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Nina Ruiz, Planning Manager
El Paso County Planning & Community Development
2880 International Circle
Colorado Springs, CO 80910
By E-mail: NinaRuiz@elpasoco.com

Re: Eagle Rising Filing No. 1 SF1829 and Preliminary Plan

Thursday, July 2, 2020

Dear Nina,

As you know we have been trying to figure out how to proceed, given all the circumstances over the years, including my client's health throughout 2019. After serious discussion of Lori's e-mail of June 16 in response to mine to Diana May of June 2, we have settled on a pathway forward in this project. Here is our plan.

Preliminary Plan. We will submit for Reconsideration of our Preliminary Plan. We understand that you have set up an EDARP portal for that submission. Land Resource Associates' principal Dave Jones is in charge of that submission and we expect to have it up within 2-3 weeks.

Final Plat: Filing No. 1. Having paid fees for Phase 1 Final Plat approval on two occasions, we have diligently worked to address Development Services (now DCP) comments since 2015 from prior submissions and discussions. To date the Eagle Rising Final Plat has still not been presented to the BOCC. As you know from several site inspections, including one, in-person, by Nina Ruiz on December 6, 2018, by Fall 2018, (indeed much of this work was completed in 2014) we had completed 90% of the improvements required in the Preliminary Plan: Eagle Wing View private road and dam stabilization, address enumeration, drainage and erosion control, water pipelines and fire hydrants, electric, gas and fiber optic distribution, tree mitigation and noxious weed control. Given the significant new comments and rule changes and the difficulties in determining what that path forward will be, we have not been able to get the engineering moving on a resubmission until now. However, we plan to make that resubmission as soon as possible. As an additional complication, M&S Civil Consultants, which has been involved as the principal engineer on this development for many years is swamped. Therefore, to expedite, we are looking for another engineer who can proceed and can oversee that resubmission. The SARS-Co2 virus epidemic and Covid19 disease problems do not make this easier and deserve significant allowances.

In your e-mail of May 19 to M&S Civil Consultants engineer Georgianne Willard you mentioned that “If we do not receive a resubmission within 2 months we will close the file and you will need to submit a new application.” Two months deadline seems arbitrary. Two years from the fall of 2018 is the fall of 2020, not July 19, 2020. We respectfully request that you do not close the file on that schedule. We would like to make a resubmission prior to that date, but it does not seem likely due to recent and current circumstances.

The lag in resubmission is due to circumstances, some common, some unique to this project.

- a. As you are aware, the client has been trying to meet its objective of making the best location for a fully legally dedicated turnaround at Kurie Road in resolution to prior litigation. A new turnaround has been abandoned. The Preliminary Plan will deal with that issue by platting two lots that will access Kurie Rd. per EPC Code. We expect this will be satisfactory.
- b. As you are aware, the client has been in litigation with the Park Forest Water District for PFWD's Breach of Contract in its commitment to serve the development per the water plan approved by County Counsel and BOCC Resolution 13-407 on August 24, 2013 certifying the 300 year water supply requirement. We had hoped the litigation would be resolved, giving the client a clear path forward on how to deal with water sufficiency on the Final Plat. That has not happened. Trial has been postponed time and again. So, we still do not know when it will be resolved. With County Attorney Lori's e-mail, the client has decided to proceed with the resubmission and request that the water determination be postponed from the Preliminary Plan stage until the Final Plat stage. We ask that the Preliminary Plan reconsideration be allowed to proceed on that basis. As we see how it is proceeding and how the litigation proceeds, we will be able to adjust the Final Plat accordingly. We want to be respectful of the process.
- c. All of us have been set back due to the Covid-19 situation and related restrictions on operations.
- d. Our engineering consultants, M&S Civil Consultants, like many, are working hard on catching up on other projects in light of severe changes in County engineering criteria and this project. As mentioned above, to expedite resubmission, we are in the process of engaging another engineering firm. However, we must wait for them to open up their schedule, and therefore cannot at this time provide a specific date by which the resubmission will occur. We all want the next submission to be responsive to prior comments, not just a place holder.

Therefore, we formally request you not close the file, but keep it open at this time in order to allow the project team to make an appropriate and responsive resubmission. We also request that you concur with the outline for Reconsideration of the Preliminary Plan as outlined above. The client is committing significant resources to this program and we need to know immediately if the County does not agree to this course. Please, reply to this email by July 9.

Very Truly Yours,



Duncan S. Bremer

Copy: Lori Seago (LoriSeago@elpasoco.com)