

EL PASO



COUNTY

COMMISSIONERS:
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
Darryl Glenn, President

FROM: Kari Parsons, PM/Planner II
Gilbert LaForce, PE Engineer II
Craig Dossey, Executive Director

RE: Project File #: P-17-004
Project Name: Settlers View Map Amendment (Rezone)
Parcel No.: 61000-00-463

OWNER:	REPRESENTATIVE:
Gary and Brenda Brinkman 4507 Silver Nell Drive Colorado Springs, CO. 80908	Jerome Hannigan and Associates, Inc. 19360 Spring Valley Road Monument, CO. 80132

Commissioner District: 1

Planning Commission Hearing Date:	3/20/2018
Board of County Commissioners Hearing Date:	4/10/2018

EXECUTIVE SUMMARY

A request by Gary and Brenda Brinkman for approval of a map amendment (rezoning) from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The 40.61 acre parcel is located north of Hodgen Road, south of Silver Nell Drive, East of the Walden Development and west of Stepler Road and is within Section 23, Township 11 South, Range 66 West of the 6th P.M. The parcel is included within the boundaries of the Black Forest Preservation Plan (1987) area. The property is anticipated to be developed into 14 single-family residential lots as depicted in the concurrently reviewed preliminary plan application. The developers of Grandview Subdivision to the north constructed an extension of Silver Nell Drive, a County owned and maintained right of way, to the northern property boundary of the subject parcel in anticipation of development. The applicants will be required to construct an additional extension of Silver Nell Drive to the eastern boundary of the property and dedicate it as County at the time of final plat.



A. REQUEST/WAIVERS/MODIFICATIONS/AUTHORIZATION

Request: A request by Gary and Brenda Brinkman for approval of a map amendment (rezoning) to rezone 40.61 acres from the RR-5 (Residential Rural) to the RR-2.5 (Residential Rural) zoning district.

Waiver(s)/Modification(s): No waivers are requested with this rezone application.

Authorization to Sign: The Board of County Commissioners resolution for this request.

B. PLANNING COMMISSION SUMMARY

Request Heard: March 20, 2018 as a regular item

Recommendation: Approval, subject to the conditions and notations. A copy of the Planning Commission Resolution is included as an attachment.

Waiver Recommendation: Approval

Vote: 6 to 0

Vote Rationale: N/A

Summary of Hearing: See attached minutes for March 20, 2018

Legal Notice: Published in Shopper Press March 21, 2018

C. APPROVAL CRITERIA

In approving a Map Amendment (rezoning), the following findings shall be made in accordance with Section 5.3.5 of the Code:

- 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;
- 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;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- 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.

D. LOCATION

North: PUD (Planned Unit Development)

Grandview Subdivision/single-family

South: PUD (Planned Unit Development)

Settlers Ranch Subdivision/single-family

East: RR-5 (Residential Rural)

Proposed Abert Ranch Rezone (RR-2.5)

West: RR-5 (Residential Rural)

Un-platted/single-family

E. BACKGROUND

The County initiated the zoning of this area from unzoned to A-5 (Rural) in 1965. Subsequent nomenclature changes have renamed the A-5 zoning district to RR-3

(Residential Rural) in 1991, and then to RR-5 (Residential Rural) in 2007. The property remains undeveloped and unplatted.

The developers of Grandview Subdivision to the north constructed an extension of Silver Nell Drive, a County owned and maintained right-of-way to the northern boundary of the subject parcel in anticipation of development. The applicants will be required to construct an additional extension of Silver Nell Drive to the eastern boundary of the property and dedicate it as County at the time of final plat. A condition of approval has been placed on the concurrently reviewed preliminary plan application to ensure construction of Silver Nell Lane is completed with the first final plat. No phasing is proposed with the concurrently reviewed preliminary plan application.

A map amendment (rezoning) request for the property to the east, Abert Ranch, is currently in review. The Abert Ranch property is anticipated to connect Silver Nell Drive to Settlers Ranch Road which lies within the approved Settlers Ranch Development. Settlers Ranch Development is anticipated to be completed within five (5) years. Settlers Ranch Road will connect to Hodgen Road to the south and Stepler Road to the east through the Settlers Ranch Development.

F. ANALYSIS

1. Land Development Code Analysis

The rezone request complies with Section 5.3.5.B of the Code. This application meets the rezone (map amendment) submittal requirements and the standards for a rezone (map amendment) in Chapter 5 of the Code.

2. Zoning Compliance

The density and dimensional standards established within the RR-2.5 zoning district as identified in Chapter 5, Table 5-4 of the Code are as follows:

- Minimum lot size – 2.5 acres
- Setbacks – 25 feet front and rear, 15 feet side
- Maximum building height – 30 feet
- Maximum lot coverage – none
- Minimum width at front setback- 200 feet

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County Master Plan.

Relevant policies are as follows:

Policy 6.1.3- *Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use, and access.*

Policy 6.1.8- *Encourage incorporation of buffers or transitions between areas of varying use or density where possible.*

Policy 6.1.14- *Support development which complements the unique environmental conditions and established land use character of each sub-area of the County.*

Goal 6.1 A- *Encourage patterns of growth and development which complement the regions' unique natural environments and which reinforce community character.*

The applicants are proposing a minimum of 2.5 acre lots, including 3 acre lots at the northeastern boundary, as depicted on the concurrently reviewed preliminary plan. The platted single-family lots to the north in the Grandview Subdivision have an average lot size of 2.75 acres and the Settlers Ranch development to the south includes an average lot size of 2.5 acres. The Walden Preserve development to the northwest has an average lot size of a one-half (1/2) acre. The lots to the west, which are also located within the Walden Preserve development, have an average lot size of 2.5 acres, which was intended to serve as a transition between the Walden Preserve development and the remaining RR-5 zoned land in the area, which would include this proposed development. The average 2.5 average lot size of this proposed development is consistent with the transition provided with Walden Preserve development to the west and the remaining RR-5 properties in the area.

Access has been provided via dedicated right-of-way through the Grandview and Walden Preserve developments. Provision of access to this development through adjoining developments indicates anticipated development of the subject property, which, as proposed, continues the existing pattern of growth in the area. Staff has no concerns with compatibility, density transitions, or patterns of growth with this request.

4. Small Area Plan Analysis

The property is within the Black Forest Preservation Plan (1987) area and, more specifically, within Planning Unit 5, The Spruce Hill/Highway 83 Corridor Sub-Area and the northeastern corner of the property is within Planning Unit 6, Northern Grasslands Sub-Area. The Plan identifies the drainage basin boundary line between the East Cherry Creek Basin and the West Cherry Creek Basin as the dividing line between the two sub-areas. The Spruce Hill/Highway 83 Corridor Sub-Area is "characterized by undulating stair step topography which gradually rises in an easterly direction." Much of the area is forested. The Plan includes policies applicable to the Planning Unit 5, The Spruce Hill / Highway 83 Corridor, that state as follows:

- “Emphasis in this unit should be on residential uses which preserve and compliment these unique landscape features by focusing on the forested rather than the open areas. To accomplish this clustering should be encouraged, and large scale tract houses should be avoided. Densities comparable to those in the Walden III Subdivision (one (1) dwelling unit / one (1) acre) would be appropriate if carefully sited and adequate services can be provided.”
- “Uses within this planning unit should be consistent with the non-urban development...”

Planning Unit 6, Northern Grasslands Sub-Area is “characterized as open undulating grasslands. The southern half of the area is more open and views in this portion tend to be longer.” In contrast to Planning Unit 5, the Plan includes a policy applicable to the Planning Unit 6, Northern Grasslands Sub-Area, that state as follows:

- “The entire area is not recommended for development or subdivision at this time. If low density residential development does take place overall density should be strictly held to one (1) dwelling unit / per five (5) acres.”

The applicants are proposing minimum lot sizes of 2.5 acres as required by the Land Development Code (2017) pursuant to the Density and Dimensional Standards of the RR-2.5 zoning district as listed above in Section F.2 of this report. The RR-2.5 zoning district requires a minimum lot size of 2.5 acres, which is less dense than the recommended density of one (1) dwelling unit/one (1) acre identified in the Spruce Hill/Highway 83 Corridor Sub-Area policy above. The applicants propose individual well and onsite wastewater treatment systems (OWTS), which are permissible on 2.5 acre lots.

As mentioned above, a portion of the area proposed to be rezoned is within the Northern Grasslands Sub-Area. The boundary between the two Sub-Areas is defined by the meandering drainage basin line between the Cherry Creek and West Cherry Creek Drainage Basins (see basin map below), with The Spruce Hill/Highway 83 Sub-Area being west of the boundary and the Northern Grasslands Sub-Area being east of the boundary. The applicants are proposing to plat lots within the Northern Grasslands Sub-Area at minimum lot size of three (3) acres, which is below the recommended lot size of 5 acres. The proposed transition incorporated in this plan for development is consistent with the developed Grandview Subdivision to the north and with the Settlers Ranch development to the south. Staff finds the request to be generally consistent with the Plan.

5. Other Master Plan Elements

The proposed rezone is consistent with or does not create negative impacts to elements depicted on the El Paso County Wildlife Habitat Descriptors Map (1996), the El Paso County Community Services Parks Master Plan (2014), the Master Plan

for Mineral Extraction (1996), and the El Paso County 2016 Major Transportation Corridors Plan Update, which is further addressed below.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

A soil, geology, and geologic hazard study was not required with this rezone request.

2. Wildlife

Potential impacts to wildlife are moderately low as depicted in the El Paso County Wildlife Descriptors Map (1996).

3. Floodplain

The site is not within or near a FEMA floodplain as designated on the FEMA Floodplain Insurance Rate Maps (FIRM) for El Paso County.

4. Drainage and Erosion

The proposed subdivision is located within the West Cherry Creek drainage basin (CYCY0400) and the East Cherry Creek drainage basin (CYCY0200). These basins have not been studied and no drainage or bridge fees have been adopted. A drainage report is not required with a rezone request.

5. Transportation

The proposed development does not propose to construct or include access to a road identified in the El Paso County Major Transportation Corridors Plan Update (2016), 2040 Major Transportation Corridors Plan (MTCP). The Grandview Subdivision to the north provided an extension of Silver Nell Drive, a County owned and maintained road, to this property in anticipation of development. This property will be required to extend Silver Nell Drive to the eastern boundary of the subject property. A condition of approval will be proposed by staff with the concurrently reviewed preliminary plan application in order to ensure the construction of Silver Nell Lane extension.

The development of the property to the east, Abert Ranch, which is also currently in review, is anticipated to connect Silver Nell Drive to the future extension of Settlers Ranch Road, which is a roadway located within the approved Settlers Ranch development. The Settlers Ranch development is anticipated to be completed within five (5) years. Settlers Ranch Road will connect to Hodgen Road to the south and Stepler Road to the east through the Settlers Ranch development. The El Paso County Road Impact Fee will be applicable to final plats within the development.

H. SERVICES

1. Water

Sufficiency:

Quality:

Quantity

Dependability:

Summary: A finding of water sufficiency is not required with rezone requests. Individual wells are anticipated to serve the development.

2. Sanitation

Individual onsite wastewater treatment systems are anticipated to serve the development.

3. Emergency Services

The requested development is within Tri-Lakes Monument Fire Protection District. The District received a referral to review the application and did provide a letter committing to serve the development.

4. Utilities

The requested development is within the electrical service area of Mountain View Electric Association, and the natural gas service area of Black Hills Energy. Both agencies have committed to serve the development.

5. Metropolitan Districts

The property is not with a metropolitan district.

6. Parks/Trails

The El Paso County Community Services Department, Parks Division, has reviewed the application and requested fees be paid at time of recording an future final plat.

7. Schools

The requested development is within Lewis Palmer School District No. 38. The Districts received the application for review and did not have any comments regarding the plan. Fees will be required to be paid at the time of the future plat recording.

I. APPLICABLE RESOLUTIONS

See Attached Resolution.

J. STATUS OF MAJOR ISSUES

There are no issues remaining with this request.

K. CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2016), staff recommends the following conditions and notations.

CONDITIONS

1. The property owners 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 RR-2.5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. Development of the property shall be in accordance with the accompanying preliminary plan. Minor changes to the preliminary plan and subsequent final plat, including a reduction in residential density, movement in lot lines, easements or right of way shall not require a rezone. Lot sizes shall not decrease.

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.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eleven adjoining property owners on February 28, 2018, for the Planning Commission hearing. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Rezone Map
Drainage Basin Map
Adjacent Property Owner Responses
Planning Commission Minutes
Planning Commission Resolution
Board of County Commissioner Resolution

El Paso County Parcel Information

File Name: P-17-004/SP-17-006

PARCEL	NAME
6100000463	BRINKMAN GARY L.

Zone Map No: --

Date: February 28, 2018

ADDRESS	CITY	STATE
4507 SILVER NELL DR	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80908	5307



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (719) 520-6600



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Jerome W.

HANNIGAN and ASSOCIATES, INC.

Land Planning • Land Surveying • Land Development Consulting

April 03, 2017

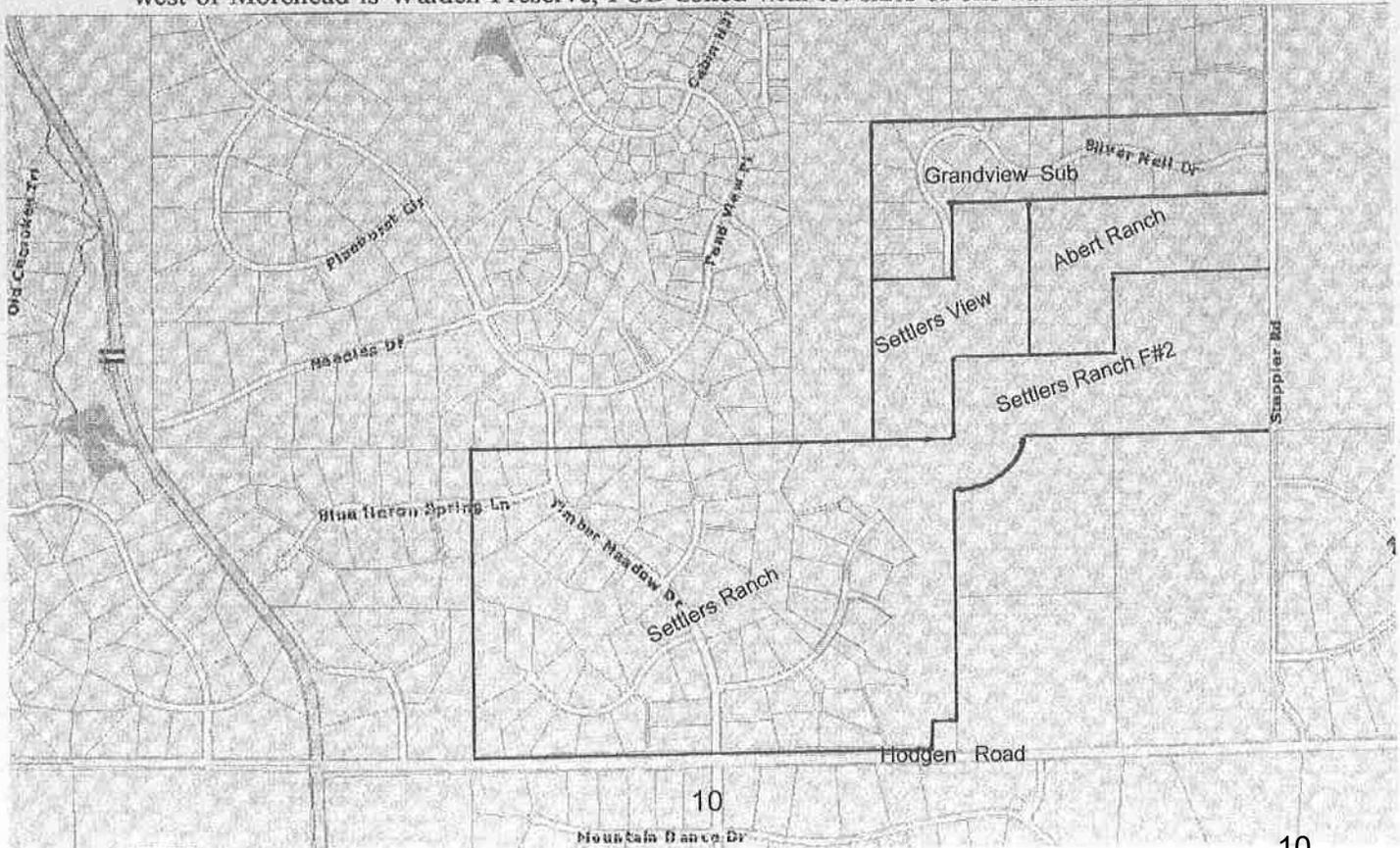
Rev: 01-09-18

Job No. 16-025

REZONING LETTER of INTENT SETTLERS VIEW SUBDIVISION

Settlers View Subdivision (no relation to Settlers Ranch to the south) is a proposed RR-2.5 acre residential rezoning in Section 23, T11S, R66W of the 6th P.M., El Paso County, Colorado to permit a 14 lot subdivision. More generally, the property lies east of Highway 83, south of Walker Road, west of Steppler Road and at the south end of Silver Nell Drive, which is the access road through Grandview Subdivision. The property is 40.61 acres in area, originally and currently zoned RR-5 and includes the owners home on the northern portion. The property has long been used (and remains) as grazing land for cattle. This tract is one part of the original Hodgkin Ranch property that has been divided among family heirs. It is now selling to a non family member.

Lying north and east of the property, Grandview Subdivision is zoned PUD with 17 residential lots ranging from 2.5 to 5.08 acres. Platted in 2007, only one lot remains vacant. Adjoining the property to the south is Settlers Ranch with 57 platted lots and Filing No 2, also zoned PUD with 29 lots of 2.5 to 5.22 acres planned, though not yet final platted. Directly east is another 40 acre portion of the original ranch known as Abert Ranch that is currently in the process of subdividing into 2.5 to 6.27 acre lots for residential purposes. And to the west is another 40 acre part of Hodgkin Ranch belonging to Barbara Morehead, another family member. In her letter of support she states that she does not wish to subdivide her property but she does want to retain an improved ingress-egress easement through this subdivision, which has been provided. Finally, west of Morehead is Walden Preserve, PUD zoned with lot sizes of one half acre to 2.5 acres.



(2)

This northern portion of the County is quite suitable for residential use at this density and indeed much of the surrounding area has already developed or is in transition. Site topography is typical rolling hills with associated viewsheds. A patch of timbered area in the northwest is the end of the timber within which Walden Subdivision lies. Scattered younger ponderosa pines exist on the north east part of the property and that is where the existing residence is located.

This proposed rezoning is in general conformance with the El Paso County Master Plan. The applicable small area plan is the Black Forest Preservation Plan. The Black Forest Plan uses the drainage basin boundary that separates the West Cherry Creek basin (Planning Area 5 - Spruce Hill / Highway 83) from the East Cherry Creek basin (Planning Area 6 - Northern Grasslands) as the general boundary separating what should be smaller 2.5 acre lot residential development from preferred 5 acre residential development to the east. The idea is that parcels along and related to Stepler Road would be larger and more rural and that properties along and related to Highway 83 would be suitable for the smaller 2.5 or (with conditions) even 1 acre lots. That is why both Grandview Subdivision to the north and Settlers Ranch to the south have lot sizes that vary from 2.5 acres adjoining this proposal to 5 acres along Stepler Road.

Unfortunately property lines don't exactly follow drainage basin lines and that is the case here. About 10 acres of the property drains into East Cherry Creek and 30 acres drains into West Cherry Creek. Recognizing this property is different from any other and respecting the intent of the Black Forest Preservation Plan basin boundary idea, while working to our actual property line, the owners have reduced the number of proposed lots to 14, which is the number allowed if we could follow the actual basin boundary. Resulting density is 1 dwelling unit per 2.90 acres.

Being suitable for the proposed zoning and use does not mean the proposal is also compatible with the existing zoning and uses in the neighborhood. In this case the land use of the adjoining property is already residential with the sole exception of the 40 acre parcel adjoining to the east which, like this, was part of the same earlier ranch. There is no home on that parcel. Called Abert Ranch, that property is proposed for rezoning and subdivision with residential uses at a somewhat lower density although still zoned RR-2.5. Those applications have been submitted to the County and are in the review process.

Water has been adjudicated which will satisfy the County requirements for quality, quantity and dependability and the soils will support the proposed individual sewage disposal systems as well as the proposed roadway and homes. All utility infrastructure already exists on the property. All these are indicators that the property is suitable for the proposed zoning and use.

In summary, this particular property is suitable for development into residential lots at a density of 1 dwelling unit per 2.5 acres (or larger) and, at that, will be compatible with the properties in the neighborhood. The proposed zoning conforms with the County Master Plan, more specifically the Black Forest Preservation Plan, in part because the number and size of lots planned will accommodate both the spirit and intent of the basin boundary. All proposed lots can and will comply with the requirements of the Land Development Code for the proposed zone district and subdivision.

Morehead Living Trust
Barbara Morehead, Trustee
4455 Walker Road
Colorado Springs, CO 80908
(719)313-7098

19 October 2017

Jerome W. Hannigan and Associates, Inc.
19360 Spring Valley Road
Monument, CO 80132

Dear Mr. Hannigan,

I am writing this letter in response to a request from my cousin, Brenda Brinkman, regarding the proposed Settlers View Subdivision. There is concern that I have no egress (exit) from my property other than a small lane which is also my ingress (entrance) from Silver Nell Drive. This situation has existed for several years. I am aware of this and it is acceptable to me. The original driveway from Walker Road is severely eroded, but is still accessible through my forest in the event of an emergency. Because the Grandview Estates development cut across the original driveway, and allows me a paved entrance and exit from Stepler Road, I have been using this access for several years. Again, I would like to stress to you, that this situation is acceptable to me.

Also, there was a question as to whether I have any plans to subdivide or develop my property. The answer is no, I do not have any plans to subdivide or develop my property.

The third question as to whether I have any problems or opposition to the Settlers View Subdivision. Of course, I would prefer that all of my great-grandparents land be kept in its natural state, and not be developed. But, I reluctantly accept that some of it is going to be developed. So, after re-reading the rezoning letter and intent, and the preliminary plan for the subdivision, no, I do not have any problems or opposition to the Settlers View Subdivision.

If you have any questions, please feel free to call me at the above number. Thank you for your concern in these matters.

Sincerely,



Barbara Morehead

SETTLERS VIEW SUBDIVISION

A Rezoning From RR-5 to RR 2.5 in the
NE Quarter of Section 23, Township 11 South,
Range 66 West of the 6th P.M., El Paso County,
Colorado

PROPERTY DESCRIPTION:

The plat herein is a subdivision of the property described in the plat of the Settlers View Subdivision, which was recorded in the public records of El Paso County, Colorado, on the 11th day of August, 1998, and is subject to the terms and conditions set forth in the plat of the Settlers View Subdivision, which was recorded in the public records of El Paso County, Colorado, on the 11th day of August, 1998.

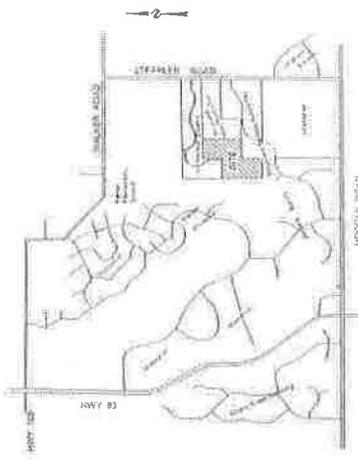
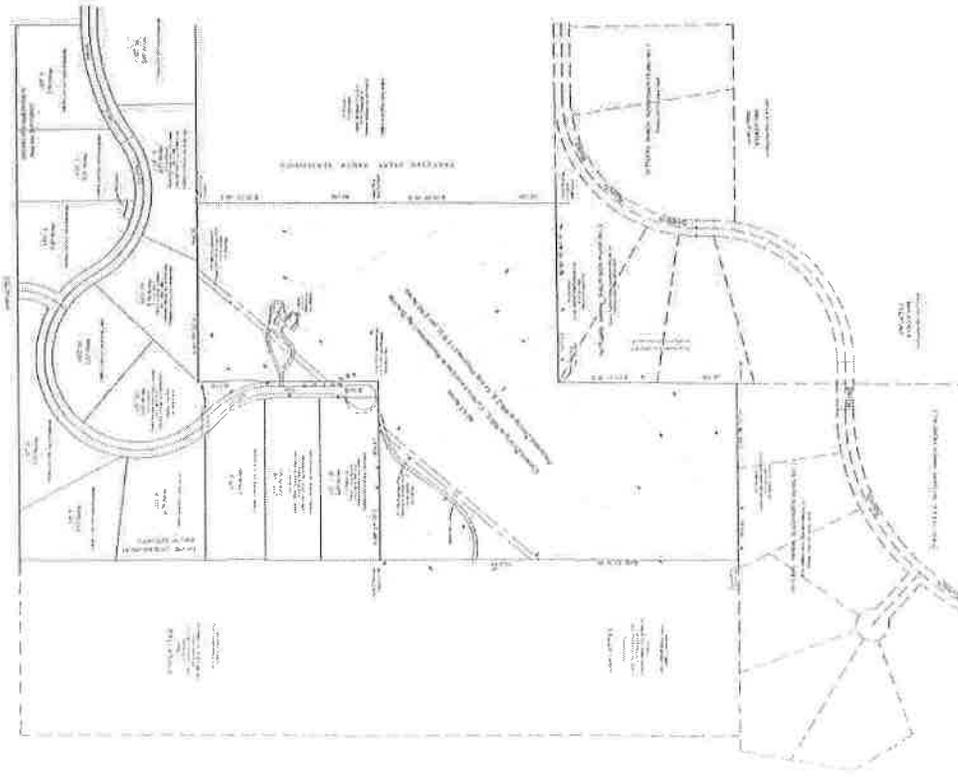
NOTE:

Current Zoning is RR-5, Current Land Use is Residential / Ag. Grazing.
Proposed Zoning is RR2.5, 11 lots Proposed at 1 D.U. per 2.50 Acres

Project Owner: Gary & Elaine Bowman
22420th Street, Colorado 80508

Applicant/Engineer: Carter Tom Minter, Reynolds Homes LLC
3700 West 10th Street, Colorado 80508

Map: Rights Reserved / Reserved / Reserved



VICINITY MAP
N.T.S.

PCD 19-02-17-002

<p>El Paso County Public Works 10000 10000</p>	<p>PLANNING ASSOCIATES, INC. LAND DEVELOPMENT CONSULTANT 10000 10000</p>	<p>SETTLERS VIEW SUBDIVISION El Paso County, Colorado 10000 10000</p>
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EL PASO



COUNTY

COMMISSIONERS:
DARRYL GLENN (PRESIDENT)
MARK WALLER (PRESIDENT PRO TEMPORE)

STAN VÄNDERWERF
LONGINOS GONZALEZ
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR
February 27, 2018

MAR 08 2018

This letter is to inform you of the following petitions which have been submitted to El Paso County:

P-17-004

PARSONS

MAP AMENDMENT (REZONE) SETTLERS VIEW

A request by Gary and Brenda Brinkman for approval of a map amendment (rezoning) of 40.61 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located north of Hodgen Road, south of Silver Nell Drive, east of the Walden Development, and west of Stepler Road. (Parcel No. 61000-00-463) (Commissioner District No. 1) (Kari Parsons)

SP-17-006

PARSONS

PRELIMINARY PLAN SETTLERS VIEW

A request by Gary and Brenda Brinkman for approval of a preliminary plan to create 14 single-family residential lots. The 40.61 acre property is zoned RR-5 (Residential Rural) and is located north of Hodgen Road, south of Silver Nell Drive, east of the Walden Development, and west of Stepler Road. (Parcel No. 61000-00-463) (Commissioner District No. 1) (Kari Parsons)

Type of Hearing: Quasi-Judicial

_____	X _____	_____
For	Against	No Opinion

Comments: _____

(FOR ADDITIONAL COMMENTS, PLEASE ATTACH ANOTHER SHEET.)

- **This item is scheduled to be heard by the El Paso County Planning Commission on March 20, 2018.** The meeting begins at 9:00 a.m. and will be conducted in the Second Floor Hearing Room of the Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs.
- **The item will also be heard by the El Paso County Board of County Commissioners on April 10, 2018.** The meeting begins at 9:00 a.m. and will be conducted in the Centennial Hall Auditorium, 200 South Cascade Avenue, Colorado Springs.
 - The date and order when this item will be considered can be obtained by calling the Planning and Community Development Department or through El Paso County's Web site (www.elpasoco.com). Actions taken by the El Paso County Board of County Commissioners are posted on the internet following the meeting.
 - The web address for the EDARP portal is: www.epcdevplanreview.com
 - The Staff Report for this Agenda item can be found at: <http://adm.elpasoco.com/Development%20Services/Pages/PlanningCommission2017.aspx>

Your response will be a matter of public record and available to the applicant prior to the hearing. You are welcome to appear in person at the hearing to further express your opinion on this petition. If we can be of any assistance, please call 719-520-6300.



Sincerely,



Kari Parsons, Project Manager/Planner II

Your Name: Loren Newkirk



Address: 4065 ^(printed) Hidden Rock Rd, Colorado Springs, CO 80908 ^(signature)

Property Location: 4507 Silver Nell Dr Phone 719-495-5187

EL PASO



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MARK WALLER (PRESIDENT PRO TEMPORE)

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

February 27, 2018

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P-17-004

PARSONS

**MAP AMENDMENT (REZONE)
SETTLERS VIEW**

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SP-17-006

PARSONS

**PRELIMINARY PLAN
SETTLERS VIEW**

A request by Gary and Brenda Brinkman for approval of a preliminary plan to create 14 single-family residential lots. The 40.61 acre property is zoned RR-5 (Residential Rural) and is located north of Hodgen Road, south of Silver Nell Drive, east of the Walden Development, and west of Stepler Road. (Parcel No. 61000-00-463) (Commissioner District No. 1) (Kari Parsons)

Type of Hearing: Quasi-Judicial

For

~~Against~~

No Opinion

Comments:

WORRIED ABOUT VALUE OF MY HOME - WELL
USE / VIEW / TRAFFIC ON OUR STREET

(FOR ADDITIONAL COMMENTS, PLEASE ATTACH ANOTHER SHEET.)

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2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

Sincerely,



Kari Parsons, Project Manager/Planner II

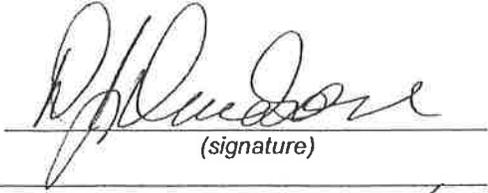
Your Name: MARY GREEN May Green
Address: 4857 SILVER WALK DR, (printed) COLORADO SPRINGS CO 80908 (signature)
Property Location: LOT 15 Phone 651-233-0223

Sincerely,



Kari Parsons, Project Manager/Planner II

Your Name: DEBORAH DAVIDSON



Address: 4807 Silver Nell DR.

Property Location: Lot 14

Phone 720-202-6028

EL PASO



COUNTY

COMMISSIONERS:
DARRYL GLENN (PRESIDENT)
MARK WALLER (PRESIDENT PRO TEMPORE)

STAN VANDERWERF
LONGINOS GONZALEZ
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission (PC) Meeting
Tuesday, March 20, 2018
El Paso County Planning and Community Development Department
2880 International Circle, Hearing Room
Colorado Springs, Colorado 80910

PRESENT AND VOTING: JIM EGBERT, KEVIN CURRY, JANE DILLON, JOAN LUCIA-TREESE, SHARON FRIEDMAN, AND LAWRENCE WOOD

PRESENT AND NOT VOTING:

ABSENT: BRIAN RISLEY, ALLAN CREELY, KEVIN MASTIN, AND TONY GIOIA

STAFF PRESENT: CRAIG DOSSEY, KARI PARSONS, NINA RUIZ, GABE SEVIGNY, GILBERT LAFORCE, AND EL PASO COUNTY ATTORNEY COLE EMMONS

OTHERS PRESENT: JOHN HOTCHKISS, JONATHAN MOORE, ALAN PETERSON, JONATHON SMITH, KERRY ABERNATHY, JOHN ADAMS, ELAINE PETERSON, JERRY HANNIGAN, MARY GREEN, JOAN VAIRIN

1. Report Items

Planning and Community Development Department – Mr. Craig Dossey gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting. He also gave the comparative data for residential building permits and active projects.

Mr. Dossey stated that there would be a meeting on April 3, 2018.

2. Consent Items

A. Approval of the Minutes – March 6, 2018

The minutes were approved as presented. (6-0)



**MAP AMENDMENT (REZONE)
SETTLERS VIEW**

A request by Gary and Brenda Brinkman for approval of a map amendment (rezoning) of 40.61 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located north of Hodgen Road, south of Silver Nell Drive, east of the Walden Development, and west of Stepler Road. (Parcel No. 61000-00-463)

Mr. Emmons summarized the review criteria for a map amendment (rezone) and a preliminary plan for the Planning Commission.

Ms. Parsons gave a brief description of the Settler's View applications and introduced **Mr. Jerry Hannigan, Hannigan and Associates**, the applicants' representative to give their presentation.

Mr. Curry – You correctly identified some of the concerns. The language states “if the development does occur it should be strictly held to 5 acres.” So when we look at consistency, we can say the character of the area has changed. The property to the north, what is the size of the lots in that area? **Mr. Hannigan** – That area is the East Cherry Creek drainage basin boundary. There are 5 acre lots to the east, and the lots internally are relatively smaller, and along the ridge, the lots will be varying sizes.

Mr. Curry – I'm also concerned about the waiver and the dead end. Is there any option of getting an additional access? **Mr. Hannigan** – The existing road is there and it's all we have. The only way to complete a loop is to do just what we are showing by extending it to the boundary. The biggest concern is for emergency services and this is in the Tri-Lakes area. There would also be a concern with traffic and are we putting too many vehicles on an existing road. Our traffic study addresses that the road can handle the anticipated traffic. We don't know how long temporary is. I don't think it's unreasonable to expect the continuance of Silver to Nell and ultimately connect with Settler's Ranch.

Mr. Curry – We are required to find a non-economic hardship to approve the waiver. Can you speak on that? **Mr. Hannigan** – The development itself may not move forward, and the connection doesn't exist, and now we've stopped development in the whole area.

Mr. Gilbert LaForce gave the Engineering report to the Planning Commission.

Ms. Friedman – asked staff to clarify the recommendations of the small area plan.

IN FAVOR: NONE

IN OPPOSITION:

Ms. Mary Green – I live at the top of where both developments are coming in. I have a lot of concerns about the value of my property. The increased traffic is a concern. I'd be happier if they are larger lots proposed. How close to my lot can they build? Are the trees that are there going to be removed?

Ms. Debbie Davidson – I live on Silver Mill Dr. If you look at the drainage line, it goes along the back of my property. When will they have a building proposal that shows how far they will be built from my property? I want to be sure my well won't be impacted when they start building new homes. I do have a big problem with 14 homes worth of construction trucks, equipment, etc. I'd prefer to have a different access.

Mr. Hannigan had an opportunity for rebuttal. These are not unusual concerns that we typically hear. Home values shouldn't be affected. Setbacks comply with the zone district and are similar to those in Grand View Estates. The concern regarding wells, there is sufficient water and it isn't part of this application but will come up with final plat.

DISCUSSION:

Mr. Curry – I was originally not finding this in compliance with the Master Plan, but when you look at the lots and the division to the north, the lots that are wholly in area 6 are 5 acre lots. The lots adjacent to the drainage line within area 6 are 2.5 acres. That concern has been alleviated now with the presentation. I do have very serious concerns with regard to the preliminary plan and the waiver. Relative to the applicability of conditions of approval, the first is that the waiver criteria must be unique to the property. The waiver is for more than 25 lots on a cul-de-sac, and this development is only 14 lots, but it is being joined to a neighboring development. Can we legally approve this waiver? **Mr. Emmons** – They can't make the connection without the waiver. They are essentially penalized because of the timing of their application. I would be willing to defend the waiver.

Mr. Curry – Approving the waiver cannot be detrimental to the safety of the citizens. If we approve the waiver and we are considering fire and emergency responders and having those additional homes there, could be a hindrance to safety.

Mr. Emmons – I believe that is subjective. Without the connection, if Abert is developed, they will have the same issue. This is a symbiotic issue with all three of these developments.

Mr. LaForce – The fire department provided a letter that they are okay with the length of the cul de sac, and more than 25 lots on the cul-de-sac and that was the rationale for the approval.

PC ACTION: LUCIA-TREESE MOVED/DILLON SECONDED TO APPROVE REGULAR ITEM NO. 5, P-17-004 FOR A MAP AMENDMENT (REZONE) FOR SETTLER'S VIEW WITH THREE (3) CONDITIONS AND TWO (2) NOTATIONS, AND A WAIVER AND A DEVIATION, UTILIZING RESOLUTION PAGE 27 (MORE PARTICULARY DESCRIBED ON PAGE 18-018), AND THAT THIS ITEM BE FORWARDED TO THE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (6-0).

6. SP-17-006

PARSONS

**PRELIMINARY PLAN
SETTLERS VIEW**

A request by Gary and Brenda Brinkman for approval of a preliminary plan to create 14 single-family residential lots. The 40.61 acre property is zoned RR-5 (Residential Rural) and is located north of Hodgen Road, south of Silver Nell Drive, east of the Walden Development, and west of Stepler Road. (Parcel No. 61000-00-463)

PC ACTION: LUCIA-TREESE MOVED/DILLON SECONDED TO APPROVE REGULAR ITEM NO. 6, SP-17-006 FOR A PRELIMINARY PLAN FOR SETTLER'S VIEW WITH EIGHT (8) CONDITIONS AND THREE (3) NOTATIONS, AND THE WAIVER FOR THE NUMBER OF LOTS OF A CUL DE SAC AND A FINDING OF INSUFFICIENCY OF WATER UTILIZING RESOLUTION PAGE 19 (MORE PARTICULARY DESCRIBED ON PAGE 18-019) AND THAT THIS ITEM BE FORWARDED TO THE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (5-1). MR. CURRY WAS THE NAY VOTE DUE TO THE WAIVER AND CONCERNS AND ASSUMPTIONS OF THE ABERT RANCH DEVELOPMENT AND FUTURE CONNECTIONS. THE MOTION WAS APPROVED (5-1).

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

MAP AMENDMENT (REZONING) (RECOMMEND APPROVAL)

Commissioner Lucia-Treese moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P-17-004

WHEREAS, Gary and Brenda Brinkman 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 RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on March 20, 2018; 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:

The application was properly submitted for consideration by the Planning Commission.

Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.

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.

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.

The proposed land use or zone district is compatible with existing and permitted land uses and zone districts in all directions.

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

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.

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 Gary and Brenda Brinkman for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district be approved by the Board of County Commissioners:

See Exhibit A for Legal Description.

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

CONDITIONS

1. The property owners 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 RR-2.5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. Development of the property shall be in accordance with the accompanying preliminary plan. Minor changes to the preliminary plan and subsequent final plat, including a reduction in residential density, movement in lot lines, easements or right of way shall not require a rezone. Lot sizes shall not decrease.

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 Board of County Commissioners for its consideration.

Commissioner Dillon seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Egbert	aye
Commissioner Curry	aye
Commissioner Friedman	aye
Commissioner Wood	aye
Commissioner Dillon	aye
Commissioner Lucia-Treese	aye

The Resolution was adopted by a vote of 6 to 0 by the El Paso County Planning Commission, State of Colorado.

EXHIBIT A

LEGAL DESCRIPTION

The Southwest one quarter of the Northeast one quarter of the Northeast one quarter together with the Northwest one quarter of the Southeast one quarter of the Northeast one quarter and together with the East half of the Southwest one quarter of the Northeast one quarter of Section 23, Township 11 South, Range 66 West of the 8th Principal Meridian, El Paso County, Colorado. Containing 40.61 acres, more or less.

RESOLUTION NO. 18-

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

APPROVAL OF THE SETTLER'S VIEW MAP AMENDMENT (REZONING) (P-17-004)

WHEREAS Gary and Brenda Brinkman 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 RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on March 20, 2018, 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 April 10, 2018; 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. Changing conditions clearly require amendment to the Zoning Resolutions.
8. 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.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Gary and Brenda Brinkman 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 RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district ;

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

CONDITIONS

1. The property owners 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 RR-2.5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. Development of the property shall be in accordance with the accompanying preliminary plan. Minor changes to the preliminary plan and subsequent final plat, including a reduction in residential density, movement in lot lines, easements or right of way shall not require a rezone. Lot sizes shall not decrease.

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 10th day of April, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
President

By: _____
County Clerk & Recorder

EXHIBIT A

LEGAL DESCRIPTION

The Southwest one quarter of the Northeast one quarter of the Northeast one quarter together with the Northwest one quarter of the Southeast one quarter of the Northeast one quarter and together with the East half of the Southwest one quarter of the Northeast one quarter of Section 23, Township 11 South, Range 66 West of the 8th Principal Meridian, El Paso County, Colorado. Containing 40.61 acres, more or less.