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04/26/2019 10:38:43 AM
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RESOLUTION NO. 19-143

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS,
STATE OF COLORADO

APPROVAL OF THE FOREST LAKES PHASE II MAP AMENDMENT
(REZONING) AND PUD DEVELOPMENT PLAN (PUDSP-18-001)

WHEREAS FLRD, NO. 2, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the PUD (Planned Unit Development) zoning district to the PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development plan; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on April 16, 2019, upon which date the Planning Commission did by formal resolution recommend denial of the subject map amendment application and supporting PUD Development Plan; and

WHEREAS, a public hearing was held by this Board on April 23, 2019; 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, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Board of County Commissioners.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and Board of County Commissioners of El Paso County.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.

4. The proposed PUD (Planned Unit Development) District zoning is in general conformity with the Master Plan for El Paso County, Colorado.
5. The proposed PUD District zoning advances the stated purposes set forth in Chapter 4, Section 4.2.6, of the Land Development Code.
6. The proposed development is in compliance with the requirements of the Land Development Code and all applicable statutory provisions and will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of El Paso County.
7. The subject property is suitable for the intended uses and the use is compatible with both the existing and allowed land uses on the neighboring properties, will be in harmony and responsive with the character of the surrounding area and natural environment; and will not have a negative impact upon the existing and future development of the surrounding area.
8. The proposed development provides adequate consideration for any potentially detrimental use-to-use relationships (e.g. commercial use adjacent to single-family use) and provides an appropriate transition or buffering between uses of differing intensities both on-site and off-site.
9. The allowed uses, bulk requirements and required landscaping and buffering are appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community.
10. The areas with unique or significant historical, cultural, recreational, aesthetic or natural features are preserved and incorporated into the design of the project.
11. Open spaces and trails are integrated into the development plan to serve as amenities to residents and provide reasonable walking and biking opportunities.
12. The proposed development will not overburden the capacities of existing or planned roads, utilities and other public facilities (e.g., fire protection, police protection, emergency services, and water and sanitation), and the required public services and facilities will be provided to support the development when needed.
13. The proposed development would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and energy-efficient site design.
14. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would unreasonably interfere

with the present or future extraction of such deposit unless acknowledged by the mineral rights owner.

15. Any proposed exception or deviation from the requirements of the zoning resolution or the subdivision regulations is warranted by virtue of the design and amenities incorporated in the development plan and development guide.
16. The owner has authorized the application.
17. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
18. The subdivision is in conformance with the subdivision design standards and any approved Sketch Plan.
19. A sufficient water supply has not been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code.
20. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of the Land Development Code.
21. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions [C.R.W. §30-28-133(6)(c)].
22. Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and the Engineering Criteria Manual are provided by the design.
23. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
24. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
25. 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.

26. For the above-stated and other reasons, the proposed zoning is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

27. For the above-stated and other reasons, the proposed zoning is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the application to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the PUD (Planned Unit Development) zoning district to the PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development Plan.

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby approves the PUD Development Plan as a preliminary plan.

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Development of the property shall be in accordance with this PUD development plan. Minor changes in the PUD development plan, including a reduction in residential density, may be approved administratively by the Director of the Planning and Community Development Department consistent with the Land Development Code. Any substantial change will require submittal of a formal PUD development plan amendment application.
2. Approved land uses are those defined in the PUD development plan and development guide.
3. All owners of record must sign the PUD development plan.
4. The PUD development plan shall be recorded in the office of the El Paso County Clerk & Recorder prior to scheduling any final plats for hearing by the Planning Commission. The development guide shall be recorded in conjunction with the PUD development plan.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency

requirements, if any, of applicable agencies including, but not limited to, 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.

6. Applicable park, drainage, bridge, and traffic fee shall be paid to El Paso County Planning and Community Development at the time of final plat(s) recordation.
7. The applicants shall mitigate the constraints identified in geology hazards evaluation and preliminary geotechnical investigation report which was prepared and submitted by CTL Thompson Engineering dated July 18, 2018, revisions of the report dated December 11, 2018, and February 18, 2019. CTL Thompsons Engineering's recommendations include: additional geotechnical investigation, testing and analysis for design of individual foundations, floor systems, and subsurface drainage to be completed prior to the issuance of lot specific building permits.

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.
3. Preliminary plans not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.

4. Approval of the preliminary plan will expire after two (2) years unless a final plat has been approved and recorded or a time extension has been granted.

Modification of Existing Land Development Code (LDC) or Engineering Criteria Manual (ECM) Standard:

For approval of a modification of a general development standard in the LDC or standard of the ECM, the BoCC shall find that the proposal provides for the general health, safety, and welfare of the citizens and provides for at least one of the following benefits:

- Preservation of natural features;
 - Provision of a more livable environment, such as the installment of street furniture, decorative street lighting or decorative paving materials;
 - Provision of a more efficient pedestrian system;
 - Provision of additional open space;
 - Provision of other public amenities not otherwise required by the Code; or
 - The proposed modification is granted in exchange for the open space and/or amenity designs provided in the PUD development plan and/or development guide.
1. The applicant is requesting a PUD modification to Sections 8.4.3.C.4.c and 8.4.3.C.2.e of the Code to allow for a shared access for Lots 3, 4, 5, and 6. An access easement is depicted on Lot 4, which is proposed to provide access to Lots 3, 5, and 6. The shared access will limit Lots 3, 5, and 6 from having direct access to a public road.

Section 8.4.3.C.4.c of the Code states:

“The lot layout shall incorporate a cul-de-sac where 3 or more abutting flag lots would occur.”

Section and 8.4.3.C.2.e of the Code states:

“Lots shall have a minimum of 30-feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E).”

PCD Executive Director Recommendation:

The PCD Executive Director recommends approval of the requested PUD modifications. Per the PUD/Preliminary Plan, adequate lot accessibility can be provided via the proposed access easement. If the shared access

modification is granted, the lots would not have direct frontage to a public road. As summarized in the applicant's letter of intent, reducing the requirement to construct a cul-de-sac is proposed to preserve the natural features and terrain, by reducing the requirement to grade and construct a cul-de-sac serving each of the lots to a public road standard.

2. The applicant is also requesting a PUD modification to Section 2.5.2.C.4 of the ECM to omit midblock pedestrian crossings at specific sections of Mesa Top Drive and Forest Lakes Drive.

Section 2.5.2.C.4 of the ECM states:

“Access ramps on local roadways shall be spaced no greater than 600 feet apart. Where spacing is greater than 600 feet, mid-block access ramps shall be provided at spacing that minimize travel distances between access ramps. Private accesses may be used for these access points where the access is designed to meet access ramp requirements.”

ECM Administrator Recommendation:

The ECM Administrator recommends approval of the requested PUD modification. Per the PUD/Preliminary Plan, adequate pedestrian accessibility is provided by access ramps at all intersections and mid-block trail crossings. Additionally, the Federal Americans with Disabilities Act (ADA) has no requirements for maximum distance between pedestrian crossings that would necessitate mid-block pedestrian ramps. It should be noted that the PCD engineering staff is currently evaluating this requirement in coordination with the DPW engineering staff for the purposes of amending this section of the ECM.

3. The applicant requests a PUD modification to Section 2.3.8.A of the ECM to exceed the standard cul-de-sac length for Foothills Flash Court (approximately 920 feet) and Timber Trek Way (approximately 800 feet).

Section 2.3.8.A of the ECM states:

“Cul-de-sacs shall have a minimum radius of 45 feet and a maximum length of 750 feet for urban conditions...”

ECM Administrator Recommendation:

The ECM Administrator recommends approval of the requested PUD modification if the applicant obtains a written endorsement from the fire district. The endorsement from the fire protection district is pending.

4. The applicant requests a PUD Modification of Appendix I Section I.7.1.B of the ECM to exclude water quality capture volume for a portion of their development.

ECM Administrator Recommendation:

The ECM Administrator recommends approval of the requested PUD modification based on Part I Section E.4.iv.A of the Municipal Separate Storm Sewer Systems (MS4) Permit (CDPS General Permit COR090000) which generally states that up to 20 percent of a development property, not to exceed 1 acre, of the applicable development site area may be excluded if it is not practicable to drain towards control measures.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 23rd day of April, 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: 
Chair

 ATTEST:
By: 
County Clerk & Recorder

EXHIBIT A

LEGAL DESCRIPTION: PHASE 2 PUD/DA LEGAL

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 28, AND THE SOUTHEAST QUARTER OF SECTION 29 ALL IN TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: A PORTION OF THE NORTHERLY BOUNDARY OF FOREST LAKES FILING NO. 1 RECORDED UNDER RECEPTION NO. 206712407 RECORDS OF EL PASO COUNTY, COLORADO, BEING MONUMENTED AT BOTH ENDS BY A NO. 4 REBAR AND RED PLASTIC SURVEYORS CAP STAMPED "ROCKWELL PLS 19586" ASSUMED TO BEAR $N89^{\circ}29'26''W$, A DISTANCE OF 3103.31 FEET.

COMMENCING AT THE NORTHWESTERLY CORNER OF FOREST LAKES FILING NO. 1 RECORDED UNDER RECEPTION NO. 206712407, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, SAID POINT BEING THE POINT OF BEGINNING;

THENCE, ON THE WESTERLY BOUNDARY OF SAID FOREST LAKES FILING NO. 1, THE FOLLOWING (17) SEVENTEEN COURSES:

1. $S04^{\circ}27'43''E$, A DISTANCE OF 339.79 FEET;
2. $S38^{\circ}59'42''W$, A DISTANCE OF 180.21 FEET TO A POINT ON CURVE;
3. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS $N21^{\circ}35'30''E$, HAVING A DELTA OF $01^{\circ}06'06''$, A RADIUS OF 370.00 FEET AND A DISTANCE OF 7.11 FEET TO A POINT OF REVERSE CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF $31^{\circ}25'41''$, A RADIUS OF 330.00 FEET AND A DISTANCE OF 181.01 FEET TO A POINT OF REVERSE CURVE;
5. THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF $32^{\circ}16'24''$, A RADIUS OF 120.00 FEET AND A DISTANCE OF 67.59 FEET TO A POINT OF TANGENT;
6. $S70^{\circ}21'22''E$, A DISTANCE OF 52.28 FEET TO A POINT OF CURVE;
7. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF $27^{\circ}30'55''$, A RADIUS OF 215.00 FEET AND A DISTANCE OF 103.25 FEET TO A POINT OF TANGENT;
8. $S42^{\circ}50'27''E$, A DISTANCE OF 31.85 FEET TO A POINT OF CURVE;
9. ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF $47^{\circ}22'46''$, A RADIUS OF 110.00 FEET AND A DISTANCE OF 90.96 FEET TO A POINT OF TANGENT;
10. $N89^{\circ}46'48''E$, A DISTANCE OF 30.97 FEET TO A POINT OF CURVE;

11. ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF $72^{\circ}40'04''$, A RADIUS OF 70.00 FEET AND A DISTANCE OF 88.78 FEET TO A POINT OF TANGENT;
12. $N17^{\circ}06'44''E$ A DISTANCE OF 29.40 FEET;
13. $S72^{\circ}53'16''E$, A DISTANCE OF 60.00 FEET;
14. $S17^{\circ}06'44''W$, A DISTANCE OF 29.40 FEET TO A POINT OF CURVE;
15. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF $46^{\circ}47'45''$, A RADIUS OF 130.00 FEET AND A DISTANCE OF 106.18 FEET TO A POINT ON CURVE;
16. $S26^{\circ}02'29''E$, A DISTANCE OF 239.56 FEET;
17. $S16^{\circ}10'29''W$, A DISTANCE OF 383.49 FEET TO THE SOUTHWESTERLY CORNER OF SAID FOREST LAKES FILING NO. 1;

THENCE $S02^{\circ}39'14''E$, A DISTANCE OF 1236.36 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO;

THENCE $S88^{\circ}58'38''W$, ON SAID SOUTH LINE, A DISTANCE OF 913.60 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 28;

THENCE $S88^{\circ}58'38''W$, ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 28, A DISTANCE OF 1331.94 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 28;

THENCE $S89^{\circ}10'18''W$, ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO A DISTANCE OF 2620.81 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 29;

THENCE $N00^{\circ}13'11''E$, ON THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 29, A DISTANCE OF 2671.51 FEET TO THE CENTER QUARTER OF SAID SECTION 29;

THENCE $N89^{\circ}40'43''E$, ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 29, A DISTANCE OF 2638.56 FEET TO THE WEST QUARTER CORNER OF SECTION 28;

THENCE $N89^{\circ}29'26''E$, ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28, A DISTANCE OF 1718.18 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 287.000 ACRES.