



December 27, 2021

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

**Re: Mayberry Filing 1 (a.k.a. Ellicott Town Center Filing 1) Replat
Case No. SF06012**
Part of the NW ¼ 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 above-referenced proposal for the replat of Mayberry Filing 1 (Ellicott Town Center Filing 1), which was approved by the County on April 12, 2007. Mayberry Filing 1 consists of 98 residential lots on 228.0 acres, including several tracts for future development. The replat specifically revises the southern 38 lot configurations (lots 61 through 98, inclusive) without the addition of new lots. There will be no changes to the proposed density.

Water Supply Demand

According to the Water Supply Information Summary and “Water Resources and Wastewater Treatment Report” (“Report”) prepared by MMI Water Engineers dated November 29, 2021 (which supersedes the report prepared for the original PUD), the estimated water demand is 62.40 acre-foot/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 and revised June 2, 2021, the Company provided an unconditional commitment to serve the PUD amendment of 240 single family residential homes, 3 industrial lots and associated landscaping.

According to the report, the sources of water that will be used to meet the demands of Mayberry Filing 1 are Laramie-Fox Hills aquifer water allocated under Determination of Water Right no. 598-BD and 30.96 acre-feet of water associated with Applicant’s 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.

One of the proposed sources 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 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*, Section 8.4.7.(B)(7)(b) states:

"(7) Finding of Sufficient Quantity

(b) Required Water Supply. The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 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 from the Laramie-Fox Hills is available to supply the development.

According to the Report, the Company has an 82 acre-feet/year interest in the Tipton Well. The 82 acre-feet/year that the Company claims a right to 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. These water rights are held in title by Cherokee Metropolitan District, and the District has committed water amounts to members of Cherokee Water, LLC. Commitment letters were included with the revised Water Resources Report submitted with the application.

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., it is our opinion that the proposed water supply is still not adequate and cannot be provided without causing injury to decreed water rights.

As required by section 30-28-136(1)(h)(II), C.R.S., a report from the Company documenting its ability to supply the subdivision without causing injury to existing water rights must be provided. The report needs to contain the following as further described in the attached March 16, 2005 Updated Memorandum Regarding Subdivisions.

- i. A summary of all water rights owned and permanently controlled by the Company along with proof of ownership or permanent control of such rights.
- ii. The present demand on the Company, and the anticipated demand due to all commitments for service entered into by the Company. The Company must also state whether the commitments are based on a 100 year or 300 year allocation approach.

- iii. Clarification on the quantity of water that the Company is committed to supplying the Viewpoint Estates and Antelope Park Estates developments and the source of water that will be used to serve those commitments.
- iv. The amount of uncommitted firm supply the Company has available for future commitment and development.
- v. A map of the municipality's service area.

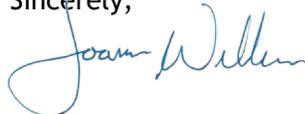
The above information should be provided in a manner that demonstrates that the Company has sufficient water resources to meet **all** of its commitments in terms of an overall water supply, considering annual and longer term availability, including El Paso County's 300 year water supply requirement.

Additional Comments

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.

If you or the Applicant have any questions, please contact Joanna Williams at (303) 866-3581 x8265 or at Joanna.Williams@state.co.us.

Sincerely,



Joanna Williams, P.E.
Water Resource Engineer

Attachment: March 16, 2005 Updated Memorandum Regarding Subdivisions

Ec: SEO subdivision file 27762
Upper Black Squirrel Ground Water Management District