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## **WINSOME: REZONE AND PRELIMINARY PLAN**

### ***LETTER OF INTENT***

**OCTOBER 2018, REVISED MARCH 2019**

| <b>PROPERTY OWNER</b>   | <b>APPLICANT:</b>         | <b>CONSULTANT:</b>         |
|-------------------------|---------------------------|----------------------------|
| McCune Ranch LLC        | PT McCune LLC             | N.E.S. Inc.                |
| PO BOX 36 Arrowhead Dr. | 1864 Woodmoor Dr, Ste 100 | 619 North Cascade Ave,     |
| Elbert CO 80106         | Monument, Colorado 80132  | Colorado Springs, CO 80903 |

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### **REQUEST**

PT McCune LLC requests approval of the following applications:

1. A rezone of 350 acres from RR-5 (Residential Rural, 5-Acre Lots) and A-35 (Agricultural, 35-acre lots) to RR-2.5 (Residential Rural, 2.5 acre lots);
2. A rezone of 7.9 acres from A-35 (Agricultural, 35-acre lots) to CC (Commercial Community); and
3. A Preliminary Plan for Winsome, consisting of 143 single-family lots and one commercial lot on approximately 766.66 acres.
4. A Waiver of 8.4.3(C)(2)(e) of the Land Development Code: Lots required to have access from a public road. Lots 44 and 92 do not have direct access from a public road and will be accessed via a shared access easement over the adjacent lot.
5. A Waiver of 6.3.3(c)(j) of the Land Development Code: Turnouts or turnarounds required where driveway exceeds 300 feet. The driveways that serve lots 44 and 45, lot 50, and lots 92 and 93 exceed 300 feet.

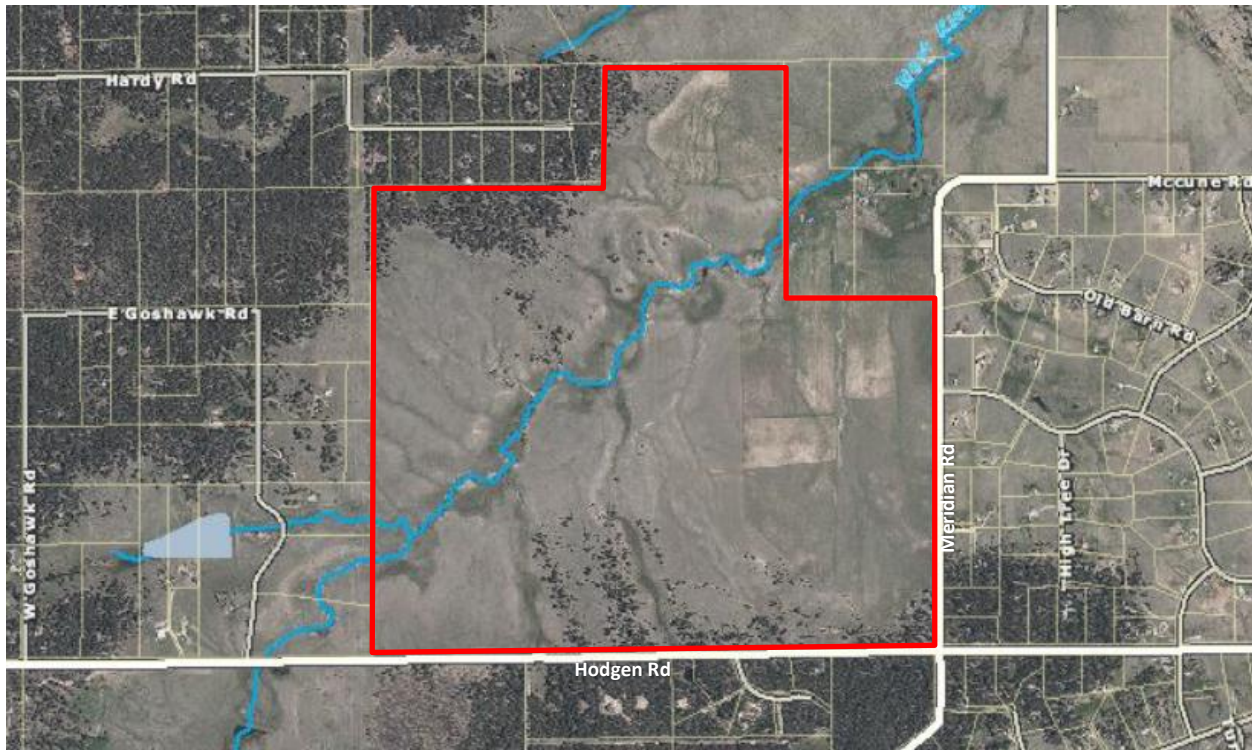
The justification for these requests is provided in this Letter of Intent.

### **SUPPORTING DOCUMENTS**

The following reports are submitted in support of this Preliminary Plan and are referenced in this Letter of Intent:

- Traffic Impact Study prepared by Kellar Engineering
- Soils, Geology and OWTS Report prepared by Entech Engineering, Inc.
- Natural Features and Wetlands Report prepared by Ecosystem Services, LLC (ECOS)
- Wildland Fire & Hazard Mitigation Plan prepared by Ecosystem Services, LLC (ECOS)
- Water Resources and Wastewater Report prepared by JDS Hydro Consulting, Inc.
- Preliminary Drainage Report prepared by The Vertex Companies, Inc.
- Stormwater Management Plan prepared by The Vertex Companies, Inc.
- FEMA CLOMR Report prepared by The Vertex Companies, Inc.

## SITE LOCATION AND DESCRIPTION



McCune Ranch is located northwest of the intersection of Hodgen Road and Meridian Road in northeast El Paso County. 120 acres of the original ranch was recently sold off as three 40-acre parcels. The purchasers of these properties were made aware of the proposed plans to subdivide the remainder of the property into 2.5 and 5+ acre lots. The remaining 766.66 acres is the subject of the proposed rezone and preliminary plan applications. The surrounding properties include:

**North:** To the north west, the Country Squire Estates 5-acre single-family residential lot subdivision; directly to the north, undeveloped agricultural land; to the northeast, three 40-acre parcels formerly part of McCune Ranch.

**East:** The Forest Green 5-acre lot residential subdivision.

**South:** The small (seven lots) Bison Meadows 5-acre lot subdivision; a 35-acre single-family residential parcel; and undeveloped agricultural/forest land.

**West:** Six 20-acre and one 40-acre single-family residential lot.

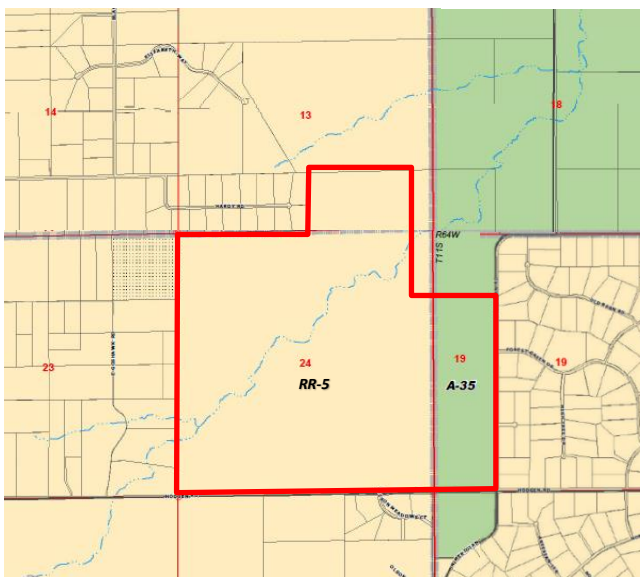
The site is mainly native prairie grassland, with a concentration of Ponderosa Pine trees in the northwest corner of the property and along the southern boundary. The West Kiowa Creek runs through the property from the northeast to the southwest corner, with a minor tributary running to the south. There are wetlands in the low areas adjacent to the creek where alluvial deposits have formed. To the south and east of the creek the property is gently undulating. To the northwest of the creek there is more significant slope, with some deep ravines running into the creek. The eastern part of the site has been plowed for crop farming in the past, with the remainder primarily being used as grazing land.

## PROJECT DESCRIPTION

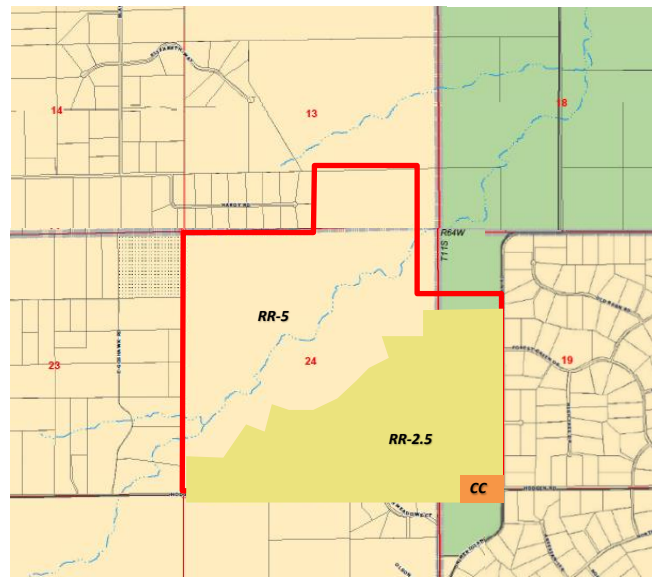
### Zone Change

The property is currently divided into two zones, separated by the Section line. The majority of the site is zoned RR-5, with an area adjacent to Meridian Road zoned A-35. The request is to rezone the eastern 350 acres of the property, generally east and south of the creek, to RR-2.5 to accommodate lots of a minimum of 2.5 acres. The western 409 acres of the site will remain in its current RR-5 zoning to accommodate lots of 5-acres or larger. A 7.9-acre rezoning to CC is proposed northwest of the intersection of Hodgen Road and Meridian Road to provide a small neighborhood serving center, consistent with the recommendations of the Black Forest Preservation Plan (see justification below).

**EXISTING ZONING**



**PROPOSED ZONING**



The CC zone allows by right a wide range uses, some of which the Applicant considers to be inappropriate for a neighborhood serving commercial center in a rural location. For this reason, the developer proposes to restrict some of the uses that would otherwise be allowed in the CC zone. These restrictions will be imposed and enforced by the proposed Metropolitan District via the Winsome Covenants, Conditions and Restrictions (CC&R's) and will include:

- Bar
- Billiard Parlor
- Inert Materials Disposal Site
- Parking Garage/Lot
- Rehabilitation Facility
- Sexually Oriented Business

Unless specifically restricted or modified by the CC&R's, all other uses allowed in the CC zone will be subject to the relevant provisions of the County's Land Development Code.

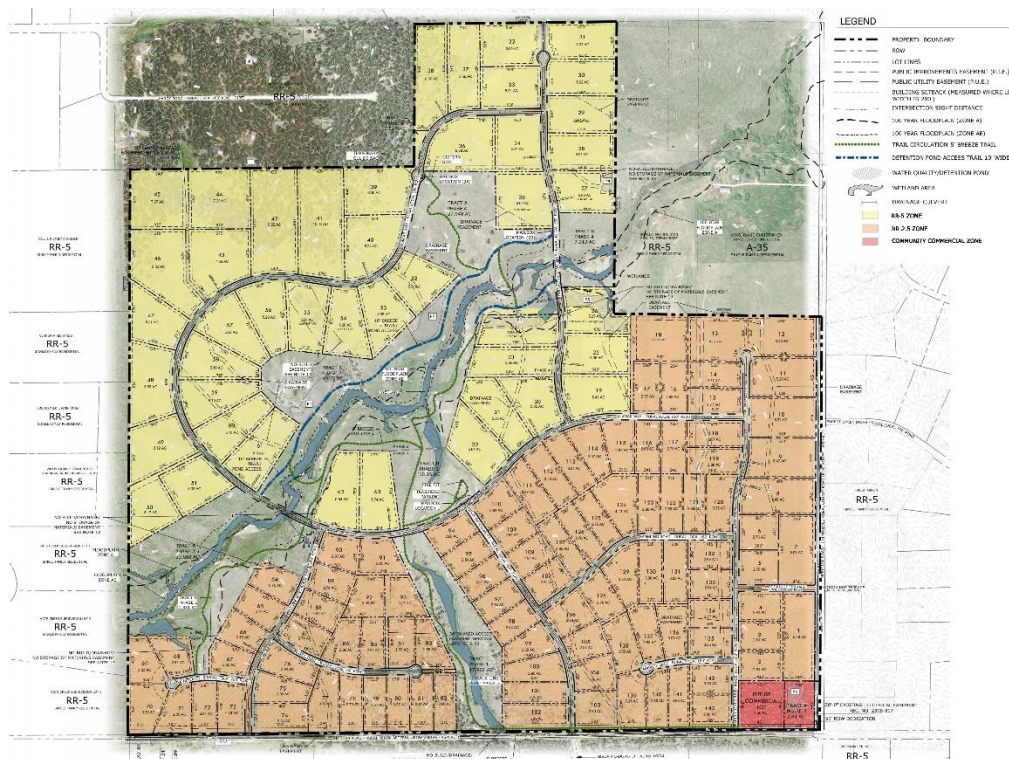


## Preliminary Plan

The request is for a Preliminary Plan for McCune Ranch, consisting of 143 single-family lots and one commercial lot on approximately 766.66 acres. The Preliminary Plan will subdivide the property into large rural residential lots ranging from approximately 2.5 acres to 10 acres, with an average lot size of 3.95 acres and a gross density of 0.18 dwelling units per acre. The lot widths and acreages vary to accommodate easements, topography and existing natural features. The lots will meet the minimum zoning standards set out in Table 5-4 of the Land Development Code as follows:

| Zone   | Min. Lot Frontage | Min. Front Setback | Min. Rear Setback | Min. Side Setback | Max. Lot Coverage | Max. Building Height |
|--------|-------------------|--------------------|-------------------|-------------------|-------------------|----------------------|
| RR-5   | 200 ft            | 25 ft              | 25 ft             | 25 ft             | 25%               | 30 ft                |
| RR-2.5 | 200 ft            | 25 ft              | 25 ft             | 15 ft             | None              | 30 ft                |
| CC     | None              | 25 ft              | 25 ft             | 25 ft             | None              | 40 ft                |

The commercial zone is to be divided into a 4.36-acre commercial lot and a 2.85-acre tract, with the remainder being dedicated as right-of-way. The tract includes a detention pond and area that will be retained as open space to retain existing trees. The intent for this lot is a small neighborhood commercial center, limited in size to 30,000 square feet. The uses will also be restricted, as described above, to those that serve the surrounding community and are appropriate to the rural location. The Metropolitan District will retain architectural control of the design of the commercial center and associated signage, and will also instill dark sky compliance for any on site lighting. A subsequent site development plan and final plat approval will be required for the commercial center, which will address these design issues and other technical requirements, including full spectrum detention, water supply, and wastewater treatment.



### **Access and Traffic**

There will be three new full movement access points off Hodgen Road, one of which will line up with Bison Meadows Court. There will also be a new point of access off Meridian Road, which will line up with Woodridge Terrace. Both Hodgen Road and Meridian Road are classified as two-lane rural minor arterials on the 2040 Major Transportation Corridors Plan (MTCP). Additional right-of-way dedication for the required 100-foot right-of-way is identified on the Preliminary Plan. The MTCP also identifies additional right-of-way preservation requirements for Hodgen Road by 2060. The Preliminary Plan includes an additional 40-foot right-of-way preservation on Hodgen Road for potential future widening to a 180-foot 4-lane minor arterial. The lots on the southern boundary of the project include this preservation area within the identified lot acreage.

The Traffic Impact Study (TIS) prepared by Kellar Engineering assesses the trips generated by the proposed development in the context of 2020 short-term and 2045 long-term background traffic. The TIS identifies road improvements at two of the proposed access points on Hodgen Road to provide eastbound left turn lanes into the site, as the majority of site traffic will be entering the subdivision from the west. These improvements will be phased with the development phases as indicated in the Study and on the Preliminary Plan. No improvements are required on Meridian Road and no improvements or traffic signals are warranted at other existing intersections in the study area, as these will continue to operate at acceptable levels of service with the proposed development traffic.

### **Open Space and Trails**

151-acre of the property, almost 20%, is proposed to preserve the natural resource of the West Kiowa Creek and its associated floodplain and wetlands and to preserve existing vegetation. This open space will also provide recreational opportunities for the residents of the proposed subdivision and surrounding neighborhoods. A network of looping trails is proposed through the open spaces, connecting with the internal rural local roads to provide multiple access points. An interim trail is also proposed on part of the preserved right-of-way along Hodgen Road, until it is needed for road widening. The open space and trails will be owned and maintained by the proposed Metropolitan District (via easements where on residential lots). Discussions with Parks Department staff has indicated that there is no desire for a County regional trail on this property, as it is not identified in the Parks Master Plan.

### **Drainage**

The Preliminary Drainage Report prepared by Vertex analyses the existing drainage characteristics of the site and any required improvements. The proposed Winsome Subdivision is part of the West Kiowa Creek Drainage Basin with Kiowa Creek flowing from the southwest to the northeast across the property. Proposed drainage infrastructure includes road side ditches, culverts to convey stormwater under roads, swales, and six full spectrum detention ponds. All the detention ponds outfall the detained water into West Kiowa Creek at controlled rates. The proposed ponds are designed to reduce peak stormwater flow rates, down below historic rates before leaving the site. With the proposed drainage system, stormwater will be controlled and drainage will not have an impact on properties downstream from this development.

In the upper reaches of the property, individual lot owners will be responsible for maintaining proper stormwater drainage in and through their property. In lower reaches, public drainage easements are shown, which will be maintained by the Metropolitan District. Structures, fences, materials or landscaping that could impede the flow of runoff will not be permitted in the drainage easements.

### **Utilities**

Water: The Water Resources and Wastewater Report prepared by JDS Hydro indicates that water service will be provided by individual domestic wells on the residential lots and by a commercial well on the commercial lot. The wells will be drilled into the Dawson Aquifer. Water rights in the Dawson Aquifer of 232.50 acre-feet annually were allocated in Water Decree No. 1692-BD and will be transferred to the McCune Ranch development following the completion of a water contract between McCune Ranch and PT McCune, LLC. The proposed development will generate an annual demand of approximately 90.8 acre-feet, for which there is sufficient capacity in the Dawson aquifer. Replacement water required to augment depletions from the Dawson aquifer will be available through return flows from the OWTS septic fields. McCune Ranch also has water rights in the Denver, Arapahoe and Laramie-Fox aquifers, but this development is not relying on this water as most of these rights have been sold to Sterling Ranch Metropolitan District for municipal water. Water quality testing of the Dawson Aquifer wells has been undertaken and is addressed in the Water Resources and Wastewater Report.

Wastewater: Wastewater service will be provided by onsite wastewater treatment systems (OWTS). Entech's OWTS Report concludes that the property is generally suitable for OWTS and that contamination of surface and subsurface water sources should not occur provided the systems are installed according to El Paso County and State guidelines. The Report identifies areas that are not suitable for OWTS. Some lots are impacted but still have sufficient space for OWTS due to the size of the lot. The report recommends individual soils investigations for septic systems prior to construction and that location of OWTS must ensure that well sites are a minimum of 100 feet from the OWTS absorption fields. Further detailed analysis of OWTS locations will be undertaken with the Final Plat.

Gas: Gas Service will be provided by Black Hills Energy and a Will Serve letter is provided.

Electric: Electric Service will be provided by Mountain View Electric Association and a Will Serve letter is provided.

### **Natural Features**

The topography of the property is characterized by rolling hills and valleys with deep ravines drainage to the creek. The West Kiowa Creek, its associated floodplain and wetlands and ravines, is the principal natural feature on the property. In some instances, the wetlands and tails of the ravines are within lots and in these situations the areas are to be protected by "no build" easements. The general extent of these are identified on the Preliminary Plan but detailed evaluation and plotting will take place with the Final Plats.

### **Vegetation**

The majority of the site is vegetated by short grass prairie, with wetlands alongside the creek and Ponderosa Pine in the northwest corner and along the southern property line. The area southeast of the creek has been heavily grazed, which has degraded the vegetation and allowed the establishment of invasive weeds. The eastern part of the site has been plowed in the past. The ECOS Natural Features and Wetlands Report report notes that there will be little impact on vegetation due to the large lot format of the development and the extensive area protected as open space. There is the potential to improve the vegetation with the proposed noxious weed management plan and native plant restoration outlined in the ECOS Natural Features Report.

### **Noxious Weeds**

The noxious weeds on the site are mainly contained within the proposed open space areas. ECOS have provided a noxious weed management plan within the Natural Features Report, which recommends weed control prior to and during construction to eliminate existing weeds and to prevent introducing new weeds. Following construction, the Metropolitan District and/or Home Owners Association will be responsible for weed control in the open space. With the individual lots, weed control will be the responsibility of the individual home owner and will be enforced through covenants.

### **Floodplain**

Portions of the site adjacent to the West Kiowa Creek are mapped within Zone A of the FEMA Floodplain Map No. 08041CO350G, dated December 7, 2018. Zone A indicates that Base Flood Elevations have not been determined. A floodplain boundary has been assessed by Vertex as described in the FEMA CLOMR Report and is depicted on the Preliminary Plan. The proposed floodplain is subject to verification by FEMA through the CLOMR/LOMR process. The proposed floodplain is contained mostly within the open space areas and only impacts one lot, where the floodplain will be within a no build easement.

### **Wildlife**

The ECOS report indicates that the site currently provides good habitat for a variety of wildlife. Birds are the most common wildlife, with mammals in the treed areas and reptiles and amphibians in and around the creek. The extensive area of open space proposed on the Preliminary Plan will provide a wide upland buffer for wildlife along the creek and the large lot configuration will minimize impact on wildlife. There will be low to no impact on protected species. The noxious weed management plan and recommended native plant revegetation will improve the wildlife habitat. Post and rail fencing is proposed on the perimeter of the subdivision and similar fencing will be the standard for the individual lots, which will be enforced by the Metro District and/or Home Owners Association.

### **Wetlands**

The delineation of the wetlands on the site was undertaken by ECOS. The wetlands around the West Kiowa Creek, its tributaries and ravines, are jurisdictional and are mapped on the Preliminary Plan. There are also some isolated wetlands and upland swales that are determined to be non-jurisdictional. The jurisdictional wetlands are almost wholly within the open space area. Where the wetlands impact proposed lots, these areas are protected as no build easements (Lots 24, 26 and 68). The only construction impact on the wetlands is the proposed street crossings and associated culverts. If wetland disturbance is cumulatively less than 0.5 acres, it will be covered by the Nationwide Permit #29 for residential development. If the impact is greater than 0.5 acres then a specific 404 Permit will be required from the US Army Corps of Engineers. This will be obtained prior to Final Plat if required.

### **Soils and Geology**

The Soils and Geology Report prepared by Entech identifies the geologic conditions that occur intermittently on the property, including artificial fill, loose or collapsible soils, expansive soils, slope stability, downslope creep, floodplain and potential high ground water. Many of these constraints are within the open space area and the floodplain is wholly within the open space. The report indicates that these conditions can be mitigated through proper engineering design and construction techniques, including special foundation design and subsurface drains. Lot 55 is impacted by an area of unstable slope and a "no build" easement 30-feet around the unstable slope is recommended and is shown on the Preliminary Plan. This lot has adequate buildable area outside the "no build" zone.

### **Wildfire Hazard Mitigation**

The treed areas on the property lie within an area mapped as High Hazard for wildfire. The current owners of the property undertook fire mitigation in 2013 and 2015, which included thinning trees, removing ladder fuels and modifying stand structure. The covenants for the subdivision will set out standards for fire mitigation to ensure that this is a Firewise community and meets the County Development Standards for Fire Protection. Additional fire mitigation may be required on the individual lots to bring them into compliance with these standards. The location and type of new landscaping on individual lots will also be controlled to minimize wildfire risks. The Wildland Fire & Hazard Mitigation Plan prepared by ECOS provides more detail on the potential wildfire fuels on the property and suggested mitigation measures. This is a draft report and more detailed analysis of mitigation will be necessary as home locations are defined.

### **PROJECT JUSTIFICATION**

#### **Zone Change**

The proposed rezoning to RR-2.5 and CC as described above complies with the Map Amendment (Rezoning) Criteria in Chapter 5.2.5.B of the Land Development as follows:

- 1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;**

#### **County Policy Plan**

The following County Policies are relevant to the requested rezoning:

*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.*

*Policy 6.1.13: Encourage the use of carefully planned and implemented clustering concepts in order to promote efficient land use, conservation of open space and reduction of infrastructure costs.*

*Policy 6.4.4: Encourage new rural residential subdivisions to be located within or contiguous with existing rural residential areas or to be incorporated as a buffer between higher density and undevelopable areas.*

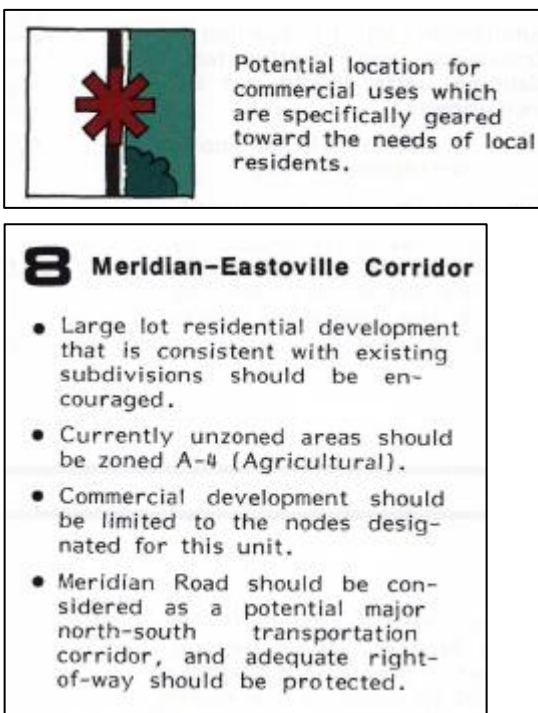
*Policy 6.4.6: Allow for the accommodation of necessary supporting commercial uses within or in proximity to rural residential areas in a manner that preserves the rural character of these areas.*

*Policy 6.5.1: Allow for the location of limited supporting commercial uses at locations convenient to serve the needs of rural County residents provided that the requisite level of services are available or will be available in a timely fashion.*



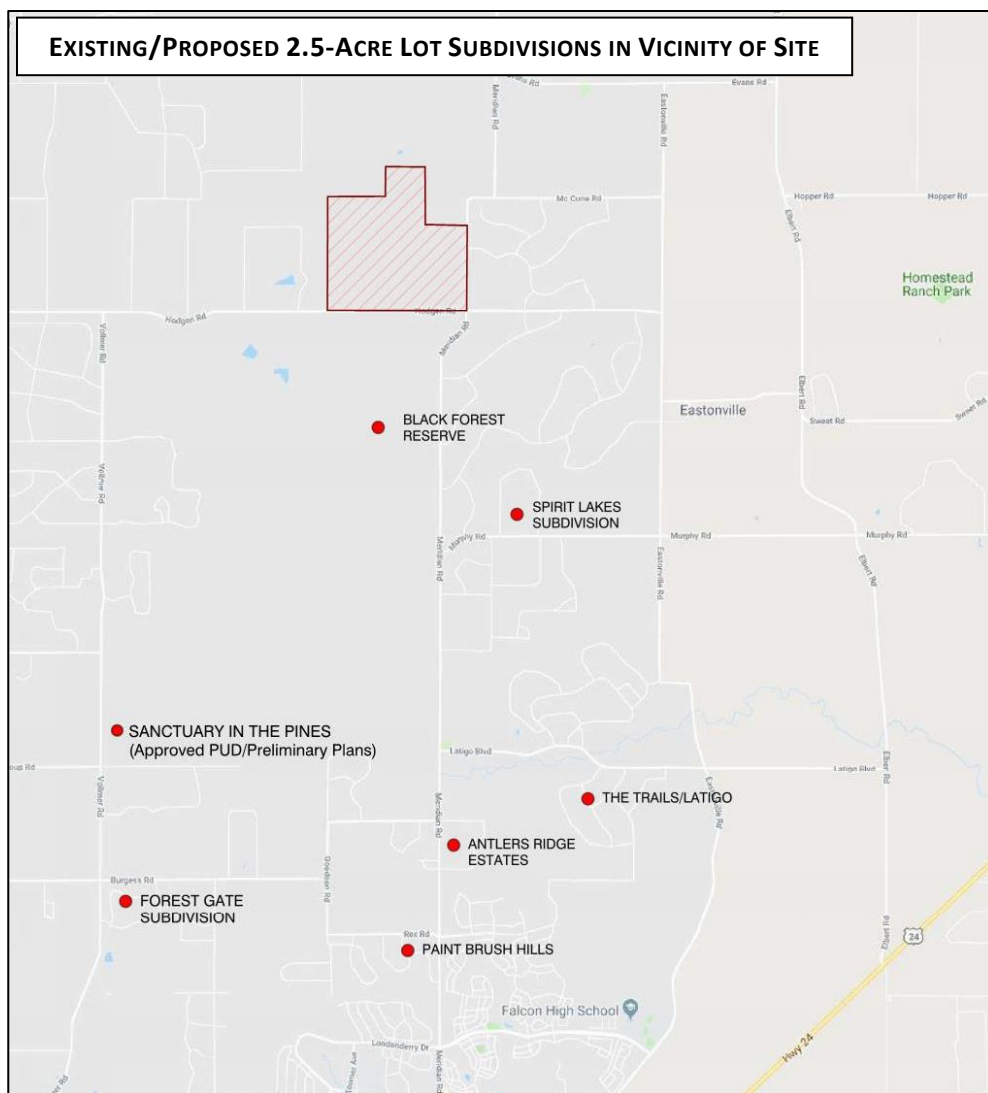
The proposed commercial zone will accommodate uses that support the surrounding residential areas in a convenient and accessible location at the intersection of two proposed minor arterial roads, which is consistent with the policies of the County Plan referred to above.

## EXTRACTS FORM THE BLACK FOREST PRESERVATION PLAN



McCune Ranch is located within the area covered by the Black Forest Preservation Plan (BFPP). The site is within Area 8, where large lot residential development consistent with existing subdivisions is encouraged. Residential Goal 3A of the Plan seeks to perpetuate the rural residential character of the Black Forest. The subsequent policies that support this goal encourage clustered development to preserve open space and protect natural features, with a 5-acre overall density and a minimum lot size of 2.5-acres.

In this regard, it is relevant to note that within Area 8 and the adjacent Black Forest area, there are a number of existing and proposed 2.5-acre subdivisions that have been approved since the adoption of the BFPP in the context of these objectives of the plan. The plan below identifies the location of these 2.5-acre subdivisions, which have been found to be “consistent with existing subdivisions”. Many of these 2.5-acre lot subdivisions were also approved on the basis of the clustering concept in the BFPP. The proposed Winsome subdivision, with 2.5 to 10-acre rural residential lots and a substantial area of accessible open space, is equally consistent with the residential goals of the Preservation Plan, with existing subdivisions, and with approved subdivisions elsewhere in the Plan area.



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The northwest corner of Hodgen Road and Meridian Road is identified in the Plan as a potential location for neighborhood serving commercial. Commercial Goal 4A allows for limited commercial development that supports the Black Forest Planning Area. The policies that support this goal aim to limit commercial activities to those that accommodate the needs of local residents, are limited in scope and scale, and are compatible with the visual character of the area. The proposed rezoning to CC is consistent with the potential neighborhood location identified in the Plan and will be limited to uses that are appropriate for a rural neighborhood center and are compatible with the area in scale, scope, and visual appearance.

**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;**

As the proposed rezoning fulfils the goals of the County Master Plan and is compatible with adjacent subdivisions, by default it also complies with the statutory provisions that allow County's to establish limit, regulate, or amend zoning within the unincorporated parts of El Paso County in the interests of public health, safety and welfare.

**3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and**

As noted above, compatibility is defined as *"a state in which two things are able to exist or occur together without problems or conflict."* It does not mean that the two things have to be identical. The proposed rezoning to RR-2.5 for large residential lots is compatible with the existing large lot character of residential development in the area. There are several 2.5-acre lot subdivisions in this part of the County adjacent to 5-acre lot subdivisions. While some of the proposed lots will be smaller than the adjacent 5-acre lots, the proposed clustering of development will maintain a 5-acre lot density while also preserving open space and protecting natural features. The project retains 5-acre lots adjacent to all boundaries, except Hodgen Road, which is consistent with the existing RR-5 zoning. Hodgen Road itself, and the preserved 40-foot right-of way to expand the road to a 4-lane arterial road, provides a transition to the RR-5 zoning to the south. There is an isolated strip of A-35 zoning along the eastern side of the property, extending north and south. This A-35 zoning is otherwise surrounded by RR-5 zoning, so the proposed rezoning at 5-acre lot density with 5-acre lots along the boundary is a comparable zoning transition.

The proposed zone change to CC is compatible with the surrounding land uses and zone districts by providing the opportunity for a neighborhood serving commercial center to offer convenient services and facilities that are not currently available in the area. The proposed commercial center will be compatible with its rural location in terms of the type of uses, the scale of buildings and the architectural and lighting on the site, which will be controlled by the Metro District or Home Owners' Association. It is intended to retain the character of this lot by preserving existing trees as part of the future commercial development to provide a buffer and enhance the visual character of the site.

**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.**

The site is suitable for the proposed large lot residential and neighborhood commercial center. The site has some limitations to development but these have been minimized by containing the natural features

and constrained areas within the designated open space or within no build/drainage easements on the individual lots. The site has adequate access off Hodgen Road and Meridian Road and has access to adequate utilities, including water. The proposed lots will meet the use and dimensional standards for the respective zones as set out in Chapter 5 of the Land Development Code (LDC).

### **Preliminary Plan**

The Preliminary Plan is consistent with the approval criteria in Section 7.2.1.D.2.e of the LDC as follows:

**1. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;**

The Master Plan comprises the County Policy Plan and Black Forest Preservation Plan. The same policies that support the proposed rezoning to RR-2.5 and CC, also support the Preliminary Plan. The proposed rural residential development is in a location contiguous to existing rural residential subdivisions where large lot residential development is encouraged by the Master Plan. The Master Plan also encourages clustering concepts to conserve open space and natural features. The lots proposed on the Preliminary Plan range from 2.5 to 10 acres, with a total of 143 lots, which is less than a 5-acre lot density for the site. Including smaller 2.5-acre lots within the development provides the ability to cluster the lots and protect the principal natural feature on the site, the West Kiowa Creek and its associated wetlands.

The proposed CC zoning will accommodate commercial uses that support the surrounding residential areas in a convenient location at the intersection of two proposed minor arterial roads. This is consistent with the goals and policies of the Master Plan.

**2. The subdivision is consistent with the purposes of this Code;**

The stated purpose of the Code is to preserve and improve the public health, safety and general welfare of the citizens and businesses of El Paso County. The proposed subdivision of rural residential lots and a neighborhood commercial center is consistent with the County Master Plan and is compatible with the surrounding 5-acres single family lots and rural character of the area.

**3. The subdivision is in conformance with the subdivision design standards and any approved sketch plan;**

There is no approved Sketch Plan for this property. The proposed subdivision is in conformance with the subdivision design standards other than the two requested waivers, which are discussed in more detail below. The subdivision design standards set out in Chapter 8 of the Land Development Code are met, including but not limited to:

- adequate provision for traffic, drainage, open space, recreation and parks;
- provision of properly designed roads to provide for safe and convenient vehicular circulation and identification of required road improvements;
- adequate provision for water, sewer and other utilities;
- Ensuring that structures will harmonize with the physical characteristics of the site;

- Ensuring that land is divided into lots that are of adequate size and configuration for the purpose for which they are intended to be used; and
- Protecting the natural resources, considering the natural vegetation.

**4. 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 this Code;**

Water service will be provided by individual domestic wells on the residential lots and by a commercial well on the commercial lot. The wells will be drilled into the Dawson Aquifer. Water rights in the Dawson Aquifer of 232.50 acre-feet annually will be transferred to the McCune Ranch for the proposed development, which will generate an annual demand of approximately 90.8 acre-feet. Water quality testing of the Dawson Aquifer wells has been completed and is of sufficient quality to serve the proposed residential development.

**5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. §30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;**

Wastewater service will be provided by onsite wastewater treatment systems (OWTS). Entech's OWTS Report concludes that the property is generally suitable for OWTS and that contamination of surface and subsurface water sources should not occur provided the systems are installed according to El Paso County and State guidelines. The Report identifies areas that are not suitable for OWTS. Some lots are impacted but still have sufficient space for OWTS due to the size of the lot.

**6. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];**

The Soils and Geology Report prepared by Entech identifies the geologic conditions that occur intermittently on the property, including artificial fill, loose or collapsible soils, expansive soils, slope stability, downslope creep, floodplain and potential high ground water. Many of these constraints are within the open space area and the floodplain is wholly within the open space. The report indicates that these conditions can be mitigated through proper engineering design and construction techniques, including special foundation design and subsurface drains. Lot 55 is impacted by an area of unstable slope and a "no build" easement 30-feet around the unstable slope is recommended and is shown on the Preliminary Plan. This lot has adequate buildable area outside the "no build" zone.

**7. Adequate drainage improvements complying with State law [C.R.S. §30-28- 133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;**

These matters are addressed in the Preliminary Drainage Report prepared by Vertex Engineering. Proposed drainage infrastructure includes road side ditches, culverts to convey stormwater under roads, swales, and six full spectrum detention ponds. All the detention ponds outfall the detained water into West Kiowa Creek at controlled rates. The proposed ponds are designed to reduce peak stormwater flow rates, down below historic rates before leaving the site. These measures comply with the requirements of the LDC and ECM.

**8. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;**

The majority of lots will be accessible by new public streets that will comply with the LDC and ECM. The lots that do not have direct access to a public street will be accessed by a shared/common access easement, in order to preserve topography and natural features. A waiver of 8.4.3(C)(2)(e) of the LDC is requested to address this condition. Street names have been approved by El Paso–Teller County 911 Authority.

**9. 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;**

A 148-acre area of open space, almost 20% of the property, is proposed to preserve the natural resource of the West Kiowa Creek and its associated floodplain and wetlands. This open space will also provide recreational opportunities for the residents of the proposed subdivision and surrounding neighborhoods. The open space will be owned and maintained by the proposed Metropolitan District.

**2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost-effective delivery of other services consistent with adopted plans, policies and regulations of the County;**

A network of looping 8' breeze trails is proposed through the open spaces, connecting with the internal rural local roads to provide multiple access points. An interim trail is also proposed on part of the preserved right-of-way along Hodgen Road, until it is needed for road widening. The trails will be owned and maintained by the proposed Metropolitan District (via easements where on residential lots).

**3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses;**

The proposed mix of 2.5 acre to 10-acre residential lots is compatible with the existing large lot character of residential development in the area. There are several 2.5-acre lot subdivisions in this part of the County adjacent to 5-acre lot subdivisions. While some of the lots will be smaller than the adjacent 5-acre lots, the proposed clustering of development allows for the preservation of open space and the protection of natural features. The project retains 5-acre lots adjacent to all boundaries, except Hodgen Road, which provides an appropriate transition. Hodgen Road itself, and the preserved 50-foot right-of way to expand the road to a 4-lane arterial road, provides a transition to the south. With regard to the adjacent A-35 zoning along the eastern side of the property, the proposed rezoning at 5-acre lot density and inclusion of 5-acre lots along the boundary is a comparable to the transition between the A-35 zoning and existing 5-acre lots surrounding it, so no additional design features are considered necessary.

The proposed commercial lot will provide the opportunity for a neighborhood serving commercial center to offer convenient services and facilities that are not currently available in the area. The developer will ensure that commercial uses are compatible with the rural location in terms of the type of uses, the scale of buildings and the architectural and lighting on the site, which will be controlled by the Metro District or Home Owners' Association. It is intended to retain the character of this lot by preserving existing trees as part of the future commercial development to provide a buffer and enhance the visual character of the site.



**4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and**

The preserved open space adjacent to the West Kiowa Creek will protect the existing wetlands and will conserve wildlife habitat. The control of noxious weeds through the development of the site and management of the open space will improve wildlife habitat.

**5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;**

The Traffic Impact Study demonstrates that the development will not materially impact existing levels of service on surrounding roads and proposed access improvements on Hodgen Road will accommodate the site development traffic. The development will be served by well and septic systems and will have no negative impact on existing County services and facilities.

**10. Necessary services, including police and protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;**

The site will be served by well and septic as described above. Mountain View Electric and Black Hills Energy will provide electric and natural gas services as stated in the Will Serve letters included in this submittal. Adequate open space and streets are provided to serve the future residents of the subdivision.

**11. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and**

The Falcon Fire Protection District has adequate capacity to provide fire protection to the proposed subdivision. A Fire Protection Report and a Will Serve letter from the Fire Chief is included with this submittal.

**12. The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.**

The proposed subdivision meets the applicable sections of the Code, subject to the requested waivers, which are justified in the context of preserving the existing topography and natural features on the site.

**Waivers**

**1. Waiver of Chapter 8.4.3(C)(2)(e) of the LDC:**

Chapter 8.4.3(C)(2)(e) of the LDC states requires lots to have access from a public road. Lots 44 and 92 do not have direct access from a public road and will be accessed via a shared access easement over the adjacent lot. The requested waiver will help to protect existing topography and natural features by avoiding unnecessary extension of public roads. Section 7.3.3 of the LDC states that a waiver from standards shall be approved only upon the finding, based upon the evidence presented in each specific case, that:

- **The waiver does not have the effect of nullifying the intent and purpose of this Code;**  
The most relevant purpose of the code in this regard is to “establish reasonable standards of design and procedures for subdivision”. The requirement for lot access to a public road is a reasonable standard but, in this case, access is to be established by a specific easement that

provides shared access and maintenance responsibilities over an adjacent lot. This is a common solution where topography and natural features limit the ability to extend public roads due to right-of-way width and grade requirements.

- **The waiver will not result in the need for additional subsequent waivers;**  
This request is limited to two conditions within the proposed subdivision, which will not be repeated elsewhere in the subdivision.
- **The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;**  
The shared access scenario is a common arrangement between two privately owned properties and is controlled through an easement that will run with property. There will be no harm to the public or other property.
- **The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;**  
The requested waiver will help to protect existing topography, natural features and vegetation by avoiding unnecessary extension of public roads. While this is not necessarily unique to this property, it is a primary objective of the Black Forest Preservation Plan and can be achieved by this waiver without harm to the public or other property.
- **A particular non-economical hardship to the owner would result from a strict application of this Code;**  
The owner has sought to create a subdivision that protects the existing topography, natural features and vegetation by clustering development and limiting grading by reducing the extent of the roadways. The shared driveways will provide lot access without needing the right-of-way or grade standards of a public street.
- **The waiver will not in any manner vary the zoning provisions of this Code;**  
The density proposed by this subdivision is consistent with the current RR-5 zoning. The requested waiver does not allow the developer any greater density than could be achieved without it.
- **The proposed waiver is not contrary to any provision of the Master Plan.**  
The proposed waiver is consistent with the goal of the Black Forest Preservation Plan to encourage rural residential development that preserves existing topography, natural features and vegetation by clustering development.

## 2. Waiver of Chapter 6.3.3(c)(j) of the LDC

Chapter 6.3.3(c)(j) of the LDC requires turnouts or turnarounds where driveways exceed 300 feet. The driveways that serve lots 44 and 45, lot 50, and lots 92 and 93 exceed 300 feet. The requested waiver will help to protect existing topography and natural features by not expanding the driveway area more than necessary to provide adequate access. Section 7.3.3 of the LDC states that a waiver from standards shall be approved only upon the finding, based upon the evidence presented in each specific case, that:

- **The waiver does not have the effect of nullifying the intent and purpose of this Code;**  
The most relevant purpose of the code in this regard is to “establish reasonable standards of design and procedures for subdivision”. The requirement for turnouts or turnarounds where driveways exceeds 300 feet is a reasonable standard but, in this case, the Falcon Fire Chief has approved the proposed plans on the basis that residential driveways will provide adequate turnaround and the proposed driveway width and surface material meets Fire Code standards.

- **The waiver will not result in the need for additional subsequent waivers;**  
This request is limited to five conditions within the proposed subdivision, which will not be repeated elsewhere in the subdivision.
- **The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;**  
The proposed driveways have been reviewed and approved by the Falcon Fire Chief to ensure safe access to these lots. There will be no harm to the public or other property.
- **The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;**  
The requested waiver will help to protect existing topography, natural features and vegetation by avoiding unnecessary extension of public roads where a driveway will suffice. While this is not necessarily unique to this property, it is a primary objective of the Black Forest Preservation Plan and can be achieved by this waiver without harm to the public or other property.
- **A particular non-economical hardship to the owner would result from a strict application of this Code;**  
The owner has sought to create a subdivision that protects the existing topography, natural features and vegetation by clustering development and limiting grading by reducing the extent of the roadways. The extended driveways will provide lot access without needing the right-of-way or grade standards of a public street.
- **The waiver will not in any manner vary the zoning provisions of this Code;**  
The density proposed by this subdivision is consistent with the current RR-5 zoning. The requested waiver does not allow the developer any greater density than could be achieved without it.
- **The proposed waiver is not contrary to any provision of the Master Plan.**  
The proposed waiver is consistent with the goal of the Black Forest Preservation Plan to encourage rural residential development that preserves existing topography, natural features and vegetation by clustering development.