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**RESOLUTION NO. 21- 294**

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

**APPROVAL OF THE FALCON MEADOWS AT BENT GRASS MAP AMENDMENT (REZONING) AND PUD DEVELOPMENT PLAN (PUDSP-20-005)**

**WHEREAS** Better Land, LLC, and 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, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the conceptual PUD (Planned Unit Development) zoning district to the site-specific PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development plan; and

**WHEREAS**, a public hearing was held by the El Paso County Planning Commission on July 15, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application and supporting PUD Development Plan; and

**WHEREAS**, a public hearing was held by this Board on July 27, 2021; 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 Board of County Commissioners of El Paso County.**
- 3. That 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. The proposed PUD (Planned Unit Development) District zoning is in general conformity with the Master Plan for El Paso County, Colorado.
5. The proposed PUD District zoning advances the stated purposes set forth in Chapter 4, Section 4.2.6, of the Land Development Code.
6. The proposed development is in compliance with the requirements of the Land Development 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.
7. 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.
8. 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.
9. The allowed uses, bulk requirements and required landscaping and buffering are appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community.
10. The areas with unique or significant historical, cultural, recreational, aesthetic or natural features are preserved and incorporated into the design of the project.
11. Open spaces and trails are integrated into the development plan to serve as amenities to residents and provide reasonable walking and biking opportunities.
12. 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.
13. 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.

14. 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.
15. Any proposed exception or deviation from the requirements of the zoning resolution or the subdivision regulations is warranted by virtue of the design and amenities incorporated in the development plan and development guide.
16. The owner has authorized the application.
17. 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.
18. The subdivision is in conformance with the subdivision design standards and any approved Sketch Plan.
19. Sufficiency: 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.
20. 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 Land Development Code.
21. 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.W. §30-28-133(6)(c)].
22. Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and the Engineering Criteria Manual are provided by the design.
23. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
24. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.

25. 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.
26. 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.
27. 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 conceptual PUD (Planned Unit Development) zoning district to the site-specific PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development Plan.

BE IT FURTHER RESOLVED that 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. The developers 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. The Bent Grass Master Development Drainage Plan and Drainage Basin Planning Study Amendment (MDP-21-001) shall be completed by the developers and accepted by the ECM Administrator prior to administrative approval of the Falcon Meadows at Bent Grass Filing No. 1 final plat by the Director of the Planning and Community Development Department or scheduling of the first final plat within the subject property, as applicable.
8. The developers, property owners adjacent to the Falcon West Tributary Channel, (for approximately 1,900 linear feet) north of Woodmen Road, and Bent Grass Metropolitan District shall be responsible for maintenance of their respective portions of the Falcon West Tributary channel within and downstream of the Falcon Meadows at Bent Grass development to the existing channel improvements north of Woodmen Road until construction of the necessary channel improvements by the developers is complete and the channel improvements have been accepted by El Paso County. The developers' design and construction requirements are as follows:
  - a. Final design and construction drawings for the channel through and downstream of the PUDSP area shall be provided for review with the Falcon Meadows at Bent Grass Filing No. 1 final plat submittal and shall be approved by PCD prior to scheduling the second final plat in the PUDSP area for administrative approval.
  - b. Construction of onsite channel improvements south of Bent Grass Meadows Drive (approximately 930 linear feet) shall be completed

- within two years of recordation of the first plat that includes any property located south of Bent Grass Meadows Drive.
- c. Construction of onsite channel improvements north of Bent Grass Meadows Drive (approximately 650 linear feet) shall be completed within two years of recordation of the first plat that includes any property located north of Bent Grass Meadows Drive.
  - d. If Conditional Letter of Map Revision (CLOMR) approval by FEMA is required it shall be obtained in a timely manner; however, no more than or equal to 192 lots may be platted, if such approval is necessary. The PCD Director may modify the condition administratively up to 221 lots, if a good faith effort has been made regarding approval of the CLOMR.
  - e. Construction of offsite channel improvements from the southern boundary of the Meadows at Bent Grass PUDSP to the existing downstream improvements located north of Woodmen Road (approximately 1,440 linear feet) shall be completed prior to final plat recordation for any future final plat that would bring the total number of platted lots in the Meadows at Bent Grass PUDSP area to more than or equal to 192 lots. The PCD Director may modify the condition administratively up to 221 lots, if a good faith effort has been made regarding design and construction of the channel. These improvements may be completed by the developers, other owners of the downstream channel, or the Bent Grass Metropolitan District. If a downstream owner takes responsibility for interim channel maintenance and construction and begins such construction prior to construction of the applicable channel segment by the Bent Grass Meadows PUDSP area developers, then this condition may be revised administratively and as appropriate by the PCD Executive Director via separate instrument in order to remove or otherwise modify the construction responsibilities of the Meadows at Bent Grass developers.
  - f. If Letter of Map Revision (LOMR) approval by FEMA is required, it shall be obtained in a timely manner; however, the warranty financial assurances for channel construction shall not be released until the LOMR has been approved, if such approval is necessary.
9. The Developers shall complete the following offsite improvements prior to the recording of a final plat within the Falcon Meadows at Bent Grass development.
- a. Intersection signalization improvements at Meridian Road and Bent Grass Meadows Drive (CDR-19-004);

- b. Design and coordination with the City of Colorado Springs regarding the eastbound left-turn signal phase at Woodmen Road and Golden Sage Road, which recently annexed these roads; and
  - c. Construction of the downstream detention (Pond WU) inlet and outlet structures designed with Bent Grass Residential Filing No. 2.
10. The first final plat in Falcon Meadows at Bent Grass shall require construction, paving and associated repairs to Bent Grass Meadows Drive south of the site, as deemed appropriate by the PCD Director and the County Engineer, including design and construction of an eastbound left turn lane on Woodmen Frontage Road at Bent Grass Meadows Drive if warranted, to meet the minimum standards of a Non-Residential Collector in accordance with the Engineering Criteria Manual. These road improvements may be eligible for cost recovery from adjacent developers.
11. The developers shall participate in a fair and equitable manner in offsite transportation improvements, as deemed appropriate by the PCD Director and the County Engineer in consultation with the City of Colorado Springs, including but not limited to the items listed in Table 4 of the Falcon Meadows at Bent Grass Transportation Impact Analysis, as amended and pending approval:
- a. Lengthening of the current eastbound single left-turn deceleration lane on Woodmen approaching Golden Sage Road.
  - b. Southbound exclusive right-turn lane on Golden Sage Road approaching Woodmen Road.
  - c. Signalization of Golden Sage Road/Woodmen Frontage Road or reconstruction as a modern roundabout

The improvements and fair shares are to be verified with an updated traffic impact analysis or memorandum as appropriate with each final plat in the Falcon Meadows at Bent Grass development. An escrow agreement, including a financial assurance estimate for the intersection improvements, as approved by the Planning and Community Development Department Director and the County Attorney's Office shall be completed and escrow deposited with each final plat for the respective improvements within the County's jurisdiction.

#### **NOTATIONS**

- 1. Subsequent final plat filings may be approved administratively by the Planning and Community Development Director.

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.

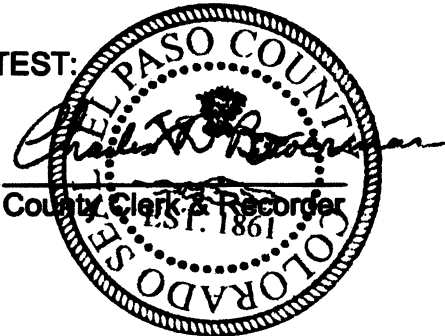
AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 27<sup>th</sup> day of July, 2021, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By:



By:

Chair



EXHIBIT A

**NORTH PARCEL**

A PARCEL OF LAND, BEING A PORTION OF THE WEST HALF OF SECTION 1, T.13S., R.65W., OF THE 6<sup>TH</sup> P.M., COLORADO SPRINGS, EL PASO COUNTY, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARING:**

THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6<sup>TH</sup> PRINCIPLE MERIDIAN AND IS CONSIDERED TO BEAR N00°13'46"W:

**COMMENCING AT THE SOUTHWEST QUARTER CORNER OF SAID SECTION 1; THENCE N00°13'46"E ALONG THE WEST LINE OF SAID SECTION 1, A DISTANCE OF 2429.82 FEET TO A POINT ALONG SAID WEST LINE, ALSO BEING TO THE POINT OF BEGINNING:**

THENCE N89°46'14"E, A DISTANCE OF 493.96 FEET TO A POINT ON THE NORTHWESTERLY LINE OF A PARCEL OF LAND DESCRIBED AT RECEPTION NUMBER 209061972;

THENCE ALONG SAID NORTHWESTERLY LINE FOUR (4) COURSES:

1. THENCE N23°44'26"E, A DISTANCE OF 247.83 FEET TO A POINT OF CURVATURE;
2. THENCE ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 605.00 FEET, A CENTRAL ANGLE OF 65°45'46", A DISTANCE OF 694.40 FEET, A CHORD BEARING OF N56°37'18"E WITH A CHORD DISTANCE OF 656.91 FEET;
3. THENCE N89°30'12"E, A DISTANCE OF 448.12 FEET TO A POINT OF CURVATURE;
4. THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 525.00 FEET, A CENTRAL ANGLE OF 09°25'11", A DISTANCE OF 86.31 FEET, A CHORD BEARING OF N84°47'37"E WITH A CHORD DISTANCE OF 86.21 FEET;

THENCE N07°58'52"W, A DISTANCE OF 126.91 FEET;

THENCE N07°51'55"E, A DISTANCE OF 62.94 FEET;

THENCE N01°11'11"W, A DISTANCE OF 107.15 FEET;

THENCE N88°48'49"E, A DISTANCE OF 14.56 FEET;

THENCE N65°21'22"E, A DISTANCE OF 4.05 FEET;

THENCE N09°11'31"W, A DISTANCE OF 158.90 FEET TO A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 175.00 FEET, A CENTRAL ANGLE OF 16°15'39", A DISTANCE OF 49.67 FEET, A CHORD BEARING OF N72°40'39"E WITH A CHORD DISTANCE OF 49.50 FEET;

THENCE N64°32'49"E, A DISTANCE OF 36.42 FEET;

THENCE N00°30'24"W, A DISTANCE OF 446.99 FEET TO A POINT ON THE SOUTH LINE OF THE MEADOWS FILING NO. 4, RECORDED AT RECEPTION NO. 200135677;

