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El Paso County, CO



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RESOLUTION NO. 21- 34

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF COLORADO

APPROVAL OF THE HADDOCK METAL ROOF MAP AMENDMENT (REZONING) (CC-20-001)

WHEREAS Black Forest, 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 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 A-5 (Agricultural) zoning district to the CC (Commercial Community) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on December 17, 2020, 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 this Board on January 26, 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, 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 the Board of County Commissioners of El Paso County.
3. The hearings before the Planning Commission and the 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 zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.

5. The proposed land use will be compatible with existing and permitted land uses in the area.
6. 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.
7. 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.
8. Changing conditions clearly require amendment to the Zoning Resolutions.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Black Forest, LLC, for Haddock Metal Roof, 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 A-5 (Agricultural) zoning district to the CC (Commercial Community) 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 CC (Commercial Community) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. Any new or change of use that will generate more traffic than the proposed use may be required to submit a traffic study to the County to determine if roadway improvements are necessary.

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.

Waiver(s)/Deviation(s): A waiver has been requested for the screening requirements under Section 6.2.2.D.2.c, Opaque Fencing or Wall Required, of the Land Development Code. Instead of constructing a fence or wall, the applicant is proposing to replant the property with various native pines. The pines are intended to create a buffer between the proposed CC-zoned property and the adjacent residential uses.

Section 6.2.2.D.2.c, Buffer Between Non-Residential, Multifamily Residential and Single-Family/Duplex Uses, of the Code states:

“Opaque Fencing or Wall Required. An opaque fence or wall with a minimum height of 6 feet is required along the lot, parcel, or tract line except where the adjacent single-family or duplex residential zoning district or use abuts a required roadway landscaping area.”

This Section requires a solid privacy fence along the perimeter of a commercially used parcel when adjacent to a residential parcel.

The applicant intends to utilize approximately 29 percent of the overall 4.77 acre property, therefore, an opaque fence along the perimeter would be visually obtrusive given the distances shown on the submitted site development plan from the proposed commercial activity to the adjacent residential parcels. Additionally, none of the nearby properties, even those utilized for commercial purposes, have a solid privacy fence along the property line. Compliance with this criteria would cause the commercial use to stand out and not be aesthetically compatible with the surrounding developed properties, which is the intent of the landscaping provisions of the Code.

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

DONE THIS 26th day of January, 2021 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:



By: Grant Vandenberg
Chair

EXHIBIT A

Legal Description of Property

**N1/2 NE1/4 SE1/4 SE1/4 OF SECTION 7, TOWNSHIP 12, SOUTH RANGE 65
WEST OF THE 6th PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO**