

401 Main Street
Walsenburg, Colorado 81089
719-738-1220, Ext. 506



Huerfano County Planning Commission 24-040 – Harris Industrial Park Staff Report

Review Date:

Application Summary

The application proposes a rezoning and subdivision of a 37.12-acre parcel (Parcel No. 100005) to accommodate the following uses:

1. **Solar and geothermal power generation:** 4 MW solar array and substation if power need exceeds 4mw. The proposed project includes a plan for an intital 4 MW for future expansion to 6MW with addition of 2 MW geothermal. Substantial additional capacity for power generation will come from a proposed pyrolysis plant.

2. **Pyrolysis plant:** 20,000 sf building, requiring 5,000 to 8,000 square feet for equipment. This facility will cover three fenced acres, which includes space for truck movements and the storage of byproducts. Byproducts would be stored in pole barns. In early phases, the site will generate traffic volumes of 5-10 trucks/day. Future expansion will increase traffic volumes, but these could be concentrated to only take place on certain days of the week.

The primary purpose of the pyrolysis plant will be energy generation, with a capacity of up to 50 MW, burning up to 25,000 tons of material per day. If this amount of material were to be processed each day, it is not clear from the application materials how it would be transported to the site or what the impact on traffic and County roads would be. A transmission line crosses the property, but there is no railroad nearby.

The plant can also produce several byproducts of the plant that could be marketed, including Carbon Black for the supplementation of plastics, biochar, syngas and fly ash.

San Isabel won't buy more than 6 MW of power at time, thus the additional generation capacity could be used to power a local microgrid for housing or other uses.

3. **Commercial:** The project would include a convenience, or "C-store" to accompany a charging station. Beyond that, the intent of the project is to be zoned for potential additional commercial uses, including a retail shopping center, a Hilton hotel and an event space.

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4. **Residential:** While not part of an initial phase, this development could eventually expand to include residential development that could take advantage of the power generation and commercial opportunities. Residential facilities proposed include multiplex living facilities and SIP Home Developments. Residential is a potential future use, not part of scope of work included in this proposal. No specific number of dwelling units is proposed at this time.

5. **Electric Vehicle Charging stations:** Supercharger stations. 15-20 min charges. Gas/Diesel station in future. Access from I-25 northbound would be along CR 620 into Pueblo County, then south from Davis Rd (Pueblo County Rd. 346), or from I-25 Southbound, the most direct access is through Colorado City and south along Apache City Rd.

6. **Digital Billboard:** One billboard, 2-faces 40'x60'

7. **Data Center, “Orion Technology Center”** – 10,000 sf facility including basement. “Technology Command” center would manage site operations for energy production and any industrial operations. It would also house a server/database center. The data center would provide for cloud based services, military operations, analytics and AI. Within two years, the data center could employ between 40 and 60 people.

The applicant’s stated goals include developing “economic desirability” along the interstate. The area where the property is located is described as the “gap,” or a 40-mile stretch between Pueblo and Trinidad that is underdeveloped compared with developments 75-miles to the north (which would be Colorado Springs). (Pueblo and Trinidad are 85-miles apart. The site is 33-miles south of Pueblo, eight miles south of the Colorado City exit, five miles north of the Apache City exit, and 22-miles north of Walsenburg. Davis Rd, in Pueblo County (CR 346), crosses over I-25 just north of the Huerfano County line, but there is no freeway exit for Davis Rd. The buildout of this site would require upgrading the access road from Davis Rd to the property, a little over ¼ mile.

In 2021 or 2022, the property owner initiated a conversation with CDOT about establishing highway access from Davis Rd. According to the applicant, CDOT was receptive to the idea, but it was unclear who would pay for it. At some point between 2018 and 2021, the property owner was also in contact with Huerfano County Road and Bridge or Sam Jensen and Pueblo County about extending access to the property from Davis Rd. The work in 2018 referenced in the application included the purchase of the property, conversations with Tracy Phillips at PACE program, conversations with Jensen and Chris, and started working with San Isabel to get a letter of approval to bring power to property.

Water: The uses planned in the initial stage of this development, including a solar farm, pyrolysis plant, and data center, use relatively small amounts of water, and the plan for providing water to the site would be from a commercial well drilled on site. No permit has been applied for at this point. The property owner is currently working with San Isabel on an agreement to bring power to the site and for interconnection.

Zoning considerations for proposed uses

Power Generation

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A 1041 permit is triggered when capacity reaches 50 MW. This project has three elements that generate power (solar, geothermal, and pyrolysis), and the permitting of this project should consider these as three parts to a single project and base the decision on whether it triggers a 1041 process or a conditional use process based on the total combined production capacity. Because the pyrolysis plant has a potential capacity for up to 50 MW and in combination with the solar and geothermal proposed, the site has a potential to generate 56 MW.

A 1041 process is also triggered by substations or transmission lines or extensions which control electricity in amounts of 115,000 volts or more. The need for a substation and the capacity of transmission lines would be a function of the combined generation from all three sources, and should therefore be treated as parts of a single project.

1. Pyrolysis Plant-up to 50 MW

1.05.22 – Other utility uses, facilities and services including electric transmission lines and pipelines and all appurtenant facilities, uses and structures thereto. Note that special H.B.1041 regulations may also apply.

Utility facilities are a conditional use in all zones.

The pyrolysis plant could also be regulated as an industrial use and permitted in an industrial district, which is “created for the purpose of establishing exclusive areas for the construction, fabrication, assembly, storage, shipping and other general and light industrial processing of goods and the extraction, transport and processing of natural resources at appropriate locations within Huerfano County as designated by these regulations.”

From the application, there is no information about the impacts of such a plant on nearby uses. If the plant were proposed in isolation or in combination with solar and geothermal power generation, this may be less of a concern, as there are few uses nearby. However, the proposal includes housing, a hotel, charging stations and a convenience store nearby, and it is not clear if these are compatible uses.

2. 4 MW solar generation

Considerations for solar outlined in Section 1.10 include setbacks, and buildings should not significantly impede solar access to sunlight from adjacent properties. This section also declares any restriction or prohibition of solar strictly for aesthetic conditions unenforceable. Aesthetic provisions which impose reasonable restrictions and which do not significantly increase the cost of the device, however, are enforceable.

3. 2 MW Geothermal generation

Geothermal is regulated based on the amount of power produced. The production of geothermal power should be considered in conjunction with all other power produced.

4. Data Center

This is not a use specifically described in the use table in Section 1.05, therefore it would be regulated under 1.05.69, any use not listed in this table, which requires a conditional use permit in all zones. The greatest impact of a 10,000 square foot data center would likely be in traffic from up to 40 employees. Servers can require significant systems for cooling, which has potential to generate some noise that could impact nearby properties.

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5. Convenience store

This would fall under either 1.05.43: Retail convenience outlets serving a neighborhood or local residents. (It is a convenience store, but the target clientele would be highway motorists, not local neighborhoods or residents). These are a use by right in the commercial zone, prohibited in industrial, and a conditional use in all other zones. There is no zoning category for general retail that includes highway commercial.

6. Charging Stations

While not specifically mentioned in the use table in Section 1.05, the most similar use is gasoline service stations, which are a use by right in commercial zones and a conditional use in all other zones. Another similar use would be motor vehicle parking lots, which are a use by right in commercial and industrial zones, and a conditional use in all other zones.

7. Digital Billboard

Signs are regulated under section 14 of the land use code. A digital billboard could potentially be a prohibited sign under 14.03.01, which reads: *Signs with revolving beacons, flashing lights or with any type of animation or intermittent lighting effects, except in C Commercial and I Industrial zoning districts so long as such signs do not, in the judgment of the Planning Commission, by majority vote represent a potential danger to human health, safety or welfare.*

Section 14.03.03 states: *Signs with exterior illumination shall have the illumination shielded from public rights-of-way and from residential uses and lodging facilities.*

A digital billboard would that generated advertising revenue from businesses or individuals not doing business on site would be considered an off-premise sign. Off-premise signs are regulated in Section 14.03.06 as follows:

Off-premise signs are permitted in all zoning districts to identify uses or services oriented to highway travelers, to provide directional signs for emergency services and as advertising signs, provided such signs meet the following criteria:

- 1. The uses or services for highway travelers, emergency services or advertising shall be located in Huerfano County.*
- 2. Each use or service shall be limited to one (1) off-premise sign per highway approach.*
- 3. The off-premise sign shall not be more than ten (10) feet high nor extend more than twenty (20) feet above ground level nor be more than fifty (50) square feet in sign area.*
- 4. The minimum distance between off-premise signs shall not be less than six hundred and sixty (660) linear feet.*
- 5. Such signs shall comply with all Colorado Department of Transportation rules and regulations governing signs in CDOT owned or managed rights-of-way.*

Because the sign would be located near the northern border of Huerfano County at a location where the next exit is in Pueblo County, it may be difficult to program the sign with advertisements for uses or

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services located in Huerfano County. At this time, no information has been given on potential advertisers or the feasibility of compliance.

The proposed dimensions for the billboard are 40' x 60,' which is larger than what is permitted.

CDOT regulations regarding digital billboards apply directly to signs within 660 ft of a highway. CRS Section 43-1-416 allows local governments to enforce stricter controls through zoning powers.

Potential future uses

8. Hotel

Hotels are a use by right in the commercial zone district, prohibited in industrial, and a conditional use in all other zones.

9. Mixed-use residential

10. Housing multiplex

From the information provided, it cannot be determined whether this would trigger a 1041 process or not. "New communities" means the establishment of urbanized growth centers in unincorporated areas that are the least of either 25 dwelling units, 100 residents, or one percent (1%) of the County's most recent U.S. Census population numbers. New communities shall not include those established through the municipal annexation of unincorporated territory.

In the plat map provided i

The purpose of industrial zones is to avoid the juxtaposition of industrial activities with residential neighborhoods, so the proposal to combine these activities on adjacent parts of the parcel creates the potential for future industrial uses to locate adjacent to residential uses that may be incompatible with industrial uses such as a proposed hotel.n the application,

Nearby Uses:

The parcel is in the Comanche Springs subdivision adjacent to I-25 near the northern county line. To the east, there are two residences on the other side of I-25, roughly 1,500 and 1,300 feet from the property line. To the north is a residence in Pueblo County about 1,100 feet from the property line near Davis Rd (Pueblo County Rd. 346).

The Comanche Springs subdivision includes Tract 3, a 36.38-acre parcel to the north (part of which is in Pueblo County) and Tract 15, a 36.8-acre parcel to the South. The property to the west is not part of a subdivision and appears to be agricultural land with no improvements.

Note: The Comanche Springs Subdivision includes parcels in Pueblo County, including part of the adjacent tract to the north and a tract north of Davis Rd. See Map S-80, approved 11/29/1994.

Completeness Review:

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Land Use Code Requirements

1. Rezoning

Submittal Materials:

1. Letter of Intent explaining reason for rezoning and anticipated development plans.
2. Water plan
3. Wastewater plan
4. Mitigation plan for natural or man-made hazards in vicinity
5. Legal Description
6. Vicinity map (2-mile radius)
7. Floodplain map, map of water courses, retention areas, streams, lakes, slopes over 20% grade.
8. Description of critical wildlife habitat and migration corridors, unique natural features and scenic vistas, and historical sites on land to be rezoned.
9. Proof of ownership: Deed to all parcels affected by rezoning.

Criteria for Approval:

1. That the existing zoning district is consistent with the goals, objectives and policies of Huerfano County, as contained in the County Comprehensive Plan.
2. That the land proposed for rezoning or adjacent land has changed or is changing to a degree such that it is in the public interest to encourage different densities or uses within the land in question.
3. That the proposed rezoning is needed to provide land for a demonstrated community need or service. In any petition for rezoning, the petitioner shall carry the burden of demonstrating that the land in question should be rezoned and that the advantages resulting from rezoning would outweigh any disadvantages that would result. Nothing contained herein shall, however, be construed as limiting in any way the authority of the Board of County Commissioners to rezone any land within unincorporated Huerfano County or otherwise amend this zoning regulation for any reason consistent with the health, welfare or safety of the residents of Huerfano County.

The rezoning maps provided with this application indicate areas where different uses would take place, but do not indicate zones that correspond with Huerfano County's zoning districts. Therefore, it is unclear exactly what zone changes are being requested. On the map titled HIPCO Site Map Updates 7/2024, there is an industrial zone indicated in the south of the property. Other zones indicated on the map include "C-store zone," "Retail/Multi-use commerce," etc...

Missing Documentation:

- The application contains a survey of the parcel subject to rezoning, but does not include a vicinity map showing the area within a 2-mile radius.
- The application is also missing a floodplain map and an indication of any slopes over 20% grade.
- The application also lacks a description of critical wildlife habitat and migration corridors, unique natural features and scenic vistas, and historical sites on land to be rezoned.

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- The applicant stated over the phone that the water plan was to drill a commercial well, but no steps have yet been taken to this end.
- Wastewater plan.
- Mitigation plan for natural or manmade hazards in the vicinity.

Nuisance considerations

Insufficient information provided in the application to evaluate the potential nuisance of all proposed activities, to include:

Noise:

Dust:

Odors:

Light:

Hours of Operation:

Traffic to be Generated by Proposed Uses:

2. Subdivision

1. Sketch Plan/Preliminary Submission prepared according to requirements set out in Section 2.09.01 of the Land Use Code.

The planning Commission may, at its discretion, waive the requirement for a sketch plan and initiate the process with the submission of a preliminary plan and a general submission. The requirements for such submission are outlined in Section 2.09.02 of the Land Use Code.

2.07.04(5). When a subdivision or other development borders on or contains a railroad right-of-way or a limited access highway right-of-way, the Planning Commission may require construction of a street approximately parallel to and on each side of such right-of-way, at a distance from the right-of-way suitable for appropriate use(s) of the intervening land.

Missing documents or details required in Section 2.09.01:

1. A vicinity map showing the proposed subdivision in relationship to the surrounding area with the names of adjacent subdivisions and property owners, along with the current land uses and zoning districts within one (1) mile of the boundaries of the proposed subdivision.
2. The current zoning on the site and any zoning changes to be requested.
3. Any unique historical, archeological, scenic or other noteworthy features on or in close proximity to the site.
4. A delineation of existing easements on the site, their use(s) and the easement owners. (the topo map includes contour lines and SIEA power lines and the depiction of a 60' access easement on the property.)
5. The existing and any proposed new means of public access to the proposed subdivision.

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(The access easement to the property passes through two other properties between the subject property and Davis Rd. The access easement established in the creation of the Comanche Springs Ranches subdivision in 1994 states that Huerfano County is not responsible for construction or maintenance of access drives, and that “public service vehicles, emergency vehicles and persons within them having legitimate business to transact shall have the right to ingress, egress and regress by means of the designated access drive easement.”

Section 2.04.04(2) states that “For all such parcels/tracts not situated adjoining a public highway, street or road, an access drive easement shall be designated. All private access streets and easements servicing more than one parcel/tract must meet the Huerfano County Roadway Design and Construction Standard, and must be signed with an appropriate name approved by the Board of County Commissioners.”

This should be interpreted as a requirement that the access from Davis Rd., or at least from the County Line, be dedicated as a County Road. This will require coordination with Pueblo County.

Should the proposed uses or rezonings be approved, it would affect the property to the north, Tract 3, by making access a County ROW and increasing the number of people with access and legitimate business beyond what current zoning and anticipated use of subdivision tracts would have anticipated.)

6. A graphic description of all the natural and manmade watercourses, retention areas, streams and lakes including any known, identified or designated one hundred (100) year floodplains and other natural hazards, if any.
7. Evidence of all existing structures on the site, their current uses and their future status within the proposed subdivision.
(There appear to be no existing structures on the site.)
8. The topography of the site at an appropriate contour interval, noting all areas with slope in excess of twenty (20) percent.
(Topography is indicated, but do not indicate whether there are or are not slopes over 20%)
9. The average lot size, proposed density and all public and private sources of utility facilities and services.
10. The location of all existing and proposed streets, drives and roads, and the names of existing streets within the site.
(Internal streets are indicated, but there is no indication of whether these would be dedicated as public right-of-way. Due to lack of indication, the County assumes the proposed streets will be private.)
11. The approximate location of land to be reserved and land to be dedicated to the County.
(No indication of land to be dedicated to the county is made. Section 2.02.11 allows the Board of County Commissioners to require a dedication of at least 10% of a site to open space within new subdivisions.)
12. Documentation concerning the suitability of the types of soil for the uses proposed within the site, and in areas with a known or suspected potential radiation hazard, this hazard shall be evaluated.

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13. A description of the proposed systems for the supply of potable water and the disposal of sewage (see section 2.07.08 and 2.07.09).
14. Evidence of any drainage, retention or watercourse diversion structures proposed for the site.
15. The sketch plan shall be accompanied by a brief narrative description of the proposal. Include all submission information appropriately presented in narrative form, describing briefly the scope and concept of the proposed subdivision and its anticipated impact on adjoining land uses, on water quality and supply in the area and on the circulation system in the area.
(No mention is made of impacts on adjoining land)
16. Information on phasing, if relevant.
(Mention is made of phasing, but phases are not clearly described. It is not clear what portion of the land would be available to future uses beyond the scope of the proposed project and what portion would be developed as part of the proposed uses.)

Comprehensive Plan Compliance

References to the 2018 adopted Comprehensive Plan. The updated 2024 comprehensive plan has not yet been adopted at the time of this application.

Land Use and Growth

Policy LG.1.2: Accommodate residential, commercial and industrial land uses in the County.

Policy LG.2.1: Ensure that new development under the jurisdiction of the County is appropriately located with adequate access to utilities and services.

Policy LG.2.2: Encourage orderly growth to occur in and around existing incorporated and unincorporated towns.

Economic Development

Policy ED.1.4.: Encourage renewable energy related businesses in Huerfano County and use it to help draw other support businesses to the County.

Policy ED.2.1.: Require commercial and industrial development and uses to occur in locations that will benefit the County and minimize land use conflicts.

Policy ED.2.2.: Promote well-designed, energy efficient commercial and industrial development within the County.

Resources and Hazards

Policy RH.1.3: Require a study determining possible negative impacts of all

development at the applicant's expense. Said study to include how those consequences will be addressed and a total cost for recovery for the use over its lifetime.



Policy RH.1.5: Encourage the use of renewable resources.

Policy RH.4.4: Require all new subdivision development to occur adjacent to a county maintained roadway.

Policy RH.4.5: Require all new subdivision development to provide two points of ingress/egress from a county maintained roadway and construct internal roadways with an all weather surface designed to withstand weights and turning needs of all emergency vehicles.

Policy RH.4.6: Require all new subdivision development that results in five (5) lots or greater to be approved for access and layout by emergency services including fire, sheriff's office, and ambulance services.

Water Resources

Policy WR.1.2: In the absence of governmental water supply contracts, the applicant should provide evidence of a reliable water supply in the form of:

1. A letter from the Office of the Division Engineer for Water Division No. 2 (the Arkansas River basin),
2. A substitute water supply plan approved by the State Engineer,
3. A decree of the Division 2 Water Court, or
4. In the Huerfano River basin, by an augmentation certificate from or a long-term lease with the Huerfano County Water Conservancy District.

Staff Comment:

This application is only for a rezoning and subdivision of the property only. Many of the proposed uses would require a conditional use permit, even in the proposed zones. The proposed electric generation projects would require a conditional use permit regardless of the zone in which they are located (see 1.05.22), so the rezoning does not directly impact the likelihood that these projects will be approved. The combined power generation capacity proposed would trigger a 1041. The solar and geothermal portion of the project is below the 50MW threshold for a 1041 process, if all of the proposed uses are approved as part of future phases of a project, it would trigger a 1041 process. A 1041 process would substitute the need for a conditional use permit for the power generation uses. The data center would still require a separate conditional use permit.

The convenience store would be permitted as a use by right if the area were to be rezoned commercial. Charging stations are a more ambiguous use and depending on how the Planning Commission views them, they may be a use by right in commercial or they may require a conditional use permit. While these aspects of the proposed project would be uses by right after a rezoning, the charging stations may

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be a use contingent on the approval of power generation facilities, and the convenience store is a use that would be associated with the charging stations to give people something to do while their cars are charging.

The only existing access to the property is through a private easement connecting the property to Davis Road in Pueblo County and crossing one separate parcel to the North. Subdivision regulations require that circulation in new subdivisions connect to a County Road with at least two points of access. The applicant will have to address the extension of a County Road to access the property, which will have to include support from Pueblo County.

While near the highway, the location is not adjacent an exit, and no argument is made in the application for why this location is well suited to succeed as a commercial zone. There are no existing nearby activities that would benefit from drawing customer and employee traffic to this area.

For the proposed projects, the applicant can pursue a rezoning along with necessary conditional use permits, or the projects can be proposed without rezoning as a conditional uses. In considering which approach to take, the Commission should consider that rezoning allows for a wide range of uses associated with each zone and this goes beyond the uses proposed for this specific project. For example, if the Commission decides that a pyrolysis plant is compatible with nearby hotel and housing and the site is zoned industrial, it is possible that other industrial uses will be sited on that site in the future that are less compatible with adjacent residential uses. If each of the uses are permitted as conditional use permits, then only those specific uses would be allowed. The downside to this is that it could make the site more difficult to redevelop or repurpose in the future if, for example, the Pyrolysis plant went out of business.

Recommendations:

1. Determine appropriateness of rezoning as process to request proposed project goals. Possible to pursue development goals through Conditional Use Permits and/or 1041 permits instead of rezoning: Since key proposed uses in initial phases of this project would be conditional uses regardless of the zone, the Commission should consider postponing any action on this application at this time, and recommend that the applicant first apply for the conditional use permits and/or go through the 1041 process.
2. Incomplete application packets. Prior to any decision, require additional materials listed above addressing each part of the Land Use Code and Comprehensive Plan should be submitted in accordance with each requested action.
3. Require applicant to secure a letter of support from Pueblo County based on impacts along Davis Rd. and for the dedication of the private ROW connecting the property to Davis Rd as a County Road in Pueblo County.

The BOCC may take the following actions on this application:

1. **Approval** without any special conditions.
2. **Conditional Approval** with a description of the special conditions.
3. **Denial**, indicating for the record the reason(s) for such action.

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4. Continuation until a future date to gather more information or obtain clarification or for any other relevant cause.

Attachments

- 1) Land Use Application
- 2) EPIC Report
- 3) PIPCO Business Resume
- 4) HIPCO ComCheck Package
- 5) HIPCO Electric Service Letter
- 6) HIPCO LEAN Business Plan
- 7) HIPCO Organizational Chart
- 8) HIPCO Site Map Update
- 9) SRH TOPO Map
- 10) C-PACE review spreadsheet