

# **Meadowlake Ranch Sketch Plan**

## **Letter of Intent**

**August 2018**

**(Revised December 2018; April 2019)**

**Owner /Developer:** Dan Ferguson

12302 Judge Orr Road

Peyton, CO

**Planner:** N.E.S. Inc.

619 North Cascade, Suite 200

Colorado Springs, CO 80903

(719) 471-0073

**Engineer:** Terra Nova Engineering Inc.

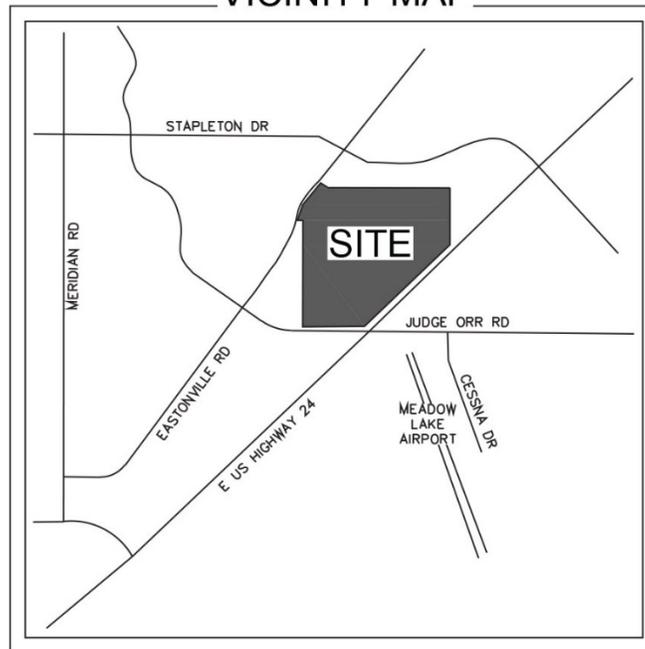
721 S. 23<sup>rd</sup> Street

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**SITE LOCATION:** The Meadowlake Ranch property is located at the northwest corner of State Highway 24 and Judge Orr Road. Bandanero Drive borders the north boundary, and Eastonville Road borders a portion of the western boundary. The Meadowlake Ranch consists primarily of prairie grassland, bisected by a wetland area. Adjacent land uses include commercial/industrial and the Meadow Lake Airport to the southeast; rural residential to the north and north east; urban residential to the west; and vacant land owned by the applicant to the south. The County Rock Island Trail borders the eastern property line. The Ferguson home is in the south central portion of the property, accessed from Judge Orr Road. The property is zoned A – 35.

## VICINITY MAP



**THE PLAN:** Proposed access to the Meadowlake Ranch will be from Judge Orr Road a minor arterial; from Eastonville Road also a minor arterial; and from Bandanero Drive a local road. Access to State Highway 24 is restricted and not available. Access spacing restrictions on the minor arterials – ¼ mile – dictate the internal circulation system. An internal street is planned to connect Judge Orr to Eastonville in a north/south direction. Two east/west internal roads will need to cross the wetlands to provide adequate circulation.

THE primary site influences that affect the proposed land use are the Meadow Lake Airport, and the wetlands within the property. Both run generally north south through the property. Low intensity industrial land use is proposed beneath the airport runway flight path. Adjacent wetlands to the west will frame urban residential land use to be served by the Woodmen hills Metropolitan District. Annexation to the District will be requested with future applications. Meadow Lake Airport and commercial land use is proposed at the intersection of Judge Orr and Highway 24 fronting the length of Judge Orr Road. Rural residential land use is proposed in the north eastern quarter of the property with access to Bandanero Drive. This land use will be served by well and septic systems.

According to the property owner Dan Ferguson “The ponds within the wetlands are manmade features of the site. All the water is spring fed from the top pond, with the spring being adjacent to the old Railroad Right of Way along Eastonville Road. The railroad was probably located where it was to take advantage of the existence of the spring, and then the spring was improved and piped down into the series of ponds (dug by horse drawn equipment around 1912). This series of ponds terminates in Drake Lake (the county park to the south), and they

are all variously piped or French-drained one into the other. Ponds 2 and 3 are French-drained, not pipe connected, so that's why they can be seasonal during dry years. Otherwise, it's all about a 2.5 inch pipe system that feeds the wetland which exists in an odd place along the ridge between the Bennet and Haegler basins. The wetland should be in the bottom of a basin, not along the high ground between basins, but that's the artifact of them being totally manmade.”

Buffers will be provided between non-residential and residential uses. The details of buffers, which may include berms, walls, fencing and/or setbacks will be defined with the Preliminary Plan and Zoning of the parcels shown on the Sketch Plan. Note that environmentally sensitive areas on proposed Industrial land use will be used as buffers.

#### **JUSTIFICATION:**

##### **Conformance with the El Paso County Policy Plan**

The Meadowlake Ranch conforms to the following goals and Policies of the El Paso County Policy Plan.

PURPOSE AND INTENT. Holistic Application.

The applicable policies in this document should be considered and applied comprehensively rather than singularly. Most development proposals will naturally be consistent with some policies while inconsistent with others. The appropriate approach is to evaluate all of the relevant policies and then make a land use decision with respect to overall consistency based on a preponderance of policies within this Policy Plan.

**Policy 2.1.10** Encourage preservation of open space in subdivisions ***Open space has been shown on this plan.***

**Policy 2.1.11** Encourage approaches to natural system preservation and protection which also accommodate reasonable development opportunities ***Wetland and pond areas have been shown as open space on the plan.***

**Policy 2.3.1** Preserve significant natural landscapes and features. ***This Sketch Plan has identifies and preserves most of the natural features of this site.***

**Goal 6.3** Continue to support existing and carefully planned future urban density development in the unincorporated County, provided the requisite level of urban services is available or will be available in a timely fashion. ***Urban services will be available to serve the urban land use portion of this project.***

**Policy 6.3.2** Rely on the Small Area Planning process to define the subarea specific boundaries for urban density development. ***This Sketch Plan reflects the Falcon/Peyton Small Area Plan, which recommends urban development for this property.***

**Policy 6.1.6** Direct development toward areas where the necessary urban-level supporting facilities and services are available or will be developed concurrently. ***Urban services will be available to serve the urban land use portion of this project.***

**Policy 6.1.11** Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses. ***The land plan promotes this policy.***

**Policy 6.1.3** Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access. ***This proposed development is similar in terms of land use and density to adjacent Woodmen Hills and Four Way Ranch.***

**Policy 6.1.14** Support development which compliments the unique environmental conditions and established land use character of each sub-area of the County. ***See conformance with the Falcon/Peyton Small Area Plan discussed below.***

**Policy 8.3.3** Address protection of natural features beginning with the initial stages of development review process. ***This Sketch Plan has identifies natural features of this site which are proposed to be preserved as open space.***

**Policy 9.2.3** Strictly limit direct access onto major transportation corridors in order to preserve their functional capacity. ***The Sketch Plan proposes access in conformance with County policies. Access spacing on adjacent streets meets County criteria.***

**Policy 9.4.5** Encourage processes by which development can contribute a reasonable and fair share toward off-site transportation improvements. ***This project will pay its fair share of transportation costs through the Countywide Transportation Fee Program.***

**Policy 11.1.14 and Policies 11.3. And Policy 11.4.8.** Require development plans to effectively address both quantitative and qualitative impacts of drainage within the project site. ***This property has off-site flow passing through it. The intent is to provide improvements for this off-site flow as needed to prevent erosion and mitigate sediment transfer through the property. All on-site developed flow will be treated prior to release by either routing the flow across a landscaped area or directly conveying the flow to a proposed detention/SWQ facility. The post-development flow exiting the property will not be significantly altered from the pre-development flow. Full spectrum detention will be employed.***

**Policy 11.3.1** Where feasible, support the use of natural or naturalistic drainage approaches rather than hard line solutions. ***Onsite drainage channels will be preserved, if possible. Where modifications are necessary, grass lined channels are proposed.***

**Policy 11.3.3 and Policy 11.3.4.** Fully evaluate the relative impact of proposed drainage improvements on the maintenance of water quality. ***All on-site developed flow will be treated prior to release by either routing the flow across a landscaped area or directly conveying the flow to a proposed detention/SWQ facility. Per ECM 1.7.1.B, all proposed lots 2.5 acres or larger do not require WQCV per ECM 1.7.1.B. however, roadway improvements will require sediment BMPs.***

**Policy 11.3.5** Protect the integrity of wetlands, riparian areas and associated wildlife habitat through a combination of careful land development and drainage system design. ***The Sketch Plan shows wetlands in open space land use.***

**Policy 12.1.3** Approve new urban and rural residential development only if structural fire protection is available. ***Fire protection is available from the Falcon Fire Protection District.***

**Policy 15.3.3** Encourage innovative approaches to the problem of financing solutions to the off-site fiscal impacts of development. ***This project will be required to participate in the El Paso County Road Impact Fee Program. The decision to join one of the two fee program PID districts or to exercise the opt-out (of the PID) option will be provided at the Final Plat stage. The fee required up-front with each subdivision will be payable at the time of building permit.***

### **Conformance with the Falcon/Peyton Small Area Plan**

The Meadowlake Ranch is within the Falcon/Peyton Small area Plan. As shown of Figure 4-5 of the Plan, this property is shown as appropriate for urban development. It is located at a Potential Node and Corridor of Activity, defined as an “area where future development and infrastructure is expected to be concentrated in the future.” More specifically, the property is within the Meadow Lake Airport Area. The Plan has conflicting policies which both promote urban development and protection of the Meadow Lake Airport.

This application proposes to both respect the Airport flight influences to the property while providing for reasonable land uses including appropriate interface with existing adjacent land development. To that end, the plan places non-residential uses under the majority of the airport flight path but also provides a land use transition internal to the property to rural residential lots to the north along Bandanero Drive.

The applicant has discussed proposed land uses with the airport, the FAA, and neighbors on Bandanero Drive. In response to neighbors on Bandanero Drive, rural residential has replaced the original proposal to extend non-residential uses up to Bandanero Drive. This land use transition within the Meadowlake Ranch property results in a buffer to existing rural residential uses along Bandanero.

In response to the airport and the FAA, the amount and extent of the industrial proposed land use has been increased over the initial county submittal to minimize the amount of residential land and to reduce the overall density within this Sketch Plan. These changes represent a compromise between the competing Falcon/Peyton Plan recommendations.

It should be noted that in discussions with the FAA, all residential land use is routinely discouraged in the vicinity of any airport, a comment which includes existing residential land uses in the Falcon area.

The following policies of the Plan relate to this area:

- 4.4.3.1 Recognize the economic and safety importance of Meadow Lake Airport and encourage compatible land uses within and around this facility.
- 4.4.3.4 Recognize the meadow Lake Airport area as an appropriate location for non-residential uses including those industrial uses which are more compatible with Airport operations and surrounding residential uses.

Section 4.4.5 of the Falcon/Peyton Plan refers to the Highway 24 Corridor. The following policy recommendation applies to the Meadowlake Ranch

- 4.4.5.2 Recognize the importance of Highway 24 as the primary transportation artery serving the existing and future needs of the area. Maintain options for stringent access control, adequate right-of-way preservation and adjacent uses which will compliment higher speed, high traffic expressway corridor.

Several of the General Policies of the Falcon/Peyton Small Area Plan also pertain to this stage of planning for the Meadowlake Ranch:

- 4.5.2.1 Incorporate areas for mixed non-residential uses within planned urban developments, and specifically set aside areas for future non-retail employment uses as a part of the Sketch Plan process for larger urban developments. ***The inclusion of industrial land use in the Sketch Plan accomplishes this.***
- 4.5.5.7 More intense uses that would result in more traffic should be confined to high volume transportation routes designated on the MTCP. ***Commercial and industrial uses***

***within the proposed Sketch Plan are located adjacent to Highway 24 and Judge Orr Road both of which are high volume transportation routes.***

- 4.5.8.1 Identify major stream corridors within the planning area with opportunities for integration as centerpieces for linear open space, park, recreation, trail and wildlife corridor uses in conjunction with surrounding development. ***Although the drainage system that traverses the site is not a major stream corridor, the ponds associated with this drainage provide a recreational opportunity that is reflected in the Sketch Plan.***
- 4.5.11.1 Integrate development with natural features and natural systems with special attention toward preserving floodplains and riparian corridors. ***The most significant natural system is the drainage and ponds that are shown on the Sketch Plan as open space. Minor drainages are shown at the boundary of land uses with the intention of using them as buffers within those land use parcels.***

#### **IMPACT REPORTS:**

- Wetlands. Wetland delineation by CORE Consultants is included in their Impact Report for the property. This data has been used to inform the land use plan.
- T&E Species. CORE Consultants evaluated the site for potential habitat for Threatened and Endangered species and found it highly unlikely that such species exist on site.
- A Visual Analysis was prepared by NES, Inc.
- A Noise Study of Highway 24 impacts to residential land use will be prepared with the Preliminary Plan.
- A Traffic Impact Analysis by LSC accompanies this application
- A MDDP by Terra Nova accompanies this application

**TRAFFIC:** A Traffic Impact Analysis has been prepared by LSC Transportation Consultants, Inc. and is included in this submittal as a separate document.

**MINERAL DEPOSITS:** Entech Engineering, Inc. has evaluated the site for the presence of commercially viable mineral deposits and has found that such deposits are either absent or are not commercially viable. See Page 13 of their July 2018 Report for details.

#### **JURISDICTIONAL IMPACTS**

##### **Districts Serving the Property**

- Natural Gas – Colorado Springs Utilities. A Service letter is provided in the application
- Electricity – Mountain View Electric. Will Serve Letter included in application.
- Water – Proposed Woodmen Hills Metropolitan District. Annexation to the District will be pursued.

- Wastewater – Proposed Woodmen Hills Metropolitan District. Annexation to the District will be pursued.
- Fire Protection – Falcon Protection District
- Schools – Falcon District #49
- El Paso County Conservation District
- Upper Black Squirrel Ground Water District

### **Meadowlake Airport Association (MLAA) Issues.**

Meadowlake Airport Association (MLAA) has corresponded with El Paso County in opposition to the Meadowlake Ranch Sketch Plan request. MLAA asserts that El Paso County must adopt restrictive land use regulations over large portions of Meadowlake Ranch in order to benefit MLAA aviation operations. It is relevant to note that MLAA has only a limited avigation easement over a portion of Meadowlake Ranch. The easement does not reflect the current flight operations from their primary runway (15/33) going north from the airport. The easement only acknowledges that airplanes fly over the easement area; it does not restrict land use.

Both MLAA and Meadowlake Ranch are privately owned. MLAA has made no effort to obtain avigation easements over adjacent private property that it states are critical to its operations. Nor has MLAA offered to discuss with private landowners the acquisition of the private property it needs, or to offer to purchase the landowners' development rights, or to request an avigation easement which would protect their flight operations. MLAA is demanding that El Paso County deprive Meadowlake Ranch of its development rights without compensation - the very definition of a regulatory taking.

There is an existing very general avigation easement on a portion of Meadowlake Ranch as shown on the following exhibit. The easement was recorded on only a portion of Meadowlake Ranch in 1969. The easement only acknowledges that airplanes fly over the easement area; it does not restrict land use. The exhibit also shows the flight path of the existing MLAA runway over Meadowlake Ranch, the majority of which is outside of the avigation easement. MLAA has not requested an avigation easement for their flight operations over the portions of Meadowlake Ranch over which no avigation easement exists. There is no right for aircraft to fly over Meadowlake Ranch below 500 feet, or to land on Meadowlake Ranch property where no express right to do so exists.

The MLAA has previously asserted, erroneously, that federal and state laws obligate the County to initiate the regulatory action to protect the Meadow Lake Airport flight paths from adjacent development, with no responsibility by the private airport operator (MLAA) to obtain such County approval on its own behalf. That is not how the County's 1041

process operates. The landowner, not the County, must initiate the 1041 process. The County's 1041 regulations arise out of C.R.S. §24-65.1-201, *et seq.*, concerning the administration by local governments of areas of state interest. The state statute authorizes the local government to designate both areas and activities of state interest and to adopt a public process for the designation of those matters of state interest.

MLAA has strongly objected to the failure of El Paso County to adopt a 1041 plan for the airport. When MLAA last approached the County over six years ago seeking a rezoning and approval of a General Aviation Overlay (GAO) for the airport property, El Paso County approved the request but specifically noted that approval of the GAO was limited, did not extend beyond the property owned by MLAA, and that future approval of a broader GAO would require MLAA to **have or obtain** easements over adjacent private properties, and **provide proof** of the same (see Condition #9, Resolution No. 12-390), before any progress in extending the GAO beyond airport property or obtaining 1041 designations could occur. MLAA never took the required steps, as shown by the Administrative Determination for Meadow Lake Airport authored by Craig Dossey on October 3, 2018. The MLAA now complains that the County has failed its obligation to protect the airport from surrounding development. Until the MLAA completes its 1041 regulatory process, to include the acquisition of needed avigation easements, the County is not in any position to enforce development restrictions on adjacent properties that the MLAA desires. For the County to do so would constitute a taking of private property without compensation.

Merely because the MLAA has obtained significant funding from the FAA over the years for Meadow Lake Airport does not mean that the desire to protect its private interest in operating a private airport takes precedence over the County's land use process – and adjacent property owners' property rights. The FAA has no authority to supersede or override the local government's regulatory processes, including the County's 1041 process. The FAA has left land use decisions to local government.

