

# EL PASO

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# COUNTY

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO:** El Paso County Planning Commission  
Jim Egbert, Chair

**FROM:** Nina Ruiz, Planner II  
Gilbert LaForce, PE Engineer II  
Craig Dossey, Executive Director

**RE:** Project File #: PUDSP-18-004  
Project Name: Gardens at North Carefree  
Parcel Nos.: 5329400012, 5329411002

OWNER:	REPRESENTATIVE:
Mule Deer Investments LLC 2727 Glen Arbor Drive Colorado Springs, CO 80920	NES Inc. 619 N Cascade Avenue Colorado Springs, CO 80903

**Commissioner District: 2**

Planning Commission Hearing Date:	1/15/2019
Board of County Commissioners Hearing Date	2/12/2019

## EXECUTIVE SUMMARY

A request by Mule Deer Investments, LLC, for approval of map amendment (rezoning) from RR-5 (Residential Rural) and CS (Commercial Service) to PUD (Planned Unit Development). In accordance with Section 4.2.6.E, PUD Development Plan May be Approved as a Preliminary Plan, of the El Paso County Land Development Code (2018), the applicant is also requesting the PUD development plan be approved as a preliminary plan. The proposed PUD development plan for The Gardens at North Carefree includes development of 71 single-family residential lots, rights-of-way, and open space and utility tracts within an 11.56 acre development area. The two parcels, totaling 11.56 acres are located at the southeast corner of the Akers Drive and North Carefree Circle intersection and are within Section 29, Township 13 South, Range 65 West of the 6<sup>th</sup> P.M. The parcels are not included within a small area plan.

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

**Request:** Approval of a map amendment (rezoning) from RR-5 (Residential Rural) and CS (Commercial Service) to PUD (Planned Unit Development) to develop 71 single family detached residential lots within an 11.56 acre development area. In accordance with Section 4.2.6.E, PUD Development Plan May be Approved as a Preliminary Plan, of the El Paso County Land Development Code (2018) the applicant is also requesting the PUD development plan be approved as a preliminary plan.

### **Modification of Existing Land Development Code (LDC) or Engineering Criteria Manual (ECM) Standard:**

For approval of a PUD modification of a general development standard in the LDC or standard of the ECM, the BoCC shall find that the proposal provides for the general health, safety, and welfare of the citizens and at least one of the following benefits:

- Preservation of natural features;
- Provision of a more livable environment, such as the installment of street furniture, decorative street lighting or decorative paving materials;
- Provision of a more efficient pedestrian system;
- Provision of additional open space;
- Provision of other public amenities not otherwise required by the Code; or
- The proposed modification is granted in exchange for the open space and/or amenity designs provided in the PUD development plan and/or development guide.

The applicant requests the following modification of PUD standards of the LDC:

The following is cited directly from the applicant's PUD Development Guideline:

#### PUD Modification of ECM Figure 2-16: Urban Local Roadway Cross-Section

The street section is modified to measure 45 feet from back of sidewalk to back of sidewalk. The modification reduces the ROW width and eliminates the 2.5-foot buffer on either side of the sidewalk and accommodates the site constraints, provides additional open space throughout the project, and provides the 175-foot minimum intersection distance along Running Deer Way.

#### New Development Stormwater Management E.C.M. Appendix I.7.1.B.

A deviation is being requested for El Paso County ECM Appendix I Sections I.7.1.B: 1st Bullet; Providing Water Quality for Entire Development.

The following deviations from the standards of the El Paso County Engineering Criteria Manual (ECM) have been administratively approved by the County Engineer and correspond with items 1 and 2 above:

1. Section 2.3.2 - Right-of-Way width on an Urban Local road (50 feet). The applicant has submitted a deviation requesting a 45 foot right-of-way for Vineyard Circle by eliminating the 2.5 feet wide strip between the back of sidewalk and the edge of the right-of-way to accommodate the prescribed ECM intersection spacing between Vineyard Circle and Akers Drive. This request has been approved since sidewalk maintenance will not be impacted because a five (5) foot public improvement easement along the back of the sidewalk will be in place.
2. Appendix I Section I.7.1.B - Water quality capture volume shall be provided for the total site. The applicant has submitted a deviation requesting exclusion for 0.9 acres of the 11.89 total acres due to topographical constraints. This request has been approved base on Part I Section E.4.iv.A of the Municipal Separate Storm Sewer Systems (MS4) Permit (CDPS General Permit COR090000), which generally states that up to 20 percent of a development property, not to exceed 1 acre, of the applicable development site area may be excluded if it is not practicable to drain towards control measures.

**Authorization to Sign:** PUD Development Plan and any other documents required to finalize the approval

## **B. PLANNING COMMISSION SUMMARY**

**Request Heard:**

**Recommendation:**

**Waiver Recommendation:**

**Vote:**

**Vote Rationale:**

**Summary of Hearing:**

**Legal Notice:**

## **C. APPROVAL CRITERIA**

The Planning Commission and BOCC shall determine that the following criteria for approval outlined in Section 4.2.6, and Section 7.2.1 of the El Paso County Land Development Code (2018), have been met to approve a PUD zoning district:

- The proposed PUD district zoning advances the stated purposes set forth in this section;
- The application is in general conformity with the Master Plan;
- The proposed development is in compliance with the requirements of this Code and all applicable statutory provisions and will not otherwise be

detrimental to the health, safety, or welfare of the present or future inhabitants of El Paso County;

- The subject property is suitable for the intended uses and the use is compatible with both the existing and allowed land uses on the neighboring properties, will be in harmony and responsive with the character of the surrounding area and natural environment, and will not have a negative impact upon the existing and future development of the surrounding area;
- The proposed development provides adequate consideration for any potentially detrimental use to use relationships (e.g. commercial use adjacent to single family use) and provides an appropriate transition or buffering between uses of differing intensities both on-site and off-site which may include innovative treatments of use to use relationships;
- The allowed uses, bulk requirements and landscaping and buffering are appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community;
- Areas with unique or significant historical, cultural, recreational, aesthetic or natural features are preserved and incorporated into the design of the project;
- Open spaces and trails are integrated into the development plan to serve as amenities to residents and provide reasonable walking and biking opportunities;
- The proposed development will not overburden the capacities of existing or planned roads, utilities and other public facilities (e.g. fire protection, police protection, emergency services, and water and sanitation), and the required public services and facilities will be provided to support the development when needed;
- The proposed development would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and energy efficient site design;
- The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would unreasonably interfere with the present or future extraction of such deposit unless acknowledged by the mineral rights owner;
- Any proposed exception or deviation from the requirements if the zoning resolution or the subdivision regulation is warranted by virtue of the design and amenities incorporated in the development plan and development guide; and
- The owner has authorized the application.

The applicant has requested the proposed PUD also be reviewed and considered as a preliminary plan. Compliance with the requirements identified in Chapter 7 and Chapter 8 of the El Paso County Land Development Code (2018) for a preliminary plan requires the Planning Commission and the BoCC find that the additional criteria for a preliminary plan have also been met.:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;
- The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
- 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;
- 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.
- 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)];
- 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;
- 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 proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and 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; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;
- Necessary services, including police and fire protection, recreation, utilities, open space and transportation systems, are or will be available to serve the proposed subdivision;
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
- The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

#### **D. LOCATION**

North:	RS-6000 (Residential Suburban)	Residential
South:	CS (Commercial Service)	Commercial/Vacant
East:	RR-5 (Residential Rural)	Natural Gas Facility
West:	PUD (Planned Unit Development)	Residential

#### **E. BACKGROUND**

The parcel was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this area of El Paso County. Due to changes in the nomenclature of the El Paso County Land Development Code, the A-4 zoning district has been renamed to the RR-5 (Residential Rural) zoning district. The southern 2.05 acres was platted as Lot 2 of the Mule Deer Business Park Filing No. 1 on June 19, 2006. Lot 2 was rezoned from RR-5 to CS (Commercial Service) on September 9, 2004.

The Hilltop Sketch Plan was approved on May 9, 1996 which depicted this area as townhouses with a density of 8-12 DU/ac (SKP-96-001). This sketch plan was amended and renamed as the Pronghorn Meadows Sketch Plan on January 24, 2002, and depicted the area as industrial use (SKP-01-002). On August 25, 2005, the sketch plan was amended for a third time to reflect this area as industrial/retail (SKP-04-011).

These parcels have remained vacant since the sketch plan approval 13 years ago. Although not expressly stated in Land Development Code, the historically established procedure regarding implementation of sketch plans has been that any sketch plan that is not implemented for 5 years or more is considered expired.

The applicant has requested approval of a rezoning to the PUD (Planned Unit Development) zoning district from the RR-5 and CS zoning districts in order to create 71 single-family residential lots with an average density of 6.14 dwelling units per acre. The applicant has requested the proposed PUD also be reviewed and approved as a preliminary plan.

#### **F. ANALYSIS**

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

This application meets the preliminary plan submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 as well as the Planned Unit Development (PUD) requirements outlined in Chapter 4 of the El Paso County Land Development Code (2018).

## 2. Zoning Compliance

The Gardens at North Carefree PUD Development Plan identifies allowed and permitted uses; use, density, and dimensional standards such as setbacks, maximum lot coverage, and maximum building height; and overall landscaping requirements. The Gardens at North Carefree PUD Development Plan is consistent with the proposed PUD development guidelines and with the submittal and processing requirements of the Land Development Code.

## 3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

***Policy 6.1.3 – Encourage new development which is continuous and compatible with previously developed areas in terms of factors such as density, land use, and access.***

***Policy 6.1.4 – Encourage the logical timing and phasing of development to allow for the efficient and economical provision of facilities and services.***

***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 infrastructure needed to provide central services to the development are proposed to be extended from Colorado Springs Utilities and Cherokee Metropolitan District into the proposed subdivision.

The subject parcels are located south of North Carefree Circle and east of Akers Drive. North Carefree Circle acts as a transition line between the lower single family residential density located to the north and the hodgepodge of light industrial, commercial, and higher density single family residential to the south. North of North Carefree Circle, across from the subject parcels, is the Pronghorn Meadows Subdivision, which includes single family residential development with a minimum lot size of 6,000 square feet, which results in a lower residential density (3.28 DU/ac) than that identified in the proposed PUD (6.14 DU/ac).

However, south of North Carefree Circle, immediately to the west of the subject parcels, is the Mule Deer Crossing PUD, which includes single family residential development with a minimum lot size of 3,150 square feet (at an overall density 5.84

DU/ac), which is similar to the densities of the proposed PUD. Also, south of North Carefree Circle, and south of the subject parcels, are properties zoned CS (Commercial Service) and I-2 (Limited Industrial). The uses on these properties include office warehousing and the County's Public Works facility. To the east of the subject parcels, but still south of North Carefree Circle, is Colorado Springs Utilities' natural gas facility which is zoned RR-5 (Residential Rural).

The applicant is proposing to rezone the parcels to PUD (Planned Unit Development) to allow for residential development with a minimum lot size of 3,100 square feet at an overall density of 6.14 DU/ac. The applicant is proposing additional buffering along the southern border of the development in order to buffer the proposed residential uses from the existing commercial development. The proposed densities and land uses are consistent and compatible with the previously developed areas south of North Carefree Circle in terms of density and land use, and are not incompatible with the density and land use of the development located north of North Carefree Circle, with the road serving as a transition line.

#### **4. Small Area Plan Analysis**

The property is not included within a small area plan.

#### **5. Other Master Plan Elements**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. El Paso County Community Services Department, Environmental Division, and Colorado Parks and Wildlife, were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies potential upland deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

### **G. PHYSICAL SITE CHARACTERISTICS**

#### **1. Hazards**

No hazards were identified in the review of the PUDSP.

#### **2. Wildlife**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

#### **3. Floodplain**

No portion of the site is located within the 100 year floodplain per FEMA Flood Insurance Rate Map Panel No. 08041C0539G with an effective date of December 7, 2018.



#### **4. Drainage and Erosion**

The property is located within Sand Creek drainage basin (FOFO4000). The basin is studied (1996) and fees will be due at the time of final plat(s) recordation. There are no drainage basin planning study (DBPS) improvements associated with this project.

The site generally drains to the west. Stormwater runoff will be collected by storm sewer systems and will be directed into two extended detention basins for full spectrum detention. These detention facilities are private and will be maintained by the homeowners association. The pond outlet structures tie into an existing storm sewer system on Akers Drive which has the capacity to handle the designed release rates.

The applicant is requesting pre-development grading with this application. The associated grading and erosion control plan calls for temporary construction best management practices to prevent sediment and debris from affecting adjoining properties and the public stormwater system before, during, and after grading activities.

#### **5. Transportation**

The property is located at the southeast corner of North Carefree Circle and Akers Drive. The 2016 Major Transportation Corridors Plan Update (MTCP) does not call for any improvement projects in the immediate vicinity of the site. No improvements associated with this development are reimbursable through the MTCP roadway improvements program.

The proposed development provides two access points (one full movement and one three-quarter movement) along Akers Drive. Auxiliary left- and right-turn deceleration lanes into the subdivision have already been provided at the site access points. Some offsite restriping will be required due to the shift in the northern access to align with Fallow Lane. All interior roadways are planned to be constructed to El Paso County criteria and will be dedicated to the County for ownership and maintenance. Per the Gardens at North Carefree Traffic Impact Analysis prepared by LSC, Inc., dated October 15, 2018, a future traffic signal may be warranted at the intersection of North Carefree Circle and Akers Drive based on the 20-year long range volume projection.

The subdivision is subject to the El Paso County Road Impact Fee program (Resolution No. 18-471).

## **H. SERVICES**

### **1. Water**

Sufficiency:

The applicant has requested the finding of sufficiency be delayed until the final plat stage.

### **2. Sanitation**

Wastewater is provided by Cherokee Metropolitan District.

### **3. Emergency Services**

The property is within the Falcon Fire Protection District.

### **4. Utilities**

Colorado Springs Utilities will provide electrical and natural gas service to the development.

### **5. Metropolitan Districts**

The property is located within the Cherokee Metropolitan District.

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

Land dedication and fees in lieu of park land dedication are not required for a map amendment (rezoning) or preliminary plan application. Fees in lieu of park land dedication will be due at the time of recording the final plat.

### **7. Schools**

Land dedication and fees in lieu of school land dedication are not required for a rezone or preliminary plan application. Fees in lieu of school land dedication will be due at the time of recording the final plat.

## **I. APPLICABLE RESOLUTIONS**

See Attached Resolution

## **J. STATUS OF MAJOR ISSUES**

There are no major outstanding issues.

## **K. 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 4.2.6, and Section 7.2.1 of the El Paso County Land Development Code (2018), staff recommends the following conditions and notations:

### **CONDITIONS**

1. Development of the property shall be in accordance with this PUD development plan. Minor changes in the PUD development plan, including a reduction in residential density, may be approved administratively by the Director of the Planning and Community Development Department consistent with the Land Development Code. Any substantial change will require submittal of a formal PUD development plan amendment application.
2. Approved land uses are those defined in the PUD development plan and development guide.
3. All owners of record must sign the PUD development plan.
4. The PUD development plan shall be recorded in the office of the El Paso County Clerk & Recorder prior to scheduling any final plats for hearing by the Planning Commission. The development guide shall be recorded in conjunction with the PUD development plan.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
6. Applicable park, school, drainage, bridge, and traffic fees shall be paid to El Paso County Planning and Community Development at the time of final plat(s) recordation.

### **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.
3. Preliminary plans not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.
4. Approval of the preliminary plan will expire after two (2) years unless a final plat has been approved and recorded or a time extension has been granted.

#### **L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 40 adjoining property owners on December 26, 2018, for the Planning Commission meeting. Responses will be provided at the hearing. The Board of County Commissioner hearing date will be published in the newspaper.

#### **M. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Development Plan/Preliminary Plan