

MAP AMENDMENT (REZONING) (RECOMMEND DENIAL)

Commissioner Brittain Jack moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION**

**OF THE COUNTY OF EL PASO**

**STATE OF COLORADO**

**RESOLUTION NO. P-20-009**

**ROCK CREEK MESA**

WHEREAS, Colorado Springs Equities, LLC, 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 F-5 (Forestry and Recreation) zoning district to RS-5000 (Residential Suburban) zoning district; and

WHEREAS, a public hearing was held by this Commission on July 15, 2021; 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 was 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 were heard at that hearing.
4. 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.
5. The proposed land use or zone district is not compatible with existing and permitted land uses and zone districts in all directions.
6. The site is not 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

7. 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.
8. 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.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the petition of Colorado Springs Equities, LLC, for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the F-5 (Forestry and Recreation) zoning district to the RS-5000 (Residential Suburban) zoning district be denied by the Board of County Commissioners:

BE IT FURTHER RESOLVED that the Planning Commission recommends the following conditions and notations shall be placed upon this denial:

#### **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 RM-30 (Residential Multi-Dwelling) 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 Board of County Commissioners for its consideration.

Commissioner Bailey seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Risley	aye
Commissioner Bailey	aye
Commissioner Trowbridge	nay
Commissioner Lucia-Treese	nay
Commissioner Brittain Jack	aye
Commissioner Moraes	nay

The Resolution was adopted by a vote of 3 to 3 by the El Paso County Planning Commission, State of Colorado.

Dated: July 15, 2021


  
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Brian Risley, Chair

EXHIBIT A

PROPERTY DESCRIPTION:

21-040

#### Parcel 1

A portion of that parcel described in that Warranty Deed recorded September 7, 2012 under reception number 212104071 in the Official Records of El Paso County, Colorado, , lying within the S1/2 of Section 30, Township 15 South, Range 66 West, of the Sixth P.M., being more particularly described as follows:

COMMENCING at the West Quarter Corner of said Section 30, being monumented by a 2" pipe with a 3 1/4" brass cap, flush with grade; thence S00°21'27"E, (Bearings are relative to the North line of the Southwest Quarter of said Section 30, being monumented at the West Quarter Corner by a 2" pipe with a 3 1/4" brass cap, flush with grade, and at the Center Quarter Corner by a No. 6 rebar with a 3 1/4" aluminum cap stamped, "PLS 19825" flush with grade, having a measured bearing of S89°02'57"E and a distance of 2557.86 feet), along the west line of said south 1/2 of said Section 30, a distance of 933.38 feet, to the northwest corner of said parcel, being the POINT OF BEGINNING; thence S89°53'27"E, along the north line of said parcel described in said Warranty Deed, a distance of 862.29 feet, to the northwest corner of that parcel described in that Quit Claim Deed recorded under reception no. 216112072 in said Official Records; thence S00°14'59"E, along the west line of said parcel, a distance of 159.62 feet, to the southwest corner of said parcel; thence N89°22'55"E, along the south line of said parcel, a distance of 107.20 feet, to a point on the west right of way line of Commanche Road; thence S00°45'25"E, along said west right of way line, 521.63 feet, to a point on the north right of way line of Pawnee Road; thence along said north right of way line, along the arc of a non-tangent curve to the right, whose center bears N16°20'24"W, having a radius of 359.82 feet, a central angle of 47°30'00", a distance of 298.30 feet; thence N58°50'25"W, continuing along said north right of way line, a distance of 90.67 feet; thence N59°20'46"W, a distance of 474.68 feet, to a point on the east line of that parcel described in document recorded under reception no. 97036734; thence N00°32'54"E, along the east line of said parcel, a distance of 217.01 feet; thence S89°38'50"W, along 101.00 feet; thence N00°32'54"E, a distance of 66.13 feet; thence N89°27'06"W, a distance of 104.99, to a point on the west line of said Section 30; thence N00°21'13"W, along said west line, a distance of 71.87 feet, to the POINT OF BEGINNING.

Containing 439,347 Sq. Ft. or 10.086 acres, more or less.

#### Parcel 2

A portion of that parcel described in that Warranty Deed recorded September 7, 2012 under reception number 212104071 in the Official Records of El Paso County, Colorado, , lying within the S1/2 of Section 30, Township 15 South, Range 66 West, 6th P.M., being more particularly described as follows:

COMMENCING at the Southwest Corner of Section 30, Township 15 South, Range 66 West, of the Sixth P.M., being monumented by a 2 1/2" aluminum cap stamped, "PLS 28658" flush with grade; thence N00°21'27"W, (Bearings are relative to the North line of the Southwest Quarter of said Section 30, being monumented at the West Quarter Corner by a 2" pipe with a 3 1/4" brass cap, flush with grade, and at the Center Quarter Corner by a No. 6 rebar with a 3 1/4" aluminum cap stamped, "PLS 19825" flush with grade, having a measured bearing of S89°02'57"E and distance of 2557.86 feet), along the west line of said Section 30, a distance of 802.58 feet, to the southwest corner of the land described in that Warranty Deed recorded September 7, 2012 under reception number 212104071 in the Official Records of El Paso County, Colorado; thence N88°33'14"E, along the south line of said parcel, a distance of 564.56 feet, to the POINT OF BEGINNING; thence leaving said south line, N00°45'17"W, a distance of 90.68 feet; thence N06°40'14"E, a distance of 59.97 feet; thence N24°15'59"E, a distance of 86.75 feet, to the south right of way line of Pawnee Road, if extended north westerly; thence S58°50'25"E, along said south right of way line, a distance of 55.08 feet; thence continuing along said south right of way line, along the arc of a curve to the left, having a radius of 419.79 feet, a central angle of 45°10'17", a distance of 330.96 feet, to a point on the west right of way line of Commanche Road; thence S00°45'25"E, along said west right of way line, a distance of 142.43 feet, to a point on said south line; thence S88°33'14"W, along said south line, a distance of 409.42 feet, to the POINT OF BEGINNING.

Containing 65,120 Sq. Ft. or 1.495 acres, more or less.

#### Parcel 3

A portion of that parcel as described in that Warranty Deed recorded September 7, 2012 under reception number 212104072 in the Official Records of El Paso County, Colorado, lying within the S1/2 of Section 30, Township 15 South, Range 66 West, 6th P.M., being more particularly described as follows:

COMMENCING at the Southwest Corner of Section 30, Township 15 South, Range 66 West, of the Sixth P.M., being monumented by a 2 1/2" aluminum cap stamped, "PLS 28658" flush with grade; thence N00°21'27"W, (Bearings are relative to the North line of the Southwest Quarter of said Section 30, being monumented at the West Quarter Corner by a 2" pipe with a 3 1/4" brass cap, flush with grade, and at the Center Quarter Corner by a No. 6 rebar with a 3 1/4" aluminum cap stamped, "PLS 19825" flush with grade, having a measured bearing of S89°02'57"E and distance of 2557.86 feet), along the west line of said Section 30, a distance of 802.58 feet, to the southwest corner of the land described in that Warranty Deed recorded September 7, 2012 under reception number 212104071 in the Official Records of El Paso County, Colorado; thence N88°33'14"E, along the south line of said parcel, a distance of 564.56 feet, to the POINT OF BEGINNING; thence continuing along said south line, N88°33'14"E, a distance of 409.42 feet, to a point on the west right of way line of

Commanche Road; thence S00°45'25"E, along said west right of way line, a distance of 625.79 feet; thence S89°15'25"W, leaving said west right-of-way line, a distance of 110.00 feet; thence N00°45'25"W, a distance of 597.44 feet; thence S88°33'14"W, a distance of 299.42 feet; thence N00°45'25"W, a distance of 27.00 feet, to the POINT OF BEGINNING. Containing 76,847 Sq. Ft. or 1.764 acres, more or less.

#### Parcel 4

A portion of that parcel as described in that Warranty Deed recorded May 7, 2014 under reception number 214038156, in the Official Records of El Paso County, Colorado, lying within the NW1/4 of Section 31, Township 15 South, Range 66 West, 6th P.M., being more particularly described as follows:

COMMENCING at the Southwest Corner of Section 30, Township 15 South, Range 66 West, of the Sixth P.M., being monumented by a 2 1/2" aluminum cap stamped, "PLS 28658" flush with grade; thence N88°32'14"E, (Bearings are relative to the North line of the Southwest Quarter of said Section 30, being monumented at the West Quarter Corner by a 2" pipe with a 3 1/4" brass cap, flush with grade, and at the Center Quarter Corner by a No. 6 rebar with a 3 1/4" aluminum cap stamped, "PLS 19825" flush with grade, having a measured bearing of S89°02'57"E and a distance of 2557.86 feet) along the south line of said Section 30, a distance of 1374.60 feet, to the POINT OF BEGINNING; thence N88°32'14"E, continuing along said south line, a distance of 1061.19 feet, to a point on the west right of way line of Highway 115; thence S43°38'56"W, along said west right of way, a distance of 281.38 feet; thence S37°46'22"W, continuing along said west right of way line, a distance of 94.69 feet; thence S88°31'45"W, leaving said west right of way line, a distance of 549.95 feet, to a point on the easterly line of that parcel described in that Warranty Deed recorded April 6, 2018 under reception no. 218038987 in the Official Records of El Paso County, Colorado, thence along said easterly line the following four (4) courses; N01°28'16"W, a distance of 65.06 feet; S88°31'44"W, a distance of 161.94 feet; N34°00'35"W, a distance of 167.35 feet; N01°28'16"W, a distance of 65.89 feet, to the POINT OF BEGINNING. Containing 229,245 Sq. Ft. or 5.263 acres, more or less.

#### Parcel 5

A portion of the land described in that Quit Claim Deed recorded October 17, 2017 under reception number 217125519 in the Official Records of El Paso County, Colorado, lying within the S1/2 of Section 30, Township 15 South, Range 66 West, 6th P.M., being more particularly described as follows:

BEGINNING at the northwest corner of the land described in said Quit Claim Deed, being a point on the south right of way line of Pawnee Road; thence along said south right-of-way line, N72°32'58"E, (Bearings are relative to the North line of the Southwest Quarter of said Section 30, being monumented at the West Quarter Corner by a 2" pipe with a 3 1/4" brass cap, flush with grade, and at the Center Quarter Corner by a No. 6 rebar with a 3 1/4" aluminum cap stamped, "PLS 19825" flush with grade, having a measured bearing of S89°02'57"E and a distance of 2557.86 feet) a distance of 111.64 feet; thence continuing along said south right of way line, along the arc of a non-tangent curve to the right, whose center bears S16°48'21"E, having a radius of 217.68 feet, a central angle of 49°48'38", a distance of 189.24 feet; thence S57°23'31"E, continuing along said south right of way line, a distance of 640.01 feet, to a point on the west right of way line of Highway 115; thence along said west right of way line along the arc of a non-tangent curve to the right, whose center bears N70°59'39"W, having a radius of 2754.90 feet, a central angle of 03°40'39", a distance of 176.83 feet; thence S89°02'55"W, leaving said west right of way line, a distance of 455.43 feet; thence S00°57'05"E, a distance of 50.00 feet, to the easterly most northeast corner of Lot 1, Merston Subdivision, recorded 4 May, 2007 under reception number 207712576 in said Official Records; thence along the north line of said Lot 1, S89°02'55"W, a distance of 299.84 feet, to an angle point of said Lot 1; thence along the east line of said Lot 1 and the east line of the land described in said Quit Claim deed, N01°00'14"W, a distance of 565.09 feet, to the POINT OF BEGINNING. Containing 347,274 Sq. Ft. or 7.972 acres, more or less.

#### Parcel 6

That parcel as described in that Special Warranty Deed recorded on December 18, 2019, under Reception No. 219160847 in the records of the El Paso County Clerk and Recorder's Office Containing 402,374 Sq. Ft. or 9.237 acres, more or less.

#### Parcel 9

Block 11, Rock Creek Mesa Subdivision Addition No. 2 recorded March 11, 1959, in Plat Book A-2, Page 30 in the records of El Paso County Clerk and Recorder's Office. Containing 62,928 Sq. Ft. or 1.445 acres, more or less.