

MAP AMENDMENT (REZONE) – PLANNED UNIT DEVELOPMENT (PUD) AND
PRELIMINARY PLAN (RECOMMEND APPROVAL)

Trowbridge moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. PUDSP-21-007
HAVEN VALLEY

WHEREAS, MIDCO Investments LLC, and Fountain Mutual Metro District, 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 PUD (Planned Unit Development) and RS-6000 (Residential Suburban) zoning district to the PUD (Planned Unit Development) zoning district; and

WHEREAS, a public hearing was held by this Commission on December 1, 2022; 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, the Planning Commission and BOCC shall determine that the following criteria for approval outlined in Section 4.2.6, and Section 7.2.1 of the El Paso County Land Development Code (2021) have been met to approve a PUD zoning district and preliminary plan:

1. The proposed PUD district zoning advances the stated purposes set forth in this section.
2. The application is in general conformity with the Master Plan;
3. The proposed development is in compliance with the requirements of this Code and all applicable statutory provisions and will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of El Paso County;
4. The subject property is suitable for the intended uses and the use is compatible with both the existing and allowed land uses on the neighboring properties, will be in harmony and responsive with the character of the surrounding area and natural environment, and will not have a negative impact upon the existing and future development of the surrounding area;
5. The proposed development provides adequate consideration for any potentially detrimental use to use relationships (e.g. commercial use adjacent to single family use) and provides an appropriate transition or buffering between uses of differing intensities both on-site and off-site which may include innovative treatments of use to use relationships;
6. The allowed uses, bulk requirements and landscaping and buffering are appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community;
7. Areas with unique or significant historical, cultural, recreational, aesthetic or natural features are preserved and incorporated into the design of the project;
8. Open spaces and trails are integrated into the development plan to serve as amenities to residents and provide reasonable walking and biking opportunities;
9. The proposed development will not overburden the capacities of existing or planned roads, utilities and other public facilities (e.g. fire protection, police protection, emergency services, and water and sanitation), and the required public services and facilities will be provided to support the development when needed;

10. The proposed development would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and energy efficient site design;
11. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would unreasonably interfere with the present or future extraction of such deposit unless acknowledged by the mineral rights owner;
12. Any proposed exception or deviation from the requirements if the zoning resolution or the subdivision regulation is warranted by virtue of the design and amenities incorporated in the development plan and development guide; and
13. The owner has authorized the application.

WHEREAS, the applicants have also requested the proposed PUD be reviewed and considered as a preliminary plan. The requirements identified in Chapter 7 and Chapter 8 of the El Paso County Land Development Code (2021) for a preliminary plan requires the Planning Commission and the BoCC find that the following additional criteria for approval of a preliminary plan have also been met:

1. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is consistent with the purposes of this Code;
3. The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
4. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. §30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;
6. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];
7. Adequate drainage improvements complying with State law [C.R.S. §30-28- 133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;
8. The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;

9. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
10. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;
11. Necessary services, including police and protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;
12. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
13. The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

WHEREAS, a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the PUD (Planned Unit Development) and RS-6000 (Residential Suburban) zoning district to the PUD (Planned Unit Development) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. Development of the property shall be in accordance with this PUD development plan. Minor changes in the PUD development plan, including a reduction in residential density, may be approved administratively by the Director of the Planning and Community Development Department consistent with the Land Development Code. Any substantial change will require submittal of a formal PUD development plan amendment application.
2. Approved land uses are those defined in the PUD development plan and development guide.

3. All owners of record must sign the PUD development plan.
4. The PUD development plan shall be recorded in the office of the El Paso County Clerk & Recorder prior to scheduling any final plats for hearing by the Planning Commission. The development guide shall be recorded in conjunction with the PUD development plan.
5. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but 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.
6. Applicable park, drainage, bridge, and traffic fees shall be paid to El Paso County Planning and Community Development at the time of final plat(s) recordation.
7. The developer shall obtain approval of the necessary pre-subdivision site grading construction documents prior to scheduling a preconstruction meeting with the Planning and Community Development Department Inspections staff.
8. The development will be subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

NOTATIONS

1. Subsequent final plat filings may be approved administratively by the Planning and Community Development Director pursuant to Section 7.2.1.3.D of the Land Development Code.
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.
4. Preliminary plans not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.

BE IT FURTHER RESOLVED that the Planning Commission recommends approval of the Planned Unit Development (PUD) as a Preliminary Plan of the Haven Valley Subdivision.

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.

Carlson seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

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|---------------------|------------------------------------|
| Brian Risley | <u>aye</u> / no / abstain / absent |
| Thomas Bailey | <u>aye</u> / no / abstain / absent |
| Tim Trowbridge | <u>aye</u> / no / abstain / absent |
| Joan Lucia-Treese | aye / no / abstain / <u>absent</u> |
| Becky Fuller | <u>aye</u> / no / abstain / absent |
| Sarah Brittain Jack | aye / no / abstain / <u>absent</u> |
| Jay Carlson | <u>aye</u> / no / abstain / absent |
| Eric Moraes | aye / no / abstain / <u>absent</u> |
| Joshua Patterson | aye / no / abstain / <u>absent</u> |
| Bryce Schuettepelz | <u>aye</u> / no / abstain / absent |
| Christopher Whitney | <u>aye</u> / no / abstain / absent |
| Brandy Merriam | <u>aye</u> / no / abstain / absent |

The Resolution was adopted by a vote of 8 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 1st day of December 2022, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: Brian Risley
Brian Risley, Chair

DATED: December 1, 2022

EXHIBIT A

DBC PROJECT:21085-03

LEGAL DESCRIPTION-HAVEN VALLEY SUBDIVISION

THE NORTH HALF OF THE NW 1/4 OF THE NW 1/4 OF SECTION 12, TOWNSHIP 15 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EXCEPT THAT PORTION CONVEYED IN A WARRANTY DEED RECORDED NOVEMBER 25, 1959 IN BOOK 1779 AT PAGE 409 OF THE CLERK AND RECORDERS OFFICE OF THE COUNTY OF EL PASO, STATE OF COLORADO AND EXCEPT THAT PORTION LYING WITHIN THE EXISTING RIGHT OF WAY OF FORMER BRADLEY ROAD, NOW DESIGNATED AS CABLE LANE, COUNTY OF EL PASO, STATE OF COLORADO.

THE ABOVE-DESCRIBED PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 12 AND CONSIDERING THE NORTH LINE OF THE NW 1/4 OF THE NW 1/4 OF SECTION 12 TO BEAR S89°44'12"E, 1058.43 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO, SAID LINE MONUMENTED AT THE WESTERLY TERMINUS BY A FOUND 2.5" ALUMINUM PIPE WITH A 3.25" ALUMINUM CAP STAMPED "T16S R66W 2 1 11 12 1995 RMLS NO. 19625" AND AT THE EASTERLY TERMINUS BY A FOUND #4 REBAR WITH A 1" YELLOW PLASTIC CAP STAMPED "WKC & ASSOC PLS 14611"; THENCE ALONG SAID NORTH LINE, S89°44'12"E, 539.85 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH LINE OF SAID NW 1/4 OF THE NW 1/4, S89°44'12"E, 518.58 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF CABLE LANE; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1) S70°41'33"E, 58.84 FEET;

2) S60°02'56"E, 241.03 FEET TO THE WEST LINE OF SAID NW 1/4 OF THE NW 1/4;

THENCE ALONG SAID WEST LINE AND ALONG THE EAST LINE OF "PHEASANT RUN RANCH FILING NO. 1", THE PLAT THEREOF RECORDED IN PLAT BOOK X3 AT PAGE 18 OF THE RECORDS OF THE COUNTY OF EL PASO, STATE OF COLORADO, S00°40'06"E, 519.42 FEET TO THE NORTH LINE OF SAID PHEASANT RUN RANCH FILING NO. 1 AND THE NORTHEAST CORNER OF LOT 37 OF PHEASANT RUN RANCH FILING NO. 1;

THENCE ALONG SAID NORTH LINE OF PHEASANT RUN RANCH FILING NO. 1 AND ALONG THE NORTH LINE OF THE "SUBDIVISION OF TRACT NO. 1 REFILED OF THE SECURITY, COLORADO ADDITION NO. 4 EL PASO COUNTY, COLORADO", THE PLAT THEREOF RECORDED IN PLAT BOOK Z AT PAGE 76 OF THE RECORDS OF THE COUNTY OF EL PASO, STATE OF COLORADO, S89°58'19"W, 779.82 FEET TO THE EAST LINE OF THAT TRACT OF LAND AS DESCRIBED IN BOOK 1779 AT PAGE 409 OF THE RECORDS OF THE COUNTY OF EL PASO, STATE OF COLORADO;

THENCE ALONG SAID EAST LINE N00°47'43"W, 662.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE-DESCRIBED TRACT OF LAND CONTAINS 11.438 ACRES OR 498,237 SQUARE FEET, MORE OR LESS.

DBC PROJECT:21085-03

LEGAL DESCRIPTION-FOUNTAIN MUTUAL METROPOLITAN DISTRICT PARCEL

A PARCEL OF LAND BEING A PORTION OF THAT TRACT OF LAND AS DESCRIBED IN THAT DOCUMENT RECORDED UNDER RECEPTION NO. 201078268 OF THE CLERK AND RECORDERS OFFICE OF THE COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 12 AND CONSIDERING THE NORTH LINE OF THE NW 1/4 OF THE NW 1/4 OF SECTION 12 TO BEAR S89°44'12"E, 1058.43 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO, SAID LINE MONUMENTED AT THE WESTERLY TERMINUS BY A FOUND 2.5" ALUMINUM PIPE WITH A 3.25" ALUMINUM CAP STAMPED "T16S R66W 2 1 11 12 1995 RMLS NO. 19625" AND AT THE EASTERLY TERMINUS BY A FOUND #4 REBAR WITH A 1" YELLOW PLASTIC CAP STAMPED "WKC & ASSOC PLS 14611";

THENCE ALONG SAID NORTH LINE, S89°44'12"E, 1058.43 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF CABLE LANE; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

- 1) S70°41'33"E, 58.84 FEET;
- 2) S60°02'56"E, 241.03 FEET TO THE WEST LINE OF SAID NW 1/4 OF THE NW 1/4 AND THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY OF CABLE LANE AS DESCRIBED IN THAT DOCUMENT RECORDED UNDER RECEPTION NO. 202228876 OF SAID CLERK AND RECORDERS OFFICE OF THE COUNTY OF EL PASO;

THENCE ALONG SAID WEST LINE S00°40'06"E, 194.43 FEET TO THE NORTHWEST CORNER OF "PHEASANT RUN RANCH FILING NO. 1", THE PLAT THEREOF RECORDED IN PLAT BOOK X3 AT PAGE 18 OF THE RECORDS OF THE CLERK AND RECORDERS OFFICE OF THE COUNTY OF EL PASO; THENCE ALONG THE NORTH LINE OF SAID PHEASANT RUN RANCH FILING NO. 1, N89°19'54"E, 100.00 FEET TO WEST RIGHT-OF-WAY LINE OF CABLE LANE AS DESCRIBED IN SAID DOCUMENT RECORDED UNDER RECEPTION NO. 202228876;

THENCE NORTHWESTERLY ALONG SAID WEST RIGHT-OF-WAY AND SOUTHERLY RIGHT-OF-WAY LINE OF CABLE LANE THE FOLLOWING TWO (2) COURSES:

1. N00°40'06"W, 18.98 FEET TO A POINT OF CURVE TO THE LEFT;
2. 211.27 FEET ALONG THE ARC OF SAID CURVE TO THE TRUE POINT OF BEGINNING, SAID ARC HAVING A RADIUS OF 203.92 FEET, A CENTRAL ANGLE OF 59°21'44", AND BEING SUBTENDED BY A CHORD THAT BEARS N30°20'58"W, 201.95 FEET.

THE ABOVE-DESCRIBED TRACT OF LAND CONTAINS 0.3298 ACRES OR 14,323 SQUARE FEET, MORE OR LESS.