

EL PASO COUNTY

OFFICE OF THE COUNTY ATTORNEY
CIVIL DIVISION

Diana K. May, County Attorney

Assistant County Attorneys

M. Cole Emmons
Lori L. Seago
Lisa A. Kirkman
Steven A. Klaffky
Mary Ritchie
Bryan E. Schmid
Nathan J. Whitney
Michael J. Desmond
Christopher M. Strider

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SF-19-9 Retreat at TimberRidge Filing No. 1 *LS*
Final Plat

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
Edi Anderson, Paralegal, ACP

NOTE: THIS WATER REVIEW REPLACES AND SUPERSEDES THE PREVIOUS WATER REVIEW DATED JULY 22, 2020 AND IS BASED ON NEW INFORMATION PROVIDED BY THE APPLICANT AFTER PLAT APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS.

FINDINGS AND CONCLUSIONS:

1. This is a proposal by TimberRidge Development Group, LLC ("Applicant"), for a final plat to subdivide approximately 68.135 acres into 70 single-family residential lots ("Property"). The subdivision is comprised of 11 lots that will utilize individual wells (of the 38 approved in the preliminary plan) and 59 lots served by a central water system (of the 167 lots approved in the preliminary plan). Applicant's property is zoned PUD (Planned Unit Development).

LOTS 1-11 INDIVIDUAL WELLS

2. The Applicant has provided for the source of water for Lots 1-11 to derive from individual wells. As described in the Water Supply Information Summary ("WSIS"), the Applicant estimates its annual water requirements to serve 11 single-family lots at 3.88 acre-feet ("AF") annually (0.353 AF per lot). The water demand includes indoor household use of 0.18 AF and outdoor use of 0.173 AF. The Applicant would need to provide a supply of 1,164 AF of water (3.88 acre-feet/year x 300 years) to meet El Paso County's 300-year water supply requirement. Applicant is claiming more water than is allowed under the augmentation decree in District Court Water Division 2, 18CW3002, which only allows 0.32 acre-feet/year.

200 S. CASCADE AVENUE
OFFICE: (719) 520-6485



COLORADO SPRINGS, CO 80903
FAX: (719) 520-6487

3. The Property is a portion of the property subject to the decree issued by District Court Water Division 2 in 17CW3002. The following allocations were decreed in that case:

Dawson Aquifer	12,202 AF
Denver Aquifer	11,909 AF
Arapahoe Aquifer	9,796 AF
Laramie-Fox Hills Aquifer	6,440 AF

4. In 18CW3002, the Water Court authorized the use of Dawson Aquifer water decreed in 17CW3002 and approved an augmentation plan therefor. The decree approves 29 wells for the identified property, a portion of which includes the proposed 11 lots at issue here. The decree authorizes each well to pump up to 0.32 AF/year, for a total annual withdrawal from the Dawson Aquifer of 9.32 AF for all 29 wells. Depletions during pumping will be replaced by residential return flows from non-evaporative septic systems. The decree further requires that 2,796 AF of water in the Laramie-Fox Hills Aquifer be reserved to provide for replacement of injurious post-pumping depletions.

5. Based upon the decree in 18CW3002, Applicant must provide a supply of **1,056 AF of water from the Dawson Aquifer** (.32 AF/lot x 11 lots x 300 years) for the 11 lots to be served by individual wells. Applicant must also reserve **2,796 AF of water in the Laramie-Fox Hills Aquifer** to replace injurious post-pumping depletions.

6. The State Engineer's Office ("SEO") provided their comments regarding this proposal on May 13, 2019, which were confirmed in a letter dated November 1, 2019. The letter states that, "...pursuant to CRS 30-28-(1)(h)(l), it is our opinion that the proposed water supply can be provided without causing material injury to decreed water rights, and is **adequate**, so long as the plan for augmentation is operated according to its decreed terms and conditions."¹

7. Though Applicant will have to correct its WSIS, based on the information and documents identified in paragraphs 2-6 above, it appears that the proposed water supply for Lots 1-11 will be sufficient to meet the needs of the proposal.

8. The water quality requirements of Section 8.4.7.B.10 of the El Paso County Land Development Code must be satisfied regarding Lots 1-11.

LOTS 12-70 CENTRAL WATER SYSTEM

9. Subtracting the water needed to serve the 11 lots in individual wells, the following amounts decreed in 17CW3002 remain:

Dawson Aquifer	11,146 AF
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¹ The SEO used different numbers than those relied on herein to reach its conclusion. It stated that, in 18CW3002, the Division 2 Water Court limited on-lot wells to .321 AF/year, for a total annual withdrawal from the Dawson Aquifer of 3.53 AF/year for 11 lots.

Denver Aquifer	11,909 AF
Arapahoe Aquifer	9,796 AF
Laramie-Fox Hills Aquifer	3,644 AF

10. The Applicant has provided for the source of water for Lots 12-70 to derive from a central water system – Sterling Ranch Metropolitan District No. 1 (“District”) – through an agreement between the District and The Retreat Metropolitan Districts. As described in the Water Supply Information Summary, the Applicant estimates its annual water requirements to serve 59 single-family lots at 20.83 acre-feet annually (0.353 acre-feet per lot). The water demand includes indoor household use of 0.18 acre-feet and outdoor use of 0.173 acre-feet. The Applicant will need to provide a supply of **6,249 acre-feet of water (20.83 acre-feet/year x 300 years)** to meet El Paso County’s 300-year water supply requirement.

11. The *Water Resources and Wastewater Report for Sterling Ranch Service Area* by JDS-Hydro dated April 4, 2019 (“Report”) details the source of the water supply for the District. The District’s water supply originates from Arapahoe and Laramie-Fox Hills aquifer wells through 3 decrees granted in District Court Water Division 2:

Case No. 86CW18	575 AF/year (191.67 AF/year for 300 years);
Case No. 86CW19	539 AF/year (179.67 AF/year for 300 years); and
Case No. 08CW113	0.4 AF/year (0.13 AF/year for 300 years).

Therefore, the total water allocation available to the District from those three decrees is 371.47 AF/year based on El Paso County’s 300-year rule. Per the Report, the District has already committed 255.96 AF/year to 6 subdivisions within the boundaries of the District, leaving 115.51 AF/year of uncommitted water supply, not including The Retreat Filing 1.

12. The Report also notes that The Retreat at TimberRidge will convey 14,619 AF of water from the Arapahoe and Laramie-Fox Hills aquifers to SRMD for use exclusively within the Retreat development, providing an additional water allocation of 48.73 AF/year based on El Paso County’s 300-year rule.

13. In a letter dated April 16, 2020, James Morley, District President, states that the District “is willing to provide water and wastewater services to the proposed residential development known as the Retreat at TimberRidge, which includes 167² lots on approximately 200 acres” The commitment letter states that The Retreat at TimberRidge will convey 12,828 AF of water from the Arapahoe and Laramie-Fox Hills aquifers (42.76 AF/year for 300 years) to the District. (Note the discrepancy with the reported conveyance from the Report, in paragraph 9 above).

14. The commitment letter further states that the “District is in the process of developing a central water system and public wastewater facilities, including wells,

² Note that The Retreat at TimberRidge preliminary plan approved 164 lots to be served by central water.

treatment, storage and water rights sufficient to supply the needs of the 167 urban lots within the proposed development.” The 59 lots of the Retreat at TimberRidge Filing No. 1 are included in the 167 urban lots noted. The District President further states that the water needs for the 167 lots are “58.95 acre-feet” which equates to 0.353 acre-feet/lot (20.83 acre-feet for the 59 lots of Filing 1). The District further notes that it is their understanding that the Applicant intends to organize a special district to provide services to the subdivision through an intergovernmental agreement with the District.

15. The finding of the SEO set forth in paragraph 6 above also applies to the 59 lots to be served by a central water system.³

16. On March 3, 2020, the Colorado Department of Public Health and Environment issued its approval of the Sterling Ranch Metropolitan District No. 1’s Assessment of Technical, Managerial and Financial Capacity. On April 1, 2020, the County received a professional engineer’s certification that the District’s drinking water system has been constructed consistent with CDPHE-approved design documents.

17. In an Agreement dated February 21, 2019, the Applicant agreed to construct the water system infrastructure necessary for the District to extend central water service to The Retreat at TimberRidge, including Filing No. 1.

18. Though Applicant will need to correct its Water Resources Report and obtain a corrected Commitment Letter, based on the information and documents identified in paragraphs 9-17 above, it appears that the proposed water supply for Lots 12-70 will be sufficient to meet the needs of the proposal.

19. Section 8.4.7(B)(10)(g), of the El Paso County Land Development Code allows for the presumption of acceptable water quality for projects such as this project (Lots 12-70) where water is supplied by an existing Community Water Supply operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

Conclusion

20. Based upon the finding of sufficiency and no injury by the State Engineer, the water supply available pursuant to Colorado District Court Water Division 2 Case Nos. 17CW3002 and 18CW3002 to serve Lots 1-11, the District’s commitment to serve Lots 12-70, and pursuant to the requirements below, the County Attorney’s Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability. The El Paso County Health Department must provide a recommendation as to water quality regarding Lots 1-11.

³ The SEO used different numbers than those relied on herein to reach its conclusion. Rather than the 3,032 AF of Laramie-Fox Hills water that the Applicant agreed to convey to the District in the Agreement described in paragraph 18 herein, the SEO calculated that 3,644 of such water would be conveyed.