

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

**Diana K. May, County Attorney**

### Assistant County Attorneys

M. Cole Emmons  
Lori L. Seago  
Lisa A. Kirkman  
Steven A. Klaffky  
Peter A. Lichtman  
Mary Ritchie  
Bryan E. Schmid  
Nathan J. Whitney

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MS-20-1                      DeYoung (fka ManCave) Subdivision  
   Minor Subdivision

Reviewed by:              Lori Seago, Senior Assistant County Attorney *LS*  
   Edi Anderson, Paralegal, ACP

### **FINDINGS AND CONCLUSIONS:**

1. This is a proposal by Hammers Construction and Lisa Peterson (“Applicant”) for a minor subdivision to plat an existing 17.35-acre parcel (the “Property”) into a legal commercial parcel. The property is zoned I-2 (Limited Industrial).

2. The Applicant has provided that the source of water for the subdivision will be a central water system—Woodmen Hills Metropolitan District (“District” or “WHMD”) – which is supplied by the Denver Basin. The Applicant submitted a Water Supply Information Summary estimating the annual water requirement to serve the 1 lot commercial subdivision at 0.823 acre-feet per year, plus irrigation in the amount of 0.552 acre-feet per year, for a total of 1.376 acre-feet/year. Based on these numbers, the Applicant will need to provide a supply of 412.8 acre-feet of water (1.376 acre-feet per year x 300 years) to meet El Paso County’s 300-year requirement.

3. In a letter dated December 5, 2019, the District’s General Manager provided a commitment to serve the ManCave (nka DeYoung) commercial subdivision. The District stated “Woodmen Hills is committing to providing water ... for the proposed ManCave Storage to be located at Bent Grass Meadows Drive, Peyton, CO 80831. Water usage is estimated to be 1.376 acre-feet of water per year. WHMD current uncommitted water supply is 472.96 acre-feet.”

4. The Applicant provided a *Water Resources & Wastewater Report for Mancave Storage* dated December 2019, which was prepared by JDS-Hydro. The Report noted that the ManCave Storage facility will be served by the District. The Report stated that the District has numerous local and off-site water rights, which

200 S. CASCADE AVENUE  
OFFICE: (719) 520-6485



COLORADO SPRINGS, CO 80903  
FAX: (719) 520-6487

include both renewable sources and Denver Basin non-renewable sources. The Report states the “District total legal supply on a 300-year basis has grown to 1459.48 annual acre-feet.”

5. In a letter dated January 24, 2020, the State Engineer’s Office stated the proposed water supplier for the proposal is Woodmen Hills Metropolitan District and that the estimated water requirement is 1.376 acre-feet per year for commercial service and irrigation purposes. The State Engineer acknowledged receipt of the December 5, 2019 letter from the District committing to provide a total of 1.376 acre-feet of water per year to the subdivision. The State Engineer noted that “the District’s water supply totals approximately 1,426 acre-feet/year<sup>1</sup> for a period of 300 years (987 acre-feet/year from bedrock aquifers and 439 acre-feet/year from the alluvial aquifer), and it has approximately 978 acre-feet/year committed to supply subdivisions and 30 acre-feet/year committed to replacement obligations, for a total commitment of 1,008 acre-feet/year.” The State Engineer noted that the District has an “uncommitted annual water supply of 419 acre-feet/year” which is more than the estimated demand of 1.376 acre-feet/year for the ManCave Storage proposal. As a result of the foregoing, the State Engineer declared that “pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.”

6. Section 8.4.7(B)(10)(g), of the El Paso County Land Development Code allows for the presumption of acceptable water quality for projects such as this where water is supplied by an existing Community Water Supply operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

7. Analysis: Based on the State Engineer’s analysis, the District’s available water supply is 1,426 acre-feet annually, including the water from alluvial sources, which the State Engineer states is an annually renewable and permanent source of water. The District currently has annual commitments of 978 acre-feet and an uncommitted annual supply of 419 acre-feet. The 1.376 acre-feet necessary for the DeYoung Subdivision proposal would be deducted from the uncommitted water supply, leaving a balance of approximately 417.624 acre-feet of water for use by the District. Therefore, based on the foregoing, it appears the proposed water supply will be sufficient to meet the demands of the DeYoung commercial subdivision.

8. Based upon the finding of sufficiency and no injury to existing water rights by the State Engineer’s Office, and based upon the commitment letter from the Woodmen Hills Metropolitan District committing a water supply of 1.376 acre-feet per year to the commercial subdivision, the County Attorney’s Office recommends a finding that the proposed water supply is sufficient in terms of quantity and dependability,

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<sup>1</sup> The *Water Resources & Wastewater Report* noted an amount of 1459.48 annual acre-feet. The balance of this review will use the State Engineer’s figure of 1426 acre-feet.

subject to the conditions set forth below. The El Paso County Health Department may wish to confirm that the District is in compliance with the water quality regulations.

**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.

cc: Kari Parsons, Project Manager, Planner III