

March 7, 2024 PLANNING COMMISSION
FOREST HEIGHTS ESTATES MS206
Adjacent Landowner (since 1969) Parcel 108

719-357-5918

JvA
Judith von Ahlefeldt 8255 Forest Heights Circle

No objection to subdivision of Parcels 1-4

Strong Objection to:

- Positioning of cul de sac east of lots

Two private driveways would service two existing lots impacts wetland, gas line and electric/ phone lines. Road could be widened to Lot 081 drive way & existing culvert extended.

- no need to replace culvert.

- Positioning the new-built cul de sac at the turn -around at east end of "road", between two lots not in the subdivided new lot area causes impact to existing gas and phone lines, unnecessary (serviceable culvert) replacement, removal of mature trees on private land to north, unnecessary construction impacts to stable landscape, and causes extra hardscape disrupting native Burgess River wetland.

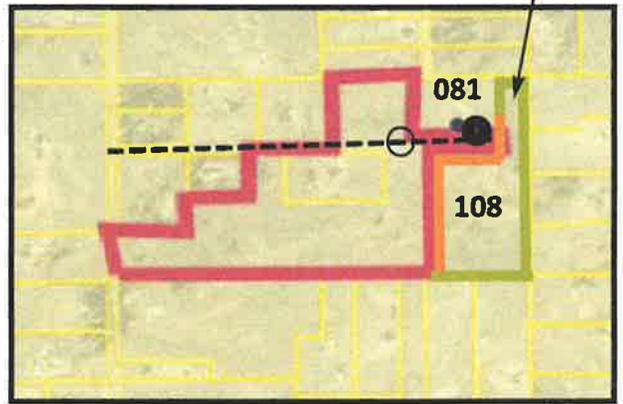
- Brings unnecessary subdivision traffic past Parcels 081 & 108.

- Unnecessary expense for developer per road costs.

- The existing turn-around is 85 feet wide and the driveway to Lot 108 on the south adds additional width.

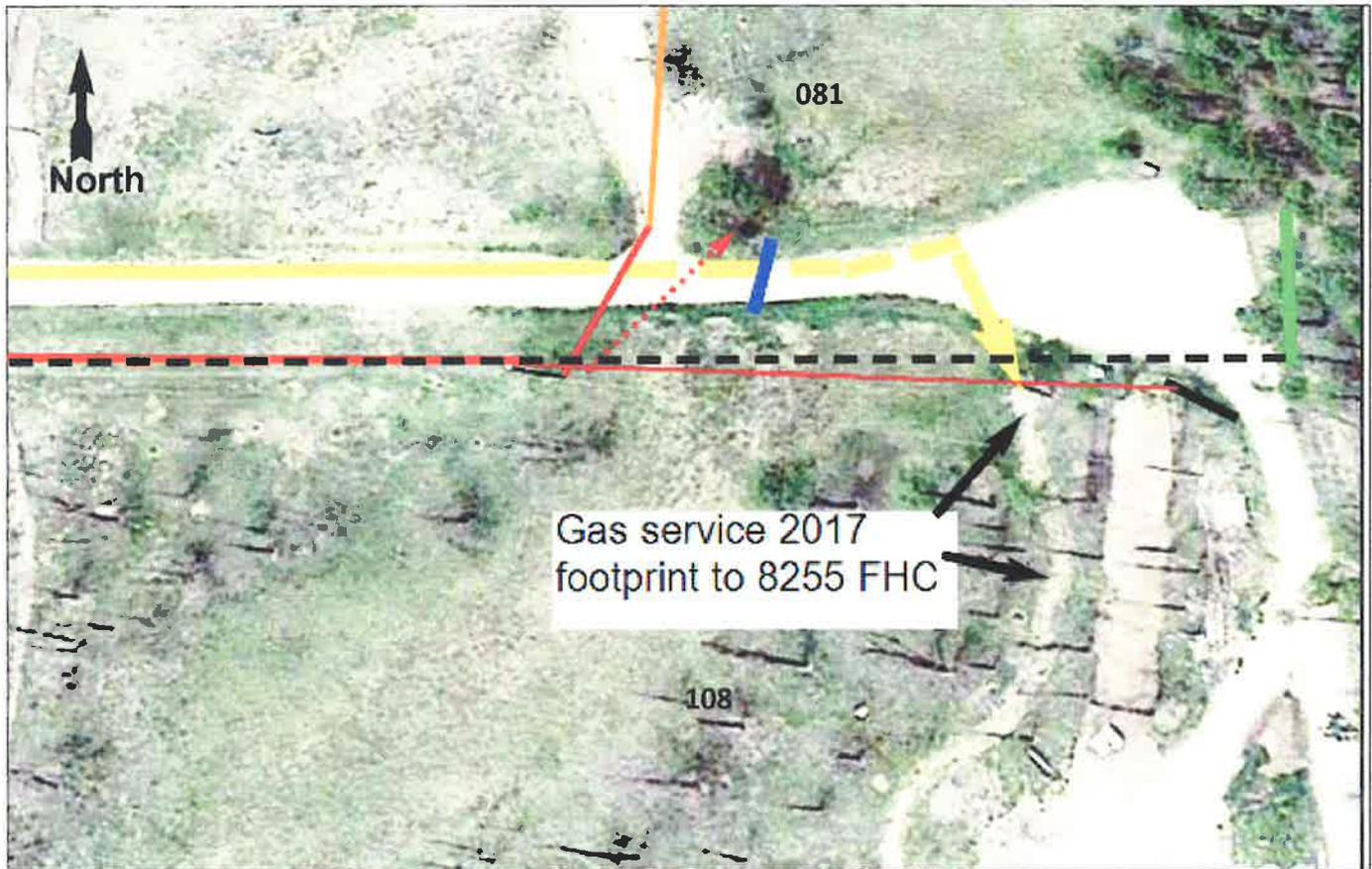
I offered to purchase the east end of Tract B so there could be a shared driveway off the cul de sac for the subdivision. to the west of these two private lots.

REQUEST: Please include the option to place the cul de sac required by ECM further west between Lots 1 and 4 and allow private driveways to access Lots 081 and 108 east of the cul de sac.



Annotated Context Map from FHE Staff Rept page 19

- Requested cul de sac position
- Proposed cul de sac position



2017 annotated Google Earth orthophoto shows Natural Gas line on north edge of existing “road” and crossing to service 8255 Forest Hts Circle. Culvert is below gas line which crosses road to the east. Dashed line is property boundary and fence. Red line is overhead MVEA Electric line. The portion of Forest Hts Circle between Lots and 108 serves only as a driveway to these two lots.

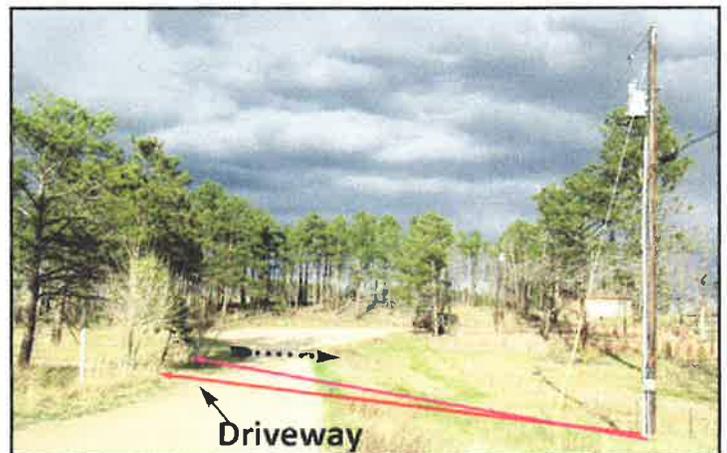


Photo view to east along Forest Hts. Circle to existing turnaround. The road occupies only the north side of the 60’ ROW. Arrow indicates position of culvert from meadow on Parcel 081 to downstream Burgess River wetland on #108. My fenceline is just south of the utility pole. The small black arrows mark driveway for Parcel 081. That driveway is flanked by cottonwood and peachleaf willow trees, aspens and some pines which survived the 2013 fire. The land is flat and well vegetated.

Strong Objection to the Maintenance Agreement and Covenants

This document was created by Attorney Duncan Bremer early in the Submittal /Review Process and has been problematic since the start.

OCA had many specific objections to the Maintenance Agreement and Covenants from Spring of 2021 through Fall of 2024, but these do not appear in the final list of 90 EDARP Review Documents.

The only document presented on EDARP cited and dated as:

“Maintenance Agreement (MS Word version required attachments included) 1/30/2024 6:01:18 PM “

These entries are in the EDARP Review Comments as of 2024-03-06: ““

1. “County Attorney - Development Review Previous comments on Access Easement have not been addressed. 11/9/2023 12:57:33 PM”
2. “County Attorney - Development Review No further comments on Access Easement and Maintenance Agreement. 2/20/2024 9:57:15 AM “ Why no further comment?

The ACCESS EASEMENT GRANT AND MAINTENANCE AGREEMENT FOR FOREST HEIGHTS CIRCLE AND RESTRICTIVE COVENANTS FOR LOTS 1, 2, 3 & 4 FOREST HEIGHTS ESTATES SUBDIVISION is dated January 30, 2024 on EDARP.

I have a Ingress and Egress clause in my Warranty Deed to use Forest Heights Circle.

I am willing pay to help maintain the road, have given Jon Didleaux cash each year toward his expenses for snow removal and minor grading. However, I am not willing to sign the above document presented today.

I have always maintained there should be separate documents for Existing Lots (Yonce, Ritchie, and Didleau- Phyllis north of Forest Hts; and Didleaux - Jon, Bauer, von Ahlefeldt on the south) for Road Maintenance and from New Lot 1-4 HOA/Covenant requirements and Access Easements for them.

Lots 1- 4 are required by OCA to have an HOA for Water (see OCA Requirement page 36 of Staff Report, Requirement B which states:

“B. Applicants must create a homeowners’ association (“HOA”) for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water determinations and replacement plans for the property.”

I maintain that the entire Covenant Section (Items 6-10) of this Maintenance agreement, belongs in a Lots 1-4 HOA document and should include other items which address New Lot Owners' 1-4 Rights and Responsibilities regarding Forest Heights Circle's maintenance responsibilities.

There could be a separate document specifically addressing Road Maintenance applying to both Existing Lot Owner's' responsibility toward maintaining the newly rebuilt Forest Heights Circle (surface of which is in Tracts A and B ownership by Jon Ditleaux and Phyllis Ditleu respectively, and the Yonce Property (which includes the road), and separates Tracts A and B.

I believe this Forest Heights Road Document should include:

- clearly stated road maintenance conditions and standards (including drainage hardcape structures (culverts, erosion control and weed control).
- Firm expectations must be clearly stated. Language such as:
"Following construction of the Private Road, as a general standard, the Owners agree that they shall provide maintenance sufficient to provide reasonable access for emergency vehicles and in no event less than has traditionally been the maintenance level of this access prior to the subdivision" (underline mine) This is non-specific, fuzzy, and lacks costs. estimates. Unacceptable.

I have owned property here for 55 years, and lived here for 46 of those years. "...traditionally been the maintenance level of this access prior to the subdivision " (per the road owners) was functionally ZERO from at least 1969 until 2018, and then minimal (See photos) after the current owners(subdividers) purchased Parcel 121 (Tract A) and Parcel 120 (subdivisible acreage for new lots including and east of the road Yonce's to the east end of Forest Heights Circle).

Maintenance issues came to head in August, 1991 when five property owners along Forest Heights Circle filed a "To Whom it May Concern" Statement with El Paso County Clerk Ardis Schmidt regarding the road stating: "Each person is entitled to make any improvement(s) which are reasonable and necessary to enjoy the above described easement (*i.e. Forest Hts Circle*) and cost of repair and maintenance (not to exceed \$25 per family per year) shall be shared by all parties."

02075200 Oct. 7, 1991 Book 5890 Page 337

- Expected costs and processes for addressing emergencies beyond routine maintenance (such as large snowstorms or damage repairs) should be provided for.
- A Road Document can be referenced by both the HOA document for New Lots 1-4, and a separate agreement among Existing Landowners who sign up for helping with maintenance caused by the Road Upgrades required by the LDC and ECM/ Stormwater manuals.
- Enforcement provisions must not include property liens decided by two co-administrators.
- There are no provisions for Forest Heights Circle to continue as a gravel road, and allow for public non-motorized uses - pedestrian, equestrian, bicycle. - which has been enjoyed for nearly 70 years. There is a secondary Regional Trail Access per El Paso County Parks coincident with the Pipeline Easement on the Plat, and Forest Heights Circle is the only access to it. (Please see March 6, 2024 update per EDARP).

OTHER QUESTIONS:

- Why are Existing Landowners expected to become Road Owners?
- What kind of Liability Insurance should accompany Road Ownership and be specified in the Maintenance Agreement?
- It seems questionable that two parties (who both live along the road, one of whom is the Developer) can make and enforce all Road Maintenance decisions, can place liens, and decide actions - and other "Owners have no powers other than a vote to elect future Co- Administrators.

The Access Easement and Maintenance Agreement (as presented) has untenable and fuzzy language and does not include the "Owners" in any decision-making processes.

REQUEST: Please specify further examination of the HOA Requirement and Covenants for New Lots 1-4 in Forest Heights Estates, and more specific criteria, standards, and process for Access Easement and Maintenance Agreement. Consider specifying a separate document addressing all aspects of Forest Heights Circle, including clear inclusion of Mr. Yonce's portion of the ROW, and who will actually own the full ROW from Herring Road to the cul de sac.

SUMMARY

- **NO OBJECTION** to creating the Subdivided Lots 1-4

- **STRONG OBJECTION** to submittal's positioning of the cul sac:
 - it is the most expensive option for the Developers,
 - most intrusive placement for Existing Lot owners,
 - should be placed between New Lots, not existing Lots
 - highest impact on a stable and recovering landscape, a wetland and existing utilities which are in the way of an aggressive and unnecessary road reconstruction plan for the east 406 feet of the road crossing Burgess river and on my north property line.

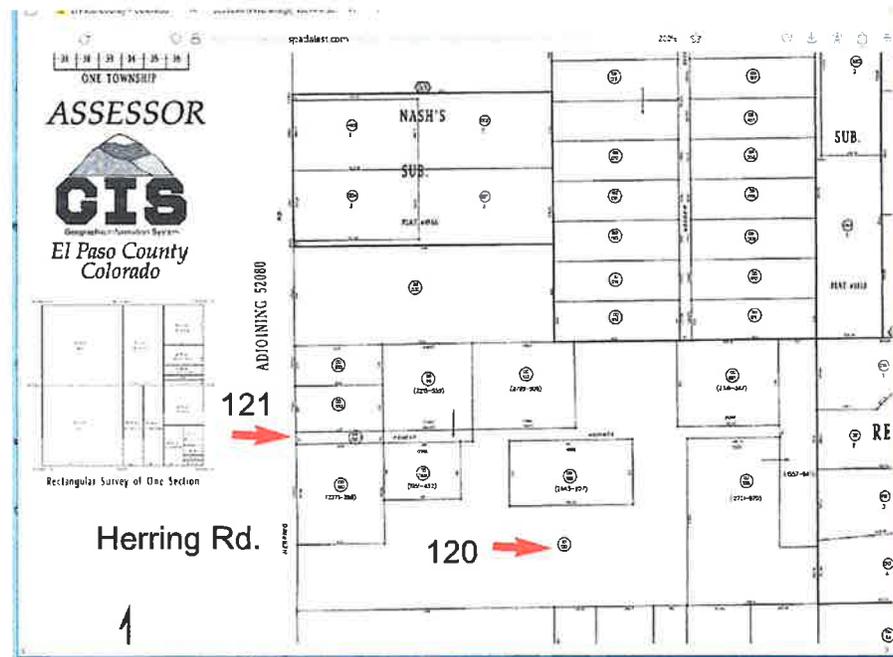
- **STRONG OBJECTION** to the **ACCESS EASEMENT AND MAINTENANCE AGREEMENT FOR FOREST HEIGHTS CIRCLE AND RESTRICTIVE COVENANTS FOR LOTS 1, 2, 3 & 4 FOREST HEIGHTS ESTATES SUBDIVISION.**
 - There should be separate documents for New lots vs Existing Lots that can reference the Maintenance and access documents.
 - There should be a Separate Road Maintenance Document and it should be precise & clearly written with maintenance standards and actions, a budget and power by stakeholders for decisions.
 - There should be a stated budget, and processes/budget for emergencies and major repairs.
 - There should NOT be a lien penalty for enforcement.
 - There needs to be provisions for continued non-motorized recreational trail connection on the gravel road to El Paso County Parks Secondary Regional Trail on the Plat on New Lot 1. Black Forest Trails Association could operate an easement on the western part of the Forest Heights Circle between Herring Road and the Pipeline.

ERRORS in the Letter of Intent dated Sept. 19, 2023:

page 1 (page 20 in Staff Report) - last sentence: "Each of the four proposed lots will be illegible for development of a single family residence in accordance with the Land Development Code and can be served by individual well & septic systems."

page 7 (page 26 of Staff Report) Paragraph 1” “The existing roadway will be improved to facilitate access to Lots 1-4.” The cul de sac and end of road access to Lots 081 and 108 improvements should end at and be between Lots 1 and 4 and keep undisturbed driveway access between existing Lots 081 and 108.

page 8 (page 27 of Staff Report) - Existing and Proposed Facilities this paragraph mention only that the proposed subdivision established Tracts A and B, but Tract A is not shown on the Maps in the Staff Report for the subdivision area (i.e. the subdivided area does not reach Herring Rd from Forest Hts Circle., nor does this paragraph explain the ownership situation of Mr. Yonce’s tract between Tracts A and B or cite any agreements in place to include this in the subdivision proposal demonstrated on the Plat. Tract A belongs to Jon Didleaux, and is presently Parcel 121, and Tract B belongs jointly to Jon Didleaux and Phyllis Didleu and includes the part of the Forest Hts Circle east of Yonce Property and within present large subdivision Parcel 120.



The Plat notes and LOI appear to include Tract A in the 32.618+ acres, but Tract A is not visible; included in all maps presented at this hearing.

Traffic Impact Fees - p. 6 (p. 25 of Staff report) states “the platting of the site will include the collection of the applicable School Fees, Park Fees, Drainage Fees and Traffic Impact Fees due for this project.” In contracts on page 9 (LOI) p. 25 Staff Report) “Traffic Impact fees will be paid at time of building permit.” it is unclear which payment schedule will be applied.

- SERIOUS DISAPPOINTMENT WITH THE OVERALL SUBDIVISION REVIEW PROCESS CRITERIA and PROCESSES.

- EDARP posting is useful mostly for Code Compliance- does allow written comments from Neighbors, but those comments (which do not have Code Status) are not reflected in outcomes.
 - Only Minimum Code Regulations (Laws) - (LDC, ECM, STORMWATER, HEALTH etc.) are addressed and boxes checked off by Departments or other agencies.
 - Unique Character and Concerns of Neighbors are expressed in Additional Comments sent in, but were not interactively discussed with either private Planners representing the Applicants, or clearly expressed as issues with suggested inclusive solutions in the Reviews.
 - Forest Heights Estates as submitted is not fully compliant with the 2021 *Your El Paso* Master Plan.
 - KEY AREA -FORESTED AREA - p. 19 “Each development proposal should also be reviewed on a case by case basis to determine its specific impact on the forested area and the established character of the individual community”.
 - AREAS OF CHANGE - p. 21 Minimal Change Developed - maintain overall character (as development occurs).
 - PLACETYPES - Large Lot Residential - p. 26 “While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist through out the County can exhibit their own unique characters based on geography and landscape”.
- CHAPTER 10 - Recreation and Tourism - p. 116 Core Principal 7
Goal 7.1 Support high-quality sustainable outdoor recreation as a key amenity for residents...
- CHAPTER 14 - IMPLEMENTATION p. 149 LAND USE Goal LU3, Specific Strategy. “Regardless of the Development that may occur ..., (Minimal Developed areas)...their overall character should be maintained.”
- CHAPTER 14 - IMPLEMENTATION p. 166 HEALTH Goal CH1 Objective CH1-2 “Prioritize and locate trail connections using criteria and proposed action items in the Parks Master Plan.” Specific Strategies Priority 4 “ Identify potential high priority connections based on identified connection criteria and considering a variety of acquisition strategies and tools including funding and partnerhip opportunities.”

Forest Heights Circle was built in 1954 as a Private Road for subdivision, the same year as Meadoglen Lane was built as a County Road for subdivision.

Neither Forest Hts Circle or Meadoglen Ln. are “Through” road sand to this day both are gravel roads. Residents have enjoyed quiet, low traffic environments, on minimally disturbed roads which have been connected by a social trail for almost 70 years, and Red Tail Ranch cooperated with a platted trail in built 2019.

This subdivision proposal does not respect the quietness, low disturbance and existing neighborhood connectivity which the ‘Unique Character” of especailly Forest Heights Estates and Meadowglen Ln.

Forst Heights Estates is in a Key position for many aspects of Neighborhood Connectivity.

REQUESTS:

1. Can Planning Commission preserve some of these Unique Characteristics of the Forest Heights Neighborhood by moving the proposed cul de sac west to between Lots 1 and 4 within the proposed subdivision, and away from the drive-ways which only only serve Parcels 081 and 108.

2. - Cintinued preservation of Neighborhood Connectivity Unique Character can be accomplished by showing all Utility Easements on the Plat (they are currently not only mentione in a Plat Note), and also noting ,as a condition of approval, a non-motorized trail connection easememt coincident wtih the north utility ease-ment of Lot 1 between Meadowglen to access the Secondary Regional Trail from gravel Meadowglen Road.

A non-Motorized Trail Easement can also be included for gravel Forest Heights aCircle to access EC Parks’ Secondary Regional Trail between Herring Road and the Pipeline Easement as a condition and notation.

Easement Agreements can be worked out prior to BoCC Plat approval.

02075200

91 OCT -7 PM 3: 13

ARDIS W. SCHMITT
EL PASO COUNTY CLERK & RECORDER

BOOK PAGE
5890 337

28 August 1991

FROM: Residents of Forest Heights Circle.

SUBJECT: Maintenance of Forest Heights Circle.

TO: Whom It May Concern.

5⁰⁰

Description: A sixty (60) foot right of way for ingress and egress over a tract of land situated in that portion of the Northwest quarter of the Southwest quarter of Section 9 in Township 12 South, Range 65 West of the 6th P.M., described as follows: Beginning at a point on the West line of said Southwest quarter 490.0 feet Southerly thereon from the Northwest corner thereof; thence Easterly parallel with the North line of said Southwest quarter 845 feet; thence Northerly parallel with the West line of said Southwest quarter to intersect the Southerly line of the North 430 feet of said Southwest quarter; thence Westerly on the Southerly line of the North 430 feet of said Southwest quarter 845 feet, more or less, to intersect the West line of said Southwest quarter; thence Southerly on said West line 60 feet, more or less, to the point of beginning.

Action: Each person is entitled to make any improvement(s) which are reasonably necessary to enjoy the above described easement and cost of repair and maintenance (not to exceed \$25 per family per year) shall be shared by all parties.

J. D. Dello Sr.
7935 Forest Heights Circle

Rev. J.R. Jolly
8255 Forest Heights Cir.

Christ F. Astor
7940 Forest Hgts.

[Signature]
8065 Forest Hts. Cir.

Donna S. Roberts
8250 Forest Hgts.

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7940 Forest Hgts.

[Handwritten signature]
8065 Forest Hts. Cir.

Donna S. Roberts
8250 Forest Hgts.

Possible Road configuration with Cul de sac between new Lots 1 and 4. Access off Forest Hts Circle: Direct from cul de sac and west; shared driveway east of cul de sac for Parcels 081 and 108. Mutual access easement, trail access easements on both Forest Hts Cir and by shared driveway owners to trails on Parcels 81 and 108. Must be Agreeable to Yonce. Road is curved to avoid trees and Driveway.

