



January 25, 2019

El Paso County Planning and Community Development
2880 International Circle, Suite 110
Colorado Springs, CO 80910
Attn: Nina Ruiz

Dear Ms. Ruiz,

Subject: Flying Horse North Lot 35, PCD File No. SF-18-042

Please accept this letter as our response to comments to your letter dated December 27, 2018. Our response to items are in RED below.

EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Current Planning

1. Because you will be adding an additional lot that was not identified in the preliminary plan, we will need to open up the preliminary plan and the water finding to show that there is adequate water for the additional lot. Another option would be to amend the preliminary plan to swap densities where lot 35 becomes 2 lots, but you combine 2 lots in another area of the preliminary plan—perhaps near the clubhouse. Please let Nina know which route you prefer so that she may setup another application as needed.

A separate application will be submitted for an amended preliminary plan which combine lot 153 and 154. This will maintain the total lot count on the preliminary plat at 283 lots.

2. If the request is approved, at the time of recording you will need to pay any impact fees, the recording fee, provide title commitment dated within 30 days, zero tax certificate, have the Mylar stamped by enumerations, and provide a Mylar with all signatures other than County signatures.

Acknowledged

3. The assessor has not yet mapped the plat. Once the mapping is complete and a new schedule number has been assigned, all application documents will need to be revised accordingly.

Acknowledged

4. The utility commitment letters and fire protection report are outdated.
Updated utility commitment letters and fire protection letters have been uploaded.



5. The LOI includes 2 blank pages where I would expect to find an analysis of the review criteria. Please upload a version without blank pages that addresses the review criteria for a replat.
A revised letter of intent has been uploaded.

Planning plat comments

- 1- The BOCC Certification has been revised.
- 2- Note 7 has been revised to add the PCD File No. and reference to Fil. No. 1
- 3- Note 30 has been added regarding the open space restriction.
- 4- Note 31 has been added regarding the building permit restrictions.

Engineering Department

Engineering comments have been provided on the Plat Drawing

1- The easement shown at the northwesterly corner of the plat created in Flying Horse North Fil, No. 1 is for storm water crossing the Old Stagecoach Road it is not for a driveway so note 26 does not pertain to this easement.

2- The PCD file no. s been added.

3- Note 26 has been revised to include "both".

EL PASO COUNTY CONSERVATION DISTRICT

The Board of Supervisors of the EL Paso County Conservation District have no comments at this time.

Dear Ms. Ruiz, The Colorado State Forest Service recommends that all forested acres be mitigated to reduce the risk of wildfire and that defensible space be created for each dwelling using the standards in "Protecting Your Home From Wildfire: Creating Wildfire-Defensible Zones" FIRE 2012-1 located on the Colorado State Forest Service website. http://csfs.colostate.edu/pdfs/FIRE2012_1_DspaceQuickGuide.pdf In addition, I recommend that all wildfire mitigation be completed before or during dwelling construction.

Fire mitigation of the lots will be completed during home construction in keeping with the mitigation report previously submitted.

COLORADO DIVISION OF WATER RESOURCES

We have reviewed your referral of December 4, 2018 concerning the above referenced proposal to vacate and re-plat Lot 35 of the recently approved Flying Horse North Filing

1 subdivision. Lot 35 contains 7.341 acres and is proposed to be split into two separate lots. Our office previously provided comments on the Flying Horse North Preliminary Plan (SF-17-012) by our letters dated January 17, 2018, May 17, 2018, July 3, 2018 and September 19, 2018 and on the Flying Horse North Filing 1 Final Plat (SF-181) by our letters dated January 17, 2018 and May 1, 2018. The two new residential lots will be served by individual on-lot wells and septic systems. The Applicant obtained an augmentation plan for Dawson aquifer wells in Division 1 Water Court case no. 2016CW3190.

Water Supply Demand

The Subdivision Summary Form Sheet provided indicates that the property will be subdivided into 2 single-family residential lots and the total demand required is 625 gallons/day/unit (0.7 acre- feet/year/lot). Based on the information provided it's not clear if the number of lots within Filing 1 will increase from 80 lots to 81 lots and whether the water demand for Filing 1 will also increase.

Therefore, we request clarification on the total number of lots to be created for Filing 1 and the water requirements for Filing 1.

According to previous information received in this office as part of the Flying Horse North Preliminary Plan (SF-17-012), the total demand for the development is 198 acre-feet/year based on in-house demand of 0.3 acre-feet/year/lot (84.9 acre-feet/year total), with the remaining of 113.1 acre-feet available for irrigation of residential lawn and common open space. According to the March 15, 2018 letter from the Applicant's water attorney Mr. Alan G. Hill the on-lot residential wells will be limited to 5,000 square feet of lawn and garden by covenants. In addition, the letter states that 28.06 acre-feet per year will be used for common area irrigation, which would leave 85.04 acre-feet for residential lot irrigation (0.3 acre-feet/year/lot). Therefore the total water requirement for the residential lots would be 0.6 acre-feet/year. In addition the total demand for the irrigation of the golf course is estimated at 180 acre-feet/year to be provided by an existing well operating under permit no. 81145-F. Although, not specifically provided with the re-plat of Lot

35, we assume that the total water requirement for the development will remain the same as 198 acre-feet/year for 283 single-family residential lots.

Source of Water Supply

The proposed source of water for the two new lots is individual on lot wells producing from the not nontributary Dawson aquifer. According to previous information provided to this office, Applicant owns a portion of the ground water adjudicated in case no. 94CW023(B) underlying 701 acres generally located in Sections 30 and 31, Township 11 South, Range 65 West of the 6th P.M. 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 Groundwater Production Lease, the Applicant leased the not nontributary and nontributary groundwater underlying 640 acres located in Section 36, Township 11 South, Range 66 West of the 6th P.M. 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)	Status
	Based on 100 year allocation approach	
Dawson	716	NNT*
Denver	577	NNT
Arapahoe	239	NT**
Laramie-Fox Hills	386	NT

*NNT=Not nontributary

**NT=Nontributary

The proposed not nontributary Dawson aquifer wells will be operated in accordance with the terms and conditions of the augmentation plan in case no. 2016CW3190. The decreed plan for augmentation in case no. 2016CW3190 allows for an average diversion of 198 acre-feet annually and 59,400 acre-feet total over a 300-year period. According to the decree, the allowed withdrawal from each Dawson aquifer well will be limited to 0.7 acre-feet/year/lot totaling 198 acre-feet/year for the 283 lots for the entire development. The in-house use is limited 84.9 acre-feet/year while the irrigation of individual lots and open space land is limited to 113.1 acre-feet/year. According to the augmentation plan no Dawson aquifer well approved pursuant to the plan for augmentation shall be allowed to pump water for any purpose unless it is also used in a residence on the lot on which such well is located, or for irrigation of open space lands.

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 in consolidated case nos. 94CW023(B) and 2004CW098 are equal to one percent of the total amount, 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 annual 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 demand for the subdivision equals the allowed average annual amount of withdrawal of 198 acre- feet/year, allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Applications for on lot well permits, submitted by entities other than the Applicant (PRI #2, LLC) must include evidence that the well permit Applicant has acquired the right to the portion of the water being requested on the application.

State Engineer’s Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply for the new lots is adequate and can be provided without causing injury to decreed water rights, **provided the total annual amount allowed to be withdrawn by the Dawson aquifer wells for the total development, including the two new wells, will not exceed the total annual amount allowed by the augmentation plan approved in the decree in case no. 2016CW3190.**

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the in-house use, residential lot lawn and garden irrigation and irrigation of common open space is currently physically available, based on current estimated aquifer 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 existing water commitments and the in-house use, residential lot lawn and garden irrigation and irrigation of common open space demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in this letter, are 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 100 years (or 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.

Should you or the applicant have any questions, please contact Ioana Comanicu at (303) 866-3581 x8246.

Sincerely,



Joanna Williams, P.E. Water Resource Engineer

Ec: Subdivision File 25445

A separate application will be submitted for an amended preliminary plan which combine lot 153 and 154. This will maintain the total lot count on the preliminary plat at 283 lots. With 283 lots total our augmentation plan with the total water usage will remain the same.

911 AUTHORITY –ELPASO /TELLER COUNTY

The following names have been reviewed for the Flying Horse North Lot 35 Vacation and Replat project.

ESN: 251 City: Black Forest PSAP: EPSO Location: South of Hodgen and East of Hwy 83

Items in “Red” are not approved street names

Items in “Green” are acceptable street names for this project

The project is only a re-plat of lot 35 into two separate lots. No new street naming suggested. No further action required by E911.

Request the contractor submit new proposed names for those listed as not acceptable. Information regarding street naming can be found at:
<https://elpasoteller911.org/191/Street-Emergency-Number-Databases>

No action is required.

MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC.

This area is within MVEA certificated service area. **MVEA will serve this area according to our extension policy. Information concerning connection requirements, fees and upgrades under MVEA line extension policy can be obtained by contacting the Engineering Department of MVEA.**

MVEA recognizes the utility easements of ten (10) foot front, side and rear lot lines. As construction moves forward additional easements may be required once a review of civil drawings with grading and erosion plan is provided to MVEA.

MVEA is currently installing facilities with in Flying Horse North. If there is any removal or relocation of facilities it will be at the expense of the applicant and a review of easements will be required.

If additional information is required, please contact our office at (719) 495-2283.

Sincerely,

Cathy Hansen-Lee
Engineering Administrative Assistant

Acknowledged.

A new commitment to serve letter has been uploaded.

ELPASO COUNTY ENVIRONMENTAL SERVICES

The El Paso County Environmental Division has completed its review of the above referenced application. Our review consisted of the following items: wetlands, federal and state listed threatened or endangered species, general wildlife resources and noxious weeds.

We have reviewed the submittal and have no additional comments at this time.

The applicant is hereby on notice that the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service have regulatory jurisdiction over wetland and threatened and endangered species issues, respectively. It is the applicant's responsibility, and not El Paso County's, to ensure compliance with all applicable county, state, and federal laws and regulations, including, but not limited to, the Clean Water Act, Endangered Species Act, Migratory Bird Treaty Act, Colorado Noxious Weed Act and El Paso County Weed Management Plan.

We appreciate the opportunity to comment on this project. If you have any questions or concerns, please contact me at (719) 520-7879.

Acknowledged.

BLACK FOREST LAND USE COMMITTEE

The Black Forest Land Use Committee has reviewed this proposal and recommends DENIAL of the request. When Flying Horse North was approved, it had 1417 acres with 283 lots. This works out to exactly a 5-acre average for lot sizes and conforms with the Black Forest Preservation Plan. With this vacation and replat, the lot average drops below 5 acres per lot average and violates the Preservation Plan. Therefore, we recommend denial of this request.

A separate application will be submitted for an amended preliminary plan which combine lot 153 and 154. This will maintain the total lot count on the preliminary plat at 283 lots.

PIKES PEAK REGIONAL BUILDING DEPARTMENT

Enumerations/Floodplain has the following comments: 1. Proposed lot 1 will retain the existing address of 5315 & the new lot 2 will be assigned the address of 5355 Old Stagecoach Road. **Addresses are shown as requested.** 2. Platting fee for the new lot only. **Acknowledged.** 3. The El Paso County floodplain maps have updated since December 7, 2018. The new map series is "G". The new effective date is December 7, 2018. Edit Floodplain statement. Standard final plat comments apply: **Revised** ENUMERATIONS/FLOODPLAIN WILL REVIEW THE MYLAR PRIOR TO PLAT FOR ADDRESS PLACEMENT, ROAD NAMING, TITLE BLOCK, & FLOODPLAIN STATEMENT. \$10.00 PER LOT & TRACT FEE WILL BE DUE AT THE TIME OF THE REVIEW OF THE MYLAR. IF AN ADDRESS IS NOT NEEDED ON A TRACT THEN NO FEE APPLIES. CHECK SHOULD BE MADE OUT TO PIKES PEAK REGIONAL BUILDING DEPARTMENT. PAID DIRECTLY TO ENUMERATIONS DEPARTMENT. A COPY OF THE FINAL RECORDED PLAT IS REQUIRED PRIOR TO PLAN SUBMITTAL FOR RESIDENTIAL. A COPY OF THE FINAL RECORDED PLAT IS REQUIRED PRIOR TO APPROVAL IN ENUMERATIONS DEPARTMENT ON ANY COMMERCIAL PLANS SUBMITTAL. **Acknowledged.**

COLORADO DEPARTMENT OF TRANSPORTATION-PUEBLO OFFICE

CDOT has no comments as to the Flying Horse North Lot 35 Vacation and Replat.

Acknowledged.

NORTHERN EPC COALITION OF COMMUNITY ORGANIZATIONS, INC. (NEPCO)

Reference: Flying Horse North Lot 35 Vacation and Replat

NEPCO is providing the collective input from its membership that includes 8,000 homeowners, 41 HOAs and 18,000 registered voters within and around Monument. The purpose of NEPCO, a volunteer coalition of Homeowner Associations in northern El Paso County, is to promote a community environment in which a high quality of life can be sustained for constituent associations, their members and families in northern El Paso County. We collectively address growth and land use issues with El Paso County Planners and the Town of Monument, as well as addressing HOA issues of common interest among the members. NEPCO achieves this by taking necessary steps to protect the property rights of the members, encouraging the beautification and planned development and maintenance of northern El Paso County.

Comments related to the Flying Horse North Lot 35 Vacation and Replat:

NEPCO has no specific concerns related to the proposed replat of Lot 35.

Thomas M. Vierzba
Vice President, NEPCO
Chairman,
NEPCO Land Use & Transportation Committee

Larry Oliver
President, NEPCO

Acknowledged.

If you have any questions feel free to contact me at 719-785-2801.

Sincerely,

Douglas P. Reinelt, P.L.S.
Survey Manager