



Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development
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Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

TO: El Paso County Board of County Commissioners
FROM: Ryan Howser, AICP, Planner III
DATE: 12/14/2023
RE: SP2011, A Request to Amend County Attorney's Conditions of Compliance for the Crossroads Mixed Use Preliminary Plan

Project Description

A request by Colorado Springs Equities, LLC, for approval of an amended condition of approval for the Crossroads Mixed Use Preliminary Plan (PCD File No. SP-20-011). The 29.04-acre property is located at the northwest corner of the Meadowbrook Parkway and Highway 24 intersection and is within Section 8, Township, 14 South, Range 65 West of the 6th P.M. (Parcel No. 54080-07-005) (Commissioner District No. 2).

The Crossroads Mixed Use Preliminary Plan was approved by the Board of County Commissioners (BoCC) on October 26, 2021 (Resolution No. 21-401). Cherokee Metropolitan District prepared a commitment to provide water and wastewater services for the property within the preliminary plan area. The commitment expired on December 8, 2021. Condition of Approval No. 5 on the Preliminary Plan stated the following:

"The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time."

The County Attorney's Conditions of Compliance contained Condition B, which stated the following:

"Applicant must obtain final plat approval for all property within the Preliminary Plan boundary and provide evidence thereof to the District within 12 months of the District's commitment letter dated December 8, 2020 (approval must be provided by December 8, 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 If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid with respect to any portion of the property within the Preliminary Plan boundary that has not received final plat approval.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."

The applicant has not received final plat approval; however, El Paso County Staff and the County Attorney's Office have determined that if the applicant is able to obtain an updated commitment letter, the water finding should remain valid. Therefore, the County Attorney's Office has provided the following modified Condition B:

"Applicant must obtain final plat approval for all property within the preliminary plan area and provide evidence thereof to the District within 12 months of the District's commitment letter dated

December 8, 2022 (approval must be provided by December 8, 2023*), 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 unless 1) an updated commitment letter from the District is provided with any new final plat application, 2) a Water Supply Information Summary specific to the new final plat is provided, and 3) the information provided in connection with and relied upon to complete this Review otherwise remains unchanged."*

All previously considered conditions of approval shall remain in full effect and applicability.

Attachments

1. BOCC Resolution 21-401
2. Original Cherokee Metropolitan District Commitment Letter
3. Original County Attorney's Office Finding of Water Sufficiency Letter
4. Revised Cherokee Metropolitan District Commitment Letters
5. Revised County Attorney's Office Finding of Water Sufficiency Letters
6. Draft BOCC Resolution

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Chuck Broerman El Paso County, CO
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Rec \$0.00 Pages

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RESOLUTION NO. 21-401

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO**

APPROVE PRELIMINARY PLAN FOR CROSSROADS AT MEADOWBROOK MIXED USE (SP-20-011)

WHEREAS, Colorado Springs Equities, LLC, did file an application with the El Paso County Planning and Community Development Department for the approval of a preliminary plan for the Crossroads at Meadowbrook Mixed Use Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on October 7, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the preliminary plan application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on October 26, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

- 1. The application was properly submitted for consideration by the Planning Commission.**
 - 2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.**
 - 3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.**
 - 4. All exhibits were received into evidence.**

5. The subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is in substantial conformance with the approved preliminary plan.
7. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
8. **Sufficiency:** A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code. (Phase 1 Only)
9. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of the Land Development Code.
10. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions [C.R.W. §30-28-133(6)(c)].
11. Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and the Engineering Criteria Manual are provided by the design.
12. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Land Development Code and the Engineering Criteria Manual.
13. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encouraging a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in

the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.

14. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
15. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
16. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
17. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.
18. That the proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
19. That for the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the preliminary plan application for the Crossroads at Meadowbrook Mixed Use Subdivision;

BE IT FURTHER RESOLVED that the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Applicable drainage and bridge fees shall be paid with each final plat.
2. Applicable school and park fees shall be paid with each final plat.
3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to,

the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.

4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 19-471), as amended, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
5. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
6. Any remaining unresolved engineering comments shall be resolved to the satisfaction of the ECM Administrator, and approved engineering documents shall be required, prior to the Board of County Commissioner hearing.

NOTATIONS

1. Subsequent final plat filings may be approved administratively by the Planning and Community Development Director.
2. Approval of the preliminary plan will expire after twenty-four (24) months unless a final plat has been approved and recorded or a time extension has been granted.
3. Preliminary plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 26th day of October, 2021, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By:

County Clerk & Recorder:



By: Stan Waudenby
Chair

EXHIBIT A

A PARCEL OF LAND IN THE SOUTH HALF (S 1/2) OF SECTION 8, T14S, R65W OF THE 6TH P.M., EL PASO COUNTY, COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS;

TRACT B AS SHOWN ON THE PLAT OF "24/94 BUSINESS PARK FILING NO. 1" UNDER RECEPTION NO. 2177139393 IN THE RECORDS OF EL PASO COUNTY, COLORADO, AND AS AMENDED BY SURVEYOR'S AFFIDAVIT OF CORRECTION UNDER RECEPTION NO. 219097386 OF SAID COUNTY RECORDS.

SAID DESCRIBED PARCEL CONTAINS 1,264,738.1 SQUARE FEET (29.034 ACRES, MORE OR LESS).



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-2842
Telephone: (719) 597-5080 Fax: (719) 597-5145

December 8th, 2020
Colorado Springs Equities, LLC
90 S. Cascade Avenue, Suite 1500
Colorado Springs, CO 80903

*Sent via email: chris@mscivil.com
Original to follow by US Mail*

Re: Water and Sewer Service to **Crossroads Mixed Use Development**
Commitment Letter No. 2020-15 (Revision of 2020-14)

Dear Colorado Springs Equities,

As requested, this document will serve is as a formal Letter of Commitment from the Cherokee Metropolitan District to provide municipal water and sewer services for the development currently known as “Crossroads Mixed Use” located on the west corner of State Highway 94 and U. S. Highway 24. The proposed location for this development is located within the District's established boundaries and therefore is eligible for service connections from the District.

Cherokee Metropolitan District staff, along with the developer, have determined that the following will be the total water demand required by this development:

| Type of Use | Demand (AF/year) |
|--------------------------|------------------|
| Residential | |
| Domestic | 61.2 |
| Irrigation | 11.7 |
| Commercial | |
| Domestic | 6.2 |
| Irrigation | 4.9 |
| Development Total | |
| | 84.0 |

This water commitment is hereby made exclusively for this specific development project at this site within the District. To 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. If the subject project is re-platted, you must submit a new commitment request prior to submitting the re-plat to El Paso County, which may result in a recalculation of the water demand for the project.

This letter also affirms that Cherokee Metropolitan District has sufficient wastewater treatment capacity to service this development.

If I may be of further assistance please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Lathen".

Amy Lathen
General Manager

Cc: Peter Johnson; Water Counsel w/ encl: sent via email
Steve Hasbrouck; Board President w/ encl: sent via email
Kevin Brown; Jr. Engineer

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

March 10, 2021

SP-20-11 Crossroads at Meadowbrook Mixed Use Subdivision
Preliminary Plan

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

A handwritten signature of Lori L. Seago in black ink.

FINDINGS AND CONCLUSIONS:

1. This is a preliminary plan proposal by Colorado Springs Equities, LLC ("Applicant") for subdivision of 11 lots, plus tracts, on 29.04 +/- acres. The proposal includes 10 commercial lots and 1 lot dedicated to multi-family housing. The property is currently zoned CR (Commercial Regional); however, there is a concurrent zoning proposal to rezone 12.695 acres to RM-30 (Multi-family residential). 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"). Pursuant to the Water Supply Information Summary ("WSIS"), the annual water demand for the development is 84 acre-feet per year, which equates to 72.9 acre-feet for residential use, including irrigation, and 11.1 acre-feet for commercial use, including irrigation, as more fully detailed in Paragraph 3 below. Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 25,200 acre-feet of water (84.0 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 December 8, 2020, committing to provide water service for the 11 lots of the Crossroads at Meadowbrook Mixed Use Subdivision, which is located within the District's boundaries. The District's commitment is delineated as follows:



| Type of Use | Demand (AF/yr) |
|--------------------------|----------------|
| Residential | |
| Domestic | 61.2 |
| Irrigation | 11.7 |
| Commercial | |
| Domestic | 6.2 |
| Irrigation | 4.9 |
| Development Total | 84.0 |

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.”

4. The Applicant provided a *Water Report for Crossroads Mixed Use* (“Report”) dated February 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 84.0 acre-feet/year. The Report states that Cherokee has “4,443.0 annual acre-feet of exportable supply and 4,111.7 annual acre-feet of commitments, CMD [Cherokee] has a water balance of 331.3 annual acre-feet before the subject development. After commitment of 84 annual acre-feet to this development, the District will have 247.3 annual acre-feet remaining for additional commitments.”

5. In a letter dated December 31, 2020, the State Engineer reviewed the application to subdivide the 29.04 acre tract into 11 lots, which includes 10 commercial lots and 1 lot that will include 360 multifamily residences. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 84.0 acre-feet/year which is 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 84.0 acre-feet/year, which 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 84.0 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 84.0 acre-feet/year and a commitment from the District in the amount of 84.0 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 Crossroads at Meadowbrook Mixed Use 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 for all property within the Preliminary Plan boundary and provide evidence thereof to the District within 12 months of the District's commitment letter dated December 8, 2020 (approval must be provided by December 8, 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 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



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-2842
Telephone: (719) 597-5080 Fax: (719) 597-5145

March 4th, 2022
Colorado Springs Equities, LLC
90 S. Cascade Avenue, Suite 1500

Sent via email: chris@mscivil.com

**Re: Water and Sewer Service to Crossroads Commercial
Commitment Letter No. 2022-05 (Revised from 2020-15)**

Dear Colorado Springs Equities,

As requested, this document will serve as a formal Letter of Commitment from the Cherokee Metropolitan District to provide municipal water and sewer services for the commercial portion of the Crossroads Mixed Use development located at the west corner of State Highway 94 and U.S. Highway 24. The proposed location for this development is located within the District's established boundaries and therefore is eligible for service connections from the District.

Cherokee Metropolitan District staff, along with the developer, have determined that the following will be the total water demand required by this development:

| Type of Use | Demand (AF/yr) |
|--------------|----------------|
| Domestic | 6.2 |
| Irrigation | 4.9 |
| Total | 11.1 |

Based on a conservatively low 0% consumptive use of domestic water, the development is expected to produce 5500 gallons of wastewater per day, representing 0.2% of CMD's wastewater capacity. This usage is in line with anticipated wastewater demand for this area of the District.

This water commitment is hereby made exclusively for this specific development project at this site within the District. To 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. If the subject project is re-platted, you must submit a new commitment request prior to submitting the re-plat to El Paso County, which may result in a recalculation of the water demand for the project.

If I may be of further assistance please contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amy Lathen".

Amy Lathen
General Manager

Cc: Peter Johnson; Water Counsel w/ encl: sent via email
Steve Hasbrouck; Board President w/ encl: sent via email
Jeff Munger; Water Resource Engineer: sent via email
Kevin Brown; Jr. Engineer: sent via email



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-2842
Telephone: (719) 597-5080 Fax: (719) 597-5145

March 4th, 2022
Colorado Springs Equities, LLC
90 S. Cascade Avenue, Suite 1500

Sent via email: chris@mscivil.com

Re: Water and Sewer Service to **Aura at Crossroads**
Commitment Letter No. **2022-06 (Revised from 2020-15)**

Dear Colorado Springs Equities

As requested, this document will serve as a formal Letter of Commitment from the Cherokee Metropolitan District to provide municipal water and sewer services for the commercial portion of the Crossroads Mixed Use development located at the west corner of State Highway 94 and U.S. Highway 24. The proposed location for this development is located within the District's established boundaries and therefore is eligible for service connections from the District.

Cherokee Metropolitan District staff, along with the developer, have determined that the following will be the total water demand required by this development:

| Type of Use | Demand (AF/yr) |
|--------------|----------------|
| Domestic | 61.2 |
| Irrigation | 9.5 |
| Total | 70.7 |

Based on a conservatively low 0% consumptive use of domestic water, the development is expected to produce 55,000 gallons of wastewater per day, representing 2.1% of CMD's wastewater capacity. This usage is in line with anticipated wastewater demand for this area of the District.

This water commitment is hereby made exclusively for this specific development project at this site within the District. To 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. If the subject project is re-platted, you must submit a new commitment request prior to submitting the re-plat to El Paso County, which may result in a recalculation of the water demand for the project.

If I may be of further assistance please contact me at your convenience.

Sincerely,



Amy Lathen
General Manager

Cc: Peter Johnson; Water Counsel w/ encl: sent via email
Steve Hasbrouck; Board President w/ encl: sent via email
Jeff Munger; Water Resource Engineer: sent via email
Kevin Brown; Jr. Engineer: sent via email



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-2842
Telephone: (719) 597-5080 Fax: (719) 597-5145

December 8th, 2022

Crossroads Development Company, LLC
Danny Mientka
90 S. Cascade Avenue, Suite 1500
Colorado Springs, CO 80903

Sent via email: virgils@mscivil.com

Re: Water and Sewer Service to **Crossroads Commercial**
Commitment Letter No. **2022-16 (Revised from 2020-05)**

Dear Colorado Springs Equities,

As requested, this document will serve as a formal Letter of Commitment from the Cherokee Metropolitan District to provide municipal water and sewer services for the commercial portion of the Crossroads Mixed Use development located at the west corner of State Highway 94 and U.S. Highway 24. The proposed location for this development is located within the District's established boundaries and therefore is eligible for service connections from the District.

Cherokee Metropolitan District staff, along with the developer, have determined that the following will be the total water demand required by this development:

| Type of Use | Demand (AF/yr) |
|--------------|----------------|
| Domestic | 6.2 |
| Irrigation | 4.9 |
| Total | 11.1 |

Based on a conservatively low 0% consumptive use of domestic water, the development is expected to produce 5,500 gallons of wastewater per day, representing 0.2% of CMD's wastewater capacity. This usage is in line with anticipated wastewater demand for this area of the District. This 0% consumptive use is calculated for the purposes of ensuring CMD wastewater collection and treatment infrastructure is capable of treating the maximum possible volume of wastewater generated from this development. This is not intended in any way to limit consumptive uses of potable water on the subject property.

This water commitment is hereby made exclusively for this specific development project at this site within the District. To 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. If the subject project is re-platted, you must submit a new commitment request prior to submitting the re-plat to El Paso County, which may result in a recalculation of the water demand for the project.

If I may be of further assistance please contact me at your convenience.

Sincerely,



Amy Lathen
General Manager

Cc: Peter Johnson; Water Counsel w/ encl: sent via email
Steve Hasbrouck; Board President w/ encl: sent via email
Jeff Munger; Water Resource Engineer: sent via email
Kevin Brown; Jr. Engineer: sent via email

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

Diana K. May, County Attorney

| <u>Assistant County Attorneys</u> |
|-----------------------------------|
| 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 |

April 20, 2022

SP-20-11 Crossroads at Meadowbrook Mixed Use Subdivision
Preliminary Plan

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

This water review updates the review provided by this office on March 10, 2021, which has since expired due to failure to comply with condition of compliance B.

FINDINGS AND CONCLUSIONS:

1. This is a preliminary plan proposal by Colorado Springs Equities, LLC ("Applicant") for subdivision of 11 lots, plus tracts, on 29.04 +/- acres. The proposal includes 10 commercial lots and 1 lot dedicated to multi-family housing. The property is currently zoned CR (Commercial Regional) and RM-30 (Multi-family residential). 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"). Pursuant to the Water Supply Information Summary ("WSIS") submitted in File No. SF-21-29 (final plat for Crossroads Mixed Use Filing No. 1)¹, the annual water demand for the development is 81.8 acre-feet per year, which equates to 61.2 acre-feet for residential use, 6.2 acre-feet for commercial use, and 14.4 acre-feet for irrigation, as more fully detailed in Paragraph 3 below. Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 24,540 acre-feet of water (81.8 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

¹ The previous WSIS submitted in File No. SP-20-11 estimated a total annual demand of 84 acre-feet, comprised of 72.9 acre-feet for residential use, including irrigation, and 11.1 acre-feet for commercial use, including irrigation. This updated review relies on the most recent documents provided.



3. The General Manager of the District provided two letters dated March 4, 2022, also found in File No. SF-21-29, committing to provide water service for the 11 lots of the Crossroads at Meadowbrook Mixed Use Subdivision, which is located within the District's boundaries. The District's combined commitments are delineated as follows:

| Type of Use | Demand (AF/yr) |
|--------------------------|----------------|
| Residential | |
| Domestic | 61.2 |
| Irrigation | 9.5 |
| Commercial | |
| Domestic | 6.2 |
| Irrigation | 4.9 |
| Development Total | |
| | 81.8 |

The District notes that these commitments are "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."

4. The Applicant provided a *Water Report for Crossroads Mixed Use* ("Report") dated March 2022 and found in File No. SF-21-29. The Report detailed the water demand for the subdivision and the water supply available from the District. The Report confirmed the water demand of 81.8 acre-feet/year. The Report states that Cherokee has "4,443.0 annual acre-feet of exportable supply and 4,111.7 annual acre-feet of commitments, CMD [Cherokee] has a water balance of 331.3 annual acre-feet before the subject development. After commitment of 84 annual acre-feet to this development, the District will have 247.3 annual acre-feet remaining for additional commitments."

5. In a letter dated March 31, 2022 and found in File No. SF-21-29, the State Engineer reviewed the application to subdivide the 29.04-acre tract into 11 lots, which includes 10 commercial lots and 1 lot that will include 360 multifamily residences. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 81.8 acre-feet/year, which is 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 81.8 acre-feet/year, which 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 81.8 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 81.8 acre-feet/year and a commitment from the District in the amount of 81.8 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 Crossroads at Meadowbrook Mixed Use 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 for all property within the Preliminary Plan boundary and provide evidence thereof to the District within 12 months of the District's commitment letters dated March 4, 2022 (approval must be provided by March 4, 2023), 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: Ryan Howser, Planner II



COLORADO

County Attorney

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Cami Bremer, District 5

July 19, 2023

SP-20-11 Crossroads at Meadowbrook Mixed Use Subdivision
Preliminary Plan

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
 April Willie, Paralegal

2nd AMENDED WATER SUPPLY REVIEW AND RECOMMENDATIONS¹

FINDINGS AND CONCLUSIONS:

1. This is a preliminary plan proposal by Colorado Springs Equities, LLC ("Applicant") for subdivision of 11 lots, plus tracts, on 29.04 +/- acres. The proposal includes 10 commercial lots and 1 lot dedicated to multi-family housing. The property is currently zoned CR (Commercial Regional) and RM-30 (Multi-family residential). 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"). Pursuant to the Water Supply Information Summary ("WSIS") submitted in File No. SF-21-29 (final plat for Crossroads Mixed Use Filing No. 1)², the annual water demand for the development is 81.8 acre-feet per year, which equates to 61.2 acre-feet for residential use, 6.2 acre-feet for commercial use, and 14.4 acre-feet for irrigation, as more fully detailed in Paragraph 3 below. Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 24,540 acre-feet of water (81.8 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

¹ This Review replaces and supersedes those provided by this office on March 10, 2021 and April 20, 2022. Those previous Reviews have expired because final plats have not been approved by the deadlines established by Cherokee Metropolitan District.

² The previous WSIS submitted in File No. SP-20-11 estimated a total annual demand of 84 acre-feet, comprised of 72.9 acre-feet for residential use, including irrigation, and 11.1 acre-feet for commercial use, including irrigation. This updated review relies on the most recent documents provided.



3. The General Manager of the District provided two letters dated March 4, 2022, also found in File No. SF-21-29, committing to provide water service for the 11 lots of the Crossroads at Meadowbrook Mixed Use Subdivision, which is located within the District's boundaries. The District's combined commitments are delineated as follows:

| Type of Use | Demand (AF/yr) |
|--------------------------|----------------|
| Residential | |
| Domestic | 61.2 |
| Irrigation | 9.5 |
| Commercial | |
| Domestic | 6.2 |
| Irrigation | 4.9 |
| Development Total | |
| | 81.8 |

The District provided an additional letter dated December 8, 2022 and found in File No. SF-22-38 that again commits to provide water service to the commercial lots in this development in the amounts set forth above. The District notes that these commitments are "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."

4. The Applicant provided a *Water Report for Crossroads Mixed Use* ("Report") dated March 2022 and found in File No. SF-21-29, as well as a *Water Report for Crossroads Mixed Use Filing No. 2* ("Filing 2 Report") found in File No. SF-22-38. The Report detailed the water demand for the subdivision and the water supply available from the District. The Report confirmed the water demand of 81.8 acre-feet/year. The Report states that Cherokee has "4,443.0 annual acre-feet of exportable supply and 4,111.7 annual acre-feet of commitments, CMD [Cherokee] has a water balance of 331.3 annual acre-feet before the subject development. After commitment of 84 annual acre-feet to this development, the District will have 247.3 annual acre-feet remaining for additional commitments." The Filing 2 Report notes that new water demand for the Crossroads Mixed Use development, estimated at 81.0 annual acre-feet, will result in 249.5 annual acre-feet remaining for additional commitments.

5. In a letter dated March 31, 2022 and found in File No. SF-21-29, the State Engineer reviewed the application to subdivide the 29.04-acre tract into 11 lots, which includes 10 commercial lots and 1 lot that will include 360 multifamily residences. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 81.8 acre-feet/year, which is 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." This recommendation was reiterated in a letter from the State Engineer dated May 16, 2023 and found in File No. SF-22-38.

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 81.8 acre-feet/year, which 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 81.8 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 81.8 acre-feet/year and a commitment from the District in the amount of 81.8 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 Crossroads at Meadowbrook Mixed Use 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 for all property within the preliminary plan area and provide evidence thereof to the District within 12 months of the District's commitment letter dated December 8, 2022* (approval must be provided by December 8, 2023*), 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 unless 1) an updated commitment letter from the District is provided with any new final plat application, 2) a Water Supply Information Summary specific to the new final plat is provided, and 3) the information provided in connection with and relied upon to complete this Review otherwise remains unchanged.

cc: Ryan Howser, Project Manager, Planner

RESOLUTION NO. 23-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

RECONSIDERATION OF A PRELIMINARY PLAN TO INCLUDE A FINDING OF SUFFICIENCY
WITH REGARDS TO WATER QUALITY, QUANTITY, AND DEPENDABILITY FOR THE
CROSSROADS MIXED USE PRELIMINARY PLAN (PCD FILE NO. SP2011)

WHEREAS, the Board of County Commissioners of El Paso County, Colorado previously adopted Resolution No. 21-401, approving the Preliminary Plan for Crossroads Mixed Use (hereinafter referred to as the "Plan"); and

WHEREAS, Cherokee Metropolitan District (hereinafter referred to as the "District") is a municipal water and wastewater service provider; and

WHEREAS, the District provided a water commitment for the Plan with an expiration date of December 8, 2021; and

WHEREAS, the County Attorney provided a conditional finding of sufficiency with regards to water quality, quantity, and dependability for the Plan requiring approval of a final plat before December 8, 2021 and if final plat approval is not granted for all property within the Plan boundary before December 8, 2021 that the County Attorney's conditional finding of sufficiency shall be deemed moot and no longer valid; and

WHEREAS, final plat approval has not been granted for all property within the Plan boundary prior to December 8, 2021 and the County Attorney's conditional finding of sufficiency with regards to water quality, quantity, and dependability is therefore deemed moot and no longer valid; and

WHEREAS, a revised water commitment from the District was provided on December 8, 2022 which expires on December 8, 2023; and

WHEREAS, the County Attorney provided a revised conditional finding of sufficiency with regards to water quality, quantity, and dependability for the Plan updating and replacing the previous finding; and

WHEREAS, the revised conditional finding of sufficiency with regards to water quality, quantity, and dependability for the Plan allows an indefinite extension for the approval of a

final plat, provided the applicant can continue to obtain an updated commitment from the District; and

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the revised finding of sufficiency with regards to water quality, quantity, and dependability for Crossroads Mixed Use; and

BE IT FURTHER RESOLVED that all conditions of approval associated with Resolution No. 21-401 shall remain valid and in full effect, as amended.

DONE THIS 14th day of December 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk and Recorder