

LETTER OF INTENT

EAGLE FOREST SUBDIVISION FINAL PLAT August 2021

**Owner and Developer:
Eagle Forest Development, LLC**

Consultant:



I. LOCATION

The 44.2 acre property is located in Black Forest on Shoup Road approximately 1/2 mile east of the commercial center of Black Forest at the intersection of Black Forest Road and Shoup Road, as shown in the aerial photo below. The Parcel Number is 5208000071.

II. REQUEST

The applicant, Eagle Forest Development, LLC is requesting Administrative Final Plat approval of the Eagle Forest Subdivision Filing 1. Note that the entire subdivision will be constructed at one time so subsequent filings may or may not occur. EFPUD is a 9 lot residential subdivision with a large open space tract.



III. PROJECT DESCRIPTION

A. Project History

Eagle Forest PUD/SP (PUD and Preliminary Plan) was approved by the BOCC on July 27, 2021. Prior to this, EFPUD had been through three separate review/approval processes in EPC beginning in 2005. PUD approvals were initially obtained in 2007-2008 by a different applicant. Initial development of EFPUD in 2007 was halted due to financial issues related to the recession. An Amended PUD Development Plan (for a relocated main road entrance off Shoup Road), Final Plat and Construction Drawings were approved in 2013 but the subsequent attempt at development was ceased due the Black Forest Fire, which burned almost all the trees on what was a densely forested site.

B. Site Description

The site is divided by Burgess Creek, which is an intermittent creek running east/west in the center of the property. The creek is dry most of the year and generally only runs during storm events. There is no 100 year floodplain on the site. Because Burgess Creek is ephemeral, there are no associated jurisdictional wetlands. South of the creek is gently sloping terrain. North of the creek are steeper slopes (up to 25%) with a prominent ridge at the top of the slope. The site is relatively flat on the north portion, above the ridge.

The Black Forest Fire of 2013 burned the entire site except for the southernmost, lower portion of the site adjacent to Shoup Road. Trees that were burned were removed and the result is the ponderosa pine forest has been replaced with post-fire grasses and forbs, except for the most southerly area within Lot 1 that did not burn. There is a residence located on Lot 1 that was built in 2012 so only 8 new homes will be constructed on the site. Below are 1) a current aerial photo of the site; and 2) a photo of the site looking north from just south of Burgess Creek, north of Lot 1.





Wildlife and Vegetation

Tetra Tech performed Preble’s Mouse Assessments on the site in 2005 and 2013. Their November 2013 Habitat Assessment report found:

“...there is no suitable habitat on the site or upstream of the site. The property does not contain suitable habitat for Preble’s for the following reasons:

- Creek is dry most of the time;
- Vegetation lacks structural diversity;
- Vegetation does not offer significant cover;
- Most of the vegetation is upland in nature; and
- Narrow riparian area with steep slopes.”

An additional environmental study and report entitled *Aquatic Resources Delineation Report* was prepared by Heritage Environmental Consultants in June 2021 and has been submitted to EPC. Only one small wetland was located within the survey area and is located within the channel of Burgess Creek covering 0.24 acres.

Heritage Environmental Consultants also conducted a field study in June 2021 to determine if habitat existed for any impacts to species listed as candidate, proposed, threatened, or endangered. The result was U.S. Fish and Wildlife Service stating that the “Service has no concerns with this project resulting in impacts to species listed as candidate, proposed, threatened, or endangered.” This correspondence from USFWS has been submitted with the Final Plat submittal materials.

Soils and Geology

A Preliminary Geology and Surface Soils Evaluation was completed by John Himmelreich & Associates for the project in 2005. Also, in 2005, Front Range Geotechnical, Inc. produced a Performance Report/Sewage Disposal Evaluation. These reports were reviewed in June 2020 by Cornell Engineering. Cornell Engineering found that these reports remain valid and meet the requirements of the current LDC. Additionally, the 2005 reports were reviewed by EPC staff as components of the 2005 submittal and were accepted. The Colorado Geological Survey (CGS) has also reviewed the Preliminary Geology and Surface Soils Evaluation twice: once in 2005 and again in October 2020. The applicant agrees to abide by CGS’s four suggestions found in their October 1, 2020 review comments and will incorporate them into the plat as directed by EPC staff. Plat notes

have been added regarding these reports.

Additionally, the applicant requests the application of LCS Section 8.4.9 (A)(2) for situations “Where a geology and soils report has been completed and reviewed at an earlier stage of the subdivision review process, a new report may not be required if in the determination of the PCD Director the existing report provides the level of site-specific detail necessary to review the subdivision application, and the recommendations of the report and CGS have been followed in the preparation of the preliminary plan .”

C. Site Plan

Lot Layout/Access/Open Space

EFPUD will have 9 lots sized between 3.1 and 5 acres accessed from Eagle Forest Drive (EFD), a proposed public road dedicated to EPC. Each lot has a building envelope. EFD intersects with Shoup Road on the southern boundary of EFPUD, crosses Burgess Creek and ascends the slope on the eastern portion of the property to access the upper plateau.

Consolidation of accesses onto Shoup Road is proposed. Two existing driveways to residences intersecting with Shoup Road will be eliminated: one for Lot 1 EFPUD and one to the west of proposed EFD. As requested by County Parks Department, an additional 20 feet of Right of Way will be dedicated to EPC along Shoup Road as well as a 25 foot wide trail easement.

EFPUD’s site plan clusters most lots in the least environmentally sensitive area. Lots 3 through 9 are located on the upper plateau on an open meadow (formerly a forested area burned in the 2013 Black Forest Fire). These lots are double loaded off Eagle Forest Drive. Lot 2 is located to the east of Eagle Forest Drive on a mild slope as the road climbs to the upper plateau. A No-Build Area south of the Building Envelope on Lot 2 is open space for Burgess Creek. Lot 1 is located west of the subdivision entry in the only treed area of the site.

The clustering design of the lot and building envelope layout allows for the preservation of extensive areas of open space and protects the natural features including Burgess Creek and adjacent banks.

Eagle Forest Drive meets EPC standards with the exception of the curve radius on the upper curve for which a deviation was approved in 2013. A request for deviation is being made with this application for the length of the cul-de-sac.

A detention pond will be located on Lot 5 in the northwest corner of the property and will drain to the west. An in-ground cistern and 30’ x 10’ road pull-off for Black Forest Fire/Rescue Protection District (BFFRPD) use will be located on the northwest side of EFD along with a cluster mailbox facility for residents. BFFRPD recently requested an additional turnout on the upper portion of the road. The applicant has agreed to the additional, second turnout which will be added to the project plans on the Final Plat (BFFRPD has agreed to this provision).

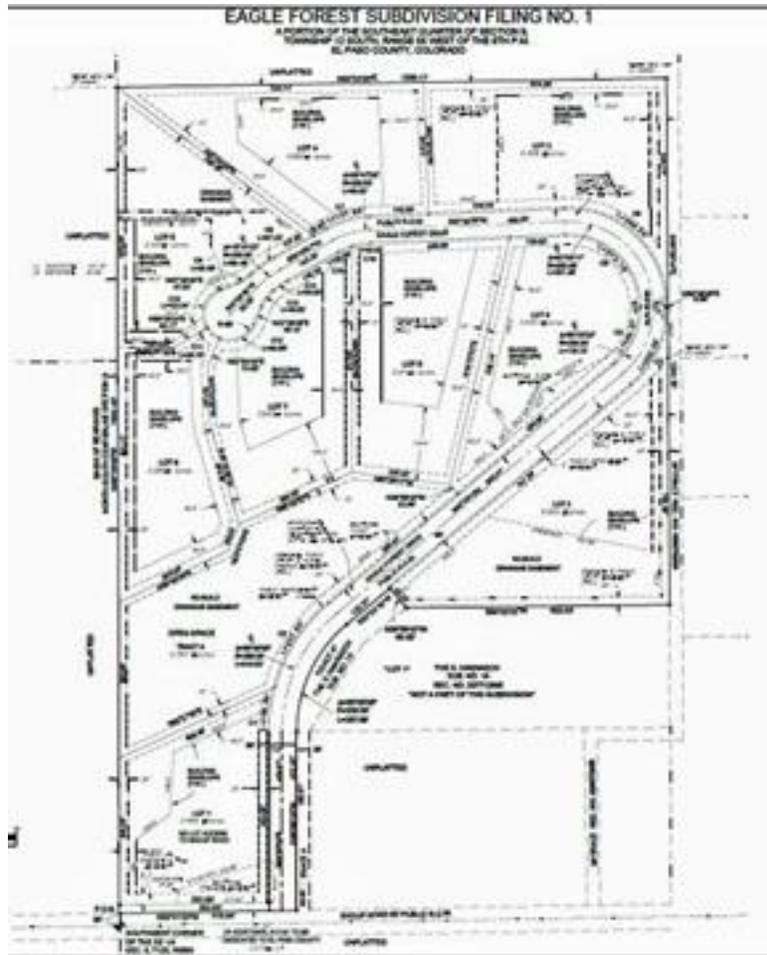
EFPUD will feature a 5.4 acre (12% of the PUD) Open Space Tract A that includes Burgess Creek and its adjacent banks. Burgess Creek will also go through the southern portion of Lot 2, outside the building envelope in a No-Build Area. No structures will be allowed to be constructed outside the Building Envelopes, representing an additional 17.4 of open space for a total of 22.8 acres open space (52% of the



total area of the PUD).

The open space tract will be preserved as private open space for the use of EFPUD residents, guests and invitees. Accessory uses will include a fire protection cistern, emergency vehicle pull-off and a cluster mailbox area. Ownership will be transferred by deed of trust to the Homeowners Association (HOA) at time of final plat recordation. Maintenance will be the responsibility of the HOA. Access will be limited to emergency and maintenance vehicles.

A graphic of the proposed Final Plat is shown below:



Utilities

Water will be supplied by individual on-lot wells. There are two existing wells on site. The development will create a demand of approximately 9.9 acre feet annually. The State Engineer’s Office wrote a letter in November 2012 stating: ...based upon the conditions that “well permits are obtained pursuant to the decree granted in” the applicable water court cases “and the terms and conditions of the well permits and said decree are followed, the proposed water supply can be provided without causing injury to decreed water rights and is expected to be physically adequate.” The well permits referred to have been obtained.



The original 2007 PUD approval from EPC found that the water supply was adequate. However, EPC staff requested a new Water Resources Report which was prepared in July 2021 by Julia Murphy, Professional Geologist/Hydrogeologist of Groundwater Investigations, LLC. The report has been submitted with the Final Plat and concludes: “Based on the proposed uses and preliminary quantification of available groundwater, there is sufficient quantity to meet the County required 300 year water supply criteria.” Regarding water quality, the report concluded: “The quality of the Dawson aquifer groundwater underlying the new proposed lot was evaluated by the EPCPH who has determined a finding for sufficiency in terms of water quality can be made based upon the water sample results from the 2012.”

Wastewater will be handled by individual on-lot septic systems. A Sewage Disposal Evaluation Report by Front Range Geotechnical, Inc. in January 2005 found as follows: “We believe all the lots within the proposed development are suitable for installation of some type of on-site wastewater disposal system utilizing soil absorption. The groundwater augmentation plan for the development requires that non-evaporative type wastewater disposal systems be used.” It is likely that most if not all lots will require an engineered OWTS system. The 2005 report has been reviewed by Cornell Engineering and found to still be valid.

Natural gas service will be supplied by Black Hills Energy while Mountain Valley Electric Association will provide electric service. Both utilities have written commitment letters.

Drainage

As noted above, Burgess Creek, an ephemeral, mostly dry creek bed, runs east/west through the site. A Final Drainage Report has been submitted. As described in the updated Eagle Forest Final Drainage Report, “*Developed drainage within the site will be conveyed through paved streets with roadside ditches and culverts, as well as grass-lined channels through open space areas following historic drainage patterns through the site. Developed runoff from Eagle Forest Subdivision will flow in a southwesterly direction, feeding into the existing main channel of Burgess Creek. Impacts of developed flows from the proposed subdivision will be mitigated through an onsite stormwater detention pond near the northwest corner of the parcel.*”

IV. DEVELOPMENT GUIDELINES

EFPUD Development Guidelines, Standards and Dimensional Standards can be found on the Cover Sheet of the *Preliminary/PUD Development Plan* that has been approved by the BOCC.

V. PROJECT JUSTIFICATION

Final Plat

The Preliminary Plan was approved by the BOCC on July 27, 2021. No revisions to the plan have been made since approval of the Preliminary Plan. The Final Plat is consistent with the Preliminary Plan and the approval criteria set forth in Section 7.2.1.D.3.e of the LDC as follows:

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

The site lies within The Timbered Area Sub-Area of the Black Forest Preservation Plan Update (1987). As described above in this LOI, EFPUD complies with the intent and description of The Timbered Area and the 1987 Black Forest Preservation Plan. EFPUD is consistent with the following goals and policies of The



Timbered Area found in the Black Forest Preservation Plan:

- *“Uses in this unit will be limited to low density residential or open space with the exception of the "community center" at the intersection of Shoup and Black Forest Roads and the commercial node at the intersection of Burgess and Black Forest Roads.”*
- *“Individual well and septic systems will be utilized.”*
- *“Large lot modified cluster (as described in the Overall Density Section of Chapter II),should be encouraged to preserve open space, especially where it can be used to protect the meadows and ponds.”*

EFPUD also complies with the intent and description of the following from the Goals, Policies and Proposed Actions Section of the Black Forest Preservation Plan:

- *“As defined previously in this section large lot cluster developments are those which may be served by individual well and septic systems. Minimum lot size is ordinarily 2+ acres as dictated by state and local regulations.”*
- **Discussing characteristics of Large Lot Cluster Developments:**
“A planned unit development, an overall density zoning overlay or an open space zone could be employed to provide more assurance of perpetual open space.”
- **“Goal Statements:**
 - *1.A - Preserve and enhance the sensitive natural environment and unique community character of the Black Forest Planning Area.*
 - *3.A Promote a residential environment which perpetuates the rural-residential character of the Black Forest Planning Area.”*
- **“Policies:**
 - *1.5 - Preserve open space as a means of retaining natural features and the separate identity of the Black Forest Planning Area.*
 - *3.3 Promote modified clustering in large lot rural residential subdivisions (those with individual well and septic systems) if it can be demonstrated that open space will be protected and maintained and that a precedent for higher density future development will not be set (refer to discussion in Land Use Scenario).”*

EFPUD is also consistent with the County Policy Plan and specifically the policies below.

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 6.1.11: 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 6.1.14: Support development which complements the unique environmental conditions and established land use character of each sub-area of the County.



2. The subdivision is in substantial conformance with the approved preliminary plan;

The Final Plat is the same as the Preliminary Plan – no revisions have been made.

3. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials

The subdivision design standards and regulations have been met. Additionally, the Final Plat complies with all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.

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;

A sufficient water supply exists for the development. Water will be supplied by individual on-lot wells. There are two existing wells on site. The development will create a demand of approximately 9.9 acre feet annually. The State Engineer’s Office wrote a letter in November 2012 stating: ...based upon the conditions that “well permits are obtained pursuant to the decree granted in” the applicable water court cases “and the terms and conditions of the well permits and said decree are followed, the proposed water supply can be provided without causing injury to decreed water rights and is expected to be physically adequate.” The well permits referred to have been obtained. Additionally, the original 2007 PUD approval from EPC found that the water supply was adequate.

The County Attorney’s Office has made a determination of water sufficiency as follows:

10. Therefore, based upon the State Engineer’s finding that the proposed water supply is adequate and will not cause material injury, the decreed water rights and plan for augmentation in Colorado Water Court Consolidated Case Nos. 04CW119 and 04CW336, on the analysis above, and on the conditions listed below, the County Attorney’s Office recommends a finding of **sufficiency** as to quantity and dependability. The El Paso County Public Health Department will need to provide an opinion as to quality.

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 will be handled by individual on-lot septic systems. A Sewage Disposal Evaluation Report by Front Range Geotechnical, Inc. in January 2005 found as follows: “We believe all the lots within the proposed development are suitable for installation of some type of on-site wastewater disposal system utilizing soil absorption. The groundwater augmentation plan for the development requires that non-evaporative type wastewater disposal systems be used.” It is likely that most if not all lots will require an engineered OWTS system. The 2005 report has been reviewed by Cornell Engineering and found to still be valid.

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)];

A Preliminary Geology and Surface Soils Evaluation was completed by John Himmelreich & Associates for the project in 2005. Also, in 2005, Front Range Geotechnical, Inc. produced a Performance Report/Sewage



Disposal Evaluation. These reports were reviewed in June 2020 by Cornell Engineering. Cornell Engineering found that these reports remain valid and meet the requirements of the current LDC. Additionally, the 2005 reports were reviewed by EPC staff as components of the 2005 submittal and were accepted.

7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM;

Drainage is addressed in the Final Drainage Report prepared by JPS Engineering. “Developed drainage within the site will be conveyed through paved streets with roadside ditches and culverts, as well as grass-lined channels through open space areas following historic drainage patterns through the site. Developed runoff from Eagle Forest Subdivision will flow in a southwesterly direction, feeding into the existing main channel of Burgess Creek. Impacts of developed flows from the proposed subdivision will be mitigated through an onsite stormwater detention pond near the northwest corner of the parcel.”

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

All lots and Tract A will have legal and physical access from EFD, a public road owned and maintained by EPC. EFD meets EPC standards with the exception of the curve radius on the upper curve for which a deviation for the was approved in 2013. Also, the length of the cul-de-sac exceeds the ECM standard - a request for deviation for this is being made with this application.

9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

EFPUD will not negatively impact service levels of County services or facilities. All necessary utility commitments have been obtained. The site lies within the Black Forest Fire/Rescue Protection District (BFFRPD). BFFRPD requested a 30’x10’ pull-off and a 30,000 gallon cistern which have been incorporated into the plan. BFFRPD has provided a Commitment to Serve Letter and a Fire Protection Report. The traffic report demonstrates that the additional traffic generated by EFPUD is well within the capacity of existing roads with acceptable LOS levels. Water and wastewater are to be provided as discussed above.

10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;

See #9 above

11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;

Off-site impacts have been evaluated. No off-site improvements are required.

12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;

Required fees related to public facilities and infrastructure will be paid at time of plat recording. An SIA will be executed for subdivision improvements.

13. The subdivision meets other applicable sections of Chapter 6 and 8;

The Final Plat and subdivision meet other applicable sections of Chapter 6 and 8.



- 14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.]**
No mineral estate owner was found.

VI. EAGLE FOREST PUD REPORTS

The reports and studies below have been submitted as part of this application.

- *Aquatic Resources Delineation Report for the Eagle Forest Subdivision Project*, Heritage Environmental Consultants, June 2021
- *Water Resources Report, Eagle Forest – PUD & Preliminary Plan* by Julia Murphy, Professional Geologist/Hydrogeologist of Groundwater Investigations, LLC. July 7, 2021
- *Preliminary Geology and Surface Soils Evaluation* by John Himmelreich & Associates and reviewed by Cornell Engineering – letter from Cornell Engineering submitted.
- *Preliminary Ground Water Investigation* by Wm. Curtis Wells & Co.
- *Performance Report/Sewage Disposal Evaluation* by Front Range Geotechnical, Inc. and reviewed by Cornell Engineering – letter from Cornell Engineering submitted.
- *Preble’s Meadow Jumping Mouse Habitat Assessment* by Tetra Tech
- *Traffic Impact Study* by LSC Transportation Consultants Inc.
- *Preliminary and Final Drainage Report* by JPS Engineering
- *Wildfire Hazard and Mitigation Report*
- *Natural Features Report*

