

EL PASO  **COUNTY**
COLORADO

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HOLLY WILLIAMS
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Date: May 17, 2022

To: Board of County Commissioners

From: Nina Ruiz, Planning Manager

Subject: A request by Arroya Investments LLC, for approval of an amendment to the Retreat at Timber Ridge Preliminary Plan to allow the BoCC to authorize an administrative final plat for filing no. 2 (PCD File No. SP-18-002).

Summary: A request by Arroya Investments LLC, for approval of an amendment to the Retreat at Timber Ridge Preliminary Plan to allow the BoCC to authorize an administrative final plat for filing no. 2 (PCD File No. SP-18-002). The 234.05-acre development area is zoned PUD and is located north of the Stapleton Road/Briargate Parkway extension, bisected by Vollmer Road, and is within Sections 21 and 28, Township 12 South, Range 65 West of the 6th P.M. (Commissioner District No. 2).

The Retreat at Timber Ridge Preliminary Plan (PCD File No. SP-18-002) was approved by the Board of County Commissioners (BoCC) on October 23, 2018. The approval did not include a finding of water sufficiency with regards to water quality, quantity, and dependability from the County Attorney's Office. The applicant has submitted documentation to support a water finding for filing number 2, which is currently under review. The State Engineer and the El Paso County Attorney have both made recommendations in regards to a positive finding of sufficiency for water quality, quantity, and dependability.

The applicant has expressed that there remains a high demand for lots and that they desire to begin construction within filing number two as soon as possible. Therefore, the applicant is requesting the BoCC authorize administrative approval for filing number 2 in order to avoid delays due to scheduling the final plat before the Planning Commission and Board of County Commissioners.

Attachments:

Retreat at Timber Ridge Preliminary Plan Approval Letter
Retreat at Timber Ridge Filing No. 2 Water Finding

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

www.ELPASOCO.COM

EL PASO



COUNTY

COMMISSIONERS:
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MARK WALLER (PRESIDENT PRO TEMPORE)

STAN VANDERWERF
LONGINOS GONZALEZ
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

October 23, 2018

Arroya Investments, LLC.
1283 Kelly Johnson Boulevard
Colorado Springs, CO 80920

Jacob Decoto
10620 Vollmer Road
Colorado Springs, CO 80910

TimberRidge Estates, LLC.
2760 Brogans Bluff
Colorado Springs, CO 80919

NES
John Maynard
619 N Cascade Ave, Suite 200
Colorado Springs, CO 80903

COPY
mailed
10/24/18

RE: The Retreat at TimberRidge – Preliminary Plan – (SP-18-002)

This is to inform you that the above-reference request for approval of a preliminary plan was heard by the El Paso County Board of County Commissioners on October 23, 2018, at which time an approval was made to approve a preliminary plan. The eight (8) parcels, totaling 234.05 acres, are zoned PUD (Planned Unit Development) and are located north of the proposed extension of Stapleton Road/Briargate Parkway, bisected by Vollmer Road, and are within Sections 21 and 28, Township 12 South, Range 65 West of the 6th P.M.. The parcels are included within the boundaries of the Black Forest Preservation Plan (1987) area. The applicants are proposing 205 single-family lots, 27.17 acres of right of way, and 10 open-space, trail corridor, detention, and utilities tracts totaling 27.58 acres. Phasing of the development is anticipated as depicted on the preliminary plan; however, the chronology of the phasing is not proposed to be binding. (Parcel Nos. 52270-00-001, 52270-00-003, 52270-00-004, 52000-00-398, 52220-00-023, 52000-00-393, 52280-00-019, and 52000-00-397)

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

This approval is subject to the following:

CONDITIONS

1. A legal challenge to the BoCC approval of The Retreat at TimberRidge Planned Unit Development zoning is currently pending. Approval of this Preliminary Plan is contingent upon a final court order upholding the PUD zoning. Amendments to the BoCC approval or to the PUD development plan (PUD 17-003) made as part of settlement of the litigation may require submission of an application to amend the Preliminary Plan. No final plats will be recorded unless and until a final court order upholding the PUD zoning is issued and all appeal periods have lapsed.
2. Applicable school(s) and park fees shall be paid with each final plat.
3. A finding of water sufficiency shall be made with each final plat.
4. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
5. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 16-454), as amended, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
6. Development of the property shall be in accordance with the recorded PUD development plan.
The building setback along Vollmer Road for Lots 20 through 26 shall be 100 feet, as depicted on the PUD development plan.
7. Landscape plantings along Arroya Lane shall be planted by the developer at the ratio of one (1) tree per 30 feet, and a minimum of one-third (1/3) of those trees shall be evergreen trees.

8. Landscape plantings along Vollmer Road are to be planted by the developer at the ratio of one (1) tree per 25 feet, and a minimum of one-third (1/3) of those trees shall be evergreen trees.
9. The applicants shall be responsible for constructing or providing escrow toward offsite improvements to Vollmer Road in association with the appropriate final plat as identified in Table 3 of the Retreat at Timber Ridge Preliminary Plan Traffic Impact Analysis, dated April 12, 2018 (as amended).
10. The applicants shall be responsible for constructing the necessary improvements in the Sand Creek channel, as identified in the preliminary drainage reports and final drainage reports to be submitted, with the appropriate final plat(s).

NOTATIONS

1. Approval of the Preliminary Plan will expire after twelve (12) months unless a final plat has been approved and recorded or a time extension has been granted.
2. Preliminary plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

This represents the Planning and Community Development Department's understanding of the action taken by the Board of County Commissioners.

Should you have any questions, or if I can be of further assistance, please contact me at 719-520-6300.

Sincerely,



Kari Parsons, Planner II

File No. SP-18-002

EL PASO COUNTY

OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

Diana K. May, County Attorney

Assistant County Attorneys

Lori L. Seago
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December 15, 2021

SF-21-21 Retreat at TimberRidge Filing No. 2
Final Plat

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



WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal by TimberRidge Development Group, LLC ("Applicant") for a subdivision of 90 single-family lots, plus 3 tracts for open space, drainage, utilities, and trails on 75.829 acres ("Property"). Seventy-eight lots ("urban lots") will be a minimum of 12,000 square feet in size and 12 lots ("rural lots") will be 2.5 acres in size. The property is zoned PUD (Planned Unit Development).

Estimated Water Demand

2. Urban Lots (78 lots). Pursuant to the Water Supply Information Summary ("WSIS"), the water demand is 0.353 acre-feet per residential lot for a total of 27.53 acre-feet/year for the 78 urban lots. Based on the total demand, Applicant must be able to provide a supply of 8,259 acre-feet of water (27.53 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement for the 78 urban lots.

3. Rural Lots (12 lots). Pursuant to the WSIS, the water demand is 0.32 acre-feet per residential lot for a total of 3.84 acre-feet/year for the 12 rural lots. Based on the total demand, Applicant must be able to provide a supply of 1,152 acre-feet of water (3.84 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement for the 12 rural lots.

Proposed Water Supply

4. Urban Lots. The source of water for the 78 urban lots will be supplied by the Sterling Ranch Metropolitan District No. 1 ("District"). The District President provided a letter dated April 1, 2021, committing to serve "the urban lot water and wastewater needs of 78 lots in the Retreat at

TimberRidge Filing No. 2 of 27.52 Acre-Feet of annual water supply.” The District President further stated that their system includes “water rights sufficient to supply the needs of the urban lots within the proposed Retreat at TimberRidge residential development.” The District’s water supply originates from the Arapahoe and Laramie-Fox Hills aquifer wells through the following decrees granted in District Court Water Division 2:

Decree	Annual Allocation (acre-feet) 300 years
86CW18	191.67 acre-feet
86CW19	179.67 acre-feet
08CW113	0.13 acre-feet

Applicant provided a *Water Resources Report for Retreat at TimberRidge Filing No. 2* dated April 2021 by JDS-Hydro (“*Report*”). The *Report* notes that the water supply for the subdivision would be met using Arapahoe and Laramie-Fox Hills aquifer wells. Further, the District’s water is supplied through an agreement between the District and The Retreat Metropolitan District dated December 3, 2020.

5. Rural Lots. The source of water for the 12 rural lots will derive from individual on-lot wells, as adjudicated in District Court Water Division 2 Case No. 17CW3002 dated May 31, 2017 concerning a 225.97-acre parcel which includes the 75.829 acres of this filing. The Court approved the Augmentation Plan in Case No. 18CW3002 dated August 9, 2018. The Augmentation Plan allows diversion of 9.32 acre-feet/year from the Dawson aquifer for a period of 300 years from Timber Ridge Wells Nos. 1 through 29, which includes the 12 rural lots of this subdivision. Each well may pump up to 0.32 acre-feet of water per year. The 0.32 acre-feet includes 0.26 acre-feet for each residence with additional pumping available for landscape irrigation, stock watering or other beneficial uses. The Augmentation Plan requires the use of septic return flows for replacement water through the installation and use of a septic system on each residential lot which has a Dawson aquifer well. The Applicant must also reserve up to 2,796 of Laramie-Fox Hills aquifer water to replace post-pumping depletions for the subdivision.

Applicant intends to convey the Dawson Aquifer water to The Retreat Metropolitan District No. 1 (RMD) and, in turn, RMD will issue a Water Certificate to the owner of each lot for the purpose of obtaining a well permit from the State Engineer’s Office. Applicant also intends to convey the Laramie-Fox Hills water needed to replace post-pumping depletions to RMD.

State Engineer’s Office Opinion

6. In a letter dated June 9, 2021, the State Engineer reviewed the proposal to subdivide the 75.829-acre parcel into 90 lots. The State Engineer identified that water for 12 of the lots would be supplied by individual on-lot wells and water for 78 lots will be supplied by “the proposed TimberRidge Metropolitan District via an IGA with the Sterling Ranch Metropolitan

District using the SRMD Well Site #1” The Engineer reviewed the WSIS and noted that the water demand for the 12 lots using individual wells would be 0.32 acre-feet/year/lot and the water demand for the 78 lots on the central water system would be 0.353 acre-feet/year/lot for a total of 31.50 acre-feet/subdivision.¹ The State Engineer cites that the water adjudicated in Case No. 17CW3002 includes 40.7 acre-feet/year from the Dawson aquifer for the 225.97-acre property that includes the 75.829-acre property in this proposal. The Augmentation Plan allows withdrawal of 9.32 acre-feet/year based on water demand of 0.32 acre-feet/lot. The State Engineer further states that the District has “58.95 acre-feet per year of obligation to deliver for the proposed development ... The Preliminary Plan estimated a demand of 57.89 acre-feet per year, of which 20.827 acre-feet/year is committed in Filing 1, and 31.05² acre-feet/year is committed in Filing 2, the subject of this submittal.”

Finally, the State Engineer stated that “[b]ased upon the above, and pursuant to CRS 30-28-136(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.”

Recommended Findings

7. **Quantity and Dependability.** Applicant’s water demand for Retreat at TimberRidge Filing 2 is 31.37 acre-feet per year for a total demand of 9,411 acre-feet for the subdivision for 300 years.

- The water demand for the 78 “urban lots” will be met pursuant to the agreement between the Sterling Ranch Metropolitan District and The Retreat Metropolitan District and will include a water supply of 0.353 acre-feet/lot totaling 27.52 acre-feet/year for the 78 lots (8,256 acre-feet for 300 years).
- The water demand for the 12 “rural lots” will be met by individual on-lot wells pursuant to the Decree (17CW3002) and Augmentation Plan (18CW3002) which allows withdrawal from the Dawson aquifer in the amount of 0.32 acre-feet/lot totaling 3.84 acre-feet/year for the 12 lots (1,152 acre-feet for 300 years).

Based on the water demand of 31.37 acre-feet/year for Retreat at TimberRidge Filing No. 2 and the commitment from the District and the Decree and Augmentation Plan permitting withdrawals in that amount, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for Retreat at TimberRidge Filing No. 2.

8. **Quality.** The water quality requirements of Section 8.4.7.B.10 of the Land Development Code must be satisfied. **El Paso County Public Health shall provide a recommendation as to the sufficiency of water quality.**

¹ The State Engineer cites the subdivision water demand in various places as 31.50 acre-feet and 31.05 acre-feet. The correct water demand is 31.37 acre-feet/subdivision.

² See footnote 1.

9. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the Water Supply Information Summary provided October 28, 2021, the *Water Resources Report* dated April 2021, the State Engineer Office's Opinion dated June 9, 2021, the commitment letter from the Sterling Ranch Metropolitan District dated April 1, 2021, and District Court Water Division Case Nos. 17CW3002 (Decree) and 18CW3002 (Augmentation Plan). The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

A. Prior to final plat recording, applicant shall upload the following documents to eDARP:

- 1) an updated WSIS that indicates under item no. 10 that new wells will be established in the Dawson aquifer for the 12 rural lots
- 2) the recorded quitclaim deed for water rights between Arroya Investments and Timber Ridge Development Group, recorded on February, 25, 2019
- 3) the IGA between RMD and SRMD dated November 6, 2020
- 4) the recorded quitclaim deed for water rights between RMD and SRMD dated November 23, 2020
- 5) the recorded quitclaim deed for water rights between Timber Ridge Development Group and RMD
- 6) an updated letter from the State Engineer's Office correcting the total water demand for the subdivision

B. Applicant and its successors and assigns shall comply with Division 2 Water Court Case Nos. 17CW3002 and 18CW3002 ("Decree" and "Augmentation Plan" respectively). Water use shall not exceed 0.32 acre-feet annually per well for the 12 "rural lots", and all stream depletions shall be replaced with non-evaporative septic system return flows for a period of 300 years.

C. Applicant has conveyed Dawson Aquifer water to RMD to own and, in turn, RMD will issue a Water Certificate to the owner of each lot who can then use the Certificate to obtain a well permit from the State Engineer's Office to drill an on-lot well for their primary supply of water. The Certificate will entitle the owner of each lot to withdraw an average annual amount of 0.32 acre-feet per year of Dawson Aquifer groundwater or a total of approximately 96 acre-feet for a 300-year supply. Applicant shall provide a form Water Certificate that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording the plat for the subdivision.

D. Applicant and its successors and assigns shall create restrictive covenants upon and running with the property which shall advise and obligate RMD and future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of Division

2 Water Court Case Nos. 17CW3002 and 18CW3002.

The covenants shall specifically address the following:

1) Advise of responsibility for costs. The Covenants shall advise lot owners and their successors and assigns of their obligations regarding the costs of compliance with the Decree and Augmentation Plan, which include pumping of Dawson aquifer wells in a manner to replace depletions during pumping and Laramie-Fox Hills aquifer wells to replace post-pumping depletions.

2) Require evaporative septic systems and reserve return flows from the same. The Covenants shall require each residential lot owner to use non-evaporative septic systems to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping, shall reserve said return flows to replace depletions during pumping, and shall state that said return flows shall not be separately sold, traded or used for any other purpose. The Covenants more specifically shall require the Dawson aquifer well on each lot to be serving an occupied single-family dwelling that is generating return flows from a non-evaporative septic system before any irrigation or animal watering is allowed from the well. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose."

3) Advise of monitoring requirements. The Covenants shall advise future lot owners of this subdivision and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from Dawson and Laramie-Fox Hills aquifer wells.

4) Address amendments to the covenants. The Covenants shall address amendments using the following or similar language:

"Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Retreat at TimberRidge Filing No. 2 pursuant to Division 2 Water Court Case Nos. 17CW3002 and 18CW3002. Further, written approval of the proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney's Office. Any amendments must be pursuant to a Decree from the Colorado Division 2 Water Court approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication."

5) Address termination of the covenants. The Covenants shall address termination using the following or similar language:

“These Covenants shall not terminate unless the requirements of Division 2 Water Court Case Nos. 17CW3002 and 18CW3002 are also terminated by order of the Court, and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

E. Applicant and its successors and assigns shall submit Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney’s Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney’s Office prior to recording the final plat. Said Declaration shall cross-reference Division 2 Water Court Case Nos. 17CW3002 and 18CW3002 and shall identify the obligations of the individual lot owners thereunder.

F. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, Division 2 Water Court Case Nos. 17CW3002 and 18CW3002, and any assignments thereof, any warranty deeds regarding the water rights, and the Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

G. Applicant and/or lot owners must obtain well permits pursuant to Division 2 Water Court Case Nos. 17CW3002 and 18CW3002.

H. Applicant and its successors and assigns and all future owners of lots within this filing shall be advised of, and comply with, any conditions, rules, regulations, limitations, and specifications set by the Sterling Ranch Metropolitan District No. 1 for the 78 “urban lots” in this subdivision.

I. Applicant shall add the following two plat notes to the face of the plat:

Individual wells for Lots 1-12 are the responsibility of each property owner. Permits for individual domestic wells must be obtained from the state engineer who by law has the authority to set conditions for the issuance of these permits.

Water rights available to serve individual wells on Lots 1-12 shall be owned by The Retreat Metropolitan District No. 1 and not the property owners. Each property owner must obtain a Water Certificate from the District granting the right to withdraw the water to support well permit applications.

J. The following plat note shall be added that addresses the State Engineer's admonition to advise landowners of potential limited water supplies in the Denver Basin:

"Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicant and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years used for allocation indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply."

cc: Kari Parsons, Planner III



COLORADO
Division of Water Resources
Department of Natural Resources

November 22, 2021

El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Retreat at TimberRidge Subdivision Filing 2
Sec. 27 and 28, Twp. 12S, Rng. 65W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 27730

To Whom It May Concern,

We have received the submittal concerning the above referenced proposal to subdivide a 75.829± acre tract of land into 90 new lots. Our records indicate that there are no existing wells located on the property. The proposed supply of water to the subdivision will be individual on-lot wells for each of the 12 lots, with wastewater being disposed of through individual on-lot septic disposal systems (“rural lots”, previously “Phase 5” and a portion of “Phase 3”); and in 78 lots by the proposed TimberRidge Metropolitan District via an IGA with the Sterling Ranch Metropolitan District using the SRMD Well Site #1 (“urban lots”, previously “Phase 6” and a portion of “Phase 4”). This office previously provided written comments, dated June 9, 2021, regarding the proposed development; the comments contained herein shall supersede those prior comments.

Water Supply Demand

The Water Supply Information Summary, Form No. GWS-76, provided with the submittal estimates a demand of 31.37 acre-feet for all intended uses in the subdivision. This includes 0.32 acre-feet/year/household for lots served by single family wells and septic and 0.353 acre-feet/year/household for lots served by a central system.

Please note that standard water use rates, as found in the Guide to Colorado Well Permits, Water Rights, and Water Administration, are 0.3 acre-foot/year for each ordinary household, 0.05 acre-foot/year for four large domestic animals, and 0.05 acre-foot/year for each 1,000 square feet of lawn and garden irrigation.

Source of Water Supply

For the rural lots (Lots 1-12), the anticipated source of water is to be provided by on-lot wells producing from the Dawson aquifer that will operate pursuant to augmentation plans decreed by the Division 2 Water Court in case no. 18CW3002 using water adjudicated in Case No. 17CW3002.

According to the decree entered by the Division 2 Water Court in case no. 17CW3002, the following amounts of water shown in Table 1, below, were determined to be available



underlying the 225.97 acre property that includes the 75.829 acre property that is the subject of this proposal.

Aquifer	Tributary Status	Volume (AF)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Dawson	NNT	12,202	122.0	40.7
Denver	NNT	11,909	119.1	39.7
Arapahoe	NT	9,796	98.0	32.7
Laramie-Fox Hills	NT	6,440	64.4	21.5
Total		40,347	403.5	134.6

The plan for augmentation decreed in Division 2 Water Court case no. 18CW3002 allows for diversion of 9.32 acre-foot annually from the Dawson aquifer for a maximum of 300 years.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed is equal to one percent of the total amount available as determined by Rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those amounts for a maximum of 100 years.

In the El Paso County Land Development Code, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

"-Finding of Sufficient Quantity - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years."

The State Engineer's Office does not have evidence regarding the length of time for which this source will "meet the average annual demand of the proposed subdivision." However, treating El Paso County's requirement as an allocation approach based on three hundred years, the annual estimated demand, for The Retreat at TimberRidge Filing 2 is 31.05 acre-feet as allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

For the urban lots (Lots 13-90), the proposed water supplier is the proposed TimberRidge Metropolitan District via an intergovernmental agreement with the Sterling Ranch Metropolitan District No. 1 ("District") and an April 1, 2021 letter of commitment from the District was included with the submittal.

Additional Comments

Should the development include construction and/or modification of any storm water structure(s), the Applicant should be aware that, unless the storm water structure(s) can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), Colorado Revised Statutes, 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, available online at: https://dnrweblink.state.co.us/dwr/0/edoc/3576581/DWR_3576581.pdf?searchid=978a5a31-ddf9-4e09-b58c-a96f372c943d, to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.

State Engineer's Office Opinion

At this time, it appears that the District has 58.95 acre-feet per year of obligation to deliver for the proposed development, The Retreat at TimberRidge, of which 20.827 acre-feet/year is committed in Filing 1, and 27.52 acre-feet/year is committed in Filing 2, the subject of this submittal.

Based on the above, and pursuant to CRS 30-28-136(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.

Our opinion that the water supply can be provided without causing injury is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory **allocation** approach, for the proposed uses is greater than the annual amount of water required to supply the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 2 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decrees, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in Division 2 Water Court case no. 16CW3095, 17CW3002, 18CW3002, and 18CW3005 were calculated based on estimated current aquifer conditions. For planning purposes the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for **allocation** due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply. Furthermore, that applicant will need to apply for, and obtain a new well permits issued pursuant to Section 37-90-137(4) C.R.S.

Should you or the applicant have questions regarding any of the above, please contact me at this office.

Sincerely,



Kate Fuller, P.E.
Water Resource Engineer

cc: Bill Tyner, Division 2 Engineer
Doug Hollister, District 10 Water Commissioner

RESOLUTION NO. 22_____

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO**

**REQUEST TO AMEND THE RETREAT AT TIMBER RIDGE PRELIMINARY PLAN TO
INCLUDE A FINDING OF SUFFICIENCY WITH REGARDS TO WATER QUALITY,
QUANTITY, AND DEPENDABILITY (PCD FILE NO. SP-18-002)**

WHEREAS, the Board of County Commissioners ("BoCC") approved the Retreat at Timber Ridge Preliminary Plan was approved on October 23, 2018 (PCD File No. SP-18-002); and

WHEREAS, the approval did not include a finding of water sufficiency with regards to water quality, quantity, and dependability from the County Attorney's Office;

WHEREAS, the BoCC approved an amendment to the Land Development Code authorizing administrative approval of plats if certain findings were made and if the BoCC specifically authorized administrative final plat(s) on August 20, 2019 (Resolution No. 19-329); and

WHEREAS, prior to adoption of Resolution No. 19-329, all final plats were required to obtain approval from the BoCC; and

WHEREAS, a recommendation in regards to water has been made by the County Attorney and the Colorado State Engineer; and

WHEREAS, the applicant is requesting the BoCC authorize administrative approval for all subsequent final plats within the preliminary plan area; and

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, authorize administrative approval for all subsequent final plats within the preliminary plan area; and

BE IT FURTHER RESOLVED that all conditions of approval associated with the original approval of the Retreat at Timber Ridge Preliminary Plan shall remain valid and in full effect; and

BE IT FURTHER RESOLVED that the County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

DONE THIS __ day of _____, 2022, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS

OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____

By: _____
County Clerk and Recorder