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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