

MAP AMENDMENT (REZONING) (RECOMMEND APPROVAL)

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. CC-20-001

Haddock Metal Roof

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

WHEREAS, a public hearing was held by this Commission on December 17, 2020; 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 compatible with existing and permitted land uses and zone districts in all directions.

6. 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
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 John and Linda Jennings 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-5 (Agricultural) zoning district to the CC (Commercial Community) zoning district be approved by the Board of County Commissioners:

BE IT FURTHER RESOLVED that the Planning Commission recommends the following conditions, notations, and waiver 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.

3. 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(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.

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 Lucia-Treese 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	aye
Commissioner Lucia-Treese	aye

Commissioner Fuller	aye
Commissioner Brittain Jack	aye
Commissioner Blea-Nunez	aye
Commissioner Carlson	aye
Commissioner Greer	aye
Commissioner Moraes	nay

The Resolution was adopted by a vote of 9 to 1 by the El Paso County Planning Commission, State of Colorado.

Dated: December 17, 2020



Brian Risley, 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