

County Attorney

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November 3, 2022

SF-22-28 The Villas at Claremont
Final Plat

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a final plat proposal by Phi Real Estate Services, LLC through N.E.S. (“Applicant”) for final plat of 83 residential lots on 10.17 acres of land (the “Property”). The property is currently zoned PUD (Planned Unit Development) CAD-O (Industrial – Commercial Airport Overlay District).

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* (“WSIS”), the proposed total demand for the development is 24.75 acre-feet/per year which reflects 20.75 acre-feet for domestic use, plus 4.00 acre-feet for irrigation. Based on the total demand, Applicant must be able to provide a supply of 7,425 acre-feet of new water supply (24.75 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District (“District” or “CMD”). As detailed in the *Cherokee Metropolitan District Water Resources Report* dated December 2020 (“Report”), the District’s water supply is sourced entirely from groundwater, both renewable and Denver Basin non-renewable sources. The *Report* indicates that “[w]ith 4,411.5 AFY of exportable supply and 4,331.0 AFY of commitments, CMD has a water balance of 80.5 AFY before the subject development. After commitment of

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24.8 AFY to this development, the District will have 55.7 AFY remaining for additional commitments.”

4. The District’s General Manager provided a letter of commitment for the Villas at Claremont Ranch dated February 25, 2022, in which the District committed to providing water service in the amount 20.75 acre-feet/year, plus irrigation in the amount of 4.01 acre-feet/year, for an annual water requirement of 24.8¹ acre-feet/year.

Finally, the District’s commitment is only a conditional commitment; therefore, the District’s letter noted “[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.”

State Engineer’s Office Opinion

5. In a letter dated February 3, 2021, the State Engineer reviewed the proposal to divide the 10.17 +/- acre tract of land into 83 single-family lots and 5 tracts. The State Engineer stated that the proposed development is to be served by Cherokee Metropolitan District. A letter of commitment dated November 19, 2020² from Cherokee was provided with the materials and indicated that 24.8 acre-feet are committed to the proposed subdivision. Finally, “[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 for Claremont Commercial Subdivision No. 2 can be provided without causing injury to decreed water rights.”

Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for the Villas at Claremont is 24.75 acre-feet per year to be supplied by the Cherokee Metropolitan District.

Therefore, based upon the finding of sufficiency and no injury to existing water rights by the State Engineer, a water demand of 24.75 acre-feet/year and a commitment from the District in the amount of 24.8 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 below, the County Attorney’s Office recommends a finding of conditional sufficiency as to water quantity and dependability for the Villas at Claremont.

7. Quality. The water quality requirements of Section 8.4.7.B.10 of the Code must be satisfied. Section 8.4.7.B.10.g. of the Code allows for the presumption of acceptable water quality for projects such as this where water is supplied by an existing Community Water Supply

¹ The District Letter rounds up from 24.76 to 24.8, but the water demand remains 24.75 based on all other documentation reviewed.

² Due to the conditional nature of the commitment, the District Letter has been updated as of February 25, 2022. The letter the State Engineer refers to had estimated water demands that mirror the updated letter.

operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the *Water Supply Information Summary* provided August 1, 2022, the *Water Resources Report* dated November 2020, the *Cherokee Metropolitan District* letter dated February 25, 2022, and the *State Engineer Office's Opinion* dated February 3, 2021. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

- A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, limitations, 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 February 25, 2022 (approval must be provided by February 25, 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.**

cc. Ryan Howser, Planner III