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RESOLUTION NO. 23-422

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

APPROVAL OF PLANNED UNIT DEVELOPMENT/PRELIMINARY PLAN
FALCON HIGHLANDS SOUTH (PUDSP225)

WHEREAS, Challenger Communities, LLC 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 property located within the unincorporated area of the County and more particularly described in Exhibit A, which is attached hereto and incorporated by reference, from the PUD (Planned Unit Development) zoning district to the PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development plan; and

WHEREAS, in accordance with Section 4.2.6.E of the El Paso County Land Development Code (as amended) (hereinafter "Code"), A PUD Development Plan May be Approved as a Preliminary Plan, the applicants are also requesting the PUD development plan be approved as a preliminary plan with a finding of water sufficiency for water quality, dependability, and quantity; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on November 16, 2023, upon which date the Planning Commission did by formal resolution recommend disapproval of the subject Planned Unit Development and Preliminary Plan; and

WHEREAS, a public hearing was held by this Board on December 14, 2023; and

WHEREAS, based upon the evidence presented, including 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 Board of County Commissioners of El Paso County.

3. The hearings before the Planning Commission and 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. 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 Board of County Commissioners 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 (as amended) 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 Chapter 4 of the Land Development Code.
2. The application is in general conformity with the Master Plan;
3. The proposed development is in compliance with the requirements of the 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 (as amended) for a Preliminary Plan requires the Planning Commission and the Board of County Commissioners 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 the Code;
3. The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
4. A finding of sufficient water supply in terms of quantity, quality, and dependability is hereby postponed until the final plat. With each final plat filing the applicant shall submit documentation 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 and shall make a request to the Board of County Commissioner for a finding of water sufficiency.
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 the 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 the 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 the 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 the Code; and
13. The proposed subdivision meets other applicable sections of Chapter 6 and 8 of the Code.
14. For the above-stated and other reasons, the proposed zoning 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 application to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the PUD (Planned Unit Development) zoning district to the PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development Plan.

BE IT FURTHER RESOLVED that in accordance with Section 4.2.6.E of the El Paso County Land Development Code (as amended), the Board of County Commissioners hereby approves the PUD Development Plan as a preliminary plan.

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

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. 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, school, drainage, bridge, and traffic fee shall be paid to El Paso County Planning and Community Development at the time of Final Plat(s) recordation.
7. Developer shall coordinate with El Paso County on the disposition of the existing Tamlin Road right-of-way at the time of final plat submittal(s).

NOTATIONS

1. Subsequent Final Plat Filings are not eligible to be administratively approved by the Planning and Community Development Director and will require Board of County Commissioners approval unless the applicant processes an amendment to the Preliminary Plan to establish a water sufficiency finding.
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.
5. Approval of the Preliminary Plan will expire after two (2) years unless a Final Plat has been approved and recorded or a time extension has been granted.

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

DONE THIS 14th day of December 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO



By: Cami Bruner
Chair

EXHIBIT A

A PORTION OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, MONUMENTED AT THE SOUTH END BY A FOUND 3-1/4" ALUMINUM CAP STAMPED "AZTEC CONSULTANTS PLS 38256" AND AT THE NORTH END BY A FOUND 3-1/4" ALUMINUM CAP STAMPED "PLS 4842". SAID WEST LINE BEARS NORTH 00°23'31" WEST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 12;

THENCE SOUTH 89°36'22" WEST 100.00 FEET TO THE WEST LINE OF THE EAST 100 FEET OF SECTION 11, TOWNSHIP 13 SOUTH, RANGE 65 WEST;

THENCE ALONG SAID WEST LINE NORTH 00°23'31" WEST 1169.39 FEET TO THE SOUTHWEST CORNER OF FALCON HIGHLANDS FILING NO. 2 AS SHOWN ON THE PLAT RECORDED AT RECEPTION NO. 206712369, EL PASO COUNTY RECORDS;

THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID FALCON HIGHLANDS FILING NO. 2 THE FOLLOWING THIRTY-SIX (36) COURSES:

1. NORTH 89°30'24" EAST 1345.41 FEET;
2. NORTH 00°29'36" WEST 29.99 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1025.00 FEET;
3. 302.80 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°55'34";
4. NORTH 17°24'20" WEST 554.86 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1030.00 FEET;
5. 376.91 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°57'59";
6. SOUTH 86°13'54" EAST 54.48 FEET;
7. SOUTH 31°51'00" EAST 85.17 FEET;
8. SOUTH 52°36'41" EAST 76.95 FEET;
9. SOUTH 73°19'02" EAST 65.73 FEET;
10. SOUTH 74°06'49" EAST 291.13 FEET;
11. SOUTH 79°13'17" EAST 145.07 FEET;
12. SOUTH 85°23'13" EAST 145.17 FEET;
13. NORTH 88°52'41" EAST 145.19 FEET;
14. NORTH 83°36'10" EAST 131.74 FEET;
15. SOUTH 10°35'23" WEST 114.54 FEET;
16. SOUTH 31°38'08" EAST 124.91 FEET;
17. SOUTH 62°45'04" EAST 116.47 FEET;
18. NORTH 85°18'48" EAST 119.21 FEET;
19. NORTH 46°48'18" EAST 296.18 FEET;
20. NORTH 34°36'03" WEST 203.48 FEET;
21. NORTH 62°18'11" EAST 203.67 FEET;
22. SOUTH 85°51'10" EAST 75.24 FEET;
23. SOUTH 72°16'09" EAST 30.02 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 810.00 FEET AND A CENTER WHICH BEARS NORTH 72°16'30" WEST;
24. 7.53 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 0°31'58";

25. SOUTH 72°48'14" EAST 60.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 870.00 FEET AND A CENTER WHICH BEARS NORTH 72°43'54" WEST;
26. 540.58 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 35°36'03";
27. NORTH 77°04'11" EAST 391.37 FEET;
28. SOUTH 10°42'58" EAST 32.97 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 240.00 FEET;
29. 215.59 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 51°28'06";
30. SOUTH 62°11'05" EAST 135.79 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 410.00 FEET;
31. 105.19 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14°42'02";
32. SOUTH 47°29'03" EAST 15.72 FEET;
33. SOUTH 42°12'30" WEST 45.02 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 630.00 FEET;
34. 197.16 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17°55'51";
35. SOUTH 24°16'39" WEST 681.69 FEET;
36. NORTH 88°25'54" EAST 861.83 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES:

1. SOUTH 49°35'24" WEST 808.48 FEET;
2. NORTH 89°54'42" WEST 154.05 FEET;
3. SOUTH 49°35'01" WEST 2027.95 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER;

THENCE ALONG SAID SOUTH LINE NORTH 89°50'23" WEST 1610.14 FEET TO THE POINT OF BEGINNING; EXCEPT THAT TRACT OF LAND CONVEYED TO FALCON HIGHLANDS METROPOLITAN DISTRICT IN WARRANTY DEED RECORDED AT RECEPTION NO. 206055833, MORE PARTICULARLY DESCRIBED AS FOLLOWS: A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 12;
THENCE NORTH 80°11'23" EAST 1127.58 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 17°27'11" WEST 81.74 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 55.00 FEET AND A CENTER WHICH BEARS NORTH 12°43'13" WEST;
THENCE 55.12 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 57°25'06";
THENCE NORTH 89°30'24" EAST 103.43 FEET;
THENCE SOUTH 72°19'33" WEST 142.43 FEET TO THE POINT OF BEGINNING;

CONTAINING 5,469,425 SQUARE FEET, OR 125.56 ACRES, MORE OR LESS.