



August 25, 2023

PCD File No.: SF-22-25

**PRIVATE ROAD WAIVER REQUEST
EAGLE RISING**

Owner/Applicant:

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Site Location Size and Zoning:

The proposed Eagle Rising Filing No. 1 subdivision is located within portions of the E1/2 of Section 29, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado. In general, the proposed

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subdivision is located south of the Park Forest Estates Filing 2 subdivision and east of the Eagle Wing Estates subdivision. The site consists of the unplatted parcel having El Paso County Tax ID Numbers 52290-00-034 and current address of 10195 Kurie Road. The site has total acreage of 35.283 acres and is zoned RR-2.5 (Residential Rural 2.5 acre) with a County approved Preliminary Plan for the entire Eagle Rising Subdivision (PCD File No. SP205).

The existing site contains an existing gravel private road extending east and north from the east existing end of Eagle Wing Drive, two existing single-family residences and several auxiliary structures. Vehicular (driveway) access to proposed Lot 10 will be from the existing Kurie Road turnaround. Vehicular access to all other lots will be from Eagle Wing Drive cul-de-sac head, an asphalt surfaced public ROW, via Eagle Wing View (Tract “A”), an existing private gravel surfaced interior roadway to be owned and maintained by the Eagle Rising Owners Association. A separate Deviation Request is also submitted to allow alterations to the typical standard roadway cross section.

Waiver Request and Justification:

During the 2020 Eagle Rising Preliminary Plan Reinstatement application process (SF-20-012), the applicant requested a waiver to LDC 8.4.4.C allowing for Eagle Wing Drive (now View) to be a private roadway rather than a public roadway. The BoCC approved the requested waiver in their December 8, 2020 Resolution No. 20-423 and the Filing 1 Final Plat reflects this approval by placing Eagle Wing View into Tract A to be owned and maintained by the Eagle Rising Owners Association.

As part of the Eagle Rising Filing No. 1 Final Plat application, the applicant is requesting a waiver to LDC 8.4.4.E requiring that private roads to meet County Standards. Approval of this waiver for private Eagle Wing View will eliminate the need for numerous individual Engineering Criteria Manual deviation requests.

LDC 8.4.4(E)(2) allows for consideration of private road with provision of a Private Road Maintenance Agreement between the subject lot owners. This waiver was granted for Eagle Rising as mentioned above. The applicant requests alternative design standards according to LDC 8.4.4(E)(3) to allow modified design speed and pavement type. The responsibility and maintenance of said access shall be carried out as described in the separate private access maintenance agreement.

LDC Section 8.4.4(E)(3) states “ *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 1-9 are to be served with access by Eagle Wing View, a private roadway located in proposed Tract A. The applicant and future residential owners wish to maintain a private character of the development by keeping the road within the neighborhood private, low volume and low speed. They also desire to maintain the rural residential character of the neighborhood by having a narrower gravel road as requested in the associated ECM Deviation. 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 road will be maintained by the lot owners of the Eagle Rising Filing No. 1 for a total of 9 lots that gain access. Since the code allows for access by private road through waiver, it is most practical for proposed Lots 1-9 to be able to access by the existing 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 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 with standard section thickness and material.

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 design speed and 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 and posted speed limit of 15 mph. 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 west connection to the public Eagle Wing Drive cul-de-sac. The existing private road is already constructed to the requested design configuration and the road will be posted with a 15 mph speed limit sign.

The applicant requests the use of the existing gravel surface for the roadway. The existing gravel surface has proved adequate, reliable and stable over the last several years. A new asphalt apron extending 50 feet into the site from the proposed public cul-de-sac terminus of Eagle Wing Drive will provide an appropriate transition from the paved public way to the private gravel road. The private roadway surface will be maintained by the residents as noted. The existing private gravel road is already constructed with the requested all-weather driveable gravel surface.

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 this request and will meet the intent of the code by providing adequate, safe and reliable access to the proposed rural residential lots.
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 provide safe and reliable access to the subdivision. The presence of low traffic volumes for the nine lots of 85 ADT allows for use of the modified roadway with no out-of-the-ordinary potential hazard. Additionally, it is anticipated that the private roadway will be utilized for equestrian purposes. Since horses prefer gravel footing over asphalt paved footing, the requested roadway surface is safer for both the horse and rider. The responsibility and maintenance of said driveway shall be carried out as described in a

private access maintenance agreement. The alternative design for the roadway 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;* The applicant and future lot owners desire that the road remain private with the platting of Eagle Rising Filing No. 1 and that the roadway improvements create no further disturbance or modification to the existing natural terrain and vegetation. Therefore, due to very limited number of residences that will utilize the road and maintenance guaranteed by binding agreement, the waiver to allow the private road is preferable access to the entire site in lieu of a roadway designed to public road standards. The requested design modifications of road width, design speed and surface treatment will allow the site to remain harmonious with the existing terrain.
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 the previously approved private road in a 60' right-of-way constructed to El Paso County standards. The public road standards 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 road design standards would detract from the existing rural residential character of the site and intrude upon the property against the wishes of the residents. Asphalt paving of the existing private roadway would introduce new and additional hazard to the roadway when used for anticipated equestrian purposes due to the animal's preference for gravel footing.
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 new 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.

As part of the Eagle Rising Filing No. 1 Final Plat application, the applicant is requesting this waiver to LDC 8.4.4.E requiring that private roads to meet County Standards. Approval of this waiver will provide the appropriate access for the rural residential subdivision while preserving the existing natural terrain and features and providing the desired neighborhood character. The listed alternative design standard elements are eligible to be waived under LDC 8.4.4.(E)(3) and the approval of the waiver will eliminate the need for numerous individual Engineering Criteria Manual deviation requests.

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