

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

Merriam

moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P234

FAIRYTALE ACRES

WHEREAS, Jacob and Sherry Kershman did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on October 19, 2023; 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, 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 (Map Amendment, Rezoning) 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 Jacob and Sherry Kershman for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) 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 RR-2.5 (Residential Rural) 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.

MORAES seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	<u>aye</u> / no / non-voting / recused / absent
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent
Jim Byers	aye / no / non-voting / recused / <u>absent</u>
Jay Carlson	aye / no / non-voting / recused / <u>absent</u>
Becky Fuller	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	<u>aye</u> / no / non-voting / recused / absent
Brandy Merriam	<u>aye</u> / no / non-voting / recused / absent
Eric Moraes	<u>aye</u> / no / non-voting / recused / absent
Kara Offner	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpelz	aye / no / non-voting / recused / <u>absent</u>
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of 9 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 19<sup>th</sup> day of October 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By:   
Thomas Bailey, Chair

EXHIBIT A

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, LYING EAST OF HERRING ROAD AND SOUTH OF THE NASH SUBDIVISION, COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF SECTION 9; THENCE NORTH 89 DEGREES 19 MINUTES 15 SECONDS EAST ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, WHICH BEARING IS THE BEARING OF RECORD OF SAID LINE AND THE BASIS OF ALL BEARINGS IN THIS DESCRIPTION, 30.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 32 MINUTES 15 SECONDS WEST ALONG THE EAST LINE OF HERRING ROAD, BEING 30 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID NORTHWEST QUARTER, 495.38 FEET TO THE SOUTHWEST CORNER OF NASH SUBDIVISION, ACCORDING TO THE PLAT THEREOF OF THE RECORDS OF SAID COUNTY; THENCE NORTH 89 DEGREES 28 MINUTES 29 SECONDS EAST ALONG THE SOUTH LINE OF SAID NASH SUBDIVISION, 1282.54 FEET; THENCE SOUTH 00 DEGREES 28 MINUTES 32 SECONDS EAST ALONG THE EAST LINE OF SAID WEST HALF OF THE NORTHWEST QUARTER, 491.94 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 89 DEGREES 19 MINUTES 15 SECONDS WEST ALONG THE SOUTH LINE OF SAID WEST HALF OF THE NORTHWEST QUARTER, 1282.01 FEET TO THE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO