TO: El Paso County Planning Commission

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

RE: Project File #: P-18-006  
Project Name: Winsome Residential Rezone  
Parcel No.: 51000-00-439

<table>
<thead>
<tr>
<th>OWNER:</th>
<th>REPRESENTATIVE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>McCune Ranch, LLC</td>
<td>NES, Inc.</td>
</tr>
<tr>
<td>P.O. Box 36 Arrowhead Drive</td>
<td>619 N. Cascade Avenue, Suite 200</td>
</tr>
<tr>
<td>Elbert, CO 80106</td>
<td>Colorado Springs, CO 80903</td>
</tr>
</tbody>
</table>

Commissioner District: 1

| Planning Commission Hearing Date: 6/4/2019 |
| Board of County Commissioners Hearing Date: 6/25/2019 |

EXECUTIVE SUMMARY
A request by McCune Ranch, LLC, for approval of a map amendment (rezone) of 350.26 acres from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district. The applicant has submitted concurrent applications for a rezoning of a separate portion of the property to the CC (Commercial Community) zoning district as well as an overall preliminary plan for the 766.66 acre property. The property is located at the northwest corner of the Hodgen Road and Meridian Road intersection and is within Sections 13, 19, and 24, Township 11 South, Range 65 West of the 6th P.M. The property is located within the Black Forest Preservation Plan (1987).

The concurrently proposed Winsome preliminary plan consists of 143 single family residential lots with an overall density of one (1) dwelling unit per five (5) acres, one (1) commercial lot, 151.238 acres of open space, drainage tracts, and rights-of-way. The
overall development is proposed to include the following zoning districts: CC (7.88 acres), RR-2.5 (350.26 acres), and RR-5 (408.52 acres).

The applicant is proposing to preserve areas having floodplain, wetlands, and other significant natural features in an open space tract. The applicant is also proposing to construct a trail to allow pedestrian movement throughout the open space areas. If the rezoning and preliminary plan requests are approved, the applicant is proposing to submit an application for approval of a service plan to form a CRS Title 32 special district. The purpose of the district would be to provide services to the future residents within the district boundary. These services would include, but not necessarily be limited to, the installation of public infrastructure as well as the ongoing maintenance of open space, trails, drainage ways, and floodplain areas.

The applicant is proposing a 4.36 acre commercial lot at the northwest corner of Hodgen Road and Meridian Road. The Black Forest Preservation Plan (1987) identifies this area as a potential location for commercial uses. Please see the Small Area Plan Analysis section below for additional information regarding small area plan consistency.

A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION

Request: A request by McCune Ranch, LLC, for approval of a map amendment (rezoning) of 350.26 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural).

Waiver(s)/Deviation(s): There are no associated waivers being requested.

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

B. Planning Commission Summary

Request Heard:
Recommendation:
Waiver Recommendation:
Vote:
Vote Rationale:
Summary of Hearing:
Legal Notice:

C. APPROVAL CRITERIA

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019):

- 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;
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; the proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and the site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

D. LOCATION
North: A-35 (Agricultural) Vacant agricultural
South: RR-5 (Residential Rural) Residential
East: RR-5 (Residential Rural) Residential
West: RR-5 (Residential Rural) Residential

E. BACKGROUND
The property was zoned A-1 (Agricultural) on September 21, 1965, when zoning was first established for this area of the County. Due to changes of the nomenclature, the A-1 zoning district has been renamed as the RR-5 (Residential Rural) zoning district. The applicant has requested approval of a map amendment (rezone) of 350.26 acres from the RR-5 zoning district to the RR-2.5 (Residential Rural) zoning district. The applicant has also submitted concurrent applications to rezone other portions of the parcel from the RR-5 (Residential Rural) zoning district to the CC (Commercial Community) and for approval of a preliminary plan. The proposed preliminary plan includes 766.66 acres and is proposed to create 143 single family residential lots, one (1) commercial lot, open space, and drainage tracts, and right-of-way.

F. ANALYSIS
1. Land Development Code Analysis
   The proposed Winsome development is primarily surrounded by properties zoned RR-5 (Residential Rural). In addition to the RR-5 zoned properties, the subject parcel is also bordered by approximately 1,175 linear feet of A-35 (Agricultural) zoned property along the northern boundary. The proposed development is bordered by several existing subdivisions with the minimum lot size being five (5) acres, including: Forest Green to the east, Country Squire Estates to the north, Bison Meadows to the south, and Vic’s Creek to the west. The Black Forest Reserve PUD is located approximately one-half mile to the south and allows for a minimum lot size of 2.5 acres with an overall density of one dwelling unit per 4.68 acres. Directly to the south, across from Hodgen Road, is the parcel owned by the Audubon Society, which is a non-profit environmental organization dedicated to conservation and preservation of natural habitats. The applicant is proposing to preserve approximately 20 percent of the site within no-build tracts.

   Section 3.2 of the Code states the following as the intent of the RR-5 (Residential Rural) zoning district:
“The RR-5 zoning district is a 5 acre district intended to accommodate low-density, rural, single-family residential development.”

Section 3.2 of the Code states the following as the intent of the RR-2.5 (Residential Rural) as the intent of the RR-2.5 zoning district:

“The RR-2.5 zoning district is a 2.5 acre district intended to accommodate low-density, rural, single family residential development.”

The primary difference between the two zoning districts is the dimensional standards, more specifically the minimum lot size requirement. The concurrently reviewed preliminary plan has an overall density of one (1) dwelling unit per five (5) acres and includes density transitions and buffers. The proposed map amendment (rezoning) is compatible in terms of compatible uses, but may not be considered compatible in terms of density without the buffers and transitions depicted on the concurrently reviewed preliminary plan.

2. Zoning Compliance
The applicant is requesting to rezone 350.26 acres to the RR-2.5 (Residential Rural) zoning district. The density and dimensional standards for the RR-2.5 (Residential Rural) zoning district are as follows:

- Minimum lot size requirement: 2.5 acres
- Minimum width at the front setback line: 200 feet
- Minimum setback requirements: 25 feet on all sides
- Maximum height: 30 feet

A residential site plan will be required for all lots prior to building permit authorization to ensure all proposed structures will meet the setback and height requirements of the RR-2.5 zoning district.

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 contiguous 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 6.1.8** - Encourage incorporation of buffers or transitions between areas of varying use or density where possible.
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.

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 6.2.1 – Fully consider the potential impact of proposed zone changes and development on the integrity of existing neighborhoods.

Policy 6.2.2 – Promote the unique identity of neighborhoods through the use of focal points, parks, trails and open spaces, preservation of significant natural features, compatible location and design of mixed uses, and promotion of pedestrian and other non-motorized means of travel.

Policy 6.4.3 – Allow rural residential development in those areas with sufficient “carrying capacity” including roadway capacity, water supply, septic suitability, educational facilities and organized structural fire protection.

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 or undevelopable areas.

Policy 6.4.8 – Allow for flexibility in the application of regulations with regard to the unique variations between different rural residential developments.

The large, phased development will include the logical and efficient provision of facilities and services. Water will be fully reviewed at the subdivision stage of the development process as required by the Code and Colorado Revised Statutes. The proposed development contains parks, trails, and multiple open space tracts. The applicant has requested approval of a concurrently reviewed preliminary plan for 766.66 acres to create 143 single family residential lots with an overall density of one (1) dwelling unit per five (5) acres, one commercial lot, and 151.238 acres of open space. The overall development is proposed to include the following zoning districts: CC (7.88 acres), RR-2.5 (350.26 acres), and RR-5 (408.52 acres).

The proposed Winsome development is primarily surrounded by properties zoned RR-5 (Residential Rural). In addition to the RR-5 zoned properties, the
subject parcel is also bordered by approximately 1,175 linear feet of A-35 (Agricultural) zoned property along the northern boundary. The proposed development is bordered by several existing subdivisions with the minimum lot size being five (5) acres, including: Forest Green to the east, Country Squire Estates to the north, Bison Meadows to the south, and Vic’s Creek to the west. The Black Forest Reserve PUD is located approximately one-half mile to the south and allows for a minimum lot size of 2.5 acres with an overall density of one dwelling unit per 4.68 acres. Directly to the south, across from Hodgen Road, is the parcel owned by the Audubon Society, which is a non-profit environmental organization dedicated to conservation and preservation of natural habitats. The applicant is proposing to preserve approximately 20 percent of the site within no-build tracts.

The preliminary plan includes multiple density transitions. With the exception of those lots adjacent to Hodgen Road, all perimeter lots are over five (5) acres in size. Those lots located along the northern boundary of the preliminary plan adjacent to the Country Squire Estates Subdivision are proposed to be 7-10 acres in size. The 2.5 acres lots are generally located along Hodgen Road in the center of the proposed preliminary plan.

Due to a major drainage way that runs through the property, approximately 20 percent of the total site is being preserved as open space with a trail system that will be open to the general public. The applicant is proposing a trailhead parking lot to allow convenient public access to the trail system.

The applicant is proposing clustered design of the development in the concurrently reviewed preliminary plan in order to allow for the preservation of additional open space. The result of implementing the clustered design concept is that the overall density for the development is proposed to be one (1) dwelling unit per five (5) acres with an average lot size of 3.95 acres. For this reason, staff recommends that the proposed development is consistent with the previously developed areas in the vicinity in terms of density.

The proposal can be found to be in general conformance with the Policy Plan with the planned open space conservation and density transitions as shown in the proposed preliminary plan.

4. Small Area Plan Analysis
The parcel is included within the boundaries of the Black Forest Preservation Plan (1987), specifically the Meridian-Eastonville Corridor planning area which recommends an overall density of one (1) dwelling unit per five (5) acres.
Relevant goals and policies are as follows:

1. B Uphold the adopted Land Use Scenario and Concept Plan which identifies areas to be used for agricultural and range lands, low and higher density residential development, commercial and industrial uses, and mixed, recreational, open space and semi-public uses.

1.5 Preserve open space as a means of retaining natural features and the separate identity of the Black Forest Planning Area.

2.3 Support cluster development alternatives which result in the creation of permanently dedicated and maintained open space.

3.1 Continue the promotion of residential subdivisions with an overall average minimum lot area of 5 acres in the Timbered Area and other designated portions of the planning area. The minimum lot size for five-acre overall density areas should be at least 2.5 acres in most instances.

3.2 Give careful consideration to clustering alternatives in areas appropriate for subdivision as a means of preserving more open space, minimizing cost and environmental impacts and promoting aesthetic quality.

4.1 Restrict new commercial uses within the forested and low density residential areas to existing or proposed commercial nodes as defined in the approved Land Use Scenario and Concept Plan. Within these areas infill should be encouraged rather than expansion. Strip commercial is not desired.

4.4 Maintain the scale of new commercial uses so that it is in balance with existing uses.

The Meridian-Eastonville sub-area includes the following statement:
Large lot cluster subdivision design to preserve panoramic views, enhance and protect drainage features and accent the topography.

Large lot cluster is defined in the Plan as:
A more limited and specific form of cluster development applicable to rural residential developments wherein no individual lots of less than 2.5 acres in area are allowable.
The applicant is proposing a large lot cluster development with a minimum lot size of 2.5 acres and an overall density of one (1) dwelling unit per five (5) acres. For this reason, staff recommends that the proposed density is consistent with the Plan.

The Plan identifies a potential location for commercial uses at the Hodgen Road and Meridian Road intersection. The plan further explains that the commercial uses should be specifically geared towards the needs of local residents. The applicant is requesting to rezone 7.88 acres to the CC (Commercial Community) zoning district.

Section 3.2.5 of the Land Development Code (2019) states the following: “The CC zoning district is intended to accommodate retail sales and service establishments that generally require freestanding or small center type buildings and that primarily serve adjoining neighborhoods.”

The specific intent of this zoning district is to accommodate the needs of local residents. The proposed preliminary plan identifies that the commercial area will be made up of a 4.36 acre lot and a 2.84 acre tract to be designated as a drainage facility and not eligible for a building permit.

The Plan also identifies Meridian Road as a potential major north-south transportation corridor and recommends adequate right-of-way be protected. The applicant is proposing to dedicate adequate right-of-way along Meridian Road per the 2016 Major Transportation Corridors Plan Update (MTCP) to allow for future expansion.

The proposed development is bisected by a significant natural drainage feature, which includes wetlands and the floodplain. Through use of the large lot cluster design, the applicant is able to preserve this significant natural feature (approximately 152 acres or 20 percent of the project area) as an open space area with a trail corridor. If the concurrently proposed preliminary plan request is approved, the applicant is proposing to submit a service plan application to form a special district. The purpose of the district would be to provide services to the future residents within the district boundaries. These services would include, but would not necessarily be limited to, the ongoing maintenance of floodplain areas and trails.
The Black Forest Land Use Committee was sent a referral for the preliminary plan and concurrently submitted rezoning requests. They responded with the following statement:

“The Black Forest Land Use Committee recommends approval of the preliminary plan. We commend the planners and developers for working closely with us on this development. The development conforms well to the Black Forest Preservation Plan.”

Staff recommends that the rezoning request from RR-5 (Rural Residential) to RR-2.5 (Rural Residential) can be found to be in general conformance with the Policy Plan with the open space conservation and density transitions as shown in the concurrently proposed preliminary plan.

5. Other Master Plan Elements
The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a moderate wildlife impact potential. El Paso County Environmental Division of Community Services and Colorado Parks and Wildlife were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies potential floodplain deposits, valley fill, and 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
There is a floodplain on the subject parcel. This floodplain is proposed to be contained within tracts on the concurrently reviewed preliminary plan.

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

3. Floodplain
FEMA Flood Insurance Rate Map panel number 08041C0350G shows that the 100-year floodplain (Zone A) of West Kiowa Creek flowing through the site. The floodplain is planned to be located in a tract to be owned and maintained by the anticipated Winsome Metropolitan Districts Nos. 1, 2, 3, and 4. The applicant is currently processing a Conditional Letter of Map Revision with FEMA to adjust the floodplain boundary and establish base flood elevations (CLOMR Case No. 19-08-0185R).
4. Drainage and Erosion
The project is located within the West Kiowa drainage basin (KIKI0200), which is unstudied and has no associated drainage or bridge fees.

The applicant has submitted a preliminary drainage report with the concurrent preliminary plan application (PCD File No. SP186). The preliminary drainage report identifies specific solutions to on-site and off-site drainage problems resulting from the development of the subdivision.

5. Transportation
Access to the development is via three proposed rural local roadways along Hodgen Road and one rural local road on Meridian Road. All the streets within the subdivision are planned to be public roads and will be dedicated to the County. The traffic impact study concluded that Hodgen Road and Meridian Road are expected to continue to operate at a Level of Service (LOS) of C or better with the rezone request.

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

H. SERVICES
1. Water
Water service is proposed to be provided by individual wells.

2. Sanitation
Wastewater service is proposed to be provided by onsite wastewater treatment systems (OWTS).

3. Emergency Services
The property is located within the Falcon Fire Protection District.

4. Utilities
Electrical service will be provided by Mountain View Electric Association and natural gas service will be provided by Black Hills Energy.

5. Metropolitan Districts
The property is not within a metropolitan district, but the applicant anticipates future formation of a Title 32 Special District.

6. Parks/Trails
Land dedication and fees in lieu of park land dedication are not required for a map amendment (re zoning) application.
7. Schools
Land dedication and fees in lieu of school land dedication are not required for a map
amendment (rezoning) application.

I. APPLICABLE RESOLUTIONS
Approval Page 27
Disapproval Page 28

J. STATUS OF MAJOR ISSUES
There are no major outstanding issues.

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

CONDITIONS
1. The developer shall comply with federal and state laws, regulations, ordinances,
review and permit requirements, and other agency requirements. Applicable
agencies include, but are not limited to: the Colorado Parks and Wildlife, Colorado
Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and
Wildlife Service regarding the Endangered Species Act, particularly as it relates to
the Preble’s Meadow Jumping Mouse as a listed threatened species.

2. Any future or subsequent development and/or use of the property shall be in
accordance with the use, density, and dimensional standards of the RR-2.5
(Residential Rural) zoning district and with the applicable sections of the Land

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.
L. PUBLIC COMMENT AND NOTICE
The Planning and Community Development Department notified thirty (30) adjoining property owners on May 16, 2019, for the Planning Commission hearing. Responses will be provided at the hearing.

M. ATTACHMENTS
Vicinity Map
Letter of Intent
Rezone Map
WINSOME: REZONE AND PRELIMINARY PLAN

LETTER OF INTENT

OCTOBER 2018, REVISED MARCH 2019

PROPERTY OWNER: McCune Ranch LLC
PO BOX 36 Arrowhead Dr.
Elbert CO 80106

APPLICANT: PT McCune LLC
1864 Woodmoor Dr, Ste 100
Monument, Colorado 80132

CONSULTANT: N.E.S. Inc.
619 North Cascade Ave,
Colorado Springs, CO 80903

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:

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<th>Zone</th>
<th>Min. Lot Frontage</th>
<th>Min. Front Setback</th>
<th>Min. Rear Setback</th>
<th>Min. Side Setback</th>
<th>Max. Lot Coverage</th>
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<td>200 ft</td>
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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 with 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 then 0.5 acres, it will be covered by the Nationwide Permit #29 for residential development. If the impact is greater the 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 zone change to RR-2.5 is consistent with the policies of the County Plan that encourage rural residential development in locations contiguous to existing rural residential subdivisions and that include clustering concepts to conserve open space and natural features. 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 rural residential development with lots ranging from 2.5 to 10-acres at a 5-acre lot density is compatible with the adjacent previously developed areas as it will not create any notable change in the rural residential character of the area or result in any problems or conflicts. On the contrary, the project will add significantly to the amenities and rural character of the area by preserving a substantial area of natural open space with public access.

Notwithstanding the Applicant’s opinion that this project is compatible with the surrounding area, the County Plan defines land use buffering as “the effective incorporation of open space, natural features, rights-of-way, phased gradations of densities, or use of screening with vegetation or topography, to either transition between potentially incompatible uses or to define or distinguish developed areas.” This project includes phased gradation of densities by bordering the development to the north, east and west with 5-acres lots. It also uses open space and natural features to transition internally between the 5-acre and 2.5-acre zoning. The extensive Hodgen Road right-of-way also provides a buffer to the development to the south.

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.

Black Forest Preservation Plan

Excerpts from the Black Forest Preservation Plan

Potential location for commercial uses which are specifically geared toward the needs of local residents.

Meridian-Eastoville Corridor

- Large lot residential development that is consistent with existing subdivisions should be encouraged.
- Currently unzoned areas should be zoned A-4 (Agricultural).
- Commercial development should be limited to the nodes designated for this unit.
- Meridian Road should be considered as a potential major north-south transportation corridor and adequate right-of-way should be protected.
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.
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 Preliminarily 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 retained 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 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 then 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.