

Revised October 17, 2024

El Paso County Planning Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Re: Letter of Intent . . . NABULSI-ABUSHABAN SUBDIVISION

Please add a discussion
regarding the no-build
constraints on each lot.

To whom it may concern:

This letter serves as our Letter of Intent for the above referenced minor subdivision Preliminary Plan and Final Plat request. Detailed information on this request is as follows:

Applicant and Owner: NABULSI-ABUSHABAN FAMILY TRUST, Attention: Taher Nabulsi, 14384 Whispering Ridge Road, San Diego, CA 92131-4268; Phone: (858) 245-4927

Site location: 10650 Black Forest Road, El Paso County, CO (Mailing: Colorado Springs, CO 80908) . . . EPC APN: 52190-00-101

Size: 24.796 "net" acres, Zoned RR-5

Proposed Request: The proposed request is to subdivide a 25.636 "gross" acre parcel into four (4) residential lots, with applicable County section line road rights-of-way "exceptions", now dedicated right-of-way additions, to Black Forest Road and Old Ranch Road, and a proposed private road easement (Serenity Ridge Drive) for lot ingress/egress. The current zoning allows for minimum 5-acre lot sizes (minimum 4.75-acre lots adjacent to Section lines) within the zone district. No community outreach was required or is planned as part of this request.

The current state water allocation will allow up to four (4) new wells on this property, as decreed, and with a proposed four-lot subdivision, the water need, water quality and dependability for the proposed uses is being met (as detailed within the previously submitted Colorado Ground Water Determination of Water Rights, Water Resources Report, Water Supply Information Summary and Water Quality Report, and per Final Plat Note.

The application for a minor subdivision complies with El Paso County review criteria for a minor subdivision, as stated in El Paso County Land Development Code Chapter 7 and C.R.S. 30-28-133. Relationship to surrounding land uses is compatible to adjacent properties to the West, East and North. The property to the South is a large parcel for future zone-established development. The proposed subdivision is in general conformance with the goals, objectives and policies of the Master Plan for this area, the subdivision is consistent with the purposes of this code, the subdivision is in conformance with the subdivision design standards and any approved sketch plan (not applicable in this case), to the best effort of all associated subconsultants to the best of their information, knowledge and belief.

Master Plan Conformance: *"The subdivision is in conformance with the goals, objectives, and policies of the Master Plan."*

Your El Paso Master Plan (2021) is a comprehensive document communicating a vision for many factors that influence the quality of in El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County.

The site is located in the key area of the County designated a "Forested Area" approximately bound by Black Forest Road on the East, Old Ranch Road on the South and developed rural residential to the West and North. The plan emphasizes small scale, low intensity development which is critical to maintaining the identity of the key area. The location of this site and existing infrastructure is suited to single family residential use.

In the Land Use category, Goal 1.1 is "Ensure compatibility with established character and infrastructure capacity". This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The existing community character is preserved with this proposed Final Plat. The proposed density is less than allowed by zoning since enough acreage exists to allow the four rural residential lots. The proposed density will not overburden the capacity of the land to support the water and wastewater needs of the development. The site will remain rural residential and is surrounded by existing rural residential developments on the North, East, and West sides while land located in the City of Colorado Springs and zone PUD is adjacent on the south. The development will therefore be a part of the transition from the potentially higher densities on the South. Goal 2.2 is "Preserve the character of rural and environmentally sensitive areas". The proposed subdivision will keep the forested nature of the area intact. The five-acre lot density has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of three more residences on the site. The proposed private roadway is planned to avoid significant natural features and stand of trees in order to minimize impact on the existing terrain. The project maintains the rural character of site and neighborhood.

The proposed Final Plat is in compliance with the **Parks Master Plan (2013)**, which does not appear to call for trails or parks in the site. The site is located to the southeast of Black Forest Regional Park and southwest of Black Forest Section 16. Any required Park Fees will be paid at the time of platting.

The proposed subdivision is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. An additional 15 feet of right-of-way is being dedicated for Old Ranch Road located on the South edge of the site, and an additional 20 feet of right-of-way is being dedicated for Black Forest Road located on the East edge of the site.

The proposed subdivision is also in compliance with the **Master Plan for Mineral Extraction** as no separate mineral estate owners were found for the property and the existing development on surrounding properties is not compatible with any potential mineral extraction operations.

The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2018)**. The District Court, Water Division 2 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow use of the existing well and the drilling of up to four wells for the subdivision in Case No. 19CW3051 recorded under reception number 22CW3020 of the records of El Paso County.

A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible.* Both the existing residence and the new single-family residences on the proposed 5 acre lots will utilize onsite wastewater treatment systems which will provide "Return Flows" the environment as a condition of the groundwater findings and order and the well permit.

Preliminary Plan Conformance: "The subdivision is in substantial conformance with the approved Preliminary Plan."

The proposed Final Plat is submitted concurrently with the Preliminary Plan. The Final Plat is in conformance with Preliminary Plan in every respect.

Subdivision Design Standards: "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 proposed Final Plat is prepared in accordance with applicable subdivision design standards with respect to lot size, setbacks, access and provision of utilities. Waiver and Deviation of LDC provisions are requested with the Final Plat/Preliminary Plan as mentioned below.

This application does not require a preliminary plan. Please remove.

Requested Waiver: A waiver from LDC Section 8.4.3(A)(1) "Minimum Frontage for Division of Land: A division of land shall have a minimum of 60 feet frontage on a public road." along with Section 8.4.3(B)(2)(e) is requested. The referenced code provision requires that "Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC". Proposed Lots 1-4 will gain access by way of a private road connecting the site to Old Ranch Road in the southern-center portion of the site. The responsibility and maintenance of said access shall be carried out as described in a separate private access maintenance agreement. Additional code references for the requested waiver are Section 8.4.4(E)(2) "Private Roads Require Waiver. The use of private roads is limited and allowed only by waiver. In granting a waiver to allow private roads, the BOCC shall make written findings supporting the use of private roads and may require the owner to enter into a Private Road Maintenance Agreement or create covenants whereby the lot owners are required to maintain the private roads." and Section 8.4.4(E)(3) "Private Roads to Meet County Standards. Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:• Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;• Design speed where it is unlikely the road will be needed for use by the general public;• Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;• Maximum and minimum block lengths; and• Maximum grade."

Proposed Lots 1-4 are proposed to be connected to Old Ranch Road by private roadway located in a 60-foot-wide access easement comprising a portion of each of the proposed lots. The roadway will be constructed to facilitate access to proposed Lots 1-4 in accordance with the provisions of the El Paso County Engineering Criteria Manual except as modified with this waiver request along with an associated Deviation Request.

The applicant and adjacent residential owners wish to maintain the private character of the development by keeping the road within the neighborhood private. The private road for this development is appropriate as a public road is not needed for convenience or safety of the general public due to the small number of residential lots that will utilize it. The proposed roadway is also very short, having a total length of just under 600 feet. The road will be maintained by the four new lot owners of Nabulsi-Abushaban Subdivision. Since the code allows for access by private road through waiver, it is most practical for proposed Lots 1-4 to be able to access by the proposed private roadway, rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the four rural residential single family lots. The allowance of private roads, coupled with private maintenance agreements have been shown to be effective and efficient modes of access within the county. The proposed private road with approved alternative road design characteristics will also have a diminished impact on the natural terrain and landscape of the site compared to a public roadway which would be much larger dedication and require far more disturbance than a smaller private road.

LDC 8.4.4.E Private Roads to Meet County Standards - A waiver is requested from Land Development Code Section 8.4.4.E in consideration of the provisions of Section 8.4.4(E)(3) to allow modification of certain standards, to be considered with the Private Road Waiver. Modifications to right-of-way/road width, design speed, standard section thickness minimums and pavement type, block lengths and maximum grade are allowed as part of the private road waiver.

The applicant requests a lower design speed of 20 mph for the private road. The lower design speed will allow further preservation of existing natural features and terrain by allowing the improved road surface to remain closer in elevation to the existing road surface and prevent unnecessary disturbance of the roadsides. The roadway is relatively short, promoting lower speeds and will be stop controlled at the connection with Old Ranch Road. The road will be posted with a 20 mph speed limit sign.

The applicant requests the use of a gravel surface for the roadway. Gravel roadway surfaces have proved adequate, reliable and stable over the long term for roadways with low traffic volumes such as generated by the proposed small subdivision of only for lots. The private roadway surface will be maintained by the residents as noted above.

Each criteria for approval of waivers as stated in section 7.3.3 of the El Paso County Land Development Code (2021) is listed below followed by the appropriate justification.

1. The waiver does not have the effect of nullifying the intent and purpose of this code; The request for a waiver of the referenced LDC sections does not go against the intent and purpose of this code. This request is

in line with the provisions and requirements set forth in the LDC, and the private roadway will comply with the applicable design standards as modified by the request.

2. The waiver will not result in the need for additional subsequent waivers; With the approval of the referenced waivers, the lots will each be provided the required access necessary for their development. There is no known need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.

3. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property; The private road will be improved to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.

4. 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; This site has existing natural trees in good health along with natural earth stabilizing vegetation. The parties desire that the road remain private with the platting of the minor subdivision and that the roadway improvements create only minimum disturbance and modification to the existing natural terrain and vegetation. Therefore, due to very limited number of residences that will utilize the road and the agreement reached with adjacent owners, the waiver to allow the private road is preferable access to the entire site in lieu of a public road.

5. A particular non-economical hardship to the owner would result from a strict application of this code; With strict application of this code, the subdivision would be required to access by a public roadway in a 60-foot right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county. A public paved roadway would detract from the existing rural residential character of the site and intrude upon the property against the wishes of the residents.

6. The waiver will not in any manner vary the zoning provisions of this code; The proposed private road will comply with all zoning provisions of this code and does not produce violations.

7. The proposed waiver is not contrary to any provision of the master plan; The proposed private road is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

A deviation from the standards found in Engineering Criteria Manual (ECM) Section 2.2.4 Roadway Functional Classifications, Section 6, Figure 2.8 and Appendix F SD 2-10 is requested as part of this application. The request to increase the allowed foreslope grade from 6:1 to 4:1 on each side to promote the preservation of the existing natural terrain at the site which will highlight the private and rural residential nature of the development. The narrower width serves to preserve existing trees, natural vegetation and terrain. The applicant also requests to eliminate the 5-foot Public Improvements Easement dedicated to El Paso County. Since the roadway will be private, there is no legal need or useful purpose for a 5' wide public improvement easement dedicated to El Paso County along the outside edge of the roadway. The standard 10' wide Public Utility & Drainage Easement will still be provided along the outside edge of the 60' wide private roadway easement. The proposed private roadway is low volume, serving only 4 residential lots producing 38 ADT. The narrower roadway is adequate to allow two-way traffic on this low volume roadway. Additionally, the private roadway will be constructed with a cul-de-sac bulb turnaround, constructed to El Paso County standards.

The requirement for a minor subdivision are contained within the package that has been submitted:

- Required services to the site such as fire and emergency access to a public road have been addressed and await confirming comments from Black Forest Fire Protection District.
- Black Forest Road and Old Ranch Road are County-maintained public rights-of-way, with primary access to this subdivision being via proposed Serenity Ridge View's private road easement to/from said Old Ranch Road. All existing access points within this subdivision will be required to be closed to/from Black Forest Road.

- Private on-site wastewater septic systems and associated leach fields will be designed by a licensed engineer to address all septic needs for the minor subdivision's individual lots and the existing and/or planned single-family residence homes, to be in compliance with current El Paso County Health Department regulation and shall comply with required distances to new wells.
- All utility providers have been contacted and agree to provide the necessary utility services for this project. Electric service (above and/or below ground) is currently, and will be, provided by Mountain View Electric Association (MVEA), as permitted. The developer/owner and/or individual lot owners will meet with MVEA to address transformers and power locations such that underground power to each home may be achieved. Natural Gas service will be provided by Black Hills Energy (BHE), in accordance with BHE approved tariffs and gas network main extension policies, and/or individual lot propane storage tanks, as permitted.
- All soil, topographical conditions and drainage requirements have been addressed by reports submitted from Entech Engineering and MVE, Inc. respectively. No Build Easements have been created within the affected lots on the Final Plat surrounding soil hazard areas and as detailed per Final Plat note. There are no designated wetlands on-site.
- The Colorado Geological Survey Land Use review fee has been paid as required by El Paso County and is awaiting the County's request for the Colorado Geological Survey review.
- All use standards for development standards, traffic circulation, private road easement maintenance agreement, and fire department access and turnaround space are addressed in the following paragraphs.

Use Standards: The parcel being subdivided into four (4) lots is to stay within development standards for smaller subdivisions. The access to each parcel will be by a private common access drive that will be constructed to allow fire/emergency department access and turnaround space for said vehicles. All home sites will be accessed directly off the private common access drive.

Each home site will then be constructed on an area under one acre disturbance. The private common access drive will be constructed to standards set forth by the Fire Department regulations and County standards for a private access. Additionally, both Black Forest Road and Old Ranch Road are anticipated to be widened at some point in the future through this development. The owners are aware of such and will provide additional R.O.W. dedication on the plat.

The primary subdivision entrance, as provided per Traffic Impact Study separation distance to a major intersection will be developed to County standards.

Traffic: The Traffic Impact Study (Memo) has been uploaded with the other requirements to the County's EDARP website. The use of this property for three (3) additional lots generates minimal additional traffic to/from the proposed subdivision. The proposed private common access road will exist with proper visibility for residents within this subdivision. This location to the site is deemed the best location.

- Staff review comments on this report indicate: *"Please identify the fair share portion of paving that will be required for this subdivision. Calculate potential escrow alternative for paving as well. Provide the amount of paving required."*
 - This project's percentage of the total future projected ADT on this segment (between Black Forest Road and the proposed subdivision roadway intersection) would be **10 percent**. This project would add negligible trips to existing Old Ranch Road west of the site.
 - The estimated **total** cost of road paving the segment of road between Black Forest Road and the proposed subdivision roadway intersection would be **\$102,157.**
 - Ten percent of this amount would be **\$10,216.**
 - LSC recommends that a "sunset date" (for example, seven years in the future) be established for the escrow amount given to the County for the applicant's pro-rata share of future roadway paving such that the escrow amount would be returned to the owner(s) of record.

Alternatives: No alternatives or variances are requested or proposed. There are no additional Public Improvements planned for this development. All property within this subdivision will be subject to a Common Private Access Agreement for ownership and maintenance responsibilities to be created and recorded by separate document. Wastewater septic profile pits will need to be excavated to determine specifics of septic system designs. Soils reports will need to be generated to determine specifics of soil conditions for future residences. The owners will clean and clear the site to be in compliance with fire-wise policies.

We have made every effort to address all requirements for this request, but our entire team is available to answer any additional questions that may arise from the County on any aspects of this request for a minor subdivision.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David V. Hostetler", with a long, sweeping flourish extending to the right.

David V. Hostetler, Director of Surveying
For and on behalf of LAND DEVELOPMENT CONSULTANTS, INC.

File: N-A SUBD LOI.doc
DVH/dh