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RESOLUTION NO. 19-357

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

**RESOLUTION TO AMEND PREVIOUSLY ADOPTED RESOLUTION 18-387
APPROVING PRELIMINARY PLAN REQUEST FOR FALCON MARKET PLACE (SP-
17-001)**

WHEREAS, LG HI Falcon LLC, did file an application with the El Paso County Planning and Community Development Department for the approval of a Preliminary Plan for Falcon Marketplace Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on September 18, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the subject application with conditions and notations; and

WHEREAS, the Board approved the preliminary plan application on October 9, 2018 pursuant to Resolution no. 18-387 following a public hearing; and

WHEREAS, House Bill 19-1274 was signed into law on May 31, 2019, amending §30-28-133.5, C.R.S. and allowing a board of county commissioners to delegate its authority to approve or deny final plats, amendments to final plats, corrections plats, and agreements associated with such plats to administrative officials; and

WHEREAS, pursuant to the new legislation, the Board did adopt Resolution No. 19 - ____ on August 27, 2019, amending the Land Development Code to authorize the Executive Director of the Planning and Community Development Department to approve or deny final plats if the Board has, at the time of approving the preliminary plan, made findings of water sufficiency and that the location and design of public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development; and

WHEREAS, the Board finds that the record of the public hearing held on August 27, 2019 supports a finding that the location and design of public improvements in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development and wishes to amend Resolution No. 18-387 to include that finding; 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 Planning Commission and 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.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is consistent with the purposes of the El Paso County Land Development Code.
7. The subdivision is in conformance with the subdivision design standards and any approved sketch plan.
8. 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 statutory water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code.
9. A public sewage disposal system has been established or, 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.
10. 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)].
11. 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.

12. 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;
13. 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 encouraging 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 therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.
14. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
15. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
16. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
17. 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.
18. The proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
19. For the above-stated and other reasons, the proposed subdivision 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 El Paso County Board of County Commissioners of El Paso County, Colorado, hereby approves the request by LG HI Falcon LLC, a preliminary plan of the Falcon Marketplace for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference.

BE IT FURTHER RESOLVED that this Resolution supersedes and replaces in its entirety Resolution No. 18-837.

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

CONDITIONS

1. A LOMR (Letter of Map Revision) approved by FEMA shall be completed prior to recordation of any final plat(s) within the preliminary plan area.
2. 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, 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 species.
3. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 18-471), as amended, at or prior to the time of building permit submittals. The property is within the Woodmen Road Metropolitan District. Fees shall be paid to the District prior to the issuance of any building permit(s).
4. The applicant/developer and/or property owner(s) shall be required to participate in a fair and equitable manner in upgrading/construction of the surrounding roads and intersections impacted by the anticipated traffic from this development, as identified in Table 7b of the associated Falcon Marketplace Traffic Impact Analysis, dated August 15, 2018. A development agreement to include identification and phasing of necessary off-site public improvements shall be completed with the final plat submittal. Construction of, or contribution of fair share escrow toward, off-site improvements shall be required based on impacts to traffic levels of service attributed to the average daily traffic (ADT) generation of the individual users or lots in this subdivision. The off-site improvements include:
 - a. Construction of items numbered 2-7, 11, and 13 in Table 7b; and
 - b. A pro-rata share of the following additional offsite intersection improvements, to be provided as described in Condition No. 5 below: items numbered 12, 16, 17, and 18 in Table 7b.

5. An Escrow Agreement, including the Financial Assurance Estimate for the additional offsite intersection improvements identified in Condition No. 4b above, as approved by the El Paso County Planning and Community Development Department and the El Paso County Attorney's Office, shall be completed at the time of recording the first final plat in the Falcon Marketplace development. A fair share contribution toward the additional offsite intersection improvements, based on proportional calculated traffic generation, shall be deposited for each plat, replat, or site development plan within the Falcon Marketplace development as applicable.
6. In accordance with El Paso County Board of County Commissioners Resolution 18-186, the applicant shall obtain an access permit to be administratively issued, with appropriate conditions in accordance with the El Paso County Engineering Criteria Manual, for the proposed right-in access from Woodmen Road.
7. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
8. Development of the property shall be in accordance with the preliminary plan. Minor changes in the preliminary plan, including a reduction in the number of lots and/or lot line adjustments, 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 preliminary plan amendment application.
9. It shall be the developer's responsibility to ensure proper construction and functioning of the sub-regional detention basin, "Pond SR4," as construction of this facility is proposed with the pre-development site grading. Final details and revisions, including clay liner specifications, inlet and outlet designs, spillway designs, maintenance access, and geotechnical study/reports/testing shall be completed during the final design process and approved by the County prior to scheduling the final plat for hearing.
10. Preliminary technical reports and construction plans (at both 60% and 90% design) for each onsite roundabout shall be submitted to County staff for review and concurrence prior to final roundabout design and final plat submittal.

NOTATIONS

1. Approval of the Preliminary Plan will expire after twenty-four (24) months unless a final plat has been approved and recorded or a time extension has been granted.

2. Preliminary Plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.
3. Ownership and maintenance of the regional detention facility is dependent on proper design and construction, especially in regard to groundwater issues. The developer's responsibilities regarding design, construction and County acceptance of the facility will be addressed in the development agreement required with the final plat. In no case shall the County be held responsible for seepage into or out of the pond or overtopping of the pond spillway into the site.

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 24th day of September, 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: 
Chair

ATTEST: EL PASO
By: 
County Clerk & Recorder



EXHIBIT A

LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOGETHER WITH THAT PORTION OF BLOCK 1, TOWN OF FALCON, LYING WITHIN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO.

EXCEPT THOSE PORTIONS CONVEYED TO WOODMEN ROAD METROPOLITAN DISTRICT BY WARRANTY DEED RECORDED APRIL 19, 2004 AT RECEPTION NO. 204062427 AND PERSONAL REPRESENTATIVE'S DEED RECORDED SEPTEMBER 7, 2007 AT RECEPTION NO. 207116129, EL PASO COUNTY, COLORADO RECORDS.