

# EL PASO COUNTY

## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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PUDSP-20-8 Meadowbrook Park  
PUD Preliminary Plan

Reviewed by: Lori L. Seago, Senior Assistant County Attorney  
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### FINDINGS AND CONCLUSIONS:

1. This is a PUD preliminary plan proposal by Colorado Springs, Equities, LLC, Meadowbrook Crossing, LLC, and Meadowbrook Development, LLC ("Applicant") for subdivision of 70 lots, plus additional tracts for public improvements, utilities, roadways, landscaping, open space, and future development, on 8.01 +/- acres of land. The property is currently zoned RR-5, I-2, and CR (Residential Rural, Limited Industrial, and Commercial Regional) and there is a concurrent zoning request to rezone the property to PUD CAD-O (Planned Unit Development/Commercial Airport District Overlay).
2. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District", "Cherokee" or "CMD"). Pursuant to the Water Supply Information Summary ("WSIS"), the annual water demand for the development is 18.7 acre-feet per year, which equates to 15.4 acre-feet for household use and 3.3 acre-feet for irrigation. Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 5,610 acre-feet of water (18.7 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.
3. The General Manager of the District provided a letter dated September 21, 2020, committing to provide water service for the Meadowbrook Park subdivision which is located within the District's boundaries. The District's water commitment is delineated as follows:



Type of Use	Demand (AF/yr)
Domestic	15.4
Irrigation	3.3
<b>Total</b>	<b>18.7</b>

The District states that their letter “will serve is [sic] as a formal Letter of Commitment from the Cherokee Metropolitan District to provide municipal water and sewer services for Meadowbrook Park located at the north corner of U.S. Highway 24 and State Highway 94. ... This water commitment is hereby made exclusively for this specific development project at this site within the District.”

The District’s commitment is only a conditional commitment, as stated in their letter: “[t]o confirm this commitment you must provide the District with a copy of the final plat approval from El Paso County Development Services within 12 months of the date of this letter. Otherwise, the District may use this allocation for other developments requesting a water commitment.”

4. The Applicant provided a *Water Provider Supplement to Water Resource Report for Meadowbrook Park*, from the District, dated September 21, 2020 (the “Report”). The Report details the expected water demands for the subdivision in the amount of 18.7 acre-feet/year. The Report further notes that “[b]y the end of 2021, CMD will have a total of 4,443 AFY of exportable water supplies sourced from alluvial and deep bedrock aquifers. .... With 4,443.0 AFY of exportable supply and 4,111.7 AFY of commitments, CMD has a water balance of 331.3 AFY before the subject development. After commitment of 18.7 AFY to this development, the District will have 312.6 AFY remaining for additional commitments.”

5. In a letter dated December 14, 2020, the State Engineer reviewed the application to subdivide 8.1 acres into 70 [industrial]<sup>1</sup> lots. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 18.7 acre-feet/year as was identified as the water demand set forth in the WSIS. The State Engineer notes that the District is “committed to providing 18.7 acre-feet/year to the proposed subdivision.” Further, the State Engineer states that “[a]ccording to the records of this office, Cherokee has sufficient water resources to supply this development as described above.”

Finally, the State Engineer declared that “[p]ursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply can be provided without causing injury to decreed water rights, and the supply is expected to be adequate.”

<sup>1</sup> “Industrial” appears to be a typographic error in the State Engineer’s letter as this proposal is for 70 single-family residences.

6. Section 8.4.7(B)(10)(g) of the El Paso County Land Development Code allows for a presumption of water quality when water is supplied from an existing Community Water Supply, which operates in conformance with the Colorado Primary Drinking Water Regulations and the CDPHE requirements, as clarified by El Paso County Public Health, and is determined to meet the required water quality standards.

7. Analysis: As indicated above, this review is based on a water demand of 18.7 acre-feet/year, which the District has committed to serve. The State Engineer determined that Cherokee Metropolitan District has adequate water resources to serve the estimated demand of 18.7 acre-feet/year for the proposed development.

8. Therefore, based upon the finding of sufficiency and no injury to existing water rights by the State Engineer, a water demand of 18.7 acre-feet/year and a commitment from the District in the amount of 18.7 acre-feet/year for a period of 300 years, but given the conditional nature of the commitment to serve by the District, and subject to the conditions set forth below, the County Attorney's Office recommends a finding of **conditional sufficiency** as to water quantity and dependability for the Meadowbrook Park subdivision.

#### **CONDITIONS OF COMPLIANCE:**

A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, and specifications set by the District.

B. Applicant must obtain final plat approval and provide evidence thereof to the District within 12 months of the District's commitment letter dated September 21, 2020 (approval must be provided by September 21, 2021), to retain the District's water commitment. **If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid. Once Applicant provides proof to the District that satisfies the District's condition of final plat approval, this conditional finding of sufficiency will automatically convert to a full sufficiency finding.**

C. Prior to recording the first final plat, Applicant must upload an updated Subdivision Summary Form to EDARP indicating the number of single-family lots as 70 to conform with the other documentation submitted with the proposal.

cc: Kari Parson, Planner III