

EL PASO COUNTY

COLORADO

COMMISSIONERS:
MARK WALLER (CHAIR)
LONGINOS GONZALEZ, JR. (VICE-CHAIR)

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STAN VANDERWERF
CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Date: April 23, 2019
To: Board of County Commissions
From: Kari Parsons
Planning and Community Development Department

Subject: Approval of the Paint Brush Hills Filing No 13E final plat (SF-18-009) to include a finding of water sufficiency.

Summary:

Aeroplaza Fountain, LLC, requests approval of the Paint Brush Hills Filing No 13E final plat (SF-18-009) to include a finding of water sufficiency. The original Paint Brush Hills Filing 13 final plat (SF-05-038) was approved by the Board of County Commissioners on October 19, 2006. The 301.85 acre plat included 554 single-family lots but was not recorded. The plat was ultimately converted into a master plat exhibit under the final plat phasing program (BoCC Resolution 12-48, Reception No. 212015905). The phasing resolution allows for approved final plats to be broken into smaller individual filings. The development is zoned RS-6000 (Residential Suburban) and RS-20000 (Residential Suburban). Paint Brush Hills Metropolitan District provides water and wastewater services to the development.

The 301.85 acre master plat exhibit, which includes 554 single-family lots to be completed in multiple phases, and the first phased plat filing, Paint Brush Hills Filing No. 13A (17 lots on 10.55 acres) were both approved by the Board of County Commissioners on June 25, 2013.

Procedurally, under the phasing program (BOCC Resolution 12-48, Reception No. 212015905), a finding of sufficiency for water quality, quantity and dependability are to be made with the master plat exhibit and final plat approval of the first phase, which are concurrently processed. Subsequent phases (individual filings) can then be approved administratively by the Planning and Community Development Department (PCD) Executive Director.



The County Attorney's Office made a finding of sufficiency regarding water quantity and dependability based on the State Engineer's office interpretation for the first, second, and third filings (150 single-family lots) of the master plat exhibit. The County Attorney's findings included a condition identifying that the next filings within the master plat exhibit will need to be presented to the Board of County Commissioners and that there will need to be additional findings of water sufficiency for the next filings within the master plat exhibit. For that reason, administrative approval by the PCD Executive Director was not authorized for the Paintbrush Hills Filing No. 13D and Paintbrush Hills Filing No. 13E final plats. The Paintbrush Hills Filing No. 13B and 13C final plats were approved by the Board of County Commissioners on September 22, 2015. The Paint Brush Hills Filing No. 13D final plat (total of 247 single-family lots) was approved by the Board of County Commissioners on January 24, 2017.

The County Attorney's Office water review letter (attached) recommends that the Board of County Commissioners make a finding of water sufficiency for Filing 13E, which includes 158 single-family lots. The County Attorney's Office is also recommending to the Board of County Commissioner's that a condition be placed on the approval requiring additional water sufficiency reviews and findings be made by the Board of County Commissioners when Filing 13F is processed in the future. That filing has not yet been submitted to the Planning and Community Development Department for review. To satisfy the previous condition, the Board of County Commissioner's motion on the Paint Brush Hills Filing No. 13E final plat must include a finding of water sufficiency.

Approval includes authorization for the Chair to sign the final plat, subdivision improvements agreement, detention pond maintenance agreement, and any other documents necessary to carry out the intent of the Board of County Commissioners.

Recommendation:

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Chapter 7.2.1(D) 3 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

RECOMMENDED CONDITIONS AND NOTATIONS OF APPROVAL

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad

valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicant shall submit the Mylar to Enumerations for addressing.
5. The applicant 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.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. County Attorney's Conditions of Compliance shall be adhered to.
8. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
9. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
10. The site is within the Falcon Drainage Basin (CHWS1400). Drainage fees in the amount of \$621,035.94 and a bridge fees in the amount of \$85,319.18 are shall be paid at the time of plat recordation.
11. Park fees in the amount of \$67,940.00 in lieu of land dedication for regional parks (Area 2) fees shall be paid at the time of plat recordation.

12. School fees in the amount of \$37,920.00.00 in lieu of school land dedication shall be paid to El Paso County for the benefit of Falcon School District No. 49 at the time of plat recordation.
13. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, 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.

NOTATION

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

Attachments:

Letter of Intent

Recorded Master Plat Exhibit

Paint Brush Hills Filing 13E Final Plat

Colorado State Water Engineer's Letter

County Attorney's Office Water Sufficiency Review Letter

Board of County Commissioner Resolution

LETTER OF INTENT

Paint Brush Hills Filing No. 13E

Phased Final Plat – Phase 5

(Encompassing Phases 13J, 13K and portions of 13L and 13M as shown on the approved Master Plat Exhibit)

Owner: Aeroplaza Fountain LLC
Heidi LLC
212 N. Wahsatch Ave., Suite 301
Colorado Springs, CO 80903
(719) 635-3200

Schedule No. 52261-01-007

**Applicant/
Consultant:** Classic Consulting, LLC
619 N. Cascade Ave., Suite 200
Colorado Springs, CO 80903
(719) 785-0790

SITE LOCATION, SIZE, ZONING:

This letter is prepared to provide sufficient information in support of Phased Final Plat – Phase 5 of the Paint Brush Hills Filing 13 Subdivision. This overall project of 301.85 acres originally included 554 lots all approved under the Paint Brush Hills No. 13 Final Plat in 2006. This Final Plat was never recorded due to market conditions. However, various extension letters were requested and granted over several years, thus allowing this proposed Phased Final Plat submittal. Phase 13A (17 lots), Phase 13B (21 lots), Phase 13C (135 lots) and Phase 13D (97 lots) have recorded plats and have already been developed. The proposed Phase 13E of the Phased Final Plat consists of 158 single family homes and five tracts for open space, drainage, utilities and trails covering the original phases 13J, 13K and portions of 13L and 13M as shown on the approved Master Plat Exhibit. The total acreage for this Phased Final Plat equals 172.08 acres, however, only 83.45 acres are being platted for development at this time. The remainder acreage of 88.63 acres (Tract E) is platted as a tract for future development. The property contained in the Master Plat Exhibit is described by the County Assessor as Tax Schedule No. 52261 01 007. (Please reference the Subdivision Summary Form for specific acreage breakdown)

The site is located in a portion of sections 25 and 26, township 12 south, range 65 west of the sixth principal meridian, El Paso County, Colorado. More specifically, located due west of Paint Brush Hills Filing 9 subdivision, north of Londonderry Dr., east of future Paint Brush Hills 13 future phases and south of Paint Brush Hills Filing No. 2 subdivision. The overall site contains several different residential zones including RS-6000 and RS-20000. The existing zoning lines that were approved along with the Preliminary Plan back in 2004 follow the proposed roads and lots lines within this proposed subdivision. Thus, portions of the property will be platted as RS-6000 and the rest as RS-20000. (See attached zoning exhibit)

Requests:

General: The proposed development is anticipated to be the last phase of the overall 554 lot subdivision – Paint Brush Hills Filing No. 13, as a rezone request has been submitted for the remaining area for future development (Tract E). Filing 13E encompasses four phases as shown on the approved Master Plat Exhibit (13J, 13K and portions of 13L and 13M). A Phased Final Plat showing this development phase of 83.45 acres and 158 single family lots is proposed. All of these lots will be 6,000 SF minimum in size.

Finding of Water Sufficiency: Given that this project has been developed under County phasing resolution, each phased final plat has been submitted for finding of sufficiency. To date, findings of sufficiency have been made by the State and County for Filings 13A, 13B, 13C and 13D, which all have recorded plats. We believe the District will issue a water commitment for the remaining lots in Filing 13 (Paint Brush Hills 13E) and a request for a finding of sufficiency for those lots is being processed concurrently with this Final Plat. Upon review of these documents, the applicant therefore requests that a finding of sufficiency for this Final Plat be made. The District's commitment and an updated Water Resource Report showing a water supply meeting the requirements for Filing 13E will be submitted with this plat.

El Paso County Road Impact Fee Program: Pursuant to Board of County Commissioner Resolution No. 16-454, the applicant elects to include Filing No. 13E in the ten mill Public Improvement District as noted on the final plat.

Traffic: Snowbrush Dr. is a gravel rural local residential public road built in the early 1980s that has a temporary turn-around at the northeast corner of Filing 13E. This road currently serves rural large lot residential homes with direct access connection to Rex Road and Goodson Road. With the rezoning and urbanization of the Paint Brush Hills development over the past 18 years to (RS-20000 and RS-6000), there was no plan to extend Snowbrush Dr. further south. With the development of Paint Brush Hills Filing 10 in 2003, Londonderry Drive and Towner Avenue, both non-residential collectors (80'

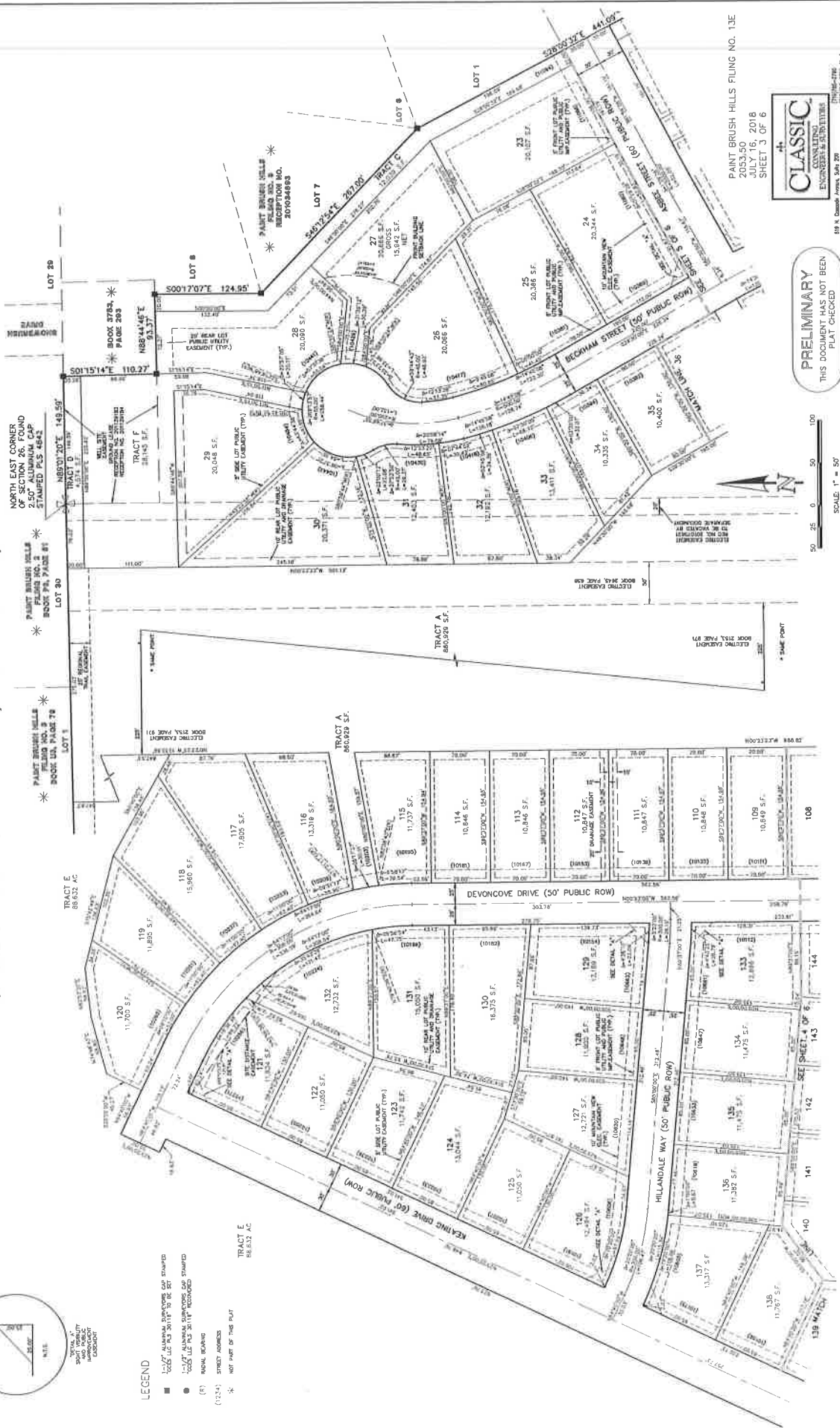
ROW) were constructed which have direct connection to Meridian Road and Stapleton Drive. These collector roads serve as the main access points for Filing 13E. The updated Traffic Study submitted in conjunction with this plat will confirm that both Londonderry and Towner have adequate capacity for Filing 13E and the remaining lots planned within the Paint Brush Hills development.

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A REPLAT OF TRACT E AS PLATTED IN PAINT BRUSH HILLS FILING NO. 13A, RECORDED UNDER RECEPTION NO. 213713413, BEING A PORTION OF THE WEST HALF OF SECTION 25 AND THE EAST HALF OF SECTION 26, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO

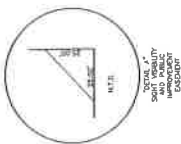


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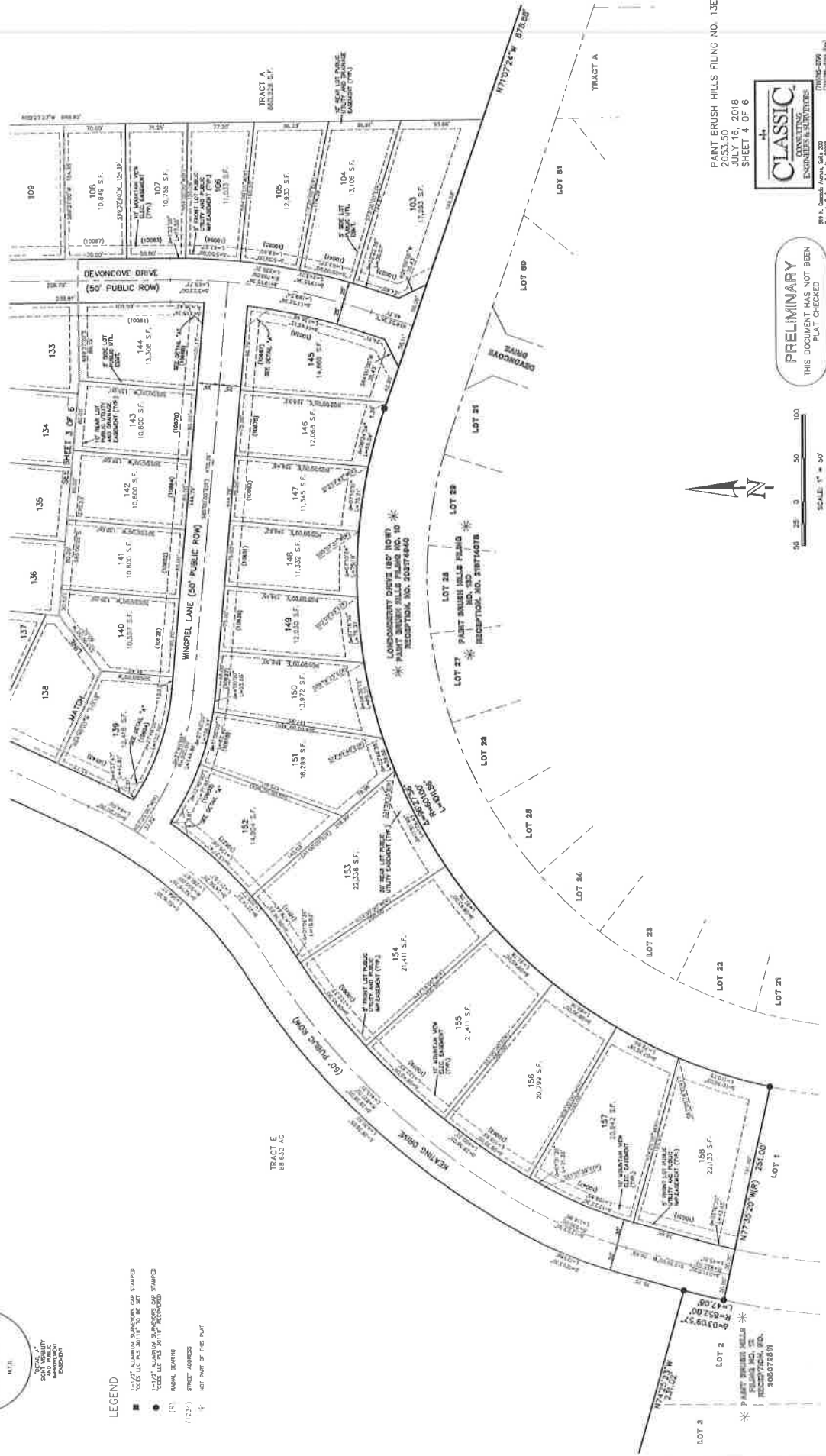


PAINT BRUSH HILLS FILING NO. 13E

A REPLAT OF TRACT E AS PLATTED IN PAINT BRUSH HILLS FILING NO. 13A, RECORDED UNDER RECEPTION NO. 213713413, BEING A PORTION OF THE WEST HALF OF SECTION 25 AND THE EAST HALF OF SECTION 26, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO



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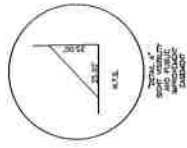
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PAINT BRUSH HILLS FILING NO. 13E
RECEIVED
JULY 11 2018
SHEET 4 OF 6

CLASSIC ENGINEERING & SURVEYING
1010 N. Cascade Avenue, Suite 200
Colorado Springs, Colorado 80903
(719) 576-1700
(719) 576-1701

PAINT BRUSH HILLS FILING NO. 13E

A REPLAT OF TRACT E AS PLATTED IN PAINT BRUSH HILLS FILING NO. 13A, RECORDED UNDER RECEPTION NO. 213713413, BEING A PORTION OF THE WEST HALF OF SECTION 25 AND THE EAST HALF OF SECTION 26, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO



LEGEND

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- (1234) STREET ADDRESS
- * NET POINT OF THIS PLAT

PRELIMINARY
THE DOCUMENT HAS NOT BEEN
PLAT CHECKED



SCALE: 1" = 50'

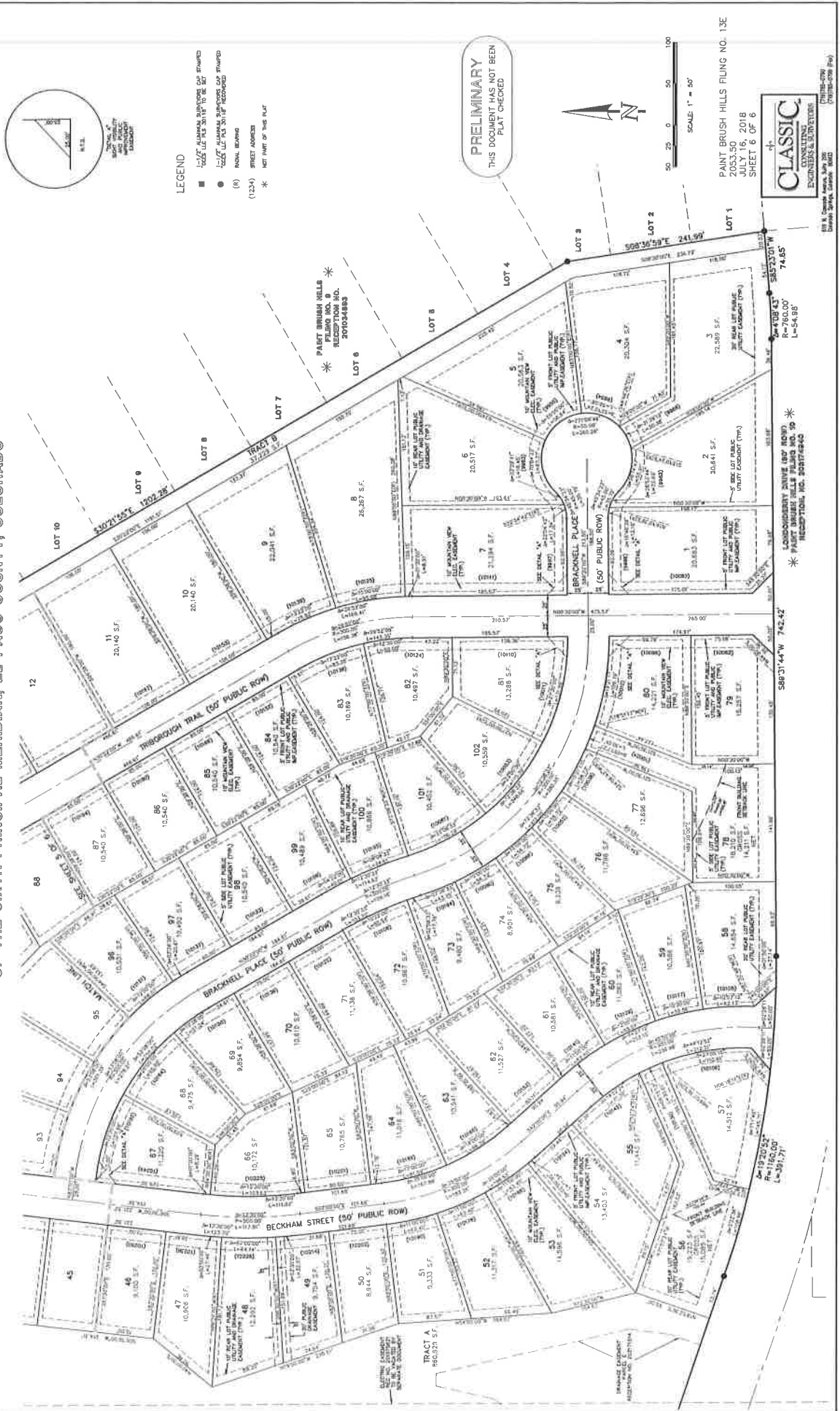
PAINT BRUSH HILLS FILING NO. 13E
RECEIVED
JULY 15 2018
SHEET 5 OF 6



612 N. Comstock Avenue, Suite 200
Colorado Springs, Colorado 80902
(719) 584-7100
(719) 584-7101 (fax)



PAINT BRUSH HILLS FILING NO. 13E A REPLAT OF TRACT E AS PLATTED IN PAINT BRUSH HILLS FILING NO. 13A, RECORDED UNDER RECEPTION NO. 213713413, BEING A PORTION OF THE WEST HALF OF SECTION 26 AND THE EAST HALF OF SECTION 20, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO





February 27, 2019

Kari Parsons
El Paso County Development Services Department
kari.parsons@elpasoco.com

RE: Paint Brush Hills, Filing No. 13E
Sections 25 and 26, T12S, R65W, 6th P.M.
Water Division 2, Water District 10
Upper Black Squirrel Creek Designated Basin

Dear Ms. Parsons:

We have again looked at your October 1, 2018 submittal concerning the above referenced proposal to subdivide 172.08 acres into 158 single-family units, and open space. Our office previously commented on Paint Brush Hills Filing No. 13E in letters dated August 15 and October 12, 2018. This letter supersedes those letters.

Water Supply Demand

According to the submittal, the estimated water requirements of Paint Brush Hills Filing No. 13E are 56.88 acre-feet annually (0.36 acre-feet/year per lot for 158 single-family lots). This estimated demand equals 17,064 acre-feet over a period of 300 years.

Source of Water Supply

The proposed water supplier is the Paint Brush Hills Metropolitan District ("District"). The District provided a letter dated September 7, 2018 summarizing and reaffirming its commitments to supplying a total of 185.4 acre-feet per year to serve 515 single-family equivalent (SFE) units within Paint Brush Hills Filing 13, consisting of Filing No. 13C (135 SFEs), Filing No. 13D (97 SFEs), Filing No. 13E (158 SFEs), and an additional unidentified 125 SFEs. That letter provides clarification that the 515 single family equivalent units and 185.4 acre-feet of estimated water requirement committed to in that letter are an aggregate of commitments made in previous "Will Serve Letters" the District issued for Filing No. 13 dated March 30, 2015 and June 24, 2016.

The District's sources of water are bedrock aquifers in the Denver Basin that are being operating pursuant to both 37-90-107(7)(a) and 107(7)(b), C.R.S. The State Engineer's Office does not have evidence regarding the length of time for which these sources will be a physically and economically viable source of water.

1. According to 37-90-107(7)(a), "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of those water rights operating pursuant to 107(7)(a) are equal to one percent of the total amount, as determined by Rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, those rights may be withdrawn in those annual amounts for a maximum of 100 years. Withdrawing those rights over a period of 300 years would require those annual withdrawals to be



- reduced to one-third of one percent of the total amounts.
2. According to 37-90-107(7)(b), "Any right to the use of groundwater entitling its owner or user to construct a well, which right was initiated prior to November 19, 1973, as evidenced by a current decree, well registration statement, or an unexpired well permit issues prior to November 19, 1973, shall not be subject to the provisions of paragraph (a) of this subsection (7)." Therefore, the annual amount of the water right operating pursuant to 107(7)(b) may be withdrawn in that amount indefinitely so long as there is water in the aquifer physically available to the well.

The *El Paso County Land Development Code*, effective May, 2016, states:

Chapter 8, Section 8.4.7.(B)(5):

"Finding of Sufficient Dependability - The proposed water supply shall meet the following criteria to be found sufficient in terms of dependability:

- The supply is of sufficient quantity to meet the needs of the proposed subdivision for 300 years."

Chapter 8, Section 8.4.7.(B)(7)(b):

"(7) Finding of Sufficient Quantity" ... "(b) Required Water Supply - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years."

Chapter 8, Section 8.4.7.(A)(2):

"Applicability" ...

- "The effective date of this Section is originally November 20, 1986, and this Section shall fully apply to any subdivision which does not have preliminary plan approval prior to that date;"

Our files indicate that the District supplies subdivisions for which preliminary plat approval occurred prior to November 20, 1986. It is our understanding that El Paso County required the water supply of such subdivisions to be sufficient for a period of 100 years.

Treating El Paso County's code as requiring a legal supply of water for 300 years for this proposed subdivision, the Office of the State Engineer's review of the quantity of the District's water rights in terms of providing a legal source of water for 300 years is as follows.

Due to the fact that the District's rights operate pursuant to both 107(7)(a) and 107(7)(b), the review entails quantifying the water available from those rights over 300 years, and comparing that volume to the volume of commitments to supply water the District has made over 300 years, as described below.

1. The water rights available to the District total 122,050 acre-feet over a period of 300 years (= 98,050 acre-feet plus 24,000 acre-feet, as described below).
 - a. The water rights that are subject to an allocation based approach pursuant to 107(7)(a) total a volume of 98,050 acre-feet. These rights may be withdrawn at a maximum rate of 981 acre-feet/year for a maximum of 100 years, or at a maximum rate of 327 acre-feet per year for a period of 300 years.
 - b. The water right that is subject to 107(7)(b) may withdraw water at a rate of 80 acre-feet per year indefinitely so long as there is water in the aquifer physically available

to the well. This right may produce 24,000 acre-feet over a period of 300 years.

2. The District's commitments to supply water total 114,298 acre-feet over a period of 300 years (= 31,432 acre-feet plus 82,866 acre-feet, as described below).
 - a. The District supplies subdivisions for which preliminary plat approval occurred prior to November 20, 1986, and schools, and greenbelt and park irrigation, for which it has a 100 year commitment to serve. Those commitments total 31,432 acre-feet over 100 years.
 - b. The District has committed to supply subdivisions for which preliminary plat approval occurred after November 20, 1986, for which it has a 300 year commitment to serve. Those commitments total 82,866 acre-feet over 300 years. Those commitments include this subdivision, Paint Brush Hills, Filing No. 13E.

The District has 7,752 acre-feet of water rights remaining uncommitted (= 122,050 acre-feet minus 114,298 acre-feet). Further details on our office's evaluation of the water rights available to the District, and the District's commitments, are shown on the attached table.

State Engineer's Office Opinion

Based upon the above and pursuant to Sections 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 water rights.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the volume of water that is legally available, according to the statutory allocation approach for those rights operating pursuant to 107(7)(a), for the proposed uses, on the subdivided land, is greater than the volume of water required to supply existing water commitments.

Our opinion is qualified by the following:

1. **The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years, or 300 years, used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.**
2. Our understanding is that the District is supplying subdivisions for which its commitment to supply water will not extend beyond 100 years, and our office's consideration of the District's water rights when evaluating its rights for purposes of supplying this subdivision assumed the District will no longer have a commitment to supply those subdivisions beyond 100 years.

Should you have any questions, please contact myself at keith.vanderhorst@state.co.us.

Sincerely,

A handwritten signature in black ink that reads "Keith Vander Horst". The signature is written in a cursive, flowing style.

Keith Vander Horst, P.E.
Chief of Water Supply, Basins

cc: Upper Black Squirrel Creek GWMD

PaintbrushFiling13E_2019Feb

Paint Brush Hills Metropolitan District

[illegible]

Paint Brush Hills Metropolitan District

Updated: 27-Feb-2019

COMMITMENTS

Paint Brush Hills	Phase	# of Lots	Date of SEO opinion	Demand per af/yr/lot	Total commitment per year (af/yr)	Total commitment for 100 yrs (af)	Total commitment for 300 yrs (af)	Total commitment (af)	Comments
100 year commitments									
Filing 4	II	164	1/22/1987		91.8	9,184		9,184	
Filing 5		31	6/19/1995		17.4	1,736		1,736	
Filing 6		48	5/1/1996		26.9	2,688		2,688	
Filing 7		57	6/27/1997	0.56	31.9	3,192		3,192	Per El Paso County, Filings 4 - 9 approved based on a 100 yr supply
Filing 8		109	4/9/1999		61.0	6,104		6,104	
Filing 9		88	5/3/2000		49.3	4,928		4,928	
Falcon Middle School					22.0	2,200		2,200	22 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.
District Greenbelt/Park Irrig.					14.0	1,400		1,400	14 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.
Subtotal		497						31,432	
300 year commitments ¹									
Filing 10		90	3/24/2003	0.40	36.0		10,800	10,800	
Filing 11		81	4/17/2003	0.40	32.4		9,720	9,720	
Filing 12		51	4/17/2003	0.40	20.4		6,120	6,120	
Church					0.2		60	60	0.2 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.
Filing 13a		17	6/9/2013		6.9		2,070	2,070	a.k.a. Filing 13 - Phase
Scenic View & park		90	2/6/2014	0.36	32.36		9,708	9,708	a.k.a. Filing 14 park uses 0.36 af/yr
Filing 13b		21	2/26/2014	0.36	7.56		2,268	2,268	a.k.a. Filing 13 - Phase 2
Filing 13c		135	10/24/2016	0.36	48.6		14,580	14,580	Note: Filing 13C reduced from 150 lots to 135 lots.
Filing 13d		97	10/24/2016	0.36	34.92		10,476	10,476	
Filing 13e		158	2/27/2019	0.36	56.88		17,064	17,064	
Subtotal					533.7		82,866	82,866	
¹ El Paso County requires a 300 year water supply as of Nov. 20, 1986, per El Paso County Land Development Code sections 8.4.7.(A)(2) and 8.4.7.(B)(7)(b).									
Total Commitments (af)								114,298	
UNCOMMITTED SUPPLY (AF)									
								7,752	



OFFICE OF THE COUNTY ATTORNEY
CIVIL DIVISION

First Assistant County Attorney
Diana K. May

Amy R. Folsom, County Attorney

Assistant County Attorneys
M. Cole Emmons
Lori L. Seago
Kenneth R. Hodges
Lisa A. Kirkman
Steven A. Klaffky
Peter A. Lichtman

April 5, 2019

SF-18-9 Paint Brush Hills Filing 13E
 (Phased Final Plat)

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

FINDINGS AND CONCLUSIONS:

1. This is a proposal by Aeroplaza Fountain, LLC and Heidi, LLC ("Applicant") for approval of a Phased Final Plat for development of 158 lots, plus 5 tracts for open space, drainage, utilities, and trails in Paint Brush Hills Filing 13E on 172.08 acres. The overall property site for Filing 13 is zoned RS-6000 (Residential Suburban) and RS-20000 (Residential Suburban).
2. This submittal is part of the Paint Brush Hills Filing No. 13 Final Plat approved by the Board of County Commissioners on October 19, 2006. A 1 year extension to record the final plat was granted by the Board on October 19, 2007, followed by a 6 month extension on October 9, 2008, an 18 month extension on April 9, 2009, and an 18 month extension on September 9, 2010. On February 9, 2012, at Resolution 12-48, the Board adopted a resolution implementing phasing and pro-ration of final subdivision plats based on market conditions related to previously approved but not recorded final subdivision plats ("Phasing Resolution"). The Phasing Resolution permits phasing of subdivisions that have received land use approval, but have not otherwise been recorded due to market conditions or other issues. The Phasing Resolution requires that each phase of a project meeting the phasing criteria provide the following documents prior to submittal of each phase: 1) updated commitment letter from a public or private commercial water provider to serve the proposed phase; 2) updated Water Resources Report; and 3) updated recommendation from the State Engineer's Office. Pursuant to the Phasing Resolution, the Applicant has provided the updated documents for Paint Brush Hills Filing 13E as further detailed below.

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



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

3. The Applicant has provided for the source of water to derive from the Paint Brush Hills Metropolitan District ("District"). Applicant estimates its annual water needs to serve household use for the 158 single family lots as follows: 56.88 acre-feet annually for household use and irrigation, or 0.36 acre-feet per lot annually. Based on these figures, Applicant must be able to provide a supply of 17,064 acre-feet of water (56.88 acre-feet/year x 300 years) to meet the County's 300 year water supply requirement.
4. In a letter dated September 7, 2018, the District's Manager committed to serve water to Paint Brush Hills Filing 13E. The September 7th letter confirmed the commitments set forth in earlier District letters, dated March 30, 2015 and June 24, 2016. The District Manager affirmed that through the "aggregate commitments set forth in the 2015 Letter and the 2016 Letter the District committed to serve 515 single-family equivalent units, with an estimated annual need of 185.4 acre-feet of water." This affirmation includes the 158 lots proposed in Filing 13E.
5. In a letter dated February 27, 2019, the State Engineer reviewed information in their files, along with the District's "Will Serve Letters" dated March 30, 2015, June 24, 2016, and September 7, 2018. The State Engineer noted that the "water rights available to the District total 122,050 acre-feet over a period of 300 years....The District's commitments to supply water total 114,298 acre-feet of water over a period of 300 years....Those commitments include this this subdivision, Paint Brush Hills, Filing No. 13E." The State Engineer indicated that the District has sufficient water resources to supply the proposed development. Pursuant to C.R.S. § 30-28-136(1)(h)(II), the State Engineer is of the opinion that the proposed water supply can be provided without injury to existing 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 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 that may be provided by the El Paso County Health Department.
7. Analysis: With a proposed annual demand of 56.88 acre-feet (17,064 acre-feet for a period of 300 years) for Paint Brush Hills Filing 13E and given the aggregate commitments of the District, inclusive of Filing 13E, for a total demand of 114,298 acre-feet and the current demand of 17,064 acre-feet, and the available supply of 122,050 acre-feet, the resulting surplus water supply is 7,752 acre-feet. Based on the commitment to serve by the District and the State Engineer's opinion that this demand is within the remaining supply limits of the District, it appears the proposed water supply will be sufficient.

8. Therefore, based on the above analysis, the County Attorney's Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability as to the 158 lots in Filing 13E.

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.

cc: Kari Parsons, Project Manager, Planner II

RESOLUTION NO.

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

APPROVE FINAL PLAT FOR PAINT BRUSH HILLS FILING NO. 13E (SF-18-009)

WHEREAS, Aeroplaza Fountain, LLC, did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Paint Brush Hills Filing No. 13E 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 Board of County Commissioners on April 23, 2019; 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. 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)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. A public sewage disposal system has been established or, 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 that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].
11. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and Engineering Criteria Manual.
12. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.
13. Final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
14. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Land Development Code.
15. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the Subdivision Improvements Agreement so the impacts of the subdivision will be adequately mitigated.
16. The subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.

17. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et. seq.].
18. The proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
19. 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 final plat application for the Paint Brush Hills Filing No. 13E Subdivision;

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

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicant shall submit the Mylar to Enumerations for addressing.
5. The applicant 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.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
 7. County Attorney's Conditions of Compliance shall be adhered to.
 8. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
 9. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
 10. The site is within the Falcon Drainage Basin (CHWS1400). Drainage fees in the amount of \$621,035.94 and a bridge fees in the amount of \$85,319.18 are shall be paid at the time of plat recordation.
 11. Park fees in the amount of \$67,940.00 in lieu of land dedication for regional parks (Area 2) fees shall be paid at the time of plat recordation.
 12. School fees in the amount of \$37,920.00.00 in lieu of school land dedication shall be paid to El Paso County for the benefit of Falcon School District No. 49 at the time of plat recordation.
 13. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, 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

NOTATION

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

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

DONE THIS 23rd day of April, 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

LEGAL DESCRIPTION: PAINT BRUSH HILLS FILING NO. 13E

A PORTION OF THE WEST HALF OF SECTION 25 AND THE EAST HALF OF SECTION 26, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT E AS PLATTED IN PAINT BRUSH HILLS FILING NO. 13A, RECORDED UNDER RECEPTION NO. 213713413, RECORDS OF EL PASO COUNTY, COLORADO.

CONTAINING A CALCULATED AREA OF 172.079 ACRES.