



June 28, 2021

Ryan Howser, Project Manager
El Paso County Development Services Department
Transmitted via the EPC EDARP Portal: epcdevplanreview.com

Re: Mayberry Phase 1 PUD/SP (a.k.a. Ellicott Town Center Phase 1 PUD Amendment)
Case No. PUDSP219
Part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 15 and part of the N $\frac{1}{2}$ N $\frac{1}{2}$ of Sec. 14, T14S, R63W, 6th P.M.
Upper Black Squirrel Creek Designated Basin
Water Division 2, Water District 10

Dear Ryan Howser:

We have reviewed the June 15, 2021 above-referenced proposal for an amendment to the existing Ellicott Town Center Phase 1 PUD, a proposed development of 240 single-family residential lots, 3 industrial lots, and open space tracts on 71.39-acres located in part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 15 and part of the N $\frac{1}{2}$ N $\frac{1}{2}$ of Sec. 14, T14S, R63W, 6th P.M. off of State Highway 94.

The Ellicott Town Center PUD was initially approved by the county January 12, 2006 and Phase 1 of the PUD was approved by the county May 11, 2006; our office provided comments on this phase on May 4, 2006 and November 14, 2007 (referral no. 20199). Filing no. 1 for the development of 98 single-family lots (referral no. 24922) and Filing no. 2 for the development of 3 commercial lots (referral no. 26480) have been approved by the county. This development is also known as the Mayberry Phase 1 development.

This amendment seeks to revise past alley loaded lots with conventional lots, and also to provide the framework for the development of easterly commercial lots and the platting of Filing No. 4 (the remaining 142 single-family lots).

Water Supply Demand

According to the Water Supply Information Summary and “Water Resources and Wastewater Treatment Report” (“Report”) prepared by MMI Water Engineers dated June 2, 2021 (which supersedes the report prepared for the original PUD), the estimated water demand is 62.40 acre-feet/year for household use in 240 units, 11.84 acre-feet/year for the irrigation of 4.81 acres, and 7.70 acre-feet/year for industrial use. The total estimated demand is 81.94 acre-feet/year.

The Applicant should be aware that the proposed household supply (0.26 acre-feet/year per unit) used in estimating the above demand is less than what this office typically views as an adequate household supply. However, the report provides an analysis based on actual water usage data from the Viewpoint Estates/Antelope Park Ranchettes and Sunset Village developments, for which the lot sizes are greater than the lot sizes proposed for this development, and states that this estimated demand is applicable for the Mayberry development. This analysis is valid so long as the existing units within the above developments have comparable water demands to those planned for the Mayberry development.



Source of Water Supply

The proposed water supply source is service provided by Ellicott Utilities Company, LLC (“Company”). According to the letter dated May 14, 2021, the Company will provide water and sewer service to the Phase 1 development, including Filing Nos. 1 and 2 previously committed to and further committing to serving the remaining 142 lots, subject to the Company’s Rules and Regulations. This letter supersedes the two prior commitments the Company has previously made for Filing Nos. 1 and 2. This office has not received information that the Applicant has met these requirements.

According to the report, the Company owns and controls water rights associated with Determination of Water Right No. 598-BD and an interest in the Tipton Well. Determination of Water Right No. 598-BD was issued November 8, 2004 and allows an average annual withdrawal of 161 acre-feet/year for 100 years from the Laramie-Fox Hills aquifer for domestic, irrigation, commercial, industrial, firefighting, and recreational use. The allowed place of use is the 551.26 acres generally described as the W ½ and the W ½ of the NE ¼ of Section 14 and the E ½ of Section 15, all in Township 14 South, Range 63 West of the 6th P.M. The proposed Mayberry Phase 1 PUD is within this allowed place of use.

A proposed source of water for this development is a bedrock aquifer allocation from the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which the bedrock aquifer sources will be a physically and economically viable source of water. According to 37-90-107(7)(a), C.R.S., “Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years.” Based on this allocation approach, the annual amounts of water determined in Determination of Water Right No. 598-BD is equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

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 300 years, the allowed average annual amount of withdrawal of 161 acre-feet/year from the Laramie-Fox Hills aquifer would be reduced to one third of that amount, or 53.67 acre-feet/year. The Company anticipates a 5% transit loss in delivering the water supply, therefore an amount of 50.98 acre-feet/year is available from this source to supply the development.

According to the Report, the Company has an 82 acre-feet/year interest in the Tipton Well, of which 30.96 acre-feet/year is allocated to this development. The 82 acre-feet/year available to the Company is part of 225 acre-feet/year of fully consumable and exportable alluvial groundwater associated with the Tipton Well (permit no. 16253-RFP-R) adjudicated in Colorado Ground Water Commission Case No. 91GW01 for use and export outside of the Upper Black Squirrel Creek Designated Ground Water Basin. This water is made available by Cherokee Metropolitan District through two Purchase and Sales Agreements with the Company (pg. 101 of the Report). The Tipton Well water supply is from the alluvial aquifer, which is considered to be a renewable source.

The Company is also committed to supplying water to Viewpoint Estates/Antelope Park Ranchettes and Sunset Village developments which are supplied with 110 acre-feet/year through two contracts the Company holds with the Cherokee Metropolitan District (pgs. 69 and 75 of the Report). Therefore, according to the submitted material, the Company has 81.94 acre-feet/year available to supply the proposed development from Determination No. 598-BD and the Tipton Well, which is equal to the 81.94 acre-feet/year of estimated demand.

According to the submitted material, stormwater detention structure(s) will be developed on the site. The applicant should be aware that, unless the structure can meet the requirements of a “storm water detention and infiltration facility” as defined in Designated Basin Rule 5.11, the structure may be subject to administration by this office. The applicant should review Rule 5.11 to determine whether the structure meets the requirements of the Rule and ensure any notification requirement is met.

State Engineer's Office Opinion

Based upon 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 offers the opinion that the proposed water supply can be provided without causing material injury to existing water rights and the supply is expected to be adequate.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is physically available, based on current 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 to the Company 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 Company's current water commitments and the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Colorado Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced Determination of Water Right, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. 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 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.

If you or the Applicant have any questions, please contact Wenli Dickinson at (303) 866-3581 x8206 or at Wenli.Dickinson@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "Joanna Williams". The signature is fluid and cursive, with the first name "Joanna" and last name "Williams" clearly distinguishable.

Joanna Williams, P.E.
Water Resource Engineer

Ec: Referral No. 27762
Keith Vander Horst, Chief of Water Supply, Designated Basins
Upper Black Squirrel Ground Water Management District