meadows Sketch Plan, approved by the Board of County Commissioners on June 24, 2002. The property in this request is shown as Industrial on the Sketch Plan. A reduced copy of this portion of the Sketch Plan is attached.

AGENCY COMMENTS

AIRPORT ADVISORY COMMISSION: The property falls under the 40:1 Approach Surface and, as a result, the developer should be required to execute an aviation easement for each property.

The following agencies responded with either no comments or no concerns:

Cherokee Metropolitan District
City of Colorado Springs

Other agencies notified, their comments will be provided at the meeting if available:

El Paso County Parks
El Paso County Department of Transportation
Falcon Fire Department
Comprehensive Planning Section
Falcon School District No. 49

PLANNING DIVISION COMMENTS

- 1) The issues here are mainly procedural. The immediately proposed uses of this property are light industrial uses (indoor manufacturing of building structural components, contractor's equipment yard). Eventually, general development-oriented offices are desired. The Pronghorn Meadows Sketch Plan indicates this area as industrial.

Because this property is adjacent to a residential zone on the east, the applicant does not want an industrial zone district. Even though the property to the east has an industrial use, a PID District here would be next to a residential district. There would be a minimum 150-foot building setback from the adjacent residential zone district setback, inhibiting the use of valuable land to no apparent purpose.

Additionally, the applicant does not want to amend the Sketch Plan at this time. A Sketch Plan amendment to allow industrial/ commercial use would somewhat simplify the issues.

The PBC (Planned Business Center) District allows a Contractor's Equipment Yard and Light Industry as Uses Subject to Special Review. The PBD District also allows offices. It appears to be the only district which will provide the uses the applicant wants. Staff believes that it is possible to meet the Sketch Plan designation of industrial use by designating this area as PBD with the requested special uses. Through the special use process, restrict the uses to those two industrial uses until the Sketch Plan is amended to permit commercial uses. (A Sketch Plan designates a proposed type of land use, not particularly zoning.) If the special use approval does not allow commercial uses, this approach would be consistent with the Sketch Plan. If the Sketch Plan is amended to allow commercial uses, the developer may have one principal permitted commercial use in addition to the special uses.

- 2) Our Code does not allow a platted lot to be in two zone districts. The Code is silent on non-platted property. Historically, the County has zoned single parcels into two or more zone districts. However, due to the way the Code is written, it is not possible to enforce certain aspects of a zone district that is only a part of a parcel. An example is a setback, which is defined as a distance from a lot line. With no lot lines, the setback requirement is unenforceable. Staff does not normally recommend zoning a parcel to multiple zone districts.

By State law, this 37.9-acre property cannot be legally divided into smaller increments without going through the formal subdivision process. In the past, the County has considered the approval of a Preliminary Plan as adequate platting and intent of division to rezone a parcel. If the Preliminary Plan of this 37.9 acres is approved, this rezoning request is supported by staff, if the Use Subject to Special Review is also approved, limiting the uses.

- 3) The purpose of the Planned Business District is one of providing for retail, wholesale or service commercial uses for the benefit of the general public.

There is no minimum lot area in the district, however the district itself must be a minimum of two (2) acres. Development in this area will need to meet the minimum setback requirements and maximum structural height regulations for the PBD District. The current PBD District regulations are:

Maximum structural height:	45'
Front yard setback:	25'
Side setback	25'
Rear yard setback:	25'

Platting and a plot plan are required prior to obtaining a building permit.

- 4) Water and sanitation are proposed to be provided through the Cherokee Metropolitan District.
- 5) The area is not included in a small are comprehensive plan.
- 6) Case law in Colorado has established the following general reasons for justification of a zone change:
 - a) To implement the Master Plan,
 - b) If a zoning action is inconsistent with the Master Plan, a material change in the character of the area since the date of the current zoning must be demonstrated,
 - c) An error occurred in the original zoning of the property,
 - d) The zone change is necessary for the general health, safety, or welfare of the community.

ENCLOSURES

Vicinity Map
Letter of Intent
Map of Area to be Zoned

El Paso County Parcel Information

Parcel Number: 5329400001

Parcel Address: 0 29-13-65

Parcel Owner: MULE DEER INVESTMENTS LLC

PBD-04-001

File Name: ~~5329400001~~

Zone Map No.: 533.29

Owner Mailing Address: 520 E COLORADO AVE, COLORADO SPRINGS, CO 80903



N



Please report any discrepancies to:
El Paso County GIS/Mapping
325 S. Cascade
Colorado Springs, CO 80903
(719)520-6523

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February 26, 2004

-139-

GIS
El Paso County
Colorado



LDC, Inc.

3520 AUSTIN BLUFFS PARKWAY
COLORADO SPRINGS, CO 80918
(719) 528-6133
FAX (719) 528-6848
www ldc-inc.com

February 24, 2004

El Paso County Planning
27 E Vermijo
Colorado Springs, CO 80903

Attn: Barry Holmes

Re: **Letter of Intent - Mule Deer (Zone Change-Special Use) 53294-00-001**

LDC, Inc. is representing Mule Deer Investments, LLC, owner of the above referenced property. We are requesting a Zone Change to PBD for two lots and Akers Drive to the centerline. This area was included in the approved Pronghorn Meadows Concept Plan.

The zoning proposed on the two lots and Akers Drive (to the centerline) is PBD with a Special Use to allow for Light Industry and Contractor's Equipment Yard. A Plot Plan is also submitted with this request. The proposed zoning and use is in compliance with the approved Concept Plan. The Zone Change covers an area from DOT's facility to the centerline of proposed Akers Drive, encompassing approximately 5.9 acres with two lots and approximately 3.8 acres.

Owner of Amended Area:
Heath Herber (575-0083)
Mule Deer Investments, LLC
520 East Colorado Ave
Colorado Springs, CO 80903

Land Planners:
Pam Cherry (528-6133)
LDC, Inc.
3520 Austin Bluffs Parkway
Colorado Springs, CO 80918

Thank you for your consideration,


LDC, Inc. by Pam Cherry

-140-

P-04-001

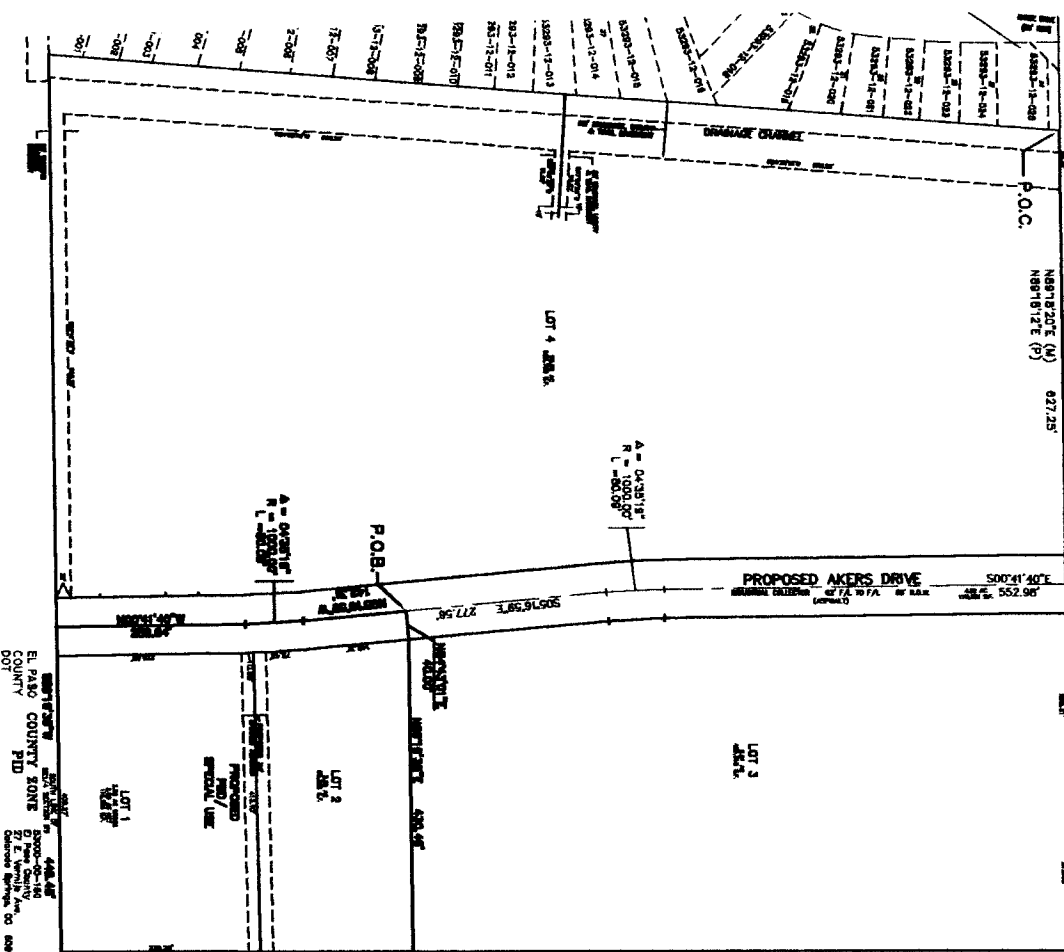
MULE DEER BUSINESS PARK

3800-00-204
 Proposed Investment, LLC
 330 E. Colorado Avenue, Suite 100
 Denver, Colorado 80202

COUNTY ZONE PRINCETON MEADOWS
 PLUMBING NO. 1

N. CARNEGIE CIRCLE

PAYMENT BOTH VANCES 120' R.O.M.



COUNTY ZONE
 3800-00-204
 Proposed Investment, LLC
 330 E. Colorado Avenue
 Denver, Colorado 80202

LEGAL:

THAT MULE DEER INVESTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY, BEING THE OWNER OF THE FOLLOWING DESCRIBED TRACT OF LAND:

A TRACT OF LAND LOCATED IN THE E 1/2 OF SECTION 28, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTLY CORNER OF PRINCETON MEADOWS SUBDIVISION PLUMBING NO. 1 AS RECORDED AT RECEPTION NO. 202165371 OF THE RECORDS OF SAID EL PASO COUNTY, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY OF NORTH CARNEGIE CIRCLE, THENCE N88°18'20"E (N88°18'12"E PLATTED) ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 827.25 FEET;

1. THENCE N88°18'20"E CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 40.00 FEET;
2. THENCE S00°41'40"E, A DISTANCE OF 282.88 FEET TO A POINT OF CURVE TO THE LEFT, A DELTA ANGLE OF 04°28'19", AN ARC LENGTH OF 1000.00 FEET, WHOSE LONG CHORD BEARS S02°58'19"E, A DISTANCE OF 80.09 FEET;
3. THENCE S02°58'19"E, A DISTANCE OF 277.58 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;
4. THENCE S02°58'19"E, A DISTANCE OF 277.58 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;
5. THENCE N84°43'01"E, A DISTANCE OF 40.00 FEET;
6. THENCE N84°43'01"E, A DISTANCE OF 430.40 FEET TO THE WESTERLY LINE OF A TRACT OF COUNTY AS RECORDED AT RECEPTION NO. 80048807 OF THE RECORDS OF SAID EL PASO COUNTY;
7. THENCE S00°02'56"W, ALONG SAID WESTERLY LINE, A DISTANCE OF 448.03 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28;
8. THENCE S80°12'56"W, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 448.40 FEET;
9. THENCE N00°41'40"W, A DISTANCE OF 288.84 FEET TO A POINT OF CURVE TO THE LEFT;
10. THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT WITH A RADIUS OF 1000.00 FEET, A DELTA ANGLE OF 04°28'19", AN ARC LENGTH OF 80.09 FEET, WHOSE LONG CHORD BEARS N02°58'19"W, A DISTANCE OF 80.09 FEET;
101. THENCE N02°58'19"W, A DISTANCE OF 142.31 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

CONTAINS 8.07 ACRES, MORE OR LESS.

DATA:

AREA: 8.07 AC
 EXISTING ZONE: R-1/AR3
 PROPOSED ZONE: PBO - SPECIAL USE FOR LIGHT INDUSTRIAL
 EXISTING USE: VACANT
 PROPOSED USE: OFFICE/WAREHOUSE
 TAX SCHEDULE NO.: 83384-00-001

OWNER:
 MULE DEER INVESTMENTS, LLC
 330 E. COLORADO AVENUE
 DENVER, COLORADO 80202

LDC, Inc.
 PLANNING, SURVEYING, LANDSCAPE ARCHITECTURE
 3300 ARDEN BLVD, SUITE 100
 DENVER, CO 80202
 (710) 588-9183 FAX (710) 588-9448

NO.	COUNTY	DESCRIPTION	BY	DATE
1	EL PASO	REVISION	MM	04/07/04
2	EL PASO	REVISION	MM	04/07/04

MULE DEER BUSINESS PARK
ZONE CHANGE TO PBO

PROJECT: 03004

DATE: 2/27/04

1 of 1