

SPECIAL DISTRICT (Recommend Approved)

Commissioner Curry moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION**  
**OF THE COUNTY OF EL PASO**  
**STATE OF COLORADO**  
**RESOLUTION NO. ID-19-001**  
**Gardens at North Carefree Metropolitan District**

WHEREAS, Mule Deer Investments, LLC, did file an application with the Planning and Community Development Department of El Paso County, pursuant to Section 32-1-204 (2), C.R.S., for the review of a draft service plan for Gardens at North Carefree Metropolitan District; and

WHEREAS, a public hearing was held by this Commission on July 2, 2019; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, study of the proposed service plan for Gardens at North Carefree Metropolitan District, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, and comments from all interested persons, and comments by the El Paso County Planning Commission during the hearing, this Commission finds as follows:

1. That the application for the draft service plan for the Special District was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. That 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. That all exhibits were received into evidence.
5. There is sufficient existing and projected need for organized service in the area to be served by the proposed Special District.
6. Existing service in the area to be served by the proposed Special District is inadequate for present and projected needs.

7. The proposed Special District is capable of providing economical and sufficient service to the area within its proposed boundaries.
8. The area to be included in the proposed Special District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
9. Adequate service is not, or will not be, available to the area through the County, other existing municipal or quasi-municipal corporations, including existing Special Districts, within a reasonable time and on a comparable basis.
10. The facility and service standards of the proposed Special District are compatible with the facility and service standards of each County within which the proposed Special District is to be located and each municipality which is an interested party as defined in C.R.S §32-1-204 and the El Paso County Land Development Code.
11. The proposal is in substantial compliance with a Master Plan adopted pursuant to Colorado Revised Statutes Section 30-28-106.
12. The proposal is in compliance with any duly adopted County, regional or state long-range water quality management plan for the area.
13. The creation of the proposed Special District will be in the best interests of the area proposed to be served.

NOW, THEREFORE, BE IT RESOLVED that the El Paso County Planning Commission recommends the service plan for Gardens at North Carefree Metropolitan District be approved for the following, subject to the following:

#### **CONDITIONS OF APPROVAL**

1. As stated in the proposed amended service plan, the maximum combined debt service and operational mill levy shall not exceed 50 mills (Gallagher-adjusted) for any property within the District, with no more than 40 mills devoted to debt service and not more than 10 mills devoted to operations and maintenance until and unless the District receive Board of County Commissioner approval to increase the maximum mill levies.
2. As stated in the attached service plan, the maximum authorized debt for the District shall be limited to \$5 million until and unless the District receives Board of County Commissioner approval to increase the maximum authorized debt.
3. The use of eminent domain powers by the District shall be considered a material modification of the service plan requiring prior approval by the Board of County Commissioners at an advertised open and public hearing. If, at the PCD Director's discretion, the proposed material modification to allow the use of eminent domain authority requires an amendment to the service plan, such amendment shall be heard by both the Planning Commission and the Board of County Commissioners.

4. As stated in the attached amended Service Plan, any future annexation of territory by the District (any territory more than five (5) miles from any District boundary line) shall be considered a material modification of the amended Service Plan and shall require prior Board of County Commissioners' approval.
5. The District shall provide a disclosure form to future purchasers of property in a form consistent with the approved Special District Annual Report form. The developer shall provide written notation on each subsequent final plat associated with the Gardens at North Carefree development of the annually filed public notice and include reference to the El Paso County Planning and Community Development website where the most up-to-date notice can be found. County staff is authorized to administratively approve updates of the disclosure form to reflect current contact information and calculations.
6. The District is expressly prohibited from creating separate sub-districts except upon prior notice to the Board of County Commissioners, and subject to the Board of County Commissioners right to declare such creation to be a material modification of the service plan, pursuant to C.R.S. § 32-1-1101(1)(f)(I).
7. As stated in the attached service plan, approval of the proposed service plan hereby gives the District the express authority of covenant enforcement, including the imposition of fees for such enforcement.
8. As stated in the attached service plan, the District shall not have the authority to apply for or utilize any Conservation Trust ("Lottery") funds without the express prior consent of the Board of County Commissioners. The District shall have the authority to apply for and receive any other grant funds, including, but not limited to, Great Outdoors Colorado (GOCO) discretionary grants.
9. Approval of this application shall not constitute relinquishment or undermining of the County's authority to require the developer to complete subdivision improvements as required by the Land Development Code and Engineering Criteria Manual and to require subdivision improvement agreements or development agreements and collateral of the developer at the final plat stage to guarantee the construction of improvements.

## NOTATIONS

1. Approval of this service plan shall in no way be construed to infer a requirement or obligation of the Board of County Commissioners to approve any future land use requests within the boundaries of the District.
2. Any expansions, extensions, or construction of new facilities by the District will require prior review by the Planning and Community Development Department to determine if such actions are subject to the requirements of Appendix B of the Land Development Code, Guidelines and Regulations for Areas and Activities of State Interest (a.k.a. "1041 Regulations).

AND BE IT FURTHER RESOLVED that this Resolution and recommendations be forwarded to the Board of County Commissioners of El Paso County 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 Curry	aye
Commissioner Creely	aye
Commissioner Lucia-Treese	aye
Commissioner Trowbridge	aye
Commissioner Blea-Nunez	aye

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

DATED: July 2, 2019

  
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Brian Risley, Chair

## APPENDIX A

BEING LOT 2, MULE DEER BUSINESS PARK FILING NO.1 AND A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 29, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF AKERS DRIVE (80 FEET WIDE) AS PLATTED IN MULE DEER BUSINESS PARK FILING NO.1, RECORDED WITH RECEPTION NO. 206712353 IN THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER, POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY OF NORTH CAREFREE CIRCLE (120 FEET WIDE) AS PLATTED IN PRONGHORN MEADOWS FILING NO.1, RECORDED WITH RECEPTION NO. 202165571 OF SAID RECORDS;

THE FOLLOWING FIVE (5) COURSES ARE ON THE EASTERLY RIGHT-OF-WAY OF SAID AKERS DRIVE;

1) THENCE S00°41'40"E A DISTANCE OF 552.98 FEET TO A POINT OF CURVE TO THE LEFT;

2) THENCE ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 960.00 FEET, A DELTA ANGLE OF 04°35'19", AN ARC LENGTH OF 76.88 FEET, WHOSE LONG CHORD BEARS S02°59'19"E A DISTANCE OF 76.86 FEET;

3) THENCE S05°16'59"E A DISTANCE OF 277.56 FEET TO THE NORTHWEST CORNER OF LOT 2, OF SAID MULE DEER BUSINESS PARK FILING NO.1;

4) THENCE S05°16'59"E ON THE WESTERLY LINE OF SAID LOT 2, A DISTANCE OF 142.31 FEET TO A POINT OF CURVE TO THE RIGHT;

5) THENCE ON THE ARC OF SAID CURVE AND SAID WESTERLY LINE OF LOT 2, HAVING A RADIUS OF 1040.00 FEET, A DELTA ANGLE OF 03°59'26", AN ARC LENGTH OF 72.43 FEET, WHOSE LONG CHORD BEARS S03°17'16"E A DISTANCE OF 72.42 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2;

THENCE N88°42'27"E ON THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 413.10 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2;

THENCE N00°02'55"E ON THE EAST LINE OF SAID LOT 2, A DISTANCE OF 209.74 FEET TO THE NORTHEAST CORNER OF SAID LOT 2;

THENCE N00°02'55"E A DISTANCE OF 906.69 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF SAID NORTH CAREFREE CIRCLE;

THENCE S89°18'20"W ON SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 467.50 FEET TO THE POINT OF BEGINNING.

THE ABOVE TRACT OF LAND CONTAINS 503,669 SQUARE FEET OR 11.563 ACRES,  
MORE OR LESS.