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**RESOLUTION NO. 19-278**

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

**APPROVAL OF THE ROLLIN RIDGE ESTATES COMMERCIAL MAP AMENDMENT (REZONING) AND PUD DEVELOPMENT PLAN (PUD-18-003)**

WHEREAS TC&C, 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 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 July 2, 2019, 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 July 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. 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.
18. 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.

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 RR-5 (Residential Rural) zoning district to the PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development 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 the associated 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, 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.

#### **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.

#### **WAIVER**

A request for a PUD (Planned Unit Development) modification of Section 4.2.6.F.2.h, for the reason that the applicant cannot meet the standard of Section 8.4.3(C)(2)(f)(i), which states:

"Lots which will utilize an on-site wastewater treatment system (OWTS) shall have a minimum area of 2.5 acres"

Lot 17 is proposed to be 1.5 acres, Lot 18 is proposed to be 1.6 acres, and Lot 19 is proposed to be 2.43 acres. These proposed lots are designated as commercial uses within the associated PUD Development Plan. There is no minimum lot size requirement with a PUD (Planned Unit Development). The minimum lot size is established by an approved and recorded PUD development

plan. However, there are minimum lot sizes established within the Code when a lot or parcel is served by an OWTS system.

The soils and geology report that was prepared by Entech Engineering, Inc. concludes that the individual and commercial OWTS proposed for this site meets all El Paso County and State guidelines. Each lot will still have a minimum of one (1) acre of buildable area as required per Section 8.4.3(C)(2)(f)(ii) of the Code.

El Paso County Public Health (EPCPH) was sent a referral and has no opposition to the minimum lot size. However, they have placed limitations on the proposed use as a convenience store for incorporating a pressure distribution into the required design, and extensive food preparation will not be supported.

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

DONE THIS 23<sup>RD</sup> day of July, 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST

By:

  
County Clerk & Recorder



By:

  
Chair

EXHIBIT A

**LEGAL DESCRIPTION – COMMERCIAL TRACT:**

A TRACT OF LAND BEING A PORTION OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED UNDER RECEPTION NO. 216022946 OF SAID COUNTY RECORDS, LOCATED IN THE NORTH ONE-HALF OF THE NORTH ONE-HALF (N1/2 N1/2) OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THAT TRACT AS DESCRIBED IN DEED RECORDED UNDER SAID RECEPTION NO. 216022946, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED UNDER RECEPTION NO. 200156068 OF SAID COUNTY RECORDS, AS MONUMENTED BY A 5/8" REBAR (NO CAP), FROM WHICH THE NORTHWEST CORNER OF THAT TRACT AS DESCRIBED IN DEED RECORDED UNDER SAID RECEPTION NO. 216022946, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT RIGHT-OF-WAY PARCEL AS DESCRIBED IN DEED RECORDED UNDER RECEPTION NO. 206076668 OF SAID COUNTY RECORDS, AS MONUMENTED BY A 5/8" REBAR WITH ORANGE CAP STAMPED "PLS 32439" BEARS N00°06'39"W, A DISTANCE OF 1262.77 FEET AND IS THE BASIS OF BEARINGS USED HEREIN;

THENCE N00°06'39"W ALONG THAT LINE COMMON TO THOSE TRACTS AS DESCRIBED IN DEEDS RECORDED UNDER SAID RECEPTION NO. 216022946 AND SAID RECEPTION NO. 200156068, A DISTANCE OF 1262.77 FEET TO THE NORTHWEST CORNER OF THAT TRACT AS DESCRIBED IN DEED RECORDED UNDER SAID RECEPTION NO. 216022946, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT RIGHT-OF-WAY PARCEL AS DESCRIBED IN DEED RECORDED UNDER SAID RECEPTION NO. 206076668; THENCE S88°54'09"E ALONG THAT LINE COMMON TO THAT TRACT AS DESCRIBED IN DEED RECORDED UNDER SAID RECEPTION NO. 216022946 AND SAID RIGHT-OF-WAY PARCEL AND ALONG THE SOUTH LINE OF THAT RIGHT-OF-WAY PARCEL AS DESCRIBED IN DEED RECORDED UNDER RECEPTION NO. 206076666 OF SAID COUNTY RECORDS, A DISTANCE OF 1088.19 FEET TO THE SOUTHEAST CORNER OF THAT RIGHT-OF-WAY PARCEL AS DESCRIBED IN DEED RECORDED UNDER SAID RECEPTION NO. 206076666 AND THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE N01°38'38"E ALONG THE EASTERLY LINE OF THAT RIGHT-OF-WAY PARCEL AS DESCRIBED IN DEED RECORDED UNDER SAID RECEPTION NO. 206076666, A DISTANCE OF 20.08 FEET TO THE NORTHEAST CORNER THEREOF, SAID POINT ALSO BEING AN ANGLE POINT ON THE NORTHERLY LINE OF THAT TRACT AS DESCRIBED UNDER

SAID RECEPTION NO. 216022946 AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HODGEN ROAD;

THENCE S88°53'52"E ALONG THAT LINE COMMON TO SAID TRACT AND SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 856.44 FEET TO THE NORTHEAST CORNER OF SAID TRACT, SAID POINT ALSO BEING A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE HWY 83;

THENCE S02°28'37"E ALONG THAT LINE COMMON TO SAID TRACT AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 339.85 FEET;

THENCE N88°54'09"W, A DISTANCE OF 371.55 FEET;

THENCE S43°51'14"W, A DISTANCE OF 329.43 FEET;

THENCE ALONG THE ARC OF A 325.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 20°05'04", AN ARC LENGTH OF 113.93 FEET (THE LONG CHORD OF WHICH BEARS N51°57'12"W, A LONG CHORD DISTANCE OF 113.34 FEET) TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF A 350.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 63°05'35", AN ARC LENGTH OF 385.41 FEET (THE LONG CHORD OF WHICH BEARS N30°26'57"W, A LONG CHORD DISTANCE OF 366.23 FEET) TO A POINT OF TANGENCY;

THENCE N00°57'29"E, A DISTANCE OF 180.82 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 8.17 ACRES OF LAND, MORE OR LESS.