

ARAPAHOE COUNTY PLANNING COMMISSION
PUBLIC HEARING
December 17, 2024
6:30 P.M.

SUBJECT: SD24-002 EASTGATE SPECIAL DISTRICT SERVICE PLAN

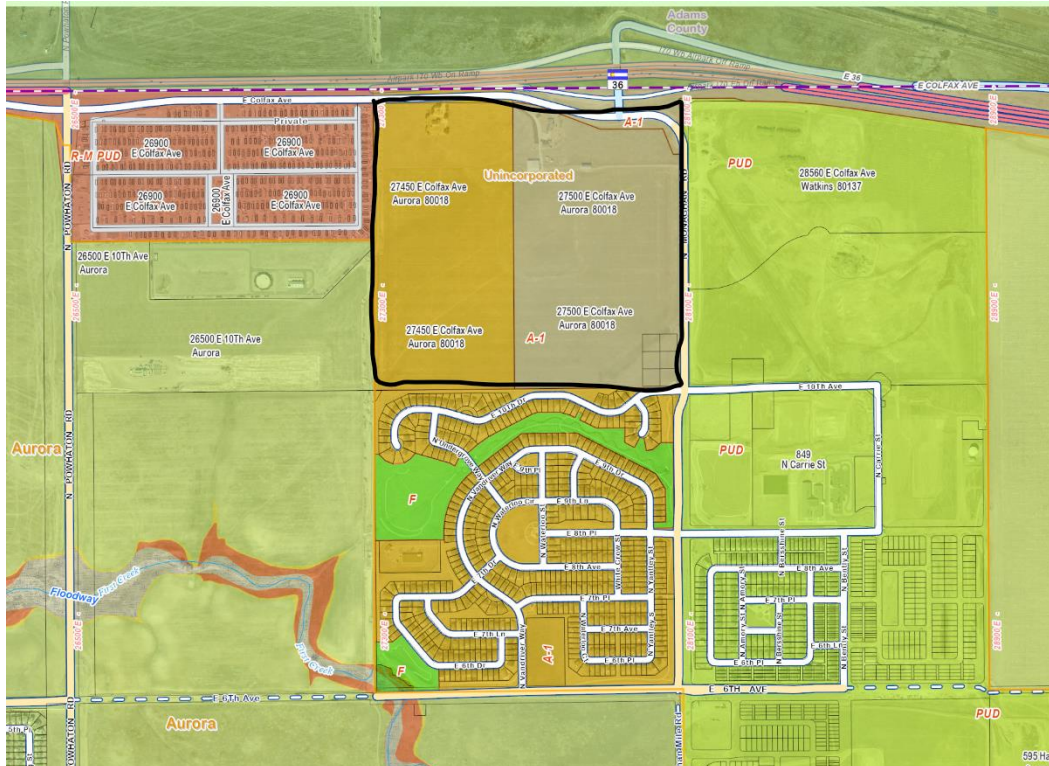
KAT HAMMER, SENIOR PLANNER

PURPOSE AND REQUEST

Jeffrey Erb, Erb Law, LLC, is proposing to establish six metropolitan districts to serve the development known as Eastgate, located at the southwest corner of Interstate 70 and Monaghan Road, at 27500 and 27450 E Colfax Avenue and seeks approval of its proposed service plan for the districts. The metropolitan districts would serve approximately 405,000 square-feet of commercial, retail, and light industrial property and approximately 1,000 single-family attached and multi-family residential units (estimated population of 2,610 persons based on an estimate of 2.61 persons per household). The service plan limits the total amount of debt that can be issued by the district to \$70.0 million and requires that any debt issued by the district must not have a maturity longer than 40 years from the date of issuance, however, there is no limit on how long the debt service mill levy may be imposed. The associated General Development Plan, GDP23-003 is attached to this report. Staff is requesting a recommendation of approval to the Board of County Commissioners.

BACKGROUND

The approximately 144 acres site is located at the southwest corner of Interstate 70 and N. Monaghan Road.



Location & Zoning (site outlined in black)

ADJACENT SUBDIVISIONS, ZONING, AND LAND USE:

| | Zoning | Land Use | Subdivision |
|--------------|----------------------------|--|---|
| North | N/A | Interstate 70 | N/A |
| East | Sky Ranch PUD | Agricultural | N/A |
| South | Sky Ranch PUD | Single-Family Residential | Sky Ranch Filing No. 1 |
| West | R-M PUD and City of Aurora | Mobile Home Park, Aurora pumping station and vacant land | Aetna Estates, Aurora Pumping Station No. 3 Sub 1 st Filing and unplatted. |

County staff is concurrently reviewing the associated General Development Plan (GDP23-003) and 1041 (Regulations Governing Areas and Activities of State Interest) application for extension of domestic water and sewage treatment systems (Case No. ASI24-001). Approval of this application will be contingent upon the approval of GDP23-003, and ASI24-001.

The application requests approval of a service plan for the proposed metropolitan districts, which propose the following services: water, sanitation, storm sewer, streets, safety protections, park and recreation, transportation, television relay and translation, mosquito control, fire protection, and solid waste collection, transportation and disposal. Authority for water and sanitation is for purposes of building and maintaining lines for connection to City of Aurora water and sanitation services. The application includes a financial plan for financing the districts, including planning, design, acquisition, construction, installation, operations and maintenance (O&M) of improvements and the provision of the metropolitan districts' services, also including provision for funding regional drainage and interchange improvements.

The combined service area of the districts is approximately 144 acres; however, the initial boundary of each district is expected to be 0.5 acres. The service plan indicates that Districts One and Two will contain single-family residential, District Three will contain multi-family residential, and Districts four through six will contain non-residential/commercial development. The financial plan projects full build-out to occur in 2033 with a projected assessed value at full build-out of approximately \$63.0 million, which will be the initial tax base for property tax collections in 2035.

The service plan states that it is expected that a total levy of 75 mills, inclusive of the debt, O&M, and regional mill levy will generate sufficient revenue to pay debt service and O&M expenses, however, the only mill levy cap is 50 mills for debt service for debt that is greater than 50 percent of the assessed value. The 50-mill cap is subject to adjustment for changes in the method of calculating assessed valuation after January 1, 2024. The financial plan assumes a levy of 50 mills for debt service, 10 mills for O&M, and 15 mills for debt service on regional improvements.

DISCUSSION AND PROPOSED CHANGES

Staff review of this application included a comparison of the project to policies and goals outlined in the Comprehensive Plan, a review of pertinent State Statutes, and an analysis of referral comments.

Comprehensive Plan

The Comprehensive Plan designates this area as Employment and within the Urban Area.

Primary allowable land uses in the Employment Center category include research and

development offices, general offices, warehousing and light industrial uses, and major educational facilities. Allowable secondary uses in the Employment Center category include uses that complement the primary uses, such as restaurants, hotels, convenience shopping, childcare, and residential uses if part of an overall Planned Unit Development. The proposed development associated with this Special District application includes 405,000 square-feet of commercial, retail, and light industrial uses and approximately 1,000 single-family attached and multi-family residential units, within a Planned Unit Development.

The Urban Area is predominantly within or adjacent to areas of existing urban-level development in the western portion of the County. This is the place of the most intense urban activity and where annexations will likely occur. The undeveloped portion of the Urban Area is a priority growth area consistent with the Denver Regional Council of Governments (DRCOG) Metro Vision outcome to create an Efficient and Predictable Development Pattern.

Policy GM 3.1 – Direct Future Development to Areas with Low Risks from Natural and Man-made Hazards

The proposal is located within areas of low-risk natural and man-made hazards.

GOAL PSF 1 – Ensure an Adequate Water Supply in Terms of Quantity and Quality for Existing and Future Development

The existing two farmhouses receive water from a well and wastewater is treated in a septic tank. The development is proposed to receive water and wastewater from the City of Aurora as described in the associated application for extension of domestic water and sewage treatment systems application, ASI24-001. The Contingent Willingness to Serve letter (attachment 8) indicates a Water and Sewer Service Agreement between Property 292, LLC is being negotiated between City staff and Property 292, LLC, and must be approved by the Aurora City Council. The Contingent Willingness to Serve letter indicates all water and wastewater infrastructure necessary to serve the development shall be built to the standards and requirements of the City of Aurora and will be conveyed to the City upon completion and acceptance. The Contingent Willingness to Serve letter also indicates limitations of master-planned water use for this area. The agreement is expected to be presented to the Aurora City Council in January for consideration. Staff has included a condition of approval requiring proof of approval from the Aurora City Council.

Policy PFS 4.3 - Require Adequate Wastewater Treatment

As mentioned above, the City of Aurora is expected to serve the development and ensure adequate wastewater treatment.

GOAL PFS 7 – Ensure Existing and New Development have Adequate Police and Fire Protection Utilities in Existing and New Development

The Arapahoe County Sheriff had no comments on this application. Sable Altura Fire District provided a referral response indicating the district fully commits and expects to continue to serve this area and development for the long term.

GOAL PFS 9 – *Ensure that the Educational Needs of Existing and New Developments Are Met*

The Aurora Public Schools provided a referral response indicating cash-in-lieu of land dedication will be requested at the time of subdivision. Aurora Public Schools provided staff with an email stating the school district has capacity to serve the proposed 1,000 residential units. The school district is requesting the value of the cash-in-lieu be based on the Appraisal Method of determining fair market value outlined in the LDC.

Comprehensive Plan - *GOAL NL 1 – Create Livable Mixed Use Neighborhoods in Designated Growth Areas*

The proposed development includes a diversity of land uses, such as employment, housing, leisure time, and retail centers in close proximity to one another. The proposed plan includes opportunities for growth, job creation, and providing diverse housing options that would support those jobs.

Comprehensive Plan - *Policy NL 1.2 - Encourage Mixed Use Neighborhoods that Are Served by a Multi-modal Transportation System*

The GDP illustrates the location of the internal circulation and points of access. The applicant will be required to submit a Transportation Demand Management Plan to CDOT for review and approval with the Specific Development Plan. Sidewalk and pedestrian circulation will be reviewed at this time as well. There is an existing 12-foot Public Use Easement (P.U.E) which includes a trail on the northeast portion of the adjacent Sky Ranch Filing 1 that could allow for trail connectivity, this connection will be reviewed with future site plan submittals.

Ordinance Review/State Statute Evaluation: The Arapahoe County Land Development Code does not provide specific regulations for special districts, therefore staff evaluates such requests in accordance with provisions of Colorado Revised Statutes (C.R.S.). The statutory requirements include a statement of introduction and general overview, the stated need for the service district or amendment, including the powers of the District, and a specific description of facilities and improvements. The State Special District Act gives the Board of County Commissioners (BoCC) significant power in review and approval of a service plan for the creation of new special districts, such as the proposed metropolitan districts in this case.

The Special District Act at Section 32-1-203(2) and (2.5), C.R.S., set the criteria for the Board's review of a proposed special district service plan. Subsection 203(2) provides that the BoCC shall DISAPPROVE an application for a service district unless satisfactory evidence is provided to the Board in response to the following four criteria. The applicant's responses are below (italic font). Following the applicant's responses are Staff responses based on the analysis of application SD24-002:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;

The purpose of the Districts is to finance, construct, own, operate, and maintain the public improvements needed for the Eastgate Development, which will include residential, commercial, and industrial property. These public improvements, which will include water improvements, sanitary and stormwater, streets and sidewalks, and parks, will benefit the area within the Districts and the property owners and inhabitants within the development, as well as provide improved connectivity with surrounding developments due to the construction of additional streets and sidewalks. These public improvements are needed in order to provide these essential public services to the future residents and users of the property.

The property is located in the Urban Area and is designated as Employment in the Comprehensive Plan. The proposed land uses are consistent with the allowable primary and secondary land uses in the Employment Center land use designation. The Urban Area is a Designated Growth Area. If the associated GDP and 1041 applications are approved, staff believes there is sufficient projected need for organized service in the area to be serviced by the Districts.

2. The existing service in the area to be served by the District is inadequate for present and projected needs;

The existing service in the area to be served by the Districts is inadequate for the projected needs of the Eastgate Development. Currently, the property to be included in the Districts is used for agricultural purposes and contains two farmhouses which receive water via a well and septic tank treatment of wastewater. Minimal service is provided by Arapahoe County or any other special district or utility provider. There are no interior streets, parks, central water or sewer service, or stormwater control. Accordingly, the current services in the area are inadequate to provide the public improvements and infrastructure needed for the projected Eastgate Development.

There are no existing services on the subject property. The development is proposed to receive water and wastewater from the City of Aurora as described in the associated application for the extension of domestic water and sewage treatment systems, ASI24-001. An Exterritorial Agreement with Aurora Water is being negotiated to service the project for both water and wastewater and is expected to go to the Aurora City Council for acceptance in January 2025. (see attachment 8). If the associated GDP is approved, the existing service in the area to be served by the District will be inadequate for projected needs.

3. The District is capable of providing economical and sufficient service to the area within its boundaries;

The proposed Districts are capable of providing sufficient service to the area within its proposed boundaries in an economical manner. The Districts are authorized by statute to provide the needed public services within its boundaries, including water, sewer, stormwater, streets, and park and recreation improvements. The District's financial ability to provide these services is shown in the financial plan, which shows that the Districts have sufficient debt capacity to pay for the required improvements. The financial plan further shows that the costs of the required improvements can be paid for in an economic manner, using industry standard tax-exempt bonds issued with a 30-year maturity. The services to be provided by the Districts are needed to support the Eastgate Development. Because the services are needed, they will be sufficient for support of the area within the development.

Jason Simmons, Senior Managing Director of Hilltops Securities was consulted to review the proposed consolidated service plan to evaluate whether the service plan and the included financial plan are reasonably sound; his analysis and comments are included in this report as attachment 4. The letter outlines the operations and maintenance, debt and financing assumptions for the District and regional improvements. The letter indicates that “Given the assumptions detailed in the Financial Plan, it is reasonable that the District will be capable of extinguishing all bonds within the parameters established within the body of the Service Plan.” The Financial Plan is attached to this report. (page 56/120 of attachment 2)

4. The area included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

The estimated costs to provide the public improvements needed for the Eastgate Development are shown in Exhibit E of the Service Plan. As shown in the financial plan attached to the Service Plan as Exhibit F, the District will have the financial ability to discharge the proposed indebtedness on a reasonable basis using industry standard tax-exempt financing and 30-year bonds.

As mentioned above and in the letter from Hilltop Securities, indicates the special districts will have the financial ability to discharge the proposed indebtedness on a reasonable basis.

Subsection 32-1-203(2.5), C.R.S., provides that the Board of County Commissioners may DISAPPROVE an application for service district unless satisfactory evidence is provided to the Board in response to the following five criteria. The applicant’s responses are below (italic font). Following are Staff responses based on analysis of application SD24-002:

1. Adequate service is not, and will not be, available to the area through Arapahoe County, or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;

Neither the County or any other existing municipal or quasi-municipal corporation has indicated a willingness or the financial ability to provide the needed public improvements

within a reasonable time or on a comparable basis as can be provided by the Districts.

The applicant initially stated that water and wastewater would be provided by either the City of Aurora or Rangeview Metropolitan District but ultimately decided the City of Aurora would be the provider. The inclusion in the service plan of authority for the metropolitan districts to provide water and wastewater is for the purposes of building and maintaining service lines to the City's water and treatment facilities. Arapahoe County does not have the capacity to provide adequate service for the proposal within a reasonable time and on a comparable basis. Staff is not aware of any other existing municipality or quasi-municipality corporation which has indicated a willingness or financial ability to provide public improvements within a reasonable time or on a comparable basis as can be provided by the proposed Districts.

2. The facility and service standards of the District are compatible with the facility and service standards of Arapahoe County and for each municipality in which the District is located and for each municipality which is an interested party under subsection 32-1-204(1) of the C.R.S.

All facilities and services proposed will be constructed in accordance with the standards and specifications of Arapahoe County, the Colorado Department of Transportation, the State of Colorado, and all other applicable jurisdictions.

Compliance with the facilities and service standards of the District will be required if this application and the associated GDP and 1041 applications are approved.

3. The proposal is in substantial compliance with a master plan adopted pursuant to subsection 30-28-108 of the C.R.S.

The Developer of this project has reviewed the Arapahoe County Comprehensive Plan and believes the proposal is compatible with the Comprehensive Plan. In addition, development shall follow County procedures for the approval of final plats and final site plans.

As stated above the proposed development complies with the Arapahoe County Comprehensive Plan land use designation of Employment and Urban Area. If this application and the associated GDP and 1041 are approved, additional land use approvals will be required to show compliance with the Arapahoe County Comprehensive Plan, and Transportation and Open Spaces Master Plans and Land Development Code.

4. The proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area.

The development will receive water service from the City of Aurora. Infrastructure and water quality management will follow the provider's standards and requirements for water service and water quality management in the area.

The Contingent Willingness to Serve letter (attachment 8) indicates a Water and Sewer Service Agreement between Property 292, LLC is being negotiated between City staff and Property 292, LLC, and must be approved by the Aurora City Council. The Contingent Willingness to Serve letter indicates all water and wastewater infrastructure necessary to

serve the development shall be built to the standards and requirements of the City of Aurora and will be conveyed to the City upon completion and acceptance. The Contingent Willingness to Serve letter also indicates limitations of master-planned water use for this area. The agreement is expected to be presented to Aurora City Council in January for consideration.

5. The creation of the proposed special district will be in the best interest of the area proposed to be served.

The creation of the Districts is in the best interest of the area to be served because:

- a. The Districts will be able to construct the public improvements needed for the future Eastgate Development through the issuance of low-cost tax-exempt bonds and grants not available to private entities.*
- b. The Districts are exempt from sales and use taxes, reducing the overall cost of building the public infrastructure.*
- c. The public improvements will be owned and maintained by perpetually existing governmental entities, including the Districts, which will ensure that there will always be an entity responsible for their operation and maintenance.*
- d. As governmental entities, the Districts are required to operate within the legal requirements of Colorado budget laws, providing the public with higher levels of transparency than private entities.*
- e. As governmental entities, the Districts are required to follow the open meetings and open records acts, ensuring additional transparency regarding their operations and financing.*
- f. The Districts are governed by an elected Board of Directors made up of eligible electors of the Districts, ensuring local control over the Districts and their operations and services.*
- g. The Districts enjoy the protections of the Colorado Governmental Immunity Act, reducing liability exposure for the services provided by the Districts and thus reducing the overall costs of operations.*

As described in this report staff believes creation of the proposed special district will be in the best interest of the area proposed to be served. The service plan and financial plan have been reviewed by Hilltop Securities and the conclusion indicates the Districts will be capable of extinguishing all bonds within the parameters of the service plan.

Referrals

Referral responses were received from Southeast Metro Stormwater Authority, Sable Altura Fire District, Regional Transportation District, Colorado Department of Transportation (CDOT), and Hilltop Securities. All referral comments have been addressed. The referral comments and the applicant's response can be found in attachments 6 and 7. Attachment 5 includes CDOT's

comments and email indicating all comments have been addressed regarding the associated GDP.

STAFF FINDINGS

Staff has reviewed the plans and supporting documentation and the referral comments in response to this application. Based upon review of applicable policies and goals in the Comprehensive Plan, the development ordinances, C.R.S. criteria, and analysis of referral comments, our findings include:

1. C.R.S. 32-1-203(2) provides that the Board of County Commissioners SHALL disapprove the service plan unless evidence satisfactory to the Board of each of the (criteria) is presented. The applicant appears to have provided sufficient documentation to support the District service plan in accordance with this Statute's criteria.
2. There are existing and projected needs for infrastructure and organized services in the area of the proposed district.
3. C.R.S 32-1-203(2.5) provides that the Board of County Commissioners MAY disapprove the service plan unless evidence satisfactory to the Board of any of the other criteria, at the discretion of the Board, is not presented. The applicant appears to have provided sufficient documentation to support the proposed district service plan in accordance with this Statute criteria.
4. Adequate service is not available through Arapahoe County or other special districts for the proposed development.
5. The proposed special districts appear to be in the best interest of those who will be served.
6. The applicant appears to have met the procedural requirements for the service plan and associated special district.

STAFF RECOMMENDATION

Considering the findings and other information provided herein, staff recommends APPROVAL of Case No. SD24-002, Eastgate Service Plan, subject to the following conditions of approval:

1. The applicant will make changes or modifications to the Service Plan as recommended by the Planning Division.
2. The applicant will address any internal or external referral comments.

Staff recommendation for approval is based upon:

- The proposed use conforms to the criteria outlined in subsection 32-1-203(2) and (2.5) of the Colorado Revised Statutes as long as the proposed developments are approved; and
- Staff Findings 1 through 6.

DRAFT MOTIONS

In the case of SD24-002 Eastgate Service Plan, the Planning Commissioners have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any public comment as presented at the public hearing. I hereby move to RECOMMEND APPROVAL of this application based on the findings in the staff report.

Alternative Motions:

The following motions are provided as alternatives to the recommended motion for Approval:

Recommend Denial:

In the case of SD24-002 Eastgate Service Plan, the Planning Commissioners have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any public comment as presented at the public hearing. I hereby move to RECOMMEND DENIAL of this application based on the findings:

1. *State new or amended findings in support of denial as part of the motion (note: findings will need to identify which of the CRS 32-1-203 criteria have not been met).*
- 2.

Continue to Date Certain:

In the case of SD24-002 Eastgate Service Plan, I move to continue the hearing to [date], 6:30 p.m., to obtain additional information and to further consider the information presented.

ATTACHMENTS

1. Cover Letter & Application
2. Eastgate Service Plan with all Exhibits (Including the Financial Plan)
3. Eastgate Special District Narrative
4. Hilltop Security Service Plan Review Memo dated October 1, 2024
5. CDOT's Comments and Email
6. Referral Comments
7. Referral Response Letters from Applicant
8. Contingent Willingness to Serve Letter from Aurora Water
9. Engineering Services Division Staff Report