

HOLLY WILLIAMS STAN VANDERWERF CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT CRAIG DOSSEY, EXECUTIVE DIRECTOR

- TO: El Paso County Planning Commission Brian Risley, Chair
- FROM: Lindsay Darden, Planner II Elizabeth Nijkamp, PE Engineering Manager Craig Dossey, Executive Director
- RE: Project File #: AL-19-019 Project Name: Urban Firewood Parcel No.: 5412003011

OWNER:	REPRESENTATIVE:	
Joe Yost	Michael Sheehan	
PO Box 62958	TBD	
Colorado Springs, CO 80962		

### **Commissioner District: 2**

**COMMISSIONERS:** 

Planning Commission Hearing Date:	4/7/2020
Board of County Commissioners Hearing Date	4/28/2020

### **EXECUTIVE SUMMARY**

A request by Joe Yost for approval of a special use for firewood sales in the A-5 (Agricultural) zoning district. The 10.57-acre property is located at 11556 Highway 94, which is located approximately 0.15 miles west of the intersection of Highway 94 and Corral Valley Road. The parcel is not included within the boundaries of a small area plan. The El Paso County Land Development Code (2019) permits firewood sales as a special use for parcels with a minimum lot area of 10 acres irrespective of nonconforming lot or parcel status. The parcel includes an existing single-family home, a detached garage, and three outbuildings. The applicant is proposing to utilize the front portion of the property for firewood sales and the remainder of the property for



COLORADO SPRINGS, CO 80910-3127 FAX: (719) 520-6695

residential use. The PCD Director has elevated this item to the public hearing process as a result of neighbor opposition to the special use request.

# A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

**Request:** A request by Joe Yost for approval of a special use for firewood sales in the A-5 (Agricultural) zoning district.

Waiver(s)/Deviation(s): There are no waiver requests associated with this application.

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

### **B. PLANNING COMMISSION SUMMARY**

Request Heard: Recommendation: Waiver Recommendation: Vote: Vote Rationale: Summary of Hearing: Legal Notice:

# C. APPROVAL CRITERIA

Pursuant to Section 5.3.2.C of the <u>Land Development Code</u>, the Planning Commission and 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: RR-5 (Residential Rural) South: RR-5 (Residential Rural) East: RR-5 (Residential Rural) West: RR-5 (Residential Rural)

E. BACKGROUND

The 10.57-acre parcel was legally created via deed on November 12, 1970. The parcel was zoned A-4 (Farming) on September 21, 1965, when that portion of El Paso County was initially zoned. On October 27, 1978, the property was rezoned from A-4 (Farming) to A-2 (Agricultural). In conjunction with the rezoning, a special use was also approved (PCD File No. AL-78-011Z) to allow for firewood sales on the subject property. Due to nomenclature changes, the A-2 (Agricultural) zoning district is now known as the A-5 (Agricultural) zoning district. The firewood sales use is not operating on the property at this time. The property is currently used exclusively for residential purposes. There is an existing 2,240 square foot modular home on the property. In addition to the principle structure, there is also a 576 square-foot detached garage, a 920 square-foot shed, a 370 square-foot shed, and a 2,000 square-foot shed. The applicant proposes to use the front portion of the property, as depicted on the attached site plan exhibit, as firewood sales and the rear portion of the property as single family residential. Several property owners in the vicinity of the subject parcel have indicated opposition to the special use request.

### F. ANALYSIS

### 1. Land Development Code Analysis

The El Paso County Land Development Code (2019) requires approval of a special use to allow firewood sales in the A-5 (Agricultural) zoning district. The special use is limited to parcels that have a minimum acreage of 10 acres irrespective of nonconforming lot or parcel status. The 10.57-acre subject parcel is in compliance with the acreage requirement for the special use. The parcels surrounding this parcel on all four sides are within the RR-5 (Residential Rural) zoning district. The applicant proposes opaque wood fencing and landscaping along the frontage and sides of the property adjacent to the firewood sales use to screen the portion of the parcel where the firewood sales would be located to help mitigate any potential visual impacts to the surrounding residential parcels. The applicant has applied for and received an access permit from the Colorado Department of Transportation (CDOT) to utilize the existing driveway access to Highway 94 for both the existing residence and for the firewood sales use.

Single Family Residential Single Family Agricultural Single Family Residential

### 2. Zoning Compliance

Based upon the applicant's site plan drawing, the existing structures meet the 25foot setback from all property lines as required in the A-5 (Agricultural) zoning district. The applicant is not proposing to construct any new structures as part of the current request.

### 3. Policy Plan Analysis

The <u>El Paso County Policy Plan</u> (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 6.4.6** - Allow for the accommodation of necessary supporting commercial uses within or in proximity to rural residential areas in a manner that preserves the rural character of these areas.

**Policy 7.1.1** - Accommodate unique combinations of land uses (such as employment and residential uses) on the same property if it can be demonstrated that aggregate impacts will be limited, adequate facilities and services will be available and the use will be compatible with the character of the surrounding area.

The establishment of firewood sales in this location could support the nearby rural residential neighborhoods and the existing modular home located in the rear of the property will be occupied by an employee of the business.

The proposed firewood sales use is not anticipated to conflict with the rural character of the surrounding area. This is supported by the fact that firewood sales has been identified as an acceptable use for the A-5 (Agricultural) zoning district with appropriate mitigation and pursuant to special use designation in the <u>Code</u>. The applicant is proposing areas of opaque fencing, shown on the site plan exhibit, that will be installed to mitigate the visual impacts of the firewood sales operation.

### 4. Small Area Plan Analysis

The subject parcel is not located within a small area planning area.

### 5. Water Master Plan Analysis

The <u>EI Paso County Water Master Plan</u> (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 goals and 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.

**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.

The proposed special use request for firewood sales is not anticipated to have a negative impact on the current water usage for the parcel as the only water that is proposed to be used in association with the firewood sales is occasional employee restroom usage. All equipment will be cleaned offsite as part of a contract for repair and maintenance.

# 6. Other Master Plan Elements

The <u>El Paso County Wildlife Habitat Descriptors</u> (1996) identifies the parcels as having a high wildlife impact potential due to potential habitat for swift fox which is a species of concern. A referral was sent to the Environmental Division of the El Paso County Community Services Department. The Environmental Division responded with no objections to the proposed use but did encourage the applicant to reach out to Colorado Parks and Wildlife for best management practices.

The <u>Master Plan for Mineral Extraction</u> (1996) does not identify areas of commercial mineral deposits on the subject parcel. A mineral rights certification was prepared by the applicants indicating that, upon researching the records of El Paso County, severed mineral rights exist. The applicant was unable to locate the mineral rights owner or their heirs and did not find public records indicating that the mineral rights had been deeded to any subsequent parties.

# G. PHYSICAL SITE CHARACTERISTICS

### 1. Hazards

A soils and geology report was not provided with the special use application and was not required by staff because the proposed scope of the project does not require land disturbance or construction of new structures.

# 2. Wildlife

The <u>EI Paso County Wildlife Habitat Descriptors</u> (1996) identifies the parcels as having a high wildlife impact potential due to potential habitat for swift fox which is a species of concern. A referral was sent to the Environmental Division of the EI Paso

County Community Services Department. The Environmental Division responded with no objections to the proposed use but did encourage the applicant to reach out to Colorado Parks and Wildlife for best management practices.

### 3. Floodplain

FEMA Flood Insurance Rate Map No. 08041C0780G, which has an effective date of December 7, 2018, shows the property is located within flood zone X which is an area of minimal flood hazard and determined to be outside the 500-year floodplain.

### 4. Drainage and Erosion

The property is located in the Jimmy Camp Creek drainage basin (FOFO2000), which is included in the Drainage Basin Fee Program; however, drainage and bridge fees are not assessed with special use requests.

### 5. Transportation

The property is accessed via State Highway 94. A traffic impact study is not required, and the County Road Impact Fee does not apply to this request because the special use is not expected to generate 100 more daily vehicle trips than the property would be expected to generate without the special use request being approved. A CDOT access permit is required and has been obtained.

### H. SERVICES

### 1. Water

Water is provided by private well.

### 2. Sanitation

Wastewater is provided by an onsite wastewater treatment system (OWTS).

### 3. Emergency Services

The property is not located within a fire protection district. The El Paso County Fire Marshall was sent a referral request to review the project and did not provide comments.

### 4. Utilities

The property is within the Colorado Springs Utilities service area for natural gas. It is anticipated that Mountain View Electrical Association will continue to provide electrical service to the property.

### 5. Metropolitan Districts

The subject parcel is located within the Ellicott Metropolitan District. The District was sent a referral and did not provide comments.

## 6. Parks/Trails

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

# 7. Schools

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

# I. APPLICABLE RESOLUTIONS

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# J. STATUS OF MAJOR ISSUES

There are no outstanding issues.

# K. RECOMMENDED CONDITIONS AND NOTATIONS

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

# CONDITIONS

- 1. Approval is limited to the firewood sales use as discussed and depicted in the applicant's letter of intent and the attached site plan exhibit.
- 2. Approval of a site plan shall be required prior to initiating the use.

# NOTATIONS

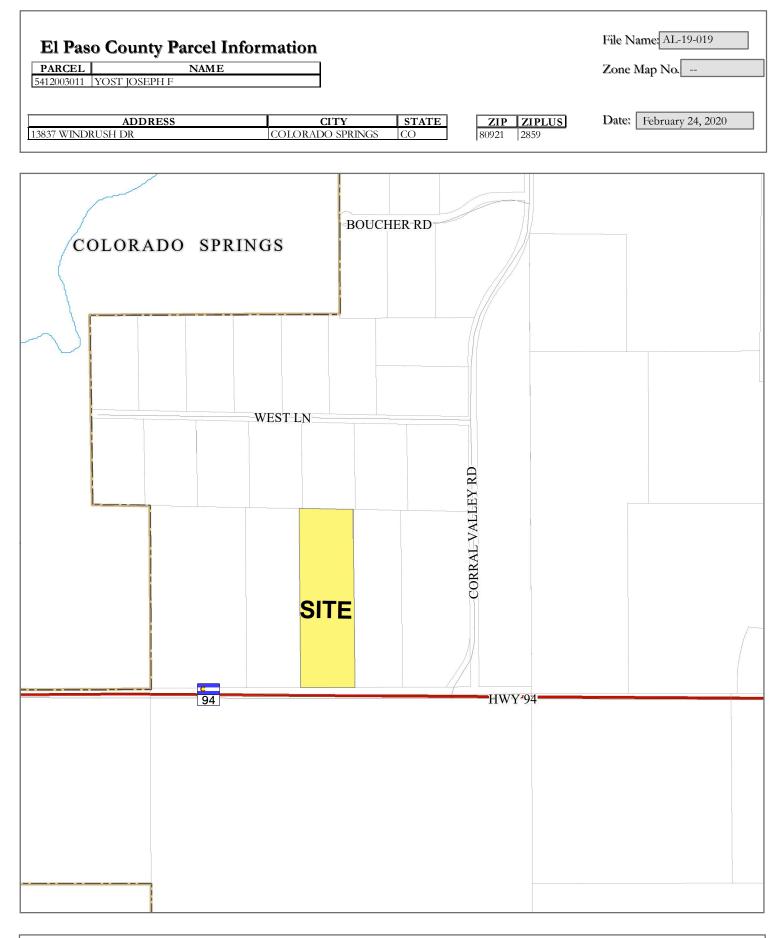
- Special use approval includes conditions of approval and the accompanying site plan. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the <u>EI</u> <u>Paso County Land Development Code</u>.
- 2. The Board 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 six (6) adjoining property owners on February 25, 2020, for the Planning Commission hearing. Responses will be provided at the hearing.

# M. ATTACHMENTS

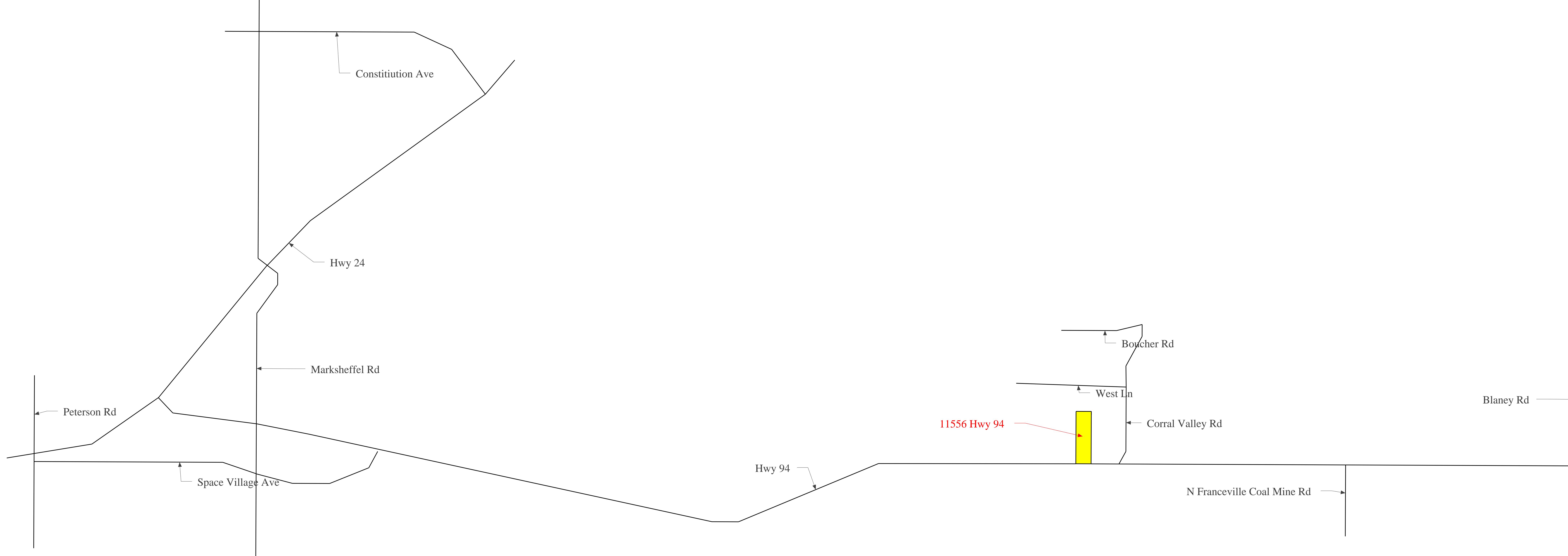
Vicinity Map Letter of Intent Site Plan



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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### Letter of Intent

5/16/2019

Joseph F Yost (applicant & land owner) 13837 Windrush Dr. Colorado Springs, CO 80921 (719) 493-0271 urbanfirewood@comcast.net

Cameron Yost (applicant & owner's representative) 3215 W. Pikes Peak Ave. Colorado Springs, CO 80904 (719) 650-7261 Cameron.yost@millerstanley.com

To whom it may concern,

2. I am applying for a Special Use permit for 11556 Hwy 94. Colorado Springs, CO 80929. This address is zoned a-5 and is 10.57 acres. I own this property and would like to move my business to it.

3. I am asking that we be allowed to cut and sell firewood on this land. We were informed at an Early Assistance meeting with the county planners that a-5 zoned properties that are 10 acres or larger allow firewood sales as a special use. After hiring a realtor we have learned that this is the only property within our budget available at this time. This is a fairly remote property with very few residences around it and it is removed from the city. I feel that this property would serve us well while not disrupting the community around us. This property is roughly a mile from a landfill, an aggregate dump, a dirt bike race way and three junk yards and we feel that we will bring value to this area. Additionally, many of the properties around this one are in extreme disarray with buildings that are collapsing, obsolete equipment stored outside, accumulated garbage piles and small businesses with inventory stored outside. We pride ourselves in the cleanliness and organization of our current operation and expect that we will be the exception to the mess which has accumulated within neighboring properties.

4. This property has a modular home and three outbuildings on it. We have no plans to use these buildings for our business with the exception of the large garage. We plan on leasing out the home for residential use and the resident will have access to the two smaller buildings. The larger outbuilding will be used for storage for our skid loader and supplies; however, business will not be conducted from any of the buildings.

We do not plan on constructing a building or any other structures on this property. We are also not planning on engaging in any construction projects on the property.

5. We are not requesting any waivers at this time.

6. We are requesting a Special Use permit on this property after our early assistance meeting. The planners listed this zone as one of the zones that we may operate our firewood business on.

7. The property is a total of 10.57 acres; initially we would like to use less than an acre and would like to expand to 5 acres in the future. Approval of a new or revised site development plan would be required to expand in the future.

8. n/a

9. One

10. Less than an acre

11. There is one mobile home on the property. This structure's use has not yet been decided.

12-15. n/a

16. Our business does not create waste water or use water currently. Once we plant the trees for the landscaping requirement we will fill large water tanks (2 300gal tanks) with non-potable water purchased from Colorado Springs Utilities for watering purposes.

Per our current procedure, any equipment that needs to be washed is brought to Bobcat of the Rockies where we service and clean our machines.

Our operation will not operate near or around the well or leach field on the property and we will pose no risk of damaging the water structure. Additionally, as a requirement to purchase this property we had the wastewater system inspected, repaired and certified. This has already taken place.

17. n/a

18. We are planning on planting 15 willow trees in front of the property to lessen the visual impact of our storage. Additionally, we will add a 6 wooden fence in the front of the property to mitigate the visual impact further. We will also add a barbed-wire fence along the east and west of our operation to segregate us from the neighboring lots (these lots are not occupied).

19. The only access location is the driveway that connects the property to HWY 94. No other access points will be needed or required. Based on our current customer traffic we expect to not exceed 12 total trips through our yard a day during times of inclement weather. Employee traffic is anticipated to be 6 average daily trips (ADT) based off of 3 employees; in addition, we do not anticipate to exceed two trips per day for incoming logs during non-inclement weather days. Total maximum ADT would not exceed 20. Additionally, this property is significantly more remote than our current operation, so we believe that traffic will be even less than anticipated. We have applied for an access permit with CDOT. We understand that we cannot access the property as a business until the permit is issued.

Parking: Firewood is a fairly fluid operation and the pile of wood grows and shrinks accordingly. When a customer pulls into our yard they are directed to park near the pile of firewood where we load them. The customer is discouraged from exiting the vehicle and if they choose to they are not allowed to walk around the operation. We do not have a designated parking lot as our operation does not warrant it.

20. All unused land will be left as open space. This includes approx. 2 acres in front of the mobile home and 5 acres behind it as well as the land around the firewood operation. We have earmarked some additional land around the proposed operation as area of expansion and if we do expand we will not encroach on the proposed open spaces.

I hope this information finds you well and we look forward to moving forward with this project. Please feel free to contact me anytime with questions or suggestions.

Warm Regards,

Joe Yost

5/16/2019

Additional Notes to be considered:

As stated above; we feel that this is the best place for our business. We are near a landfill, 3 junk yards, an aggregate dump, a dirt bike raceway and many properties in extreme disarray. There are three properties behind this land that will be more than 5 acres away from our operation and will not be affected by noise or visual distraction. The two properties that are on either side of ours (east and west) are not occupied. The land to the west is an unregistered repair shop and the land to the east has buildings that are collapsing with garbage piles and debris everywhere.

We are extremely proud of the business we have built and have received positive comments from our current neighbors of how clean and organized our firewood lot is. We have even had competing businesses tour our yard as we are an example of how to organize a firewood business. That being said, we plan on providing barriers to our operation so as to "shield" our business to the untrained eye.

Our operation is also very quiet. Our firewood processor runs on a 33 hp Briggs and Stratton motor and has a muffler to mitigate noise. This piece of equipment is quieter than the average commercial lawn mower. Our skid loader is a brand new, stat-of-theart Bobcat which is on lease from Bobcat of the Rockies; it is so quiet that you can have conversation next to it while it is running. These are the only two pieces of equipment that we operate. There have been rare instances where we have had to work into the evening and we have never had a noise complaint. There is a residential home less than an acre from our current operation (South side of our current lot) and the owner has said that he cannot hear us at all, day or night.

Also, we do not operate chainsaws as part of our business. The only instance that a chainsaw is used is if a piece of wood gets stuck somewhere. We use chainsaws roughly 3 hours per year.

- The land around us is zoned as agricultural land and we believe that our business will fit
  into this area perfectly. Currently the majority of properties are not used and are in
  pretty bad shape. The ones who are not operating unregistered repair shops or storage
  sites are using the land for farming (i.e cutting hay) and we believe that a small firewood
  operation fits into this well and will be congruent to the existing properties.
- I (Joe Yost) purchased this land for Urban Firewood after our initial meetings with the county. We were told that A-5 zoned land of 10 acres or larger carried pre-approval for firewood sales. After working with a realtor for a few months it was clear that this was the only land available at a price that we could afford within the zoning requirements. Once we began the special use process it was clear that we would not have the special use fast enough to satisfy the loan requirements for the bank. The seller of the land granted us three extensions, but refused to extend again as we worked through the special use paperwork. As the special use was not approved at the time of the sale, we lost our bank loan and back up loan (special use was required for the loans). We ended up financing the property through a third party investment which is a high interest, interest only loan that we are currently paying. Coupled with the fact that this is the only property that meets the zoning requirements within our budget and that our business fits so perfectly into this area I went ahead and purchased the land. I am confident that I can refinance the loan once the special use is approved.
- During the sale of the land we learned that the outbuildings and garage to the house were being operated by an illegal marijuana grow operation. We learned that there was a lot of traffic generated, off putting odors and late night disturbances. I believe that our business will come as a sigh of relief to the neighborhood once they see how uninvasive, quiet and organized our business is.
- If the special use is approved, our business will not burden public needs. We have virtually no water requirements and we generate a very small amount of traffic. We believe that we will be unnoticed at this location.
- As we do currently, we will adhere strictly to all local state, and federal laws with regards to noise, light and air pollution. As stated above, we are a quiet operation and we rarely work evening hours and any light is generated by the equipment. During the cold we use a home-made chiminea out door fireplace to keep warm. We adhere to all fire bans and are in constant contact with local fire departments for advice on when to

burn or not. That being said, we burn as little as possible: we would rather sell our wood products than burn them.

• We have no effect on public health and will always apply with applicable County rules, regulations and ordinances.

# **SITE PLAN**

Address: 11556 Highway 94 Colorado Springs, CO, 80929

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Scale 1":120'

