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RESOLUTION NO. 23-41

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

**APPROVAL OF MAP AMENDMENT (REZONE) TO CS
4-WAY COMMERCIAL REZONING (CS-22-003)**

WHEREAS, The O'Neil Group 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 for 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 PUD (Planned Unit Development) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on January 19, 2023, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on February 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, 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. That the application was properly submitted for consideration by the Board of County Commissioners.**
- 2. That proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.**
- 3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters, and issues were submitted and reviewed, and that all interested persons were heard at those hearings.**
- 4. That all exhibits were received into evidence.**
- 5. That the proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.**
- 6. That the proposed land use will be compatible with existing and permitted land uses in the area.**

7. That 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. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to 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, pursuant to Section 5.3.5 of the El Paso County Land Development Code, as amended, in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

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 Board of County Commissioners hereby approves the petition of The O'Neil Group to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the PUD (Planned Unit Development) zoning district to the CS (Commercial Service) zoning district ;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

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 CS (Commercial Service) zoning

district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

3. Any subsequent subdivision will need to demonstrate compliance with the standards of the CS zoning district as well as the subdivision standards included in Chapters 7 and 8 of the Land Development Code.
4. The applicant/developer and/or property owner shall be required to participate in a fair and equitable manner in the upgrading/construction of the surrounding roads and intersections impacted by this development's traffic, including U.S. Highway 24, Stapleton Drive, Eastonville Road, and any other offsite impacts as identified in the applicable traffic impact analysis and as necessary to provide safe and adequate access to the development. With the respective final plats and development plans, the developer's design and/or financial responsibilities for offsite improvements may include a pro-rata share of the following, if not previously completed by others:
 - a. U.S. Highway 24/Stapleton Drive intersection: Design, construction and/or deposit of escrow funds per Colorado Department of Transportation access permit conditions.
 - b. Eastonville Road/Stapleton Drive: Design, construction, contribution and/or escrow of funds as appropriate for intersection improvements and traffic signals, as warranted.
 - c. Eastonville Road: Construction, contribution, and/or escrow of funds for final grading and asphalt paving between Latigo Boulevard and Stapleton Drive.
 - d. Stapleton Drive/Dumont Drive intersection: Design and construction of intersection improvements.
 - e. Stapleton Drive:
 - i. Design, construction, contribution, and/or escrow of funds for the second two lanes from Eastonville Road to Highway 24.
 - ii. Design, construction, contribution and/or escrow of funds as appropriate to construct intersection improvements, including traffic signals, as warranted.
 - f. Other offsite impacts as identified in any new/updated traffic impact analysis for this development.

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 the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

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

ATTEST:

By: _____

County Clerk



BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: Cami Bremer
Chair

EXHIBIT A

A tract of land in the Northwest Quarter of Section 33 Township 12 South, Range 64 West of the Sixth Principal Meridian, El Paso County, Colorado described as follows:

Beginning at a point that is S 00°32'40" E 1248.74 feet and S 89°27'20" W 756.12 feet from the Northeast Corner of the Northwest Quarter of said Section 33; thence
S 89°21'54" W 518.84 feet to a capped PLS 38254 rebar; thence
S 89°05'22" W 196.52 feet to a capped PLS 38254 rebar; thence
S 89°24'38" W 346.20 feet to a capped PLS 38254 rebar; thence
S 00°17'22" E 39.41 feet to capped PLS 38254 rebar; thence
N 89°52'17" W 237.85 feet to the Southwest Corner of Lot 13, 4 Way Ranch Filing No. 1 as platted in the El Paso County Records under Reception No. 206712416; thence

Along the Easterly Line of said Lots 13 and 14, 4 Way Ranch Filing No. 1, the following 13 courses,

Course 1: N 02°32'27" E 104.58 feet,
Course 2: N 17°20'56" W 90.67 feet,
Course 3: N 33°10'19" W 117.65 feet,
Course 4: N 46°32'54" W 111.92 feet,
Course 5: N 45°38'56" W 135.29 feet,
Course 6: N 37°49'00" W 77.43 feet,
Course 7: N 69°33'24" W 63.38 feet,
Course 8: N 81°58'46" W 73.71 feet,
Course 9: N 64°01'48" W 66.05 feet,
Course 10: N 40°22'05" W 60.18 feet,
Course 11: N 27°05'02" W 46.89 feet,
Course 12: N 03°48'16" E 78.58 feet,
Course 13: N 09°33'20" E 72.86 feet to the South right of way line of Stapleton Drive; thence

Along the Southerly Line of Stapleton Drive the following 9 courses,

Course 1: N 64°28'13" E 855.66 feet,
Course 2: On a curve to the right with a radius of 1275.00 feet, an arc distance of 1198.14 feet, chord being S 88°55'14" E 1154.54 feet,
Course 3: On a curve to the right with a radius of 20.00 feet, an arc distance of 33.70 feet, chord being S 13°43'29" E 29.85 feet,
Course 4: S 34°33'01" W 79.10 feet,
Course 5: S 55°26'59" E 100.11 feet,
Course 6: N 34°33'01" E 87.29 feet,
Course 7: On a curve to the right with a radius of 20.00 feet, an arc distance of 31.37 feet, chord being N 79°29'01" E 28.25 feet,
Course 8: On a curve to the right with a radius of 1275.00 feet, an arc distance of 266.18 feet, chord being S 49°36'31" E 265.70 feet,
Course 9: S 43°41'10" E 345.14 feet; thence
S 45°58'32" W 894.27 feet to the point of beginning, containing 51.6 acres.

Subject to easements and restrictions of record.

Description:

A tract of land in the Southwest Quarter of Section 28 and the Northwest Quarter of Section 33 Township 12 South, Range 64 West of the Sixth Principal Meridian, El Paso County, Colorado described as follows:

Beginning at the Northeast Corner of the Northwest Quarter of said Section 33; thence
S 00°32'40" E 531.35 feet along the East Line of the Northwest Quarter of said Section 33; thence
S 45°52'34" W 18.02 feet to the North right of way line of Stapleton Drive; thence

Along the North right of way line of Stapleton Drive the following 2 courses,

Course 1: N 43°41'10" W 344.15,
Course 2: On a curve to the left with a radius of 1405.00 feet, an arc distance of 1127.25 feet, chord being N 66°37'01" W 1097.26 feet; thence
N 00°02'16" E 472.31 feet; thence

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S 33°06'23" W 38.23 feet; thence
S 47°20'54" E 86.31 feet; thence
S 64°11'25" E 94.79 feet; thence
S 80°44'44" E 101.96 feet; thence
S 61°15'34" E 141.09 feet; thence
N 82°37'58" E 108.63 feet; thence
S 88°02'18" E 52.46 feet; thence
S 80°29'21" E 62.10 feet; thence
S 64°44'27" E 28.07 feet; thence
S 72°25'24" E 39.10 feet; thence
N 80°32'12" E 53.40 feet; thence
N 62°41'35" E 59.14 feet; thence
N 68°54'08" E 67.16 feet; thence
N 81°40'20" E 79.00 feet; thence
N 89°54'58" E 64.36 feet; thence
S 50°43'58" E 50.43 feet; thence
N 38°28'19" E 283.60 feet; thence

On a curve to the right with a radius of 640.00 feet, an arc distance of 65.22 feet, chord being N 41°25'43" E 65.19 feet to the East Line of the Southwest Quarter of said Section 28; thence
S 00°26'34" E 685.50 feet to the point of beginning, containing 15.5 acres.

Subject to easements and restrictions of record.