

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

Fuller

moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P235  
OVERLOOK AT HOMESTEAD REZONE

WHEREAS, N.E.S. 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 A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on December 7, 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 N.E.S. for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

#### CONDITION

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.

#### 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.

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

The Resolution was adopted by a vote of 8 to 1 by the El Paso County Planning Commission, State of Colorado.

DONE THIS 7th day of December 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By:   
Thomas Bailey, Chair

EXHIBIT A

**LEGAL DESCRIPTION:**

A TRACT OF LAND BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 22, AND A PORTION OF THE NORTH HALF OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, BEING MONUMENTED ON THE NORTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED PLS 27605" AT GRADE, AND AT THE SOUTHERLY END BY A 2-1/2" ALUMINUM CAP STAMPED PLS 28658" .3' ABOVE GRADE, BEING ASSUMED TO BEAR 500°19'49"E.

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THE SOUTH HALF OF THE NORTHEAST QUARTER; AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 27, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

TOGETHER WITH

THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 22 IN TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN; EXCEPTING THEREFROM THE PORTION OF LAND CONVEYED IN DEED RECORDED OCTOBER 4, 2005 UNDER RECEPTION NO. 205156836, COUNTY OF EL PASO, STATE OF COLORADO.

TOGETHER WITH

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22 IN TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN; THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 27 IN TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN; THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27 IN TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, EXCEPT THAT PORTION OF SAID QUARTER SECTION LYING NORTHWEST OF THE FORMER RIGHT OF WAY OF THE COLORADO AND SOUTHERN RAILWAY COMPANY, COUNTY OF EL PASO, STATE OF COLORADO AND EXCEPTING ANY PORTION CONVEYED TO THE DEPARTMENT OF HIGHWAYS IN DEED RECORDED MARCH 26, 1959 IN BOOK 1734 AT PAGE 504, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO; THENCE S00°19'49"E ON THE EAST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 2,646.38 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE S00°47'36"E ON THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 27, A DISTANCE OF 2,646.44 FEET TO SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27, SAID POINT BEING ON THE NORTHERLY BOUNDARY LINE OF REATA FILING NO. 1, AS RECORDED IN PLAT BOOK A-3 AT PAGE 62; THENCE S88°43'40"W ON THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION AND THE NORTHERLY BOUNDARY LINE OF SAID REATA FILING NO. 1, A DISTANCE OF 3,943.48 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27; THENCE N00°37'58"W ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27, A

DISTANCE OF 1,997.73 FEET TO A POINT ON THE WEST BOUNDARY LINE OF THE FORMER COLORADO AND SOUTHERN RAILWAY, SAID POINT ALSO BEING ON THE BOUNDARY LINE OF APEX RANCH ESTATES AS RECORDED UNDER RECEPTION NUMBER 208712902; THENCE ON THE WEST BOUNDARY OF THE FORMER COLORADO AND SOUTHERN RAILWAY BOUNDARY AND THE BOUNDARY OF SAID APEX RANCH ESTATES THE FOLLOWING TWO (2) COURSES:

1. N35°18'27"E A DISTANCE OF 178.25 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 17°55'17", A RADIUS OF 1,810.08 FEET A DISTANCE OF 566.17 FEET TO A POINT ON CURVE, SAID POINT BEING ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, ALSO BEING ON THE SOUTHERLY BOUNDARY LINE OF APEX RANCH ESTATES, RECORDED UNDER RECEPTION NUMBER 208712902;

THENCE N88°37'29"E ON SAID SOUTHERLY LINES A DISTANCE OF 951.90 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER, SECTION 22; THENCE N88°38'04"E ON THE SOUTHERLY BOUNDARY LINE OF SAID APEX RANCH ESTATES AND THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 1,311.89 FEET TO THE SOUTHWEST CORNER OF SAID APEX RANCH ESTATES AND THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE N00°23'27"W ON THE EAST LINE OF SAID APEX RANCH ESTATES A DISTANCE OF 1,321.92 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE S88°37'41"W ON THE BOUNDARY LINE OF SAID APEX RANCH ESTATES A DISTANCE OF 11.86 FEET TO AN ANGLE POINT ON SAID BOUNDARY LINE SAID POINT ALSO BEING ON THE EASTERLY BOUNDARY LINE OF THE QUIT CLAIM DEED RECORDED UNDER RECEPTION NUMBER 205156836; THENCE ON THE EASTERLY BOUNDARY LINE OF SAID APEX RANCH ESTATES AND SAID QUIT CLAIM DEED THE FOLLOWING FOURTEEN (14) COURSES:

1. N06°42'44"W A DISTANCE OF 161.04 FEET;
2. S88°06'46"W A DISTANCE OF 95.20 FEET;
3. S86°45'34"W A DISTANCE OF 288.72 FEET;
4. S86°37'02"W A DISTANCE OF 397.37 FEET;
5. S86°34'15"W A DISTANCE OF 123.39 FEET;
6. S86°48'59"W A DISTANCE OF 107.19 FEET;
7. S86°35'53"W A DISTANCE OF 172.60 FEET;
8. S86°51'02"W A DISTANCE OF 70.34 FEET;
9. N00°45'36"W A DISTANCE OF 165.40 FEET;
10. N00°12'12"E A DISTANCE OF 141.82 FEET;
11. N00°33'05"W A DISTANCE OF 409.91 FEET;
12. N02°52'37"W A DISTANCE OF 73.32 FEET;
13. N04°36'23"W A DISTANCE OF 374.86 FEET;
14. N00°26'39"W A DISTANCE OF 36.96 FEET TO A THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 22;

THENCE N88°34'23"E ON THE NORTH LINE OF THE SOUTH HALF OF SECTION 22, A DISTANCE OF 2,629.29 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 15,281,308 SQUARE FEET OR 350.811 ACRES MORE OR LESS.