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RESOLUTION NO. 20- 428

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF COLORADO

APPROVAL OF THE SANCTUARY OF PEACE RESIDENTIAL COMMUNITY MAP AMENDMENT (REZONING) AND PUD DEVELOPMENT PLAN (PUDSP-29-002)

WHEREAS Benet Hill Monastery of Colorado Springs, Inc., 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 RR-5 (Residential Rural) 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 November 19, 2020, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application and supporting PUD Development Plan; and

WHEREAS, a public hearing was held by this Board on December 8, 2020; 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. Sufficiency: A sufficient water supply has 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 Choose an item. 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, notations, modifications, and deviations shall be placed upon this approval:

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 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.

The applicant requests the following modification(s) of the Code:

1. Section 8.4.4.C, *Public Roads Required*, of the Code states:

"Divisions of land, lots and tracts shall be served by public roads."

2. Section 8.4.4.E.3, *Private Road Allowances*, of the Code states:
"Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may include design standards for the following:

- Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;
- Design speed where it is unlikely the road will be needed for use by the general public;
- Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;
- Maximum and minimum block lengths; and
- Maximum grade.

PCD Executive Director Recommendation:

The applicant proposes for those lots included within the development area to obtain access from Promise Point, a private roadway. Additionally, the applicant proposes those private roadways not be built to EPC standards.

The PCD Executive Director recommends approval of the requested PUD modifications. Per the proposed PUD/Preliminary Plan, adequate lot accessibility can be provided via the proposed private roadway. The applicant has depicted a striped asphalt walkway design and layout that accommodates pedestrians throughout the Proposed PUD/Preliminary plan and allows for connections to the proposed open space. As summarized in the applicant's letter of intent, reducing the requirement of constructing private roads to public road standards to a lesser standard is proposed to provide for a more livable environment, and allow for the provision of additional open space. The applicant is proposing the maintenance of the private roads be provided by a homeowners' association.

3. Section 8.4.3.B.2.f, *Lots Using OWTS*, of the Code states:

- (i) "Lots which will utilize an OWTS shall have a minimum area of 2.5 acres.
- (ii) "Minimum of 1 acre of buildable area is required for lots proposed to utilize an OWTS."

4. Section 8.4.8.C.2, *Two OWTS Sites Required for All Lots or Parcels*, of the Code states:

"All lots shall be designed to ensure that each lot has a minimum of 2 sites appropriate for OWTS which do not fall in the restricted areas identified on the preliminary plan; soils and geology report delineated wetland or floodplain maps; or other reports required under this Code."

PCD Executive Director Recommendation:

The applicant proposes a minimum lot size of 3,900 square feet and for those lots to be served by four (4) shared Onsite Wastewater Treatment System (OWTS), which is below the required minimum lot size.

Per the proposed PUD/Preliminary Plan wastewater treatment report, adequate on-site wastewater treatment can be provided via the proposed four (4) shared OWTS. There are no geologically constrained areas or areas unsuitable for an OWTS depicted on the preliminary plan or within the soils and geology report. There is no delineated wetland or floodplain area within the subject property. The applicant's wastewater engineer, 285 Engineering, has provided the design drawings for the proposed four (4) OWTS to PCD, Colorado Department of Health and Environment (CDPHE), and El Paso County Public Health for review and comment. EPC Public Health has provided comments stating that the radius for the wells must be a minimum of 140-feet from the zone of influence from the OWTS area. CDPHE has not provided comments to PCD to date.

The clustering of the substandard sized lots proposes to concentrate the development area into approximately 5.14 acres (10.4 percent) of the 49.58-acre site, thereby retaining approximately 44.3 acres (89.6 percent) of the site as open space. As summarized in the applicant's letter of intent, reducing the

number of individual OWTS systems is proposed to provide for a more livable environment and additional open space.

Modifications from the Engineering Criteria Manual (ECM) (2019) which do not qualify as a PUD modification as identified in Section 4.2.6.F.2 of the Land Development Code are required to be requested as deviations of the ECM.

The applicant is requesting the following deviation(s) of the ECM:

1. A deviation to Section 2.3.2, Table 2-7, of the ECM which specifies the centerline radius criterion for Local (low volume) roads to allow for reduced centerline radii of 50 feet where 100 feet is required on a Local (low volume) road.
2. A deviation to Section 2.3.2, Table 2-7, of the ECM which specifies the minimum lane width for Local (low volume) roads to allow for reduced road width of 10-feet where 12-feet is required on a Local (low volume) road.

ECM Administrator Recommendation:

The ECM Administrator recommends approval of the requested deviation in conjunction with the overall design requiring slow vehicle speeds on the proposed private roads. The applicant proposes to construct a 10-foot lane width where 12-foot is required for Promise Point, a private asphalt roadway. Turning templates were analyzed for the typical fire truck and trash truck that are anticipated to serve the subdivision showing that these vehicles can make the turns within the proposed road layout, and the Donald Wescott Fire Protection District has no objections to the design.

3. Section 2.5.2.B.3, *Sidewalks on Both Sides of Roadway*, of the ECM states:
"Sidewalks shall be installed on both sides of the road."
4. Section 2.5.2.B 6 *Concrete Thickness*, of the ECM states:
"Developments within a Planned Unit Development (PUD) zoning district shall be required to design and construct sidewalks to a thickness of five inches (5") for all sidewalks along the entire length of any roadway from which temporary or permanent access will be provided unless an alternative thickness is approved by the Board of County Commissioners as an element of the associated PUD development standards. Under no circumstances shall any sidewalk be designed and constructed to a thickness of less than four inches (4"). All other sidewalks within a PUD

zoning district (e.g., sidewalks in common areas, sidewalks along identified school parcels, sidewalks in open space, etc.) may be designed and constructed to a thickness of five inches (5") but may, at the developer's discretion, be reduced to a thickness no less than four inches (4")."

ECM Administrator Recommendation: The ECM Administrator recommends approval of the requested deviations. The applicant does not propose to construct concrete sidewalks on both sides of the asphalt roadway. Alternatively, the applicant proposes to paint stripe a pedestrian walkway on one side of the asphalt outside of the 10-foot drivable lane to be owned and maintained by the HOA. Per the proposed PUD/Preliminary Plan, adequate lot accessibility can be provided via the proposed private roads. The applicant has depicted a striping design and layout that accommodates pedestrians throughout the proposed PUD/preliminary plan and allows for connections to the proposed open space. The applicant has obtained written endorsement from the Donald Wescott Fire Protection District for the design of the private road. (Please see attached letter from Donald Wescott Fire Protection District).

Staff recommends that the deviation requests associated with the PUD (Planned Unit Development) Modifications from the ECM as prepared are acceptable contingent upon the approval of the PUD Modifications by the Board of County Commissioners.

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.
- 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. The 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, 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.
6. Applicable park, school, drainage, bridge, and traffic fee shall be paid to the El Paso County Planning and Community Development Department at the time of final plat(s) recordation.
7. The El Paso County Attorney's Office conditions of approval, as identified in their recommended water sufficiency finding letter shall be adhered to in conjunction with the completion of the final plat application.
8. Prior to final plat(s) recording, the following must occur:
 - a) A professional engineer must certify that the water system infrastructure has been built in accordance with the design, which was the subject of the CDPHE acknowledgement letter, and that the system is functional/operational.
 - b) Defect warranty collateral for the water system must be posted for two years.
 - c) The developer must identify and describe a proposed water operator acceptable to the County, which may have already occurred as part of the Technical, Managerial, and Financial (TMF) submission.
9. No more than 15 building permits and associated Certificate of Occupancy's will be authorized until proof of Colorado Department of Public Health and Environment approval of the Technical, Managerial, and Financial (TMF) has been received by the County. At that time, the conditional finding of sufficiency as to dependability will convert to a full finding.
10. The developer must submit and receive acceptance of a private detention Best Management Practices (BMP) Maintenance Agreement that provides easements or tracts for the three (3) storm water quality sand filter basins.

11. The developer shall receive Colorado Department of Transportation review and acceptance of their Traffic Impact Study and associated access permits necessary for their State Highway 83/Benet Hill access point prior to subsequent final plat(s) approval.

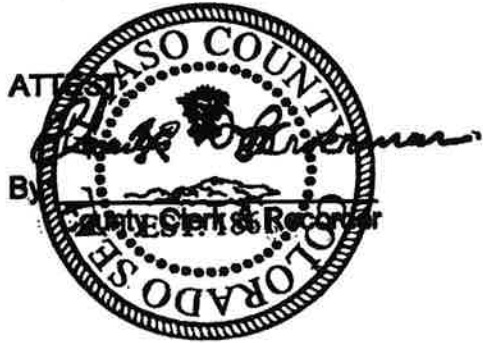
NOTATIONS

1. Subsequent final plat filings may be approved administratively by the Planning and Community Development Director.
2. 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.
3. 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.
4. 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.
5. 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.

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

DONE THIS 8th day of December, 2020, at Colorado Springs, Colorado.

**BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO**




By: 
Chair

EXHIBIT A

PARCEL A:

THAT PORTION OF THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 27, IN TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 13, IN BLOCK 4, IN BLACK FOREST PARK, AS SHOWN BY PLAT RECORDED IN PLAT BOOK 8, PAGES 42 AND 43 AND RUN THENCE EAST ALONG AN EXTENSION OF THE NORTH LINE OF SAID LOT 13, TO THE EAST LINE OF SAID WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH ALONG SAID EAST LINE TO THE POINT OF INTERSECTION WITH AND EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 12, IN SAID BLOCK 4; THENCE WEST ALONG SAID EXTENSION OF THE SOUTH LINE OF LOT 12, TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE NORTH 200 FEET TO THE POINT OF BEGINNING, EXCEPT THE WEST 30 FEET THEREOF WHICH HAS BEEN RESERVED FOR ROAD PURPOSES.

PARCEL B:

THE SOUTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER AND THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, IN TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EXCEPT THAT PORTION CONVEYED TO THE DEPARTMENT OF HIGHWAYS, STATE OF COLORADO, AS DESCRIBED IN DEED RECORDED SEPTEMBER 21, 1964 IN BOOK 2035 AT PAGE 537, UNDER RECEPTION NO. 368570, AND EXCEPT THAT PORTION LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 83 CONVEYED TO C.T. MCLAUGHLIN BY DEED RECORDED DECEMBER 18, 1974 IN BOOK 2723 AT PAGE 644. COUNTY OF EL PASO, STATE OF COLORADO.

1. BOUNDARY BEARINGS AND DISTANCES SHOWN ON THIS MAP ARE RELATIVE TO THE SOUTH LINE OF SANCTUARY OF PEACE, ASSUMED TO BEAR N89°51'41"W.