

LETTER OF INTENT
EAGLE RISING FILING NO. 1, FINAL PLAT APPLICATION
PCD File Number SF-22-25

September 6, 2023
Revised November 20, 2023

PARCEL NUMBER: 52290 00 034

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SITE INFORMATION

The proposed Eagle Rising Filing 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 subdivision is located south of the Park Forest Estates Filing 2 subdivision and east of the Eagle Wing Estates subdivision.

The property totals 35.283 acres and is currently zoned RR-2.5 with a County approved Preliminary Plan for the entire Eagle Rising Subdivision (PCD File No. SP205). See Preliminary Plan Approval status discussed later in this letter. Vehicular (driveway) access to 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.

DEVELOPMENT REQUEST

The applicant is requesting Final Plat approval for the Eagle Rising Filing No. 1 subdivision facilitating:

- 10 single family residential lots ranging in size from 7.119 ac to 2.500 ac on 33.623 acres comprising 95.30% of the subdivision.
- A 0.341 ac public right-of-way (Eagle Wing Drive cul-de-sac head) comprising 0.970% of the subdivision.
- Tract "A", a 1.314 ac private roadway right-of-way (Eagle Wing View) comprising 3.72% of the subdivision.

- Tract “B”, a 160 sf parcel facilitating an existing well and comprising less than 0.01% of the subdivision. See Final Plat Note #22 for a detailed description of the Tract’s allowable uses, restrictions, limitations and responsibilities.

The average lot size is 3.3623 acres and the subdivision’s gross density is 1 lot per 3.5295 acres.

STATUS OF EXISTING PRELIMINARY PLAN REINSTATEMENT APPLICATION

The 35.283 acre Eagle Rising Filing No. 1 subdivision is a separately owned portion of the 70.97 acre Eagle Rising Preliminary Plan originally approved by the BoCC on Sep 24, 2013. The Preliminary Plan expired and was subsequently reinstated in December of 2022 and later extended to December 8th of 2024. During the reinstatement and extension processes, some minor changes or amendments were made to the Preliminary Plan. Indeed, the Board anticipated minor changes to the preliminary when they included Approval Condition No. 5 by stating:

“Authority is given to the PCD Director to administratively approve minor amendment(s) to the preliminary plan. The Director shall have the authority to determine whether any proposed future amendment to the plan constitutes a major or minor amendment to the plan....”

To date, minor changes and/or modifications to the original Preliminary Plan and/or the 2020 Reinstated Preliminary Plan influencing the Filing No 1 Final Plat include:

- The original Preliminary Plan included public roadways. The Board of County Commissioners approved a waiver to the reinstated Preliminary Plan utilizing private roadways on Dec 8, 2020.
- The original and reinstated Preliminary Plans both depicted the northeasterly terminus of Eagle Wing Drive to be a proposed cul-de-sac head terminating within the Eagle Rising subdivision while retaining the temporary turnaround within the adjacent Eagle Wing subdivision. Following the reinstatement of the Preliminary Plan by the Board of County Commissioners which included the use of private roadways, the PCD staff requested that the applicant eliminate the existing public Eagle Wing Drive temporary turnaround within the adjacent Eagle Wing subdivision and replace it with a new public cul-de-sac head within the Eagle Rising subdivision. The applicant agreed to the PCD staff request based upon the PCD Director’s determination that the amendment was minor and did not require a full County review.
- Minor amendments to the designed 100 year flood plain have been included based upon the MVE Master Development Drainage Report / Preliminary Drainage Report.
- Minor amendments to the wetlands delineation and the location of the limits of construction disturbance have been included based upon the updated ERO Natural Resource Report and Wetlands Delineation Report.

To date, no Preliminary Plan amendments requiring full County review and approval are proposed.

EXISTING ON-SITE IMPROVEMENTS

Existing improvements to remain within this parcel include:

- Lots 3 and 4, existing corral. The corral is not considered an accessory use. It is simply a reinforced fence intended to contain horses. Each of the individual lot owners will own and maintain that portion of the fence/corral located on their individual property.
- Lot 6, existing single family residential home w/ utilities, existing accessory large barn/shop/arena w/ utilities, 4 existing storage containers to be owned and maintained by the individual lot owner.
- Lot 7, existing accessory garden/storage structures, existing garage and storage containers to be owned and maintained by the individual lot owner.
- Lot 10, existing single family residential home w/ utilities, existing 3 car detached garage to be owned and maintained by the individual lot owner.
- Tract A, existing gravel surfaced ranch roadway (subject of MVE Engineer's Waiver Request) to be owned and maintained by the property owners association.
- Tract B, permitted, existing Dawson aquifer water well to be privately owned and maintained.
- Existing subdivision wide improvements include the following utility infrastructure to be owned and maintained by the individual utility companies:
 - Water distribution system w/ fire hydrants
 - Electric distribution system
 - Natural gas distribution system
 - Communications fiber network

All existing structures are in compliance with El Paso County building setback and height limitations. See Preliminary Plan for structure locations in relationship to proposed building setback lines.

PROPOSED ON SITE IMPROVEMENTS

Proposed public improvements within the Eagle Rising Filing No. 1 subdivision include the construction of a public owned and maintained cul-de-sac head at the termination of the public portion of Eagle Wing Drive. Proposed private improvements within the Eagle Rising Filing No. 1 subdivision include the construction of a private entrance/exit gate, construction of a privately owned and maintained asphalt surfaced apron between the public cul-de-sac, and the existing gravel roadway per the MVE Engineer's construction documents.

JURISDICTION INVOLVEMENT

- Water & Fire Hydrants – Park Forest Water District
- Electric – Mountain View Electric
- Telephone – Century Link Telecom
- Fire Protection – Black Forest Fire Protection District
- Schools – Academy No. 20 School District
- Natural Gas – Blackhills Energy Corporation
- Internet / Fiber Optics – Century Link Telecom & MyPad, Inc.

Note – Waste water treatment will be via individual onsite septic systems permitted through the El Paso County Health Department. All septic systems to be designed by a professional engineer licensed in the State of Colorado.

JUSTIFICATION FOR REQUEST

This application is consistent with the goals and objectives of the El Paso County Master Plan (see Master Plan Consistency below), the approve RR-2.5 property zoning and the approved Eagle Rising Preliminary Plan Reinstatement (SP205).

COUNTY MASTER PLAN CONSISTENCY

In approving a Final Plat application, the El Paso County Land Development Code requires that the BoCC shall find that the proposed subdivision is, amongst other issues, in general conformance with the goals, objectives and policies of the El Paso County Master Plan.

The El Paso County Master Plan utilizes a system of “Key Areas and Place Types” aligning with approved “Land Uses” to evaluate Master Plan land use consistency.

Key Areas – The north one half of the Eagle Rising Filing No. 1 subdivision is designated as “Potential Areas for Annexation” while the south one half is not included within any of the 10 Key Area designations. The “Potential Areas for Annexation” Key Area designation simply puts the County and developer on notice that certain “Land Uses and Placetypes may be more appropriately developed within the City rather than the County primarily due to infrastructure considerations. The Suburban Residential Placetype and the proposed land use (2.5 acre single family residential lot size) allow for development within the County.

Areas of Change – The north one half of the Eagle Rising Filing No. 1 subdivision is designated “New Development” while the south one half is designated “Minimal Change: Undeveloped”. The “New Development” areas allows for development that significantly transforms existing undeveloped areas. The proposed Suburban Residential Placetype with 2.5 acre lot single family detached residential land uses will retain significant open space and natural features without significantly transforming the existing undeveloped nature of the property. The “Minimal Change: Undeveloped” area of Filing 1 will be limited in scale so as to not alter the essential character of the surrounding communities. Regardless of Area of Change designation, Filing 1 is an “in-fill” subdivision compatible with existing residential uses and consistent with both New Development and Minimal Change: Undeveloped designations.

Filing 1 is located within the Suburban Residential Placetype in its entirety. The Suburban Residential Place Type’s primary land use is single family detached residential with lot sizes less than 2.5 acres per lot up to 5 units per acre. Filing 1 is single family detached residential with minimum lot sizes of 2.5 acres. This Placetype allows for parks / open space supporting land uses. Filing 1’s primary and supporting land uses are consistent with the Suburban Residential Placetype.

Filing 1 is located within a Suburban Residential / Priority Development Area. This Priority Area encourages development within areas which efficiently utilize and extend existing infrastructure, conserve water resources and strengthen established neighborhoods.

The property’s zoning and Preliminary Plan were approved by the County prior to approval of the current County Master Plan. As discussed in *Master Plan Chapter 14 Implementation* –

Land Use Applications and Master Plan Consistency - previous Filing 1 approvals, including; Preliminary Plan (SP205), also establish Master Plan consistency related to the land use goals and objectives as well as a good portion of the Master Plans technical subdivision goals and objectives.

RELEVANT MASTER PLAN GOALS AND OBJECTIVES

LAND USE – CORE PRINCIPLE: manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.

- GOAL LU-1: *Ensure compatibility with established character and infrastructure capacity.* Eagle Rising Filing 1's proposed single family residential land use and proposed lot size are compatible with the surrounding residential communities. The Park Forest's existing central water system and the surrounding communities electric service, natural gas service, parks and recreation, schools and roadways have been designed and constructed to serve Filing 1.
- GOAL LU-3: *Encourage a range of development types to support a variety of land uses.* The surrounding community currently facilitates a mix of multifamily, commercial, small lot residential and large lot residential communities. Eagle Rising Filing No. 1 brings to that mix additional large lot (2.5 ac minimum) residential.
 - *Objective LU3-1: Development should be consistent with the allowable land uses set forth in the placetypes and second to their built form guidelines.* The Eagle Rising Filing No. 1 subdivision is located with a Suburban Residential Placetype supporting the proposed uses and densities.
 - *Objective LU3-3: The Suburban Residential placetype should be characterized by predominantly residential areas with mostly single family detached housing.* The Eagle Rising Filing No. 1 subdivision proposes single family detached residential uses and housing.

HOUSING AND COMMUNITIES – CORE PRINCIPLE: Preserve and develop neighborhoods with a mix of housing types.

- GOAL HC-1: Promote development of a mix of housing types in identified areas.
 - *Objective HC1-4: In Suburban Residential areas, cluster development should be encouraged to increase density while also preserving open space...* The Eagle Rising Preliminary Plan (SP205) provides for a significant amount of open space protecting important natural features including ponds and wetlands.
 - *Objective HC1-5: Focus detached housing development in Large-Lot Residential and Suburban Residential areas given the increasing infrastructure and environmental constraints associated with such development to help maintain the established character of rural communities.* The Eagle Rising Filing No. 1 Subdivision is located within a Suburban Residential area and proposes detached housing.

CRITERIA FOR APPROVAL

Other Master Plan technical subdivision goals and objects and Code compliance requirements are discussed in further detail below and are intended to evidence this application's further consistency with the Master Plan as well as the technical requirements of the Land Development Code.

- *The subdivision is in substantial conformance with the approved Preliminary Plan; The Filing 1 Final Plat accurately reflects the previously approved Preliminary Plan Reinstatement (SP205 approved, 02/12/2020) including administrative minor change approvals. Note that some Preliminary Plan supporting documents requiring update for Code compliance are still in the PCD review process. Approval of the document's Code compliance will be obtained prior to scheduling the Filing 1 Final Plat for public hearings.*
- *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; Compliance with subdivision design standards, regulations and requirements is documented and ensured through the various State and County departmental and agency review responses.*
- *A sufficient water supply has been acquired in terms of quantity, quality and dependability complying with all State and County water supply standards; Water treatment, storage and distribution will be provided via a central water system operated by the Park Forest Water District. See Park Forest Water District Service Commitment Letter. See Water Resources Report for Eagle Rising Final Plat Filing No. 1.*
- *A sewage disposal system has been established complying with all State and County sewage disposal system standards; Waste water will be treatment by individual onsite septic systems permitted, constructed and operated in accordance with County and State Health Department regulations.*
- *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; All areas containing soil hazards or requiring special precautions, including areas of excess of 30% slope, have been identified and mitigation recommendations have been proposed. See Entech Engineering Soils and Geologic Hazards Report. See Eagle Rising Final Plat Filing No. 1 Plat Notes.*
- *Adequate drainage improvements complying with State law and the requirements of this Code and the ECM are provided by the design; Limited areas of Lots 7, 8, and 9 are impacted by the studied 100 year flood plain. The lot areas within the 100 year flood plain are located within drainage easements and no construction disturbance areas ensuring no construction within the flood plain areas. See MVE, Inc. Final Drainage Plan and Report.*
- *Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easements, acceptable to the County in compliance with this Code and the ECM; All proposed lots have direct physical and legal vehicular access onto dedicated public rights-of-way and/or privately owned and maintained roadways.*
- *Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision; Filing 1 police will be provided by the El Paso County Sheriff's Office. Fire protection will be provided by the Black Forest Protection District. A transportation network has been constructed to provide safe and adequate vehicular access to and from the Filing 1 lots.*

Water services will be provided by the Park Forest Water District. Electric service will be provided by Mountain View Electric Association and natural gas service will be provided by Black Hills Energy.

- *The subdivision provides evidence to show that the proposed methods of fire protection comply with Chapter 6 of the Land Development Code;* Because the Eagle Rising Filing No. 1 community's central water system includes five fire hydrants and access to nearby large quantities of fire suppression water (ponds), the developers of the Eagle Rising community work closely with the Black Forest Fire Protection District to provide fire suppression infrastructure for the Eagle Rising community and surrounding subdivisions. See Eagle Rising Fire Protection and WildFire Hazard Mitigation Plan.
- *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 generated by the development of Filing No. 1 are primarily related to traffic impacts including off-site roadway and intersection capacities and improvements required to mitigate any identified capacity deficiencies (see LSC's Traffic Memorandum). No off-site improvements are recommended.
- *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.* Construction of all required Filing No. 1 public improvements will be the responsibility of the developer in accordance with County approved (1) construction documents and specifications, (2) estimate of guaranteed funds and (3) subdivision improvements agreement and guaranteed by a County approved letter of credit.
- *The proposed subdivision meets other applicable sections of Chapter 6 and 8 of the Land Development Code;* Chapter 6 of the LDC deals with general development standards while Chapter 8 deals with subdivision design, improvements and dedication standards. Compliance with these standards is evidenced and ensured by the various State and County departmental and agency review responses.
- *The extraction of any known commercial mining deposit shall not be impeded by this subdivision;* A review of the El Paso County Master Plan for Mineral Extraction and the Entech Engineering, Soils and Geologic Hazards Report indicates no known commercial mining deposits on the site.

SUPPLEMENTAL INFORMATION

The developer proposes to pay fees in lieu of land dedication for school dedication and park dedication requirements.

The developer will be responsible for constructing all required subdivision improvements at his sole expense. Installation of the required public improvements will be guaranteed by a letter of credit acceptable to the El Paso County Board of County Commissioners.

All lots within this subdivision are subject to transportation impact fees in accordance with the El Paso County Road Impact Fee Program, as amended, at the time of building permit application.

The road impact fees will be paid on a per lot basis by each individual residential building contractors at the time of building permit application. This subdivision will not enter into a Road Fee PID.

EXISTING & PROPOSED WAIVERS OF THE LAND DEVELOPMENT CODE

- 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.
- Included within 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. See MVE Engineering waiver application for a detailed discuss of this waiver including justifications and expected results. Approval of this waiver will eliminate the need for numerous individual Engineering Criteria Manual deviation requests.
 - Design Speed from standard 50 mph (posted 45) to 20 mph (posted 15 mph).
 - Standard section thickness minimums and pavement type from asphalt for 6" thick gravel to existing gravel thickness.

EXISTING & PROPOSED DEVIATIONS TO THE ENGINEERING CRITERIA MANUAL

- The original 2013 Eagle Rising Preliminary Plan application included a 972 lf on-site extension of Eagle Wing Drive (now View) making the total Code calculated length of the single access roadway 2,050 lf (on and off site). As the ECM limits single access roadways to 1,600 lf (Section 2.3.8.A), the applicant included a deviation request addressing the 450 lf overage within the 2013 Preliminary Plan package. Note that the 2013 deviation request addressed only the length of the roadway, not the number of homes limited on a single access road, 20 homes where 25 are currently allowed.

The ECM roadway length deviation request has a long history going back to the original Eagle Rising Preliminary Plan approval in September of 2013 including;

- The original roadway length deviation request was submitted to the ECM Administrator on Aug 29, 2013.
- Based upon approval recommendations from the Planning Commission, on Sep 24, 2013 the BoCC approved the original Preliminary Plan illustrating the same roadway length and number of lots as shown today. This BoCC approval was done without the benefit of comment on the proposed ECM length deviation by the ECM Administrator.
- On Oct 17, 2013, three weeks after BoCC approval of the Preliminary Plan, the ECM Administrator denied the deviation application without comment, leaving the applicant to sort out the question of "why the denial and does the ECM Administrator's post hearing denial over-ride the BoCC's previous Preliminary Plan approval".
- The Eagle Rising Preliminary Plan, including the unchanged roadway length, was again ratified by the BoCC in the Dec 8, 2020 Preliminary Plan Reinstatement application.

- Per October 25, 2023 meeting with EPC staff, County Engineer Joshua Palmer requested upload of a new deviation request for cul-de-sac length. See Deviation Request Cul-de-Sac length November 20, 2023.
- Included within the Eagle Rising Filing No. 1 Final Plat application, the applicant is requesting a Deviation from Engineering Criteria Manual (Appendix F SD 2-10 Rural Local Gravel Roadway Typical Section) allowing for;
 - Decrease of travel land from 12' to 11'.
 - Decrease of shoulder width from 4' to 2'
 - Steepening of foreslope (slope leading from the road surface to ditch line from 6:1 to 4:1.
 - Elimination of the 5' wide public improvement easement dedicated to El Paso County.
- Included within the Eagle Rising Filing No. 1 Final Plat application, the applicant is requesting a Deviation from Engineering Criteria Manual (Open Channel Design Criteria 6.5.2 Channel Velocity) allowing for; Drainage flows offsite from Eagle Rising Final Plat Filing #1 to join Cottonwood Creek. The de minimis developed flows from Eagle Rising Final Plat Filing #1 do not require on-site, nor off-site, detention to meet water quality standards. Indeed, water quality is enhanced by the water's course through heavy growth of diverse wetland plants and settling in the 2 ½ surface acre fire fighting, stock and recreation pond discussed in the Eagle Rising Drainage Reports. Erosion of the Cottonwood Creek stream bed has not been observed through two 100 year and one 500 year rain events. The vegetation of the natural channel performs per nature's plan. See Eagle Rising Final Plat Filing #1 Final Drainage Report. See Eagle Rising Final Plat Filing #1 Vegetation Protection Channel Velocity Deviation.

As noted above, the question of approvable roadway length was addressed and approved with the Sep 24, 2013 BoCC Eagle Rising Preliminary Plan approval resolution.