

# EL PASO COUNTY

COLORADO

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**Board of County Commissioners**  
 Holly Williams, District 1  
 Carrie Geitner, District 2  
 Stan VanderWerf, District 3  
 Longinos Gonzalez, Jr., District 4  
 Cami Bremer, District 5

**TO: El Paso County Planning Commission**  
**Brian Risley, Chair**

**FROM: Matthew Fitzsimmons, AICP Senior Planner**  
**Jeff Rice, Senior Engineer**  
**Kevin Mastin, Interim Executive Director**

**RE: Project File #: P-22-017**  
**Project Name: County Initiated Rezone**

**Parcel Nos.: 5312100011; 5312100013; 5312110004; 5312110007;**  
**5312112006; 5312400013; 5312400016; 5312407001; 5312110010**

OWNERS:	REPRESENTATIVE:
<ol style="list-style-type: none"> <li>5312100011 – 1.41 acres Old Meridian Road FKJ Properties LLC 5165 GRANBY CIR COLORADO SPRINGS CO, 80919</li> <li>5312100013 – 8.68 acres Cygenet Land LLC Meridian Road 630 Southpointe Ct. Colorado Springs CO, 80906</li> <li>5312110004 – 43,500 sf Laron A. Bartlett 7060 N. Meridian Road</li> </ol>	<p>El Paso County Planning and Community Development          2880 International Circle          Colorado Springs, CO. 80910</p> 

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Peyton CO, 80831

4. 5312110007 – 15,075 sf  
McLaughlin Road  
Brian Ullom  
3910 Cooke Drive  
Colorado Springs, CO 80911
5. 5312112006 – 1.47 acres  
7060 Old Meridian Road.  
Sedlak Family Trust  
7060 Old Meridian Road  
Peyton CO, 80831
6. 5312400013 – 2.2 acres  
E Highway 24  
Falcon Highlands Metro District  
111 S. Tejon St.  
Suite 705  
Colorado Springs, CO 80903
7. 5312400016 – 14,863 sf  
Meridian Road  
Falcon Highlands Metro District  
111 S. Tejon St.  
Suite 705  
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8. 5312407001 – 5.42 acres  
7020 Old Meridian Road  
Farmers State Bank of Calhan  
1500 8<sup>th</sup> Street  
Calhan, CO 80808
9. 5312110010  
7110 Old Meridian Road  
Bare Enterprises LTD  
8150 Blue Bill Drive  
Peyton CO, 80831



## Commissioner District: 2

Planning Commission Hearing Date:	9/15/2022
Board of County Commissioners Hearing Date:	10/4/2022

### EXECUTIVE SUMMARY

A request by El Paso County Planning and Community Development for approval of a map amendment (rezoning) from PUD (Planned Unit Development) to RR-5 (Residential Rural). The 9 properties combined constitute 24.31 acres of land and are located at the northwest corner of the intersection of Highway 24 and Old Meridian Road, approximately one-quarter of a mile south of East Woodman Road and within Section 12, Township 13 South, Range 65 West of the 6th P.M.

The Board of County Commissioners approved the last PUD amendment for the Shoppes at Falcon (AKA: Falcon Highlands Commercial Site - PCD File No. PUD-07-017) on July 10, 2008, which included 24.31 acres of property and authorized the following land uses:

- 20.90 acres of commercial land
- 2.56 acres of open space
- 1.36 acres of Right of Way.

The Shoppes at Falcon PUD application was approved with conditions. County Staff has found that the following conditions, documented on the resolution, have not been met and therefore invalidate the PUD approval:

**#3 – Dev.** Of the property shall be in accordance with this PUD Development plan and development guidelines. All subsequent land use applications, including the required site development plans, shall be consistent with this PUD development plan and guidelines.

- The home improvement center was not developed as planned. Instead, a civic use of a fire department and supporting facilities was implemented in that area. The supporting acres of parking are now no longer needed for this commercial use and therefore will not follow the PUD plan.

**#8 -** The applicant/developer and or property owners shall be required to participate in a fair and equitable manner in the upgrading of the surrounding roads and intersections including Woodmen Road, Meridian Road, McLaughlin Road, Old Meridian Road, and



U.S. Highway 24. Participation shall be through construction of specified improvements, inclusion in the Woodmen Road District, and contribution to the Falcon Small Area Traffic Study Fund at or prior to the Final Plat recordation.

- These upgrades have not been implemented and the County has constructed a roundabout at its own expense to improve traffic circulation and safety.

**#9 -** The developer's design and financial responsibilities regarding offsite county road improvements with the first final plat shall be as follows:

- a. Widen and improve Old Meridian Road to non-residential collector standards between US highway 24 and McLaughlin Road.
  - b. Reconstruct the McLaughlin Road/Old Meridian Road intersection as a single-lane modern roundabout.
  - c. Widen and improve the southwest half of Old Meridian Road to non-essential collector standards between Meridian Road and McLaughlin Road.
- None of these upgrades have been implemented since the approval of this project in 2008, approximately fourteen years ago.

**#10 –** Additional design and financial responsibilities regarding offsite county road improvements, if not completed or guaranteed by others prior to recordation of the Final Plat for this development shall be as follows:

- a. Widen and improve McLaughlin Rd.
  - b. Widen and improve the NE half of Old Meridian Rd.,
  - c. Construct a southbound left-turn lane into the existing median at the Woodmen Road/Meridian Rd intersection.
- These improvements were never constructed.

**#11 -** CDOT required improvements to US HW 24 and Meridian Rd intersection shall be constructed.

- These improvements were never constructed.

Pursuant to C.R.S §30-28-116, the Board may amend the number, shape, boundaries, or area of any [zoning] district. Pursuant to Section 5.3.5.E, County Initiated Zoning, of the Land Development Code, the County “may initiate the rezoning of any property within the unincorporated area of the County”.



Justification in support of rezoning properties from the Shoppes at Falcon (AKA Falcon Highlands Commercial Site) includes:

1. Failure to comply with conditions of approval.
2. Sales of property to new owners that no longer wish to participate in the PUD.
3. Construction of infrastructure or establishment of uses, if any, that are incompatible with the approved PUD.
4. Reduction of land use uncertainties when reviewing land use applications for development on adjoining properties for compatibility with adjacent and surrounding land uses.
5. Providing greater development certainty for adjacent properties outside the PUD boundaries.
6. Providing greater certainty for staff in addressing inquiries from the public concerning development within the Shoppe at Falcon PUD and in the surrounding area.

#### **A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION**

**Request:** A request by El Paso County Planning and Community Development for approval of a map amendment (rezoning) from PUD (Planned Unit Development) to RR-5 (Residential Rural).

**Waiver(s)/Deviation(s):** There are no waivers or deviations associated with this request.

**Authorization to Sign:** There are no documents associated with this application that require signing.

#### **B. PLANNING COMMISSION SUMMARY**

- Request Heard:
- Recommendation:
- Waiver Recommendation:
- Vote:
- Vote Rationale:
- Summary of Hearing:
- Legal Notice: Advertised on date in the paper

#### **C. APPROVAL CRITERIA**

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2021):



1. In changing this PUD zone back to the original RR-5 zone, this request is in general conformance with the El Paso County Master Plan. It is projected that all future developments in the area will need to change the zone again as a part of the application process due to the limited commercial uses in the RR-5 zone. The Master Plan has identified this area as one that is likely to be annexed, an area of transition, and a Regional Center. These designations and the location on major regional transportation corridors will necessitate the changing of the zones for future development unless the use is residential in nature (such as Property #5 - 7060 Old Meridian Road.).
2. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
3. The proposed zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

#### **D. LOCATION**

- North: CR (Commercial Regional) Commercial Retail
- South: C-2 (Commercial) Commercial
- East: CC (Commercial Community) Commercial
- West: PUD (Planned Unit Development) Vacant

#### **E. BACKGROUND**

The subject property consists of nine (9) platted lots (24.72 acres) that the County is seeking to revert back to the original RR-5 zoning. The most recent application that impacted the site area (PUD-07-017), was a PUD amendment to increase the size of the already existing and amended Shoppes at Falcon commercial development in Falcon Highland PUD (PUD-00-012). This 2007 application added 12.15 acres to the existing Falcon Highland PUD with most of that area being designated as commercial.

The peninsula of land directly adjacent to Highway 24 and west of Meridian Road was assigned as "PUD open space" due to the size, shape, and the fact that it was in a 100-year floodway. Once this amendment was approved, the total area of the PUD commercial area was 20.90 acres. The commercial area was encapsulated by Meridian Rd, Old Meridian Rd, and Highway 24.

One small (14,500 sf) remnant property, 7090 Old Meridian Road, currently Bartlett Hay sales and storage, remained as RR-5 and remains that zone today. That



location, which is not included in the sketch plan, obtained a use variance and multiple renewals of the variance throughout the years to continue the hay sales. The latest variance was granted on March 26<sup>th</sup>, 2013 and is valid for 10 years (VA12008).

There were three previous sketch plan approvals for the property (SKP-04-004, SKP-05-002 and SKP-07-006). The 2007 amendment included more commercial area, including the 12.15 acres of residentially-zoned (RR-5) land located on the corner of Highway 24 and Meridian Road. There were three previous PUD approvals (PUD-00-012, PUD-04-021 and PUD-07-017); one for the original zoning in 2000, and two applications that amended the plans in 2004 and 2007. After the approval of the last amendment, a Lowe's home improvement center (PPR-08-017) was proposed at the northwest corner of HW 24 and Meridian Road, but that plan did not materialize, and a fire department with an additional civic building was constructed on the site.

There are other applications that were processed with this PUD development plan amendment: a preliminary subdivision (SP-07-023), a final plat, which was never recorded (SF-07-025), and a site development plan (PPR-08-017).

Over the last couple of years, the County started efforts to rezone these parcels. Dan Kupferer from Land Development Consultants, Inc. (LDC) individually met with each of the property owners to better understand what they wanted and would agree to. The bulleted text below (Exhibit 1) outlines his efforts to unite the owners to rezone the area to a commercial zone, most likely to CR (Commercial Regional). Unfortunately, because of various setbacks that are outlined below by LDC, this effort was abandoned, and the County decided that it would be best for the property owners and the County if the zone change was initiated by El Paso County and converted back to the original zone for this area RR-5. The following bullet points were drafted by LDC to recount the efforts they have taken to rezone these parcels:

- Date: 4/8/2020 - The County created EDARP Project showing "LDC" as applicant
- Date: 4/14/2020 - An email correspondence between PJ Anderson, Kari Parsons, and Dan Kupferer (LDC) was sent that discussed the nuances of working with all 8 property owners to accomplish a rezone of the Shoppes at Falcon PUD to a CR zone.
- The next several months LDC attempted to put together a plan and zone that all of the owners could agree to.
- One sticking point, between the different landowners, was how costs would be divided., e.g. prorated based on property size or divided equally between owners.





- LDC's findings regarding the opinions of the property owners:
  - The Sedlak family owned the property adjacent to the Fire District property. Harry Sedlak died in 2021 and his wife died not too much later. LDC has not made any contact with the heirs about the rezone
  - The Bartletts own the property at Chicago and Old Meridian Road and would participate in a rezone when the cost allocation is decided.
  - Bear Beans (a coffee kiosk) is the owner of the property north of Bartletts at the Traffic Circle and would like to rezone to CS.
  - Ulloms owns the property west of Bare Beans. LDC has not had much contact with them, but they have reason to believe they favor a commercial rezone.
  - Frank Moore owns property to the north of the current Traffic Circle and has expressed that he would like to rezone to CS.
  - Cygnet owns most of the rest of the property and probably has the most obstacles, such as an IGA and utilities commitments.

## **F. ZONING ANALYSIS**

### **1. Land Development Code Analysis**

The applicant (El Paso County) is proposing to rezone the property from PUD (Planned Unit Development) to RR-5 (Residential Rural). Section 3.2 of the Code states the following as the intent of the RR-5 zoning district:

“RR-5, Residential Rural District. The RR-5 zoning district is a 5-acre district intended to accommodate low-density, rural, single-family residential development.”

The County intends to remove the PUD zone and reestablish the RR-5 zone to allow the new and current property owners to be unencumbered by the PUD agreement. Most redevelopment uses will require an additional zone change from RR-5 to a commercial zone (CC – Commercial Community, CR – Commercial Regional, or CS – Commercial Service) that would allow new commercial uses.

### **2. Zoning Compliance**

The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size: 5 acres
- Minimum width at the front setback line: 200 feet





- Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet \*
- Maximum lot coverage: None
- Maximum height: 30 feet

\*Agricultural stands shall be setback a minimum of 35 feet from all property lines.

With a zone change to RR-5, future applicants will be able to assemble different properties and apply for the appropriate entitlements without working in concert with the other property owners and fulfilling the conditions of the PUD. As always, all applications will be reviewed to ensure that the proposed projects will comply with the General Development Standards of the Code and the Engineering Criteria Manual requirements.

## **G.MASTER PLAN ANALYSIS**

### **1. Your El Paso Master Plan**

#### **a. Placetype: Regional Center**

##### **Placetype Character:**

The fundamental purpose of a Regional Center is to provide access to necessary and desired commercial goods and services in El Paso County through a unique mix of uses. This placetype differs from Rural Centers by providing a level of goods and services that attract people from across the County, and depending on location, from adjacent counties. Regional Centers often incorporate a lifestyle live-work-play environment and can include multifamily housing elements in their design as standalone apartments or part of mixed-use developments.

This placetype includes large scale shopping centers that house a variety of commercial businesses and support a high activity of users on a regular basis such as grocery stores, pharmacies, clothing stores, automotive centers, restaurants, entertainment opportunities, home improvement stores, and other major retailers. Multifamily apartments provide commercial businesses direct access to potential customers.

Regional Centers are major commercial destinations for residents and are easily accessible from major transportation routes throughout the County. Regional Centers in El Paso County are surrounded by Urban Residential, Suburban Residential, and Employment Center placetypes. In addition,



Regional Centers can also be extensions of commercial areas within incorporated municipalities such as the Gleneagle area.

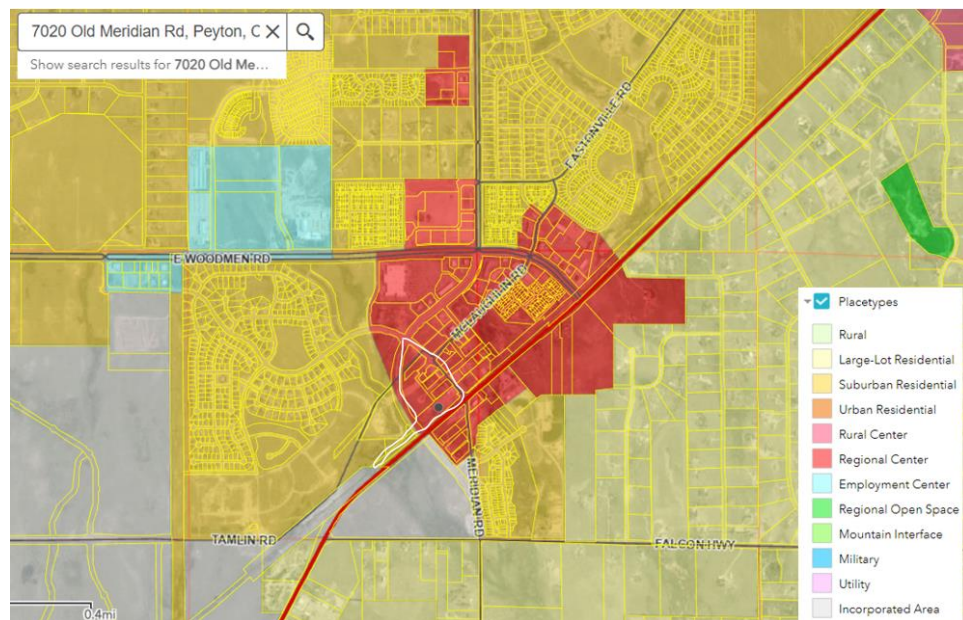
### **Recommended Land Uses:**

#### *Primary*

- Restaurant
- Commercial Retail
- Commercial Service
- Entertainment
- Multifamily Residential

#### *Supporting*

- Office
- Institutional
- Mixed Use
- Single-family Attached Residential



**Figure G.1: Placetype Map**

### **Analysis:**

The property is located within the Regional Center placetype which comprises the County's traditional residential neighborhoods with supporting commercial uses at key intersections. By allowing the zone to revert back to the original RR-5 zone, the individual parcels will be able to act independently and redevelop with fewer conditions and regulations

than the current PUD agreement dictates. The RR-5 zone will need to be changed again as part of any new commercial development in this area.

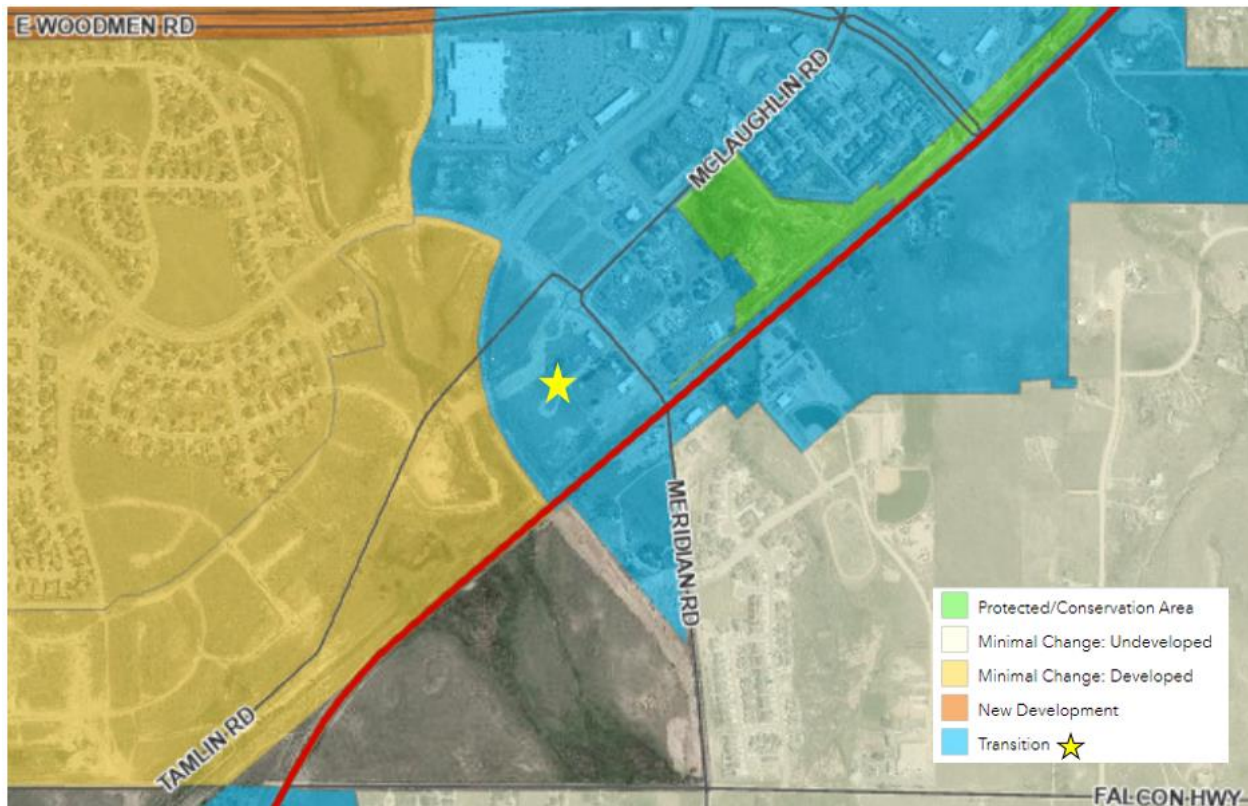
These following principles, goals, and objectives will support the proposed zone change:

- Core Principle 1: Manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.
- Goal 1.4 - Continue to encourage policies that ensure “development pays for itself”
- Objective ED1-1: Identify barriers to mixed-use, including zoning, development, and subdivision provisions that prohibit such development.
- Objective ED3-1: Continue promoting commercial development to serve increasing residential neighborhoods in the Falcon area.
- Objective ED3-5: Prioritize commercial development within or near rural communities and within the Rural Center place-type to limit barriers to shopping districts and employment centers.
- Goal 3.3 - Encourage the development of commercial districts in underserved areas.

**b. Area of Change Designation: Transition**

Transition areas are fully developed parts of the County that may completely or significantly change in character. In these areas, redevelopment is expected to be intense enough to transition the existing development setting to an entirely new type of development. For example, a failing strip of commercial development could be redeveloped with light industrial or office uses that result in a transition to an employment hub or business park. Another example of such a transition would be if a blighted suburban neighborhood were to experience redevelopment with significant amounts of multifamily housing or commercial development of a larger scale in line with a commercial center.





**Figure G.2: Area of Change Map**

**Analysis:**

The proposed rezone is in an area which is expected to significantly change in character. If this map amendment (rezoning) is approved, the current conditions and other agreements outlined in the PUD will be removed and a straight zone (RR-5) will be emplaced. Without these encumbrances, these properties may redevelop more quickly. As a result of this potential new development, the Regional Center place-type goals will more likely be implemented.

**c. Key Area Influences - Potential Areas for Annexation:**

A significant portion of the County's expected population growth will locate in one of the eight incorporated municipalities. As the largest municipality in El Paso County, Colorado Springs is expected to grow in population over the next several decades. As a result of this growth, Colorado Springs, and other municipalities including Fountain and Monument, will need to annex parts of unincorporated County to plan for and accommodate new development. This will either occur through new development within existing municipal limits or the annexation of

subdivisions in unincorporated parts of the County. This Key Area outlines the portions of the County that are anticipated to be annexed as development occurs. It is imperative that the County continue to coordinate with the individual cities and towns as they plan for growth. Collaboration with the individual communities will prevent the unnecessary duplication of efforts, overextension of resources, and spending of funds. The County should coordinate with each of the municipalities experiencing substantial growth the development of an intergovernmental agreement similar to that developed with Colorado Springs.

That being said, the City has not expressed interest in annexing this property at this time.

### **3. Water Master Plan Analysis**

The El Paso County Water Master Plan (2018) has three main purposes: better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes.

Relevant policies from the Water Master Plan are as follows:

***Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.***

***Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.***

***Goal 1.2 – Integrate water and land use planning.***

The subject property is located within Region 3 of the El Paso County Water Master Plan.

- Region 3 has a current water supply of 7,164-acre feet per year and a current demand of 4,494-acre feet per year.
- The 2040 water supply is projected to be 7,921-acre feet per year and the projected demand is 6,403-acre feet.
- The 2060 water supply is projected to be 8,284-acre feet per year, whereas the demand is anticipated to be 8,307-acre feet per year; The





projected demand is slightly higher than the projected supply in 2060 for central water providers in this region of the County.

A finding of water sufficiency is not required with a map amendment (rezone) but will be required with any future subdivision request. A finding of water sufficiency is required with subsequent plat application(s). The area subject to the proposed map amendment (rezone) is proposed to be served by Falcon Highlands Metropolitan District. Should the request be approved, a site plan application will be required to initiate any new use on the property.

#### **4. Other Master Plan Elements**

The master plan also identifies the parcels as having a low wildlife impact potential.

### **H. PHYSICAL SITE CHARACTERISTICS**

#### **1. Hazards**

No hazards have been identified in the Soil, Geology and Geologic Hazard Report by Entech Engineering in 2007. Mitigation measures are recommended for seasonal shallow groundwater, existing artificial fill deposits and expansive soils.

#### **2. Floodplain**

Per FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0561G, dated December 7, 2018, the subject site is located mostly within Zone X, areas outside of the 100-year FEMA floodplain. Zone AE floodplain exists within the portion of the site west of New Meridian Road, along the West Tributary of the Falcon drainage basin.

#### **3. Drainage and Erosion**

The subject site is located within the Falcon drainage basin (CHWS1400), which is a studied drainage basin with drainage and bridge fees. Drainage and bridge fees are not assessed with map amendment (rezoning) requests but will apply at the time of recording of the final plat(s).

Preliminary and final drainage reports will be required with each future preliminary plan and final plat within the site.

#### **4. Transportation**

The site is located at the northeast corner of the intersection of New Meridian Road and U.S. Highway 24, with Old Meridian Road and Rolling Thunder Way



bordering the east side of the site. New Meridian Road is a county-maintained road classified as a minor arterial according to the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP). U.S. Highway 24 adjacent to the site is a two-lane highway under the jurisdiction of CDOT. Rolling Thunder Way and Old Meridian Road (north and south of McLaughlin Road, respectively) are both classified as non-residential collectors. Per the current Planned Unit Development's approved traffic impact study (TIS) (file number PUD-07-017) the site was anticipated to generate 8,830 new trips on an average weekday. El Paso County Department of Public Works recently completed roadway improvements on all of the roads bounding the site during construction of the Falcon Park and Ride and McLaughlin Roundabout projects.

A traffic impact study will be required with each future rezoning, preliminary plan, and final plat within the site. Developers within the site may be required to provide improvements to surrounding County roads and U.S. Highway 24, depending on the proposed site traffic generation, notably a second left turn lane on eastbound Highway 24 at New Meridian Road.

## **I. SERVICES**

### **1. Water**

Water is provided by Falcon Highlands Metropolitan District.

### **2. Sanitation**

Sewer Service will be provided by the Falcon Highlands Metropolitan District.

### **3. Emergency Services**

The property is within the Falcon Fire Protection District and the El Paso County Sheriff's Department.

### **4. Utilities**

Electrical service is provided by Mountain View Electric Association (MVEA) and natural gas service is provided by Colorado Springs Utilities (CSU).

### **5. Metropolitan Districts**

The Falcon Highlands Metropolitan District will serve this area.

### **6. Parks/Trails**

A regional trail along Highway 24 was planned with the original PUD, but that was never established. The RR-5 zone would not require any trail construction.

### **7. Schools**





Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application.

## **J. APPLICABLE RESOLUTIONS**

Approval            Page 27

Disapproval        Page 28

## **K. STATUS OF MAJOR ISSUES**

There are no major issues.

## **L. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations.

### **CONDITIONS**

1. Developers of the property shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are 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.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual unless a subsequent rezone to another zoning district is approved.

### **NOTATIONS**

1. 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.

2. 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.

#### **M. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department posted 5 individual posters at the site and notified all nine (9) parcel owners and the twenty-nine (29) adjoining property owners on August 29, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

#### **N. ATTACHMENTS**

Vicinity Map  
Rezone Map



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- 1.36 acres of Right of Way.

The Shoppes at Falcon PUD application was approved with conditions. County Staff has found that the following conditions, documented on the resolution, have not been met and therefore invalidate the PUD approval:

**#3 – Dev.** Of the property shall be in accordance with this PUD Development plan and development guidelines. All subsequent land use applications, including the required site development plans, shall be consistent with this PUD development plan and guidelines.

- The home improvement center was not developed as planned. Instead, a civic use of a fire department and supporting facilities was implemented in that area. The supporting acres of parking are now no longer needed for this commercial use and therefore will not follow the PUD plan.

**#8 -** The applicant/developer and or property owners shall be required to participate in a fair and equitable manner in the upgrading of the surrounding roads and intersections including Woodmen Road, Meridian Road, McLaughlin Road, Old Meridian Road, and



U.S. Highway 24. Participation shall be through construction of specified improvements, inclusion in the Woodmen Road District, and contribution to the Falcon Small Area Traffic Study Fund at or prior to the Final Plat recordation.

- These upgrades have not been implemented and the County has constructed a roundabout at its own expense to improve traffic circulation and safety.

**#9** - The developer's design and financial responsibilities regarding offsite county road improvements with the first final plat shall be as follows:

- a. Widen and improve Old Meridian Road to non-residential collector standards between US highway 24 and McLaughlin Road.
- b. Reconstruct the McLaughlin Road/Old Meridian Road intersection as a single-lane modern roundabout.
- c. Widen and improve the southwest half of Old Meridian Road to non-essential collector standards between Meridian Road and McLaughlin Road.

- None of these upgrades have been implemented since the approval of this project in 2008, approximately fourteen years ago.

**#10** – Additional design and financial responsibilities regarding offsite county road improvements, if not completed or guaranteed by others prior to recordation of the Final Plat for this development shall be as follows:

- a. Widen and improve McLaughlin Rd.
- b. Widen and improve the NE half of Old Meridian Rd.,
- c. Construct a southbound left-turn lane into the existing median at the Woodmen Road/Meridian Rd intersection.

- These improvements were never constructed.

**#11** - CDOT required improvements to US HW 24 and Meridian Rd intersection shall be constructed.

- These improvements were never constructed.

Pursuant to C.R.S §30-28-116, the Board may amend the number, shape, boundaries, or area of any [zoning] district. Pursuant to Section 5.3.5.E, County Initiated Zoning, of the Land Development Code, the County “may initiate the rezoning of any property within the unincorporated area of the County”.



Justification in support of rezoning properties from the Shoppes at Falcon (AKA Falcon Highlands Commercial Site) includes:

1. Failure to comply with conditions of approval.
2. Sales of property to new owners that no longer wish to participate in the PUD.
3. Construction of infrastructure or establishment of uses, if any, that are incompatible with the approved PUD.
4. Reduction of land use uncertainties when reviewing land use applications for development on adjoining properties for compatibility with adjacent and surrounding land uses.
5. Providing greater development certainty for adjacent properties outside the PUD boundaries.
6. Providing greater certainty for staff in addressing inquiries from the public concerning development within the Shoppe at Falcon PUD and in the surrounding area.

#### **A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION**

**Request:** A request by El Paso County Planning and Community Development for approval of a map amendment (rezoning) from PUD (Planned Unit Development) to RR-5 (Residential Rural).

**Waiver(s)/Deviation(s):** There are no waivers or deviations associated with this request.

**Authorization to Sign:** There are no documents associated with this application that require signing.

#### **B. PLANNING COMMISSION SUMMARY**

- Request Heard:
- Recommendation:
- Waiver Recommendation:
- Vote:
- Vote Rationale:
- Summary of Hearing:
- Legal Notice: Advertised on date in the paper

#### **C. APPROVAL CRITERIA**

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2021):





1. In changing this PUD zone back to the original RR-5 zone, this request is in general conformance with the El Paso County Master Plan. It is projected that all future developments in the area will need to change the zone again as a part of the application process due to the limited commercial uses in the RR-5 zone. The Master Plan has identified this area as one that is likely to be annexed, an area of transition, and a Regional Center. These designations and the location on major regional transportation corridors will necessitate the changing of the zones for future development unless the use is residential in nature (such as Property #5 - 7060 Old Meridian Road.).
2. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
3. The proposed zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

#### **D. LOCATION**

- North: CR (Commercial Regional) Commercial Retail
- South: C-2 (Commercial) Commercial
- East: CC (Commercial Community) Commercial
- West: PUD (Planned Unit Development) Vacant

#### **E. BACKGROUND**

The subject property consists of nine (9) platted lots (24.72 acres) that the County is seeking to revert back to the original RR-5 zoning. The most recent application that impacted the site area (PUD-07-017), was a PUD amendment to increase the size of the already existing and amended Shoppes at Falcon commercial development in Falcon Highland PUD (PUD-00-012). This 2007 application added 12.15 acres to the existing Falcon Highland PUD with most of that area being designated as commercial.

The peninsula of land directly adjacent to Highway 24 and west of Meridian Road was assigned as "PUD open space" due to the size, shape, and the fact that it was in a 100-year floodway. Once this amendment was approved, the total area of the PUD commercial area was 20.90 acres. The commercial area was encapsulated by Meridian Rd, Old Meridian Rd, and Highway 24.

One small (14,500 sf) remnant property, 7090 Old Meridian Road, currently Bartlett Hay sales and storage, remained as RR-5 and remains that zone today. That



location, which is not included in the sketch plan, obtained a use variance and multiple renewals of the variance throughout the years to continue the hay sales. The latest variance was granted on March 26<sup>th</sup>, 2013 and is valid for 10 years (VA12008).

There were three previous sketch plan approvals for the property (SKP-04-004, SKP-05-002 and SKP-07-006). The 2007 amendment included more commercial area, including the 12.15 acres of residentially-zoned (RR-5) land located on the corner of Highway 24 and Meridian Road. There were three previous PUD approvals (PUD-00-012, PUD-04-021 and PUD-07-017); one for the original zoning in 2000, and two applications that amended the plans in 2004 and 2007. After the approval of the last amendment, a Lowe's home improvement center (PPR-08-017) was proposed at the northwest corner of HW 24 and Meridian Road, but that plan did not materialize, and a fire department with an additional civic building was constructed on the site.

There are other applications that were processed with this PUD development plan amendment: a preliminary subdivision (SP-07-023), a final plat, which was never recorded (SF-07-025), and a site development plan (PPR-08-017).

Over the last couple of years, the County started efforts to rezone these parcels. Dan Kupferer from Land Development Consultants, Inc. (LDC) individually met with each of the property owners to better understand what they wanted and would agree to. The bulleted text below (Exhibit 1) outlines his efforts to unite the owners to rezone the area to a commercial zone, most likely to CR (Commercial Regional). Unfortunately, because of various setbacks that are outlined below by LDC, this effort was abandoned, and the County decided that it would be best for the property owners and the County if the zone change was initiated by El Paso County and converted back to the original zone for this area RR-5. The following bullet points were drafted by LDC to recount the efforts they have taken to rezone these parcels:

- Date: 4/8/2020 - The County created EDARP Project showing "LDC" as applicant
- Date: 4/14/2020 - An email correspondence between PJ Anderson, Kari Parsons, and Dan Kupferer (LDC) was sent that discussed the nuances of working with all 8 property owners to accomplish a rezone of the Shoppes at Falcon PUD to a CR zone.
- The next several months LDC attempted to put together a plan and zone that all of the owners could agree to.
- One sticking point, between the different landowners, was how costs would be divided., e.g. prorated based on property size or divided equally between owners.



- LDC's findings regarding the opinions of the property owners:
  - The Sedlak family owned the property adjacent to the Fire District property. Harry Sedlak died in 2021 and his wife died not too much later. LDC has not made any contact with the heirs about the rezone
  - The Bartletts own the property at Chicago and Old Meridian Road and would participate in a rezone when the cost allocation is decided.
  - Bear Beans (a coffee kiosk) is the owner of the property north of Bartletts at the Traffic Circle and would like to rezone to CS.
  - Ulloms owns the property west of Bare Beans. LDC has not had much contact with them, but they have reason to believe they favor a commercial rezone.
  - Frank Moore owns property to the north of the current Traffic Circle and has expressed that he would like to rezone to CS.
  - Cygnet owns most of the rest of the property and probably has the most obstacles, such as an IGA and utilities commitments.

## **F. ZONING ANALYSIS**

### **1. Land Development Code Analysis**

The applicant (El Paso County) is proposing to rezone the property from PUD (Planned Unit Development) to RR-5 (Residential Rural). Section 3.2 of the Code states the following as the intent of the RR-5 zoning district:

“RR-5, Residential Rural District. The RR-5 zoning district is a 5-acre district intended to accommodate low-density, rural, single-family residential development.”

The County intends to remove the PUD zone and reestablish the RR-5 zone to allow the new and current property owners to be unencumbered by the PUD agreement. Most redevelopment uses will require an additional zone change from RR-5 to a commercial zone (CC – Commercial Community, CR – Commercial Regional, or CS – Commercial Service) that would allow new commercial uses.

### **2. Zoning Compliance**

The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size: 5 acres
- Minimum width at the front setback line: 200 feet

- Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet \*
- Maximum lot coverage: None
- Maximum height: 30 feet

\*Agricultural stands shall be setback a minimum of 35 feet from all property lines.

With a zone change to RR-5, future applicants will be able to assemble different properties and apply for the appropriate entitlements without working in concert with the other property owners and fulfilling the conditions of the PUD. As always, all applications will be reviewed to ensure that the proposed projects will comply with the General Development Standards of the Code and the Engineering Criteria Manual requirements.

## **G.MASTER PLAN ANALYSIS**

### **1. Your El Paso Master Plan**

#### **a. Placetype: Regional Center**

##### **Placetype Character:**

The fundamental purpose of a Regional Center is to provide access to necessary and desired commercial goods and services in El Paso County through a unique mix of uses. This placetype differs from Rural Centers by providing a level of goods and services that attract people from across the County, and depending on location, from adjacent counties. Regional Centers often incorporate a lifestyle live-work-play environment and can include multifamily housing elements in their design as standalone apartments or part of mixed-use developments.

This placetype includes large scale shopping centers that house a variety of commercial businesses and support a high activity of users on a regular basis such as grocery stores, pharmacies, clothing stores, automotive centers, restaurants, entertainment opportunities, home improvement stores, and other major retailers. Multifamily apartments provide commercial businesses direct access to potential customers.

Regional Centers are major commercial destinations for residents and are easily accessible from major transportation routes throughout the County. Regional Centers in El Paso County are surrounded by Urban Residential, Suburban Residential, and Employment Center placetypes. In addition,





than the current PUD agreement dictates. The RR-5 zone will need to be changed again as part of any new commercial development in this area.

These following principles, goals, and objectives will support the proposed zone change:

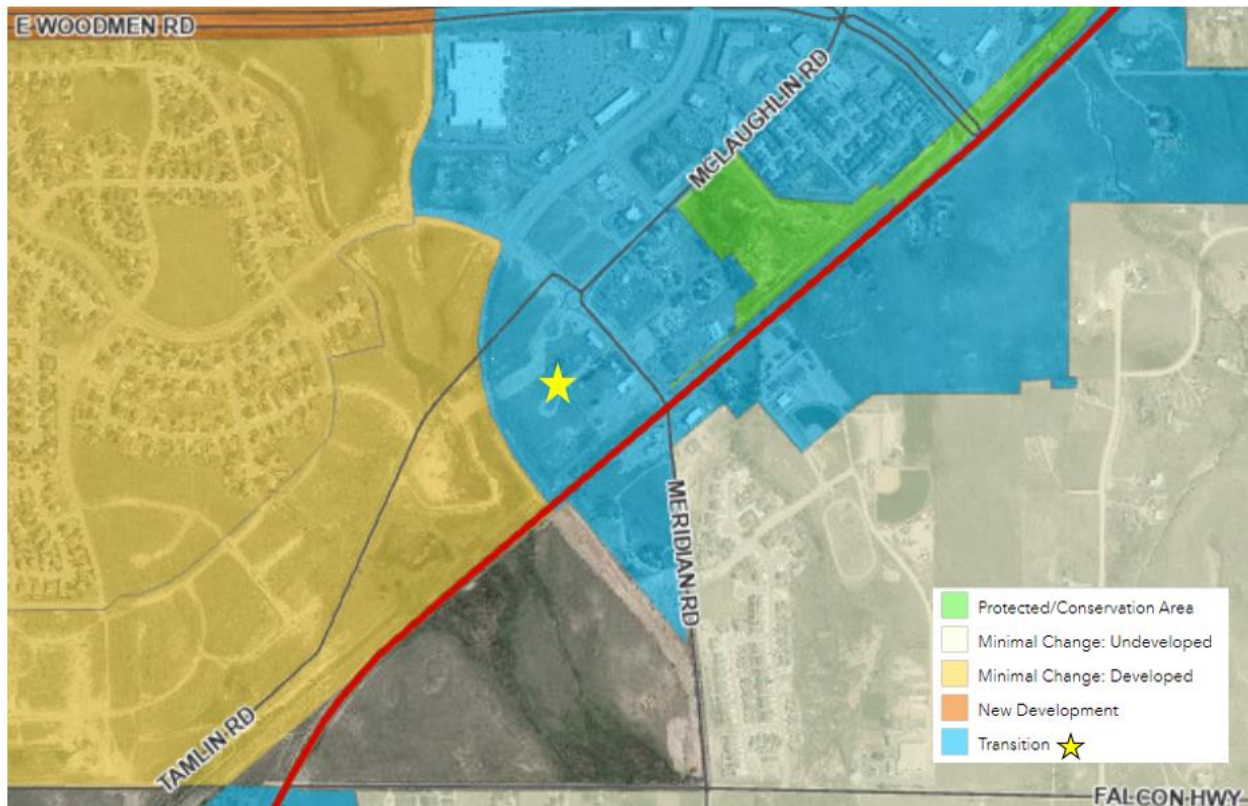
- Core Principle 1: Manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.
- Goal 1.4 - Continue to encourage policies that ensure “development pays for itself”
- Objective ED1-1: Identify barriers to mixed-use, including zoning, development, and subdivision provisions that prohibit such development.
- Objective ED3-1: Continue promoting commercial development to serve increasing residential neighborhoods in the Falcon area.
- Objective ED3-5: Prioritize commercial development within or near rural communities and within the Rural Center place-type to limit barriers to shopping districts and employment centers.
- Goal 3.3 - Encourage the development of commercial districts in underserved areas.

**b. Area of Change Designation: Transition**

Transition areas are fully developed parts of the County that may completely or significantly change in character. In these areas, redevelopment is expected to be intense enough to transition the existing development setting to an entirely new type of development. For example, a failing strip of commercial development could be redeveloped with light industrial or office uses that result in a transition to an employment hub or business park. Another example of such a transition would be if a blighted suburban neighborhood were to experience redevelopment with significant amounts of multifamily housing or commercial development of a larger scale in line with a commercial center.







**Figure G.2: Area of Change Map**

**Analysis:**

The proposed rezone is in an area which is expected to significantly change in character. If this map amendment (rezoning) is approved, the current conditions and other agreements outlined in the PUD will be removed and a straight zone (RR-5) will be emplaced. Without these encumbrances, these properties may redevelop more quickly. As a result of this potential new development, the Regional Center place-type goals will more likely be implemented.

**c. Key Area Influences - Potential Areas for Annexation:**

A significant portion of the County's expected population growth will locate in one of the eight incorporated municipalities. As the largest municipality in El Paso County, Colorado Springs is expected to grow in population over the next several decades. As a result of this growth, Colorado Springs, and other municipalities including Fountain and Monument, will need to annex parts of unincorporated County to plan for and accommodate new development. This will either occur through new development within existing municipal limits or the annexation of



subdivisions in unincorporated parts of the County. This Key Area outlines the portions of the County that are anticipated to be annexed as development occurs. It is imperative that the County continue to coordinate with the individual cities and towns as they plan for growth. Collaboration with the individual communities will prevent the unnecessary duplication of efforts, overextension of resources, and spending of funds. The County should coordinate with each of the municipalities experiencing substantial growth the development of an intergovernmental agreement similar to that developed with Colorado Springs.

That being said, the City has not expressed interest in annexing this property at this time.

### **3. Water Master Plan Analysis**

The El Paso County Water Master Plan (2018) has three main purposes: better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes.

Relevant policies from the Water Master Plan are as follows:

***Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.***

***Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.***

***Goal 1.2 – Integrate water and land use planning.***

The subject property is located within Region 3 of the El Paso County Water Master Plan.

- Region 3 has a current water supply of 7,164-acre feet per year and a current demand of 4,494-acre feet per year.
- The 2040 water supply is projected to be 7,921-acre feet per year and the projected demand is 6,403-acre feet.
- The 2060 water supply is projected to be 8,284-acre feet per year, whereas the demand is anticipated to be 8,307-acre feet per year; The



projected demand is slightly higher than the projected supply in 2060 for central water providers in this region of the County.

A finding of water sufficiency is not required with a map amendment (rezone) but will be required with any future subdivision request. A finding of water sufficiency is required with subsequent plat application(s). The area subject to the proposed map amendment (rezone) is proposed to be served by Falcon Highlands Metropolitan District. Should the request be approved, a site plan application will be required to initiate any new use on the property.

#### **4. Other Master Plan Elements**

The master plan also identifies the parcels as having a low wildlife impact potential.

### **H. PHYSICAL SITE CHARACTERISTICS**

#### **1. Hazards**

No hazards have been identified in the Soil, Geology and Geologic Hazard Report by Entech Engineering in 2007. Mitigation measures are recommended for seasonal shallow groundwater, existing artificial fill deposits and expansive soils.

#### **2. Floodplain**

Per FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0561G, dated December 7, 2018, the subject site is located mostly within Zone X, areas outside of the 100-year FEMA floodplain. Zone AE floodplain exists within the portion of the site west of New Meridian Road, along the West Tributary of the Falcon drainage basin.

#### **3. Drainage and Erosion**

The subject site is located within the Falcon drainage basin (CHWS1400), which is a studied drainage basin with drainage and bridge fees. Drainage and bridge fees are not assessed with map amendment (rezoning) requests but will apply at the time of recording of the final plat(s).

Preliminary and final drainage reports will be required with each future preliminary plan and final plat within the site.

#### **4. Transportation**

The site is located at the northeast corner of the intersection of New Meridian Road and U.S. Highway 24, with Old Meridian Road and Rolling Thunder Way



bordering the east side of the site. New Meridian Road is a county-maintained road classified as a minor arterial according to the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP). U.S. Highway 24 adjacent to the site is a two-lane highway under the jurisdiction of CDOT. Rolling Thunder Way and Old Meridian Road (north and south of McLaughlin Road, respectively) are both classified as non-residential collectors. Per the current Planned Unit Development's approved traffic impact study (TIS) (file number PUD-07-017) the site was anticipated to generate 8,830 new trips on an average weekday. El Paso County Department of Public Works recently completed roadway improvements on all of the roads bounding the site during construction of the Falcon Park and Ride and McLaughlin Roundabout projects.

A traffic impact study will be required with each future rezoning, preliminary plan, and final plat within the site. Developers within the site may be required to provide improvements to surrounding County roads and U.S. Highway 24, depending on the proposed site traffic generation, notably a second left turn lane on eastbound Highway 24 at New Meridian Road.

## **I. SERVICES**

### **1. Water**

Water is provided by Falcon Highlands Metropolitan District.

### **2. Sanitation**

Sewer Service will be provided by the Falcon Highlands Metropolitan District.

### **3. Emergency Services**

The property is within the Falcon Fire Protection District and the El Paso County Sheriff's Department.

### **4. Utilities**

Electrical service is provided by Mountain View Electric Association (MVEA) and natural gas service is provided by Colorado Springs Utilities (CSU).

### **5. Metropolitan Districts**

The Falcon Highlands Metropolitan District will serve this area.

### **6. Parks/Trails**

A regional trail along Highway 24 was planned with the original PUD, but that was never established. The RR-5 zone would not require any trail construction.

### **7. Schools**



Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application.

## **J. APPLICABLE RESOLUTIONS**

Approval            Page 27

Disapproval        Page 28

## **K. STATUS OF MAJOR ISSUES**

There are no major issues.

## **L. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations.

### **CONDITIONS**

1. Developers of the property shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are 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.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual unless a subsequent rezone to another zoning district is approved.

### **NOTATIONS**

1. 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.

2. 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.

#### **M. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department posted 5 individual posters at the site and notified all nine (9) parcel owners and the twenty-nine (29) adjoining property owners on August 29, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

#### **N. ATTACHMENTS**

Vicinity Map  
Rezone Map



# El Paso County Parcel Information

File Name:

Date:

PARCEL	NAME	ADDRESS
53124-00-013	FALCON HIGHLANDS METRO DISTRICT	E HIGHWAY 24 , Peyton, CO 80831
53124-00-016	FALCON HIGHLANDS METRO DISTRICT	MERIDIAN RD , Peyton, CO 80831
53121-10-010	BARE ENTERPRISES LTD	7110 OLD MERIDIAN RD, PEYTON, CO 80831
53124-07-001	FARMERS STATE BANK OF CALHAN	7020 & 7030 Old Meridian Rd, PEYTON, CO 80831



Please report any parcel discrepancies to:  
El Paso County Assessor  
1675 W. Garden of the Gods Rd.  
Colorado Springs, CO 80907  
(719) 520-6600



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# LEGEND

COMMERCIAL	C, C2
PLANNED BUSINESS PARK	CC
NEIGHBORHOOD BUSINESS DISTRICT	CN
RESIDENTIAL	RR-5
COMMERCIAL REGIONAL	CR

## El Paso County Initiated Rezone - PUD to RR-5

