



RESOLUTION NO. 18-004

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

**APPROVE VARIANCE OF USE TO PERMIT A 100 FOOT TALL
FREESTANDING COMMERCIAL MOBILE RADIO SERVICE FACILITY (CMRS)
(VA-17-006)**

WHEREAS, Falcon School District No. 49 did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zoning district to permit a 100 foot tall freestanding commercial mobile radio service facility (CMRS) where such is not permitted for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by this reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on December 5, 2017, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use Woodmen Hills Tower; and

WHEREAS, a public hearing was held by this Board on January 9, 2018; and

WHEREAS, based on the evidence, testimony, exhibits, recommendations of the El Paso County Planning Commission, 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 County Commissioners during the hearing, this Board finds as follows:

1. That the application for the variance of use was properly submitted for consideration by the Board of County Commissioners.
2. That 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.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted, and that all interested persons and the general public were heard at those hearings.
4. That all exhibits were received into evidence.

5. That the proposed land use does 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.
6. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Board of County Commissioners considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or Federal regulations during construction and upon completion of the project;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State, and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed Variance of Use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the application by Falcon School District No. 49 for a variance of use to allow a 100 foot tall freestanding commercial mobile radio service facility (CMRS) within the RR-5 (Residential Rural) zoning district where such is not a permitted use for the unincorporated

area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by this reference;

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

CONDITIONS

1. Approval is limited to the one (1) freestanding CMRS facility 100 feet in height as discussed and depicted in the applicant's letter of intent and site plan drawings.
2. The freestanding CMRS facility shall remain designed to allow for co-location of other antennae.
3. Any subsequent co-location or additional antenna on the Freestanding CMRS Facility other than that shown on the site plan shall be subject to administrative review, and if it is the opinion of the Planning and Community Development Director it constitutes a substantial increase in the size of the Freestanding CMRS Facility , it shall be subject to review and approval by the Board of County Commissioners. The Variance of Use approval for the tower also includes giving the Planning and Community Development Director the authority to administratively approve minor modifications and a non-substantial increase in the size of the tower as provided by the Nationwide Collocation Agreement, as amended.
4. Prior to authorization of a building permit, a guarantee of financial surety shall be provided to El Paso County for the removal of the tower in the event of abandonment.
5. The freestanding CMRS facility shall not be lighted except in accordance with the requirements of the Federal Aviation Administration (FAA).
6. The tower shall be painted and maintained in a suitable color to fit the natural surroundings, as determined by the Planning and Community Development Department.

NOTATIONS

1. Variance of Use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.

2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or Variance of Use conditions/standards are being violated, preceded by notice and public hearing.

3. If the Variance of Use is discontinued or abandoned for two (2) years or longer, the Variance of Use shall be deemed abandoned and of no further force and effect.

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

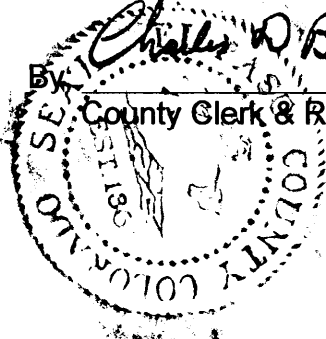
DONE THIS 9th day of January, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

Charles D. Broerman

County Clerk & Recorder

The seal of El Paso County, Colorado, is circular with a double border. The outer border contains the text "EL PASO COUNTY, COLORADO" at the top and "SEAL" at the bottom. The inner border contains the text "COUNTY CLERK & RECORDER". In the center of the seal is a stylized landscape featuring a mountain range, a river, and a tree.

By: *[Signature]*

President

EXHIBIT A

The following Real Property situate in the County of El Paso and State of Colorado, to-wit:

That portion of the Southwest Quarter of Section 25, in Township 12 South, Range 65 West of the 6th P.M.; Beginning at a point in said Southwest Quarter which point lies North 78°05'25" West, said bearing and all others in this description are on the Colorado Coordinate System - Central Zone, a distance of 2,785.22 feet from the Southeast corner of Section 25; thence South 90° West, a distance of 1,563.72 feet; thence North 19°55'32" East, a distance of 1,398.28 feet; thence North 90° East, a distance of 1,087.19 feet; thence South 00° East, a distance of 1,314.57 feet to the point of beginning and containing 40.0 acres more or less.

LESS AND EXCEPT that portion of property conveyed to El Paso County, an Colorado organized County from El Paso School District No. 49, F/K/A Consolidated School District No. 49 by Correction Deed dated July 11, 2003 and recorded July 14, 2003 in Instrument No. 203160367.

AND BEING a portion of the same property conveyed to Consolidated School District No. 49 from Latigo Ranch, a limited partnership by Warranty Deed dated February 06, 1975 and recorded February 11, 1975 in Deed Book 2732, Page 860.