

**From:** Duncan Bremer <duncan.bremer@gmail.com>  
**Sent:** Thursday, August 22, 2024 14:36  
**To:** Meggan Herington  
**Cc:** Wayne M Timura  
**Subject:** Eagle Rising Resolution of Outstanding Issues

Meggan,

We still have two issues that will resolve the rest. We firmly believe these issues are for you to resolve, not Engineering. Please give this prompt attention and let us know that you have resolved them.

**Lots Outside Creek.** As suggested in your email of July 1 Option 2 (relevant portion copied below), the lots have been removed outside the channel.

MDDP and approved deviation provides for the channel to be preserved as a natural vegetated drainage way. The deviation has eliminated the need for a 15-foot access easement along the stream bank. Therefore, there is no need for lot lines to be a minimum of 15 feet from the calculated 100-year flood level location, though most are.

In accordance with the Preliminary Plan, Filing No. 1 provides access through Filing No. 1 to the eastern unplatted parcel containing the channel. According to the MDDP and approved deviation, the channel is to remain in its natural vegetated state. Maintenance is not anticipated. Nevertheless, this access is provided and should be more than sufficient.

Since (1) the lots are removed from the 100-year flood line; (2) Filing No. 1 development has no substantial impact on the creek; and (3) access to the parcel with the channel is provided, requirements regarding the channel do not need to be implemented with Filing No. 1 and will be implemented with a later filing. E.g., No maintenance agreement with regard to the channel is required with Filing No. 1.

## 2. Private Stormwater Facility and Wetland Maintenance Agreement and Easement

Option 1 – Per the approved deviation that allows no channel improvements, submit the agreements for the maintenance of wetlands vegetation. The deviation approval is contingent upon having this maintenance agreement in place.

Option 2 – Pull all lots in the first filing out of the channel area. Then all requirements will be implemented with the next phase or filing that impacts the channel.

**Kurie Road Turnaround.** Filing No. 1 does not affect Kurie Road. Therefore, code section 8.4.4 (B) is inapplicable. No dedication is required.

Tracts are disfavored in the LDC. To set land into a tract (or to dedicate land) is an imposition that devalues the property.

Furthermore, setting this land in a tract achieves no benefit to the County. The County is agnostic as to whether that turnaround ever gets built. The approved preliminary plan is just a plan. It commits neither the landowners nor the County to fully build-out all lots in the plan.

If in the future the landowners want to plat more lots, the approved Preliminary Plan shows them a plan for doing so: i.e., that if they want more than two lots accessing Kurie Road, they will have to develop the turnaround so that those new lots will have a minimum of 30 feet of frontage. The note on the Final Plat assures full disclosure of this potential future turnaround and accomplishes what you asked for in the June 20 email (below).

On Jun 20, 2024, at 3:41 PM, Meggan Herington <[MegganHerington@elpasoco.com](mailto:MegganHerington@elpasoco.com)> wrote:

Duncan, all I said was I am not available to meet at the time you wanted. I “took myself out” because I did not want to slow down your project. I will make a spot for you Monday morning. But the County attorney will not be in attendance. Happy to hear how you feel the requirement to depict a ROW future reservation on a final plat for a road approved on a preliminary plan is regulatory overreach. Not asking you to build the road that was originally agreed to. **Just show a future potential for a road as depicted on the approved preliminary plan.**

Meggan, please resolve these two issues as requested. Then you can get the legal review moving again, the landowners will make the land swap to eliminate the ownership of I Q Investors from any portion of the land in Filing No. 1 and you can administratively approve the Final Plat.

Best,

DuncanDuncan Bremer

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