

# EL PASO COUNTY

## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

**Diana K. May, County Attorney**

### Assistant County Attorneys

Lori L. Seago  
Lisa A. Kirkman  
Steven A. Klaffky  
Mary Ritchie  
Bryan E. Schmid  
Nathan J. Whitney  
Michael J. Desmond  
Christopher M. Strider  
Terry A. Sample

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PUDSP-20-8 Meadowbrook Park  
PUD/Preliminary Plan

Reviewed by: Lori L. Seago, Senior Assistant County Attorney  
Edi Anderson, Paralegal, ACP



### FINDINGS AND CONCLUSIONS:

1. This is a PUD/preliminary plan proposal by Colorado Springs Equities, LLC ("Applicant") for subdivision of 67 single-family lots, open space, tracts for streets, right-of-way, and public utilities on 8.01 acres of land (the "Property"). The Property is currently zoned RR-5 (Rural Residential), CR (Commercial Regional), I-2 (Limited Industrial) with a concurrent zoning proposal to rezone to PUD (Planned Unit Development). The Property is within the Commercial Aviation District Overlay (CAD-O), so all subdivision actions will be subject to any restrictions and limitations of the Airport Overlay.

2. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District" or "Cherokee" or "CMD"). Pursuant to the Water Supply Information Summary ("WSIS"), the annual water demand for the development is 17.44 acre-feet/year for household use and 3.18 acre-feet/year for irrigation which equates to 17.92 acre-feet/year for the subdivision<sup>1</sup>. Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 5,376 acre-feet of water (17.92 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 May 6, 2021, committing to provide water service for the Meadowbrook Park subdivision, which is located within the District's boundaries. The District's commitment is delineated as follows:

<sup>1</sup> The WSIS identifies a total water demand of 18 acre-feet; however household use of 17.44 acre-feet and irrigation of 3.18 acre-feet actually total 17.92 acre-feet. The District also indicates a water demand of 18 acre-feet with a higher demand for irrigation.



Type of Use	Demand (AF/yr)
Domestic	14.7
Irrigation	3.3
<b>Total</b>	<b>18.0</b>

The District notes that this 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: “[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.”

The District also provided a *Water Provider Supplement to Water Resource Report for Meadowbrook Park* dated September 21, 2020 (“*Supplement*”). The County Attorney’s Office notes that the water demand for household use of the Meadowbrook Park subdivision is 0.22 acre-feet/lot/year which is less than the 0.26 acre-feet/year presumptive use value required by the El Paso County Land Development. The *Supplement* provided the following substantiation for the 0.22 acre-feet demand as follows:

“The District uses a presumptive use value of 0.22 Acre-feet per Year (AFY) per Single Family Equivalent (SFE) as a conservative estimate for actual water use in these small lot developments. Actual small lot single family use is close to 0.20 AFY even in low precipitation years and this higher value includes distribution system losses.”

4. The Applicant also provided a *Water Resource Report for Meadowbrook Park* (“*Report*”) dated May 19, 2021. The *Report* detailed the water demand for the subdivision and the water supply available from the District. The *Report* confirmed the water demand of 14.7 acre-feet/year for domestic use and 3.3 acre-feet/year for irrigation for a total demand of 18.0 acre-feet/year. The *Report* states that Cherokee has “4,443.0 AFY of exportable supply and 4,211.3 AFY of commitments. CMD has a water balance of 231.7 AFY before the subject development. After commitment of 18.0 AFY to this development, the District will have 213.7 AFY remaining for additional commitments.”

5. In a letter dated July 19, 2021, the State Engineer reviewed the application to subdivide the 8.1 acre tract into 67 residential lots with irrigated open areas. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 18.0 acre-feet/year which exceeds the water demand identified in the WSIS. Further, the State Engineer states that “[a]ccording to the records of this office, Cherokee has sufficient water resources to supply the development as described above.” Further, 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.”

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 17.92 acre-feet/year which is less than the 18.0 acre-feet/year the District has committed to serve. The State Engineer determined that Cherokee Metropolitan District appears to have adequate water resources to serve the estimated demand of 18.0 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 17.92 acre-feet/year and a commitment from the District in the amount of 18.0 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. Prior to the Board of County Commissioner hearing, Applicant shall upload to eDARP an updated Application Form indicating the correct number of lots for the subdivision, a corrected Water Supply Information Summary to clarify the household and irrigation water demand (see footnote 1), and a corrected Water Resources Report that correctly identifies the project acreage on p.3.

C. Applicant must obtain final plat approval for the Meadowbrook Park subdivision and provide evidence thereof to the District within 12 months of the District's commitment letter dated May 6, 2021 (approval must be provided by May 6, 2022), 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 with respect to any portion of the property within the Preliminary Plan boundary that has not received final plat approval. 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.**

cc: Kari Parsons, Planner III