



September 12, 2022

Kari Parsons
El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910-3127
Sent via online portal at: <https://epcdevplanreview.com/Agencies/Home>

RE: Jaynes Property
Sketch Plan
Sec. 28, Twp. 12S, Rng. 65W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 30457

To Whom It May Concern:

We have received a referral regarding the above-referenced proposal to subdivide a 142.127± acre tract of land into 450 single-family lots. According to the submittal, the proposed supply of water and wastewater disposal is to be served by the Falcon Area Water and Wastewater Authority (“District”).

We have reviewed the above referenced proposal; however, given that the proposal is a sketch plan where in general the water supply may not be finalized, and not a preliminary plan, we are not at this time providing an opinion pursuant to Section 30-28-136(1)(h)(1), C.R.S., as to whether the proposed water supply plan will cause material injury to existing water rights. Instead we are offering general comments on the proposed water supply and will defer providing an opinion until the preliminary plan is filed. In addition, **the comments provided herein cannot be used to guarantee a viable water supply plan or infrastructure, the issuance of a well permit, or physical availability of water.**

Water Supply Demand

According to the Water Supply Information Sheet received by this office, the estimated total water demand for the development is 168.05 acre-feet/year. This breaks down to 158.85 acre-feet/year for household use in 450 residential lots (0.353 acre-feet/year per lot, consistent with the District’s SFE equivalency for high-density lots), 4.00 acre-feet/year for 4 acres of commercial space, and 5.20 acre-feet/year for 2.08 acres of active landscaping in parks (2.5 acre-feet/year per acre). The wastewater will return to the District’s 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 (2.2 acre-foot/year/acre).



Source of Water Supply

The source of water for the proposed development is to be served by the Falcon Area Water and Wastewater Authority (“District”). A letter of commitment dated July 25, 2022 from the District was provided with the referral materials. The letter commits to provide an unspecified amount of water to the development of 614 units, with an unspecified area of irrigated park space, and 3 acres of commercial space. According to the submittal, the District will provide water from a number of Denver Basin aquifer wells (both existing and proposed) to a central system and provide water to the proposed development.

However, based on the July 2022 Water Resources Report included in the submittal, the District claims that the current available annual supply totals 697.39 acre-feet. Prior reports show the current annual commitments (current/future) total at least 852.62 acre-feet. The report indicates that additional Denver Basin Aquifer supplies, totaling 968.28 acre-feet/year, are tentatively available based on conditional contracts. However, no evidence was provided at the time of referral to suggest that the District’s firm supply exceeds 697.39 acre-feet/year.

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 allowed average annual amount of withdrawal would total 697.39 acre-feet. However, the District claims to have fully committed this volume to this development and others within the service area. The preliminary plan for Homestead North at Sterling Ranch Filing 3 indicates that the estimated water demand for the development would be a total of 41.31 acre-feet/year. As a result, the water may not be available for withdrawn in that annual amount for a maximum of 300 years.

Records from the county assessor indicate that there is a well located on each of the existing parcels that are the subject of this subdivision. The application does not refer to the existing wells.

Records from our office indicate that well permit no. 285607 is located on the property. Permit no. 285607 was issued on May 4, 2011 pursuant to C.R.S. 37-92-602(3)(b)(II)(a) Records indicate that the well was constructed on May 17, 2011. The well was permitted for ordinary household purposes inside not more than three single family dwellings, the watering of poultry, domestic animals and livestock on a farm or ranch and the irrigation of not more than one acre of home gardens and lawns.

Records from our office indicate that well permit no. 34030 is located on the property. Permit no. 285607 was issued on May 31, 1968. Records indicate that the well was constructed on July 3, 1968. The well was permitted for the watering of livestock on a farm or ranch.

Pursuant to Policy 2011-1 of the Office of the State Engineer, available online at: <https://dnrweblink.state.co.us/dwr/ElectronicFile.aspx?docid=3565489&dbid=0>, any new or existing well (including pre-May 8, 1972 wells) that would be used in a subdivision must

be evaluated according to C.R.S. 37-92-602(3)(b)(I). In this area of the state water is considered to be over-appropriated; therefore, all wells in the subdivision must operate pursuant to a court approved plan for augmentation in order to be approved as part of the proposed water supply for the subdivision, with the exception of existing wells meeting the requirements of C.R.S. 37-92-602(3)(b)(IV). With the adoption of Senate Bill 20-0155 on July 2, 2020, section 37-92-602(3) was amended to allow an existing exempt well operating under a permit issued pursuant to section 37-92-602(3)(b)(II)(A), C.R.S., to retain its presumption of non-injury after the land on which the well is located has been divided. The existing well may only be used on a single parcel within the subdivision and the well must continue to be used in accordance with its permitted terms and conditions.

The presumption of non-injury will not be lost for an exempt well if this well is used for its permitted uses on only a single parcel of the divided land. Because Senate Bill 20-155 restricts the use of a qualifying exempt well to a single parcel (tract) within in a subdivision, the other tracts/parcels of the subdivision within the area described on the exempt well permit, must have a different water supply such as a municipal water tap or non-exempt well. The existing well cannot be shared. To allow an existing well to retain its exempt status, the use of the well must be limited to one of the lots in the subdivision, and the other lot must have a different water supply. This office requests that it be made plainly visible on the plat that no additional exempt well permits will be allowed to be constructed on the lots in this subdivision.

Additional Comments

Should the development include construction and/or modification of any storm water structure(s), the applicant should be aware that, unless the structure 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*, located at <https://dnrweblink.state.co.us/dwr/ElectronicFile.aspx?docid=3576581&dbid=0> 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

Pursuant to 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. The District must provide a complete summary of the water rights owned and controlled by the District, accounting for relinquishment requirement, and evidence of that ownership and control. Most importantly, the District shall provide evidence that the firm supply exceeds the committed supply.
2. The District shall supply information that supports the position that the anticipated supply will be physically adequate to serve the proposed development.

3. The District must provide a letter that commits to providing the amount of water that is consistent with the estimated demand for the development.
4. The Applicant must clarify whether the existing wells on the property will be plugged and abandoned.

Should you or the applicant have questions regarding any of the above, please feel free to contact me directly.

Sincerely,



Kate Fuller, P.E.
Water Resource Engineer

Cc: Bill Tyner, Division Engineer
Jacob Olson, North Regional Team Lead
Well Permit File no. 285607
Well Permit File no. 34030