



November 27, 2023

Ryan Howser
El Paso County Development Services Department
Transmission via email: ryanhowser@elpasoco.com

RE: Flying Horse North - Phase 2 PUD Preliminary Plan
File No. PUDSP234
Portions of Sections 30 and 31, T11S, R65W and Section 36, T11S, R66W
Water Division 1, Water District 8

Dear Ryan Howser:

We have reviewed your referral of November 15, 2023 concerning the above referenced proposed preliminary plan for the development of the undeveloped land within the Flying Horse North development. Flying Horse North development consists of approximately 1,459.5 acres, which include Filing No. 1 and the golf course. The Applicant desires to develop the remaining land of approximately 747.3 acres with 796 residential units, a luxury resort hotel for 275 rooms, some commercial areas and a potential fire station.

Water Supply Demand

The Water Supply Information Summary Sheet (“Summary Sheet”) provided indicates that the in-house use and residential lawn and garden irrigation water demand is 398.74 acre-feet/year (355,976 gallons/day); the indoor commercial use demand is 60.91 acre-feet/year (54,375 gallons/day); the parks irrigation demand of 12.98 acres is 32.0 acre-feet/year (28,566 gallons/day); and the indoor use demand for the proposed hotel is 114.91 acre-feet/year (102,585 gallons/day). The Summary Sheet indicates that the total demand required for the subdivision is 574.56 acre-feet/year (512,937 gallons/day). However, this amount does not appear to include the 32 acre-feet parks irrigation demand, therefore **prior to further review the applicant should verify the total demand required for this Phase 2 of the development and provide an updated Summary Sheet.**

Source of Water Supply

The proposed water supplier is the Cherokee Metropolitan District (District).

According to a letter of intent from the District dated January 12, 2022, the District does not currently have the capacity to supply the full build-out demand of Flying Horse North development, however the District would be willing to provide water and wastewater for the development subject to the following terms:

- The Applicant will need to petition the District to include the development area within the Cherokee Metropolitan District service area. Water and wastewater service will be provided through an intergovernmental agreement.
- The Applicant will need to plan, design, and construct, subject to Cherokee's approval, the potable water distribution system within the development.



- The Applicant will fund the planning, design, and construction of the water infrastructure necessary for Cherokee to produce and deliver the raw water supplies that will meet the projected build-out demands at the development.
- The Applicant will pay a water development charge for the cost of the water rights that will be used to provide the water supply for the development.
- The Applicant will plan, design, and construct, subject to Cherokee's approval, the wastewater infrastructure necessary to connect to Cherokee's wastewater system and to meet the projected build-out wastewater demand for the development.
- The District will not provide water service for irrigation of the golf course,
- The water rights used to provide water service to the development must be approved for use in District's pending replacement plan case (Case No. 08GW71).
- The District will retain all right, title and interest in and to all water provided for use at development, including the right to use all return flows, whether such return flows occur from outdoor uses or as wastewater, for augmentation and all other lawful purposes.

The applicant did not provide information whether any of the terms listed above were met, therefore we do not have any comments regarding the District ability to provide water to the development.

According to the previous information received in this office the Applicant owns a portion of the ground water adjudicated in case no. 94CW023(B) underlying approximately 701 acres. Also, the Applicant's predecessor-in-interest entered into a Groundwater Production Lease, No. OT-109328 with the State Board of Land Commissioners. Based on the same the Groundwater Production Lease, the Applicant leased the not nontributary and nontributary groundwater underlying the 640 acres decreed in case no. 2004CW098 through February 27, 2048. On that date all of the groundwater rights from case no. 2004CW098 revert to the Applicant. The estimated amounts owned and leased by the Applicant are listed in the table below:

Aquifer	Annual amount available to Applicant from case nos. 94CW023(B) and 2004CW098 (acre-feet)
	Based on 100 year allocation approach
Dawson	716
Denver	577
Arapahoe	239
Laramie-Fox Hills	386

Also, the Applicant obtained an augmentation plan decreed in case no. 2016CW3190, which allows for an average diversion of 198 acre-feet annually and 59,400 acre feet total over a 300-year period from the not nontributary Dawson aquifer. Flying Horse North Filing 1 is supplied by individual on lot wells from the Dawson aquifer that will operate in accordance with the augmentation plan in case no. 2016CW190.

The Applicant should clarify whether any remaining decreed water rights in case nos. 94CW023(B) and 2004CW098 will be dedicated to this development. In addition, we note that the Applicant obtained well permit no. 81145-F for the amount of water transferred to the Applicant in case no. 2004CW098 in the Arapahoe aquifer (239 acre-feet). The use of ground water from this well is limited to municipal, industrial, domestic, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection, and augmentation purposes. No information was provided whether this well will be used within the development other than Filing 1.

The applicant should be aware that any proposed detention pond for this filing, must meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), Colorado Revised Statutes, otherwise the structure may be subject to administration by this office. The applicant should review DWR’s [Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado](#) to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The applicant is encouraged to use Colorado Stormwater Detention and Infiltration Facility Notification Portal, located at <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>, to meet the notification requirements.

State Engineer's Office Opinion

Based on the above and pursuant to section 30-28-136(1)(h)(I), C.R.S. and section 30-28-136(1)(h)(II), C.R.S., the State Engineer’s Office has not received enough information to render an opinion regarding the potential for causing material injury to decreed water rights, or the adequacy of the proposed water supply. Prior to further review of the subdivision water supply plan the following information is required:

1. Clarification of the water demand and the source of the water supply that satisfies El Paso County’s 300-year water supply requirement.
2. Clarification whether any remaining decreed water rights in case nos. 94CW023(B) and 2004CW098 will be dedicated to this development water rights.
3. A complete summary of the water rights owned and controlled by the District and evidence of that ownership or control.
4. The anticipated demand due to commitments for service entered into by the District that are not yet supplied.
5. The amount of uncommitted firm supply the District has available for future commitment and development.
6. Provide proof that the development was included within the District’s service area.

Should you or the applicant have any questions, please contact me (303) 866-3581 x8246 or ioana.comanicu@state.co.us .

Sincerely,



Ioana Comanicu, P.E.
Water Resource Engineer

Ec: Subdivision File 31072
File for permit no. 81145-F